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IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

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Maria Georgeadis,

Plaintiff,

vs.

William Dials, et al.,

Defendants.

: Case No. 97CVA-10-5521

: Judge Cain

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DECISION GRANTING DEFENDANT, DR GRADING AND EXCAVATING, INC.'S
MOTION FOR SUMMARY JUDGMENT, FILED ON NOVEMBER 12, 1998

Rendered this 21st day of January 1999.

CAIN, J.

This matter is before the Court on Motion of Defendant DR Grading and Excavating, Inc. (hereinafter "DR Grading") for Summary Judgment, filed on November 12, 1998. Defendant Dials filed a Memorandum in Support of DR Grading's Motion for Summary Judgment on November 23, 1998. Plaintiff filed a Memorandum Contra to DR Grading's Motion on December 30, 1998, to which DR Grading filed a Reply on January 8, 1999. Plaintiff also filed a Reply to Defendant DR Grading's Reply on January 14, 1999.¹ After review and consideration, the Court finds that DR Grading's Motion for Summary Judgment is well-taken, and it is hereby GRANTED.

Plaintiff instituted the instant case against Defendants on or about October 20, 1997. The basis for Plaintiff's Complaint was to allege that the Court made several errors in the previous case, Case No. 96CVH05-3922, in granting summary judgment in favor of the Defendants. On or about November 24, 1997, Defendant D.R.

¹ Franklin County Local Rule 11 lists the pleadings and motions which may be filed with respect to an issue. Once a party/movant files a motion, the opposing party may respond with a memorandum contra, and then the original party/movant may file a reply in support of its original motion. Rule 11 does not allow for any additional motions, i.e. a reply to a reply. In the present case, Plaintiff filed a Reply to DR Grading's Reply without leave of Court. Accordingly, the Court will not consider Plaintiff's Reply to Defendant's Reply as the Local Rules do not permit such filing, and Defendants may be prejudiced if Plaintiff is given this additional opportunity to present its argument to this Court.

Grading and Excavating (hereinafter "D.R. Grading") filed an Answer and Counterclaim in response to Plaintiff's Complaint. D.R. Grading filed a counterclaim requesting that the Court find Plaintiff to be a vexatious litigator according to R.C. § 2323.52. D.R. Grading's counterclaim identified numerous re-filings against the instant Defendants, as well as other defendants, related to the original complaint upon which summary judgment was granted against Plaintiff. Specifically, D.R. Grading stated that the subsequent actions by Plaintiff were served merely to harass the defendants in that they were not warranted under existing law and/or were not supported by a good faith argument for modification or reversal of existing law.

On or about December 3, 1998, Plaintiff filed her Answer to D.R. Grading's Counterclaim. Plaintiff did not dispute the numerous filings, and she stated that she does not "have a malicious bone in [her] body." On or about September 22, 1998, the Court issued its Decision granting Defendants' Motion to Dismiss. Defendant D.R. Grading now requests that this Court render summary judgment in its favor on the Counterclaim, finding that Plaintiff is a vexatious litigator under R.C. § 2323.52.

In support of its argument that Plaintiff should be deemed a vexatious litigator, DR Grading gives a very detailed account of the law suits filed by Plaintiff, all of which required Defendants to expend a significant amount of time and money to defend themselves over the course of many years. See, DR Grading's Motion for Summary Judgment, p. 3. DR Grading notes that Plaintiff did not prevail in any of the actions that she filed, including summary proceedings and appeals related thereto. Most recently, on January 11, 1999, the Franklin County Court of Appeals dismissed Plaintiff's appeal to this Court's Decision granting Defendants' Motion to Dismiss. DR Grading argues that Plaintiff fits within the definition of a vexatious litigator as her conduct is neither warranted under

existing law, nor supported by a good faith argument for modification or reversal of existing law. As previously mentioned, Plaintiff did not prevail on any issue, and all of her cases ⁵⁸⁰⁶⁶³¹⁴ have been dismissed, either voluntarily or otherwise. Despite many courts final judgments *against* Plaintiff, her law suits persist and she relentlessly continues to relitigate the same claims in disrespect of the Court's final adjudication of her claims.

Based on Plaintiff's briefs and other filings, it appears that she misinterprets the definition of "vexatious conduct." According to R.C. § 2323.52(A)(2), "vexatious conduct" is

(2) * * * [C]onduct of a party in a civil action that satisfies any of the following:

(a) The conduct obviously serves merely to harass or maliciously injure another party to the civil action.

(b) The conduct is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law.

(c) The conduct is imposed solely for delay.

Plaintiff urges the Court that she did not engage in vexatious conduct because she has been a care giver for senior citizens for 34 years, or because she prayed for Mr. Pryor's elderly mother. Plaintiff may, in fact, be a very caring and giving person, however R.C. § 2323.52 does not take these character qualities into consideration. Rather, the statute is aimed to prevent a party-movant from proceeding on a claim(s) when such claim is not warranted under current law, and the claim(s) is rather filed for another unjustified reason.

