

SANDRA KURT

IN THE COURT OF COMMON PLEAS
2016 OCT -3 PM 3:48 SUMMIT COUNTY, OHIO

SUMMIT COUNTY
CLERK OF COURTS
DAWN M. HELLER,)
)
Plaintiff,)
)
vs.)
)
SUMMIT COUNTY COMMISSIONERS,)
et al.,)
)
Defendants.)

CASE NO.: CV2015-09-4345

JUDGE PAUL J. GALLAGHER

JUDGMENT ENTRY
(Final and Appealable)

This matter comes before the Court upon Defendant’s Complaint and Motion for Summary Judgment to Declare Dawn M. Heller a vexatious litigator. Plaintiff Dawn Heller has not responded in opposition.

Plaintiff Dawn M. Heller, pro se, initiated the above-captioned litigation against Defendant Summit County Commissioners (more appropriately named County of Summit, or ‘the County’) and others. Her Complaint was subsequently dismissed upon the County’s Civ.R. 12(B)(6) motion. Ms. Heller continued to file documents in this matter, and attempted to litigate other claims against the County in other cases in the Summit County Court of Common Pleas, General Division. The County sought and was granted leave to re-open this matter and file a Complaint to declare Dawn M. Heller a vexatious litigator.

The County properly served its Complaint on Ms. Heller on August 9, 2016. Ms. Heller failed to timely answer the Complaint. The County filed a Civ.R. 56 Motion for Summary Judgment supported by the following evidence/exhibits: (A) a copy of the docket in the Summit County Court of Common Pleas General Division listing all litigation instituted by Dawn M. Heller;¹ (B) a copy of the undersigned’s Judgment Entry dismissing the above-captioned pursuant to Civ. R. 12(B)(6); (C) a copy of the docket of the above-captioned case (Summit County C.P. Case No.: CV2015-09-4345); (D) a copy of a “Motion for Withdrawal” authored by

¹ Dawn M. Heller has instituted seventeen (17) lawsuits since 2006, and six (6) in 2016 alone. Ms. Heller was successful in only one case in 2006, by obtaining a default judgment. Thereafter, her various cases have been dismissed for failure to state a claim, failure to prosecute and failure to pay court costs as ordered.

supported by a good faith argument for an extension, modification, or reversal of existing law; (c) the conduct is imposed solely for delay. R.C. 2323.52(A)(2).

R.C. 2323.52(A)(3) defines a vexatious litigator as: * * * any person who has habitually, persistently, and without reasonable grounds engaged in vexatious conduct in a civil action or actions, whether in the court of claims or in a court of common pleas, municipal court, or county court, whether the person or another person instituted the civil action or actions, and whether the vexatious conduct was against the same party or against different parties in a civil action or actions.
* * *

Hull v. Sawchyn, 145 Ohio App.3d 193, 196-97, 762 N.E.2d 416 (8th Dist., Cuy. Co. 2001).

For purposes of the statute, “conduct” means “the filing of a civil action, the assertion of a claim, defense, or other position in connection with a civil action, the filing of a pleading, motion, or other paper in a civil action, including but not limited to, a motion or paper filed for discovery purposes, or the taking of any other action in connection with a civil action.” R.C. 2323.51(A)(1)(a); see R.C. 2323.52(A)(1).

Vexatious and frivolous litigation conduct generally includes filing unnecessary, inappropriate, or supernumerary pleadings and motions with an insistence on raising and re-raising arguments previously rejected by courts. Such conduct only serves to impede and obstruct a judge in the performance of his or her duties.

The purpose of the vexatious litigator statute is clear. It seeks to prevent abuse of the system by those persons who persistently and habitually file lawsuits without reasonable grounds and/or otherwise engage in frivolous conduct in the trial courts of this state. Such conduct clogs the court dockets, results in increased costs, and oftentimes is a waste of judicial resources – resources that are supported by the taxpayer’s of this state. The unreasonable burden placed upon the courts by such baseless litigation prevents the speedy consideration of proper litigation.

Mayer v. Bristow, 91 Ohio St.3d 3, 13, 740 N.E.2d 656 (2000), quoting *Central State Transit Auth. v. Timson*, 132 Ohio App.3d 41, 724 N.E.2d 458 (1998).

“[V]exatious litigators oftentimes use litigation, with seemingly indefatigable resolve and prolificacy, to intimidate public officials and employees or cause the emotional and financial decimation of their targets.” *Id.*, citing see, e.g., *Procup v. Strickland*, 792 F.2d 1069 (C.A. 11, 1986); *In re Green*, 215 U.S. App. D.C. 393, 669 F.2d 779 (C.A.D.C. 1981).

Dawn M. Heller meets the definition of a vexatious litigator in this case. And, her vexatious conduct has spilled into other proceedings in the Summit County Court of Common Pleas, General Division. See Case No. CV2016-02-1122; Case No. CV2015-01-0163; and, Case

The Court further orders that Dawn M. Heller must take the following steps to obtain leave of court:

- a. File a motion for leave to proceed with any document proposed to be filed with a copy of this Judgment Entry attached;
- b. Attach an affidavit certifying (1) that the document raises a new issue which has never been previously raised by her in this court or any other court; (2) that the claim is not frivolous, and; (3) that the document is not filed in bad faith;

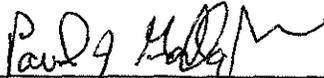
The reviewing court may deny any motion for leave to proceed if the proposed filing is frivolous, vexatious, or harassing. If the motion is denied, the document shall not be filed. Also, failure of Dawn M. Heller to comply with the terms of this order shall be sufficient grounds for any reviewing court to deny a motion for leave to file.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendants Summit County Commissioners' (a.k.a., County of Summit's) Motion for Summary Judgment is GRANTED. Plaintiff Dawn M. Heller is hereby declared a vexatious litigator and shall be subject to all restrictions of R.C. 2323.52.

The Clerk of Court shall send a certified copy of this Judgment Entry to the Supreme Court of Ohio. R.C. 2323.52(H).

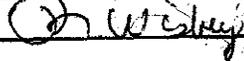
Plaintiff shall pay the costs of this action. This is a final and appealable order and there is no just cause for delay.

IT IS SO ORDERED.



JUDGE PAUL J. GALLAGHER

I certify this to be a true copy of the original
Sandra Kurt, Clerk of Courts.



Deputy Clerk

cc: Attorney Regina M. VanVorous
Dawn M. Heller, pro se, at 838 May St. Apt. #1, Akron, Ohio 44311
Attorney Paul L. Jackson
Bureau of Vocational Rehabilitation
Ohio States Attorney General N.D. Ohio
Judge Lynn Callahan