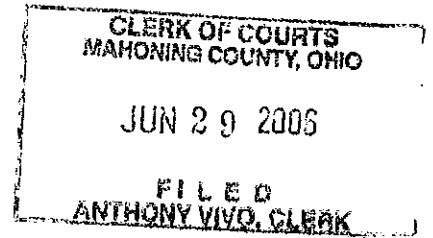


IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO



DOMINIC FONTANELLA)
)
 PLAINTIFF)
 VS.)
)
 MAY DEPARTMENT STORES, et al.)
)
 DEFENDANTS)

CASE NO. 96 CV 709
JUDGE JOHN M. DURKIN

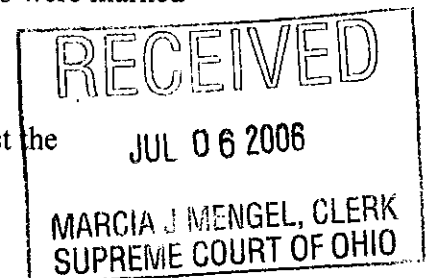
JUDGMENT ENTRY

This matter came on for hearing on June 22, 2006, on Attorney William Dowling's and Attorney Dennis DiMartino's Motion for Sanctions and Attorney Fees, and was also set to determine, pursuant to Section 2323.52 of the Ohio Revised Code, whether the Plaintiff, Dominic Fontanella, is a vexatious litigator.

Notice was sent to the parties pursuant to law. The Plaintiff, Dominic Fontanella, appeared acting pro se. Attorney Dennis DiMartino appeared on behalf of the Defendant, Zoe Ambrosia. Attorney William Dowling's appearance was excused by this Court.

This Court permitted the parties to introduce evidence and heard argument. In addition, this Court has reviewed the pleadings, the docket sheet, the affidavit submitted by Attorney William Dowling dated May 12, 2006, a letter from Dominic Fontanella dated June 12, 2006, a letter from Attorney Dowling dated June 14, 2006, and a letter from the Federated Corporate Services dated May 11, 2006. These letters were marked collectively as Court Exhibit No. 1.

Plaintiff originally filed his Complaint on March 14, 1996, against the Defendants, The May Department Stores and Zoe Ambrosia.



A stipulation for leave to plead was filed by the parties on April 18, 1996. May Department Stores filed an Answer on May 8, 1996. Defendant Ambrosia was granted leave to file an Answer, and filed an Answer on August 8, 1996.

On August 12, 1996, Defendant May Department Stores filed a Motion for Summary Judgment. A memorandum in opposition was filed on August 27, 1996. The Trial Court sustained Defendant May Department Stores's Motion for Summary Judgment on December 2, 1996.

A Notice of Appeal was filed by the Plaintiff on August 12, 1997. The Court of Appeals sustained Defendant May Department Store's Motion to Dismiss the appeal for want of prosecution on September 16, 1999. Therefore, since September of 1999, the only remaining Defendant has been the Defendant, Zoe Ambrosia.

On January 25, 1999, the case was called for mediation, and a Judgment Entry reflects that the case was settled and dismissed.

The Plaintiff filed a Motion to Vacate the Judgment on July 2, 2004, and on October 4, 2004, the Defendant's Motion to Vacate Judgment was sustained. Since the case was reopened as to the Plaintiff and the Defendant, Zoe Ambrosia, the Plaintiff has filed:

1. Motion to Compel directed to May Department Store's claims manager, Tim Robinson;
2. Motion to Compel to Attorney William Dowling;
3. Motion to Compel to Sherry Poole;
4. Motion to Compel to Dawn Engle;
5. Request for Admissions to Zoe Ambrosia;

6. Motion to Correct Record;
7. Motion for Contempt;
8. Motion for Failure to properly raise affirmative defenses;
9. Motion to Compel attendance at hearing;
10. Motion for Findings of Fact and Conclusions of Law.

In addition, the Plaintiff has issued subpoenas to the Warden of the Ohio State Penitentiary, to Attorney Dennis DiMartino, to Attorney William Dowling, and to the Mahoning County Prosecutor's office.

The Plaintiff's entire case, as he stated at the hearing on June 22, 2006, is based on Zoe Ambrosia's "scope of employment at Kaufmann's", and that "the master (May Department Stores) is responsible for the servant (Ambrosia's) actions. That is the gist of the whole case."

However, the Trial Court has already determined that there is no genuine issue as to any material fact as it relates to the May Department Stores and the Court of Appeals dismissed Plaintiff's appeal on that issue for his failure to prosecute. All of the Plaintiff's actions since this case was reopened have dealt with matters that cannot be relitigated as a matter of law.

This Court finds that the Plaintiff, Dominic Fontanella's, conduct has served merely to harass another party to the civil action, and is not warranted under existing law, cannot be supported by a good faith argument for an extension, modification, or reversal of existing law, and cannot be supported by a good faith argument for the establishment of new law.

This Court further finds that the Plaintiff, Dominic Fontanella's, conduct has been

frivolous, that Attorney William Dowling, Attorney Dennis DiMartino, and the Defendant, Zoe Ambrosia, have been adversely affected by it, and the Motion for Sanctions and Attorney Fees is sustained.

Plaintiff, Dominic Fontanella, is hereby Ordered to pay attorney fees to Attorney William Dowling, pursuant to the affidavit submitted by Attorney Dowling and made part of the record, which this Court finds to be reasonable in the amount of \$700.00.

The Court hereby grants Attorney Dennis DiMartino leave to supplement the record regarding attorney fees incurred as a result of Plaintiff's frivolous conduct.

This Court further finds that pursuant to Section 2323.52(A)(2) and (3), that the conduct of Dominic Fontanella has served merely to harass the Defendants and counsel, that such filings are not warranted under existing law and cannot be supported by a good faith argument for an extension, modification or reversal of existing law.

The Court finds that the Plaintiff has engaged in vexatious conduct, and Orders pursuant to Ohio Revised Code Section 2323.52(D)(1) that Dominic F. Fontanella be prohibited from doing all of the following without first obtaining leave of Court:

1. Instituting legal proceedings in the Mahoning County Court of Common Pleas;
2. Continuing any legal proceeding Dominic F. Fontanella has instituted in the Mahoning County Court of Common Pleas;
3. Making any application, other than an application under Ohio Revised Code Section 2323.52(F)(1), in any legal proceeding instituted by Dominic F.

Fontanella in the Mahoning County Court of Common Pleas.

6/29/06
DATE:


JUDGE JOHN M. DURKIN

7/30, 2006
JE

THE CLERK SHALL SERVE NOTICE
OF THIS ORDER UPON ALL PARTIES
WITHIN THREE (3) DAYS PER CIV.R.5

This is a true copy of the original
Filed in Case No. 96CV704
By Anthony Vivo Clerk of Court
Deputy