In the present case, Plaintiff claims that she has "a constitutional right to sue those whom have committed civil wrongs against [her]", however Plaintiff overlooks the fact that she has repeatedly exercised her constitutional right to make her claims. This Court, and several other courts, issued final decisions on Plaintiff's claims. Plaintiff must

acknowledge and respect a Court's decision, and Plaintiff may not continue filing law suits at her leisure in attempt to find a favorable decision. This Court, in particular, ⁶⁸⁰¹⁶⁰ has spoken! 5 and Plaintiff must accept this Court's decision, as it is based upon the rules of civil procedure and applicable case law.

Furthermore, Plaintiff disregards legal principles such as *res judicata* and collateral estoppel. The doctrine of *res judicata* "encourages reliance on judicial decisions, bars vexatious litigation, and frees the court to resolve other disputes." See, Wyatt v. Wyatt (1992), 65 Ohio St. 3d 268. The Court explained in its Decision granting Defendants' Motion to Dismiss, dated September 22, 1998 that Plaintiff's claims were already decided in their entirety. In light of the fact that this Court already decided Plaintiff's claims, and Plaintiff nonetheless continues to file additional law suits based upon the same claims, the Court finds that Plaintiff's conduct is not warranted under existing law, and it cannot be supported by a good faith argument. The Court finds that Plaintiff habitually, persistently, and without reasonable grounds engaged in "vexatious conduct." Plaintiff's conduct amounts to a harassment of Defendants in violation of R.C. § 2323.52(A)(2)(a), and Plaintiff falls within the definition of a "vexatious litigator" as defined in R.C. § 2323.52(A)(3).²

Having deemed Plaintiff a "vexatious litigator," the Court hereby ORDERS that Plaintiff, Maria Georgeadis, be prohibited from doing any of the following without first obtaining leave of court to proceed:

(a) Instituting legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court;

² In a period of approximately six to seven years, Plaintiff filed about eight original cases, four or five appeals resulting therefrom, and Plaintiff filed a writ of certiorari with the Ohio Supreme Court. Plaintiff was unsuccessful in all of her actions.

(b) Continuing any legal proceedings that the vexatious litigator had instituted in the court of claims, court of common pleas, municipal court, or county court prior to the entry of the order 58046016

(c) Making any application, other than application for leave to proceed under division (F) of this section, in any legal proceedings instituted by the vexatious litigator or another person in the court of claims or in a court of common pleas, municipal court, or county court.

R.C. § 2323.52(D)(1)(a)-(c). In applying the foregoing Order to the present case, Plaintiff is hereby prohibited according to R.C. § 2323.52(D)(1)(b) from continuing with Case No. 98CVC-10-8136 without first seeking leave of this Court.

With respect to Plaintiff's Motion for Inquiry on Motion for Recusal, the Court notes that Plaintiff misinterpreted the transfer of the instant case from Judge Hogan to Judge Cain. This transfer is not a proper basis for a Motion for Recusal as the transfer is mandated by Local Rule 31.01, which states that a refiled case must be assigned to the same judge who was previously assigned the case. Since Judge Cain was previously assigned to Case No. 96CVH-10-8044, the present re-filed case was transferred from Judge Hogan to Judge Cain as required by Local Rule 31.01. The Court previously explained this in its Decision dated September 22, 1998. Plaintiff's Motion for Recusal is again DENIED.

Based on the foregoing, DR Grading's Motion for Summary Judgment on its vexatious litigator counterclaim is well-taken, and it is hereby GRANTED. Plaintiff shall comply with this Court's Order as set forth herein. Counsel for Defendant DR Grading shall prepare, circulate and submit a judgment entry reflecting this decision to the Court within five days of the filing of this decision in accordance with Loc. R. 25.01.

IT IS SO ORDERED.

68046017



David E. Cain, Judge

Copies to:

Maria Georgeadis
Plaintiff, *pro se*

David W. Pryor
Counsel for Defendants

John B. Mashburn
Counsel for William Dials

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

68277A11

MARIA GEORGEADIS

Plaintiff,

vs.

WILLIAM DIALS, ET. AL.

Defendant.

CASE No. 97CV410-9521

JUDGE CAIN

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JUDGMENT ENTRY

Pursuant to this Court's Decision rendered January 21, 1999, summary judgment is hereby granted in favor of Defendant DR Grading & Excavating, Inc. and Plaintiff is hereby determined to be a "vexatious litigator" as defined in O.R.C. §2323.52(A)(3). Plaintiff's Motion for Recusal is denied. The basis for this court's decision as set forth in this court's written decision, filed January 21, 1999, is incorporated herein.

THIS ENTRY CONSTITUTES A FINAL APPEALABLE ORDER.

Date

2/3/99

Judge David E. Cain

Approved by:

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THE STATE OF OHIO
Franklin County, ss

I, VIRGINIA L. BARNEY, Clerk
OF THE COURT OF COMMON
PLEAS IN FRANKLIN
COUNTY, OHIO

COPIES OF THE JUDGMENT AND DECISION
HEREIN ARE HEREBY FILED WITH THE
CLERK OF THE COURT OF COMMON
PLEAS IN FRANKLIN COUNTY, OHIO
NOW ON FILE WITH THE
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PLEAS IN FRANKLIN COUNTY
THIS 19th DAY OF APRIL 1989
VIRGINIA L. BARNEY, Clerk

By J. B. Smith Deputy