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OF COMMON PLEAS COURT

**IN THE ATHENS COUNTY COURT OF COMMON PLEAS
ATHENS, OHIO**

CINDY JOHNSON,	:	Case Nos. 08CI303 & 08CI305
Plaintiff,	:	Judge Michael Ward
vs.	:	
CHRIS PYLE, et al.,	:	<u>DECISION AND JUDGMENT</u>
Defendants.	:	<u>ON DEFENDANTS' MOTION</u>
	:	<u>SUMMARY JUDGMENT</u>

This matter came on for consideration of the Motion for Summary Judgment filed by Defendants, Kris Pyle and Ambling Management Company (hereinafter "Pyle and Ambling") and Plaintiff, Cindy Johnson's (hereinafter "Johnson") Memorandum Contra to Defendants' Motion for Summary Judgment and Motion to Strike.

As a threshold issue, this Court finds that it has concurrent jurisdiction with the bankruptcy courts to determine applicability of the automatic stay under 11 U.S.C. § 362. *In re Jeffries* (1995), 191 B.R. 861, 35 Collier Bankr.Cas.2d 229. Johnson filed her civil action on July 15, 2008, alleging Pyle and Ambling violated 11 U.S.C. § 362. At that point this Court had jurisdiction over the matter pursuant to 11 U.S.C. § 1334.

The bankruptcy statute at issue, 11 U.S.C. § 362, expressly excepts certain actions from the automatic stay. Specifically, Section 362 (b) (22) provides the stay does not apply to an eviction "involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor." As

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evidenced by the exhibits #1 through #3 attached to Defendants' Motion for Summary Judgment, the Athens County Municipal Court granted judgment for possession of the premises on June 13, 2008, and issued a writ of restitution on July 3, 2008. Johnson did not file her bankruptcy petition until July 7, 2008. *Amended Complaint at p.2, ¶ 7.* Accordingly, 11 U.S.C. 362 (b)(22) exempted the execution of the writ of restitution from the automatic stay.

As to Johnson's remaining allegations, the evidence establishes that Defendants served Johnson with a Notice to Leave Premises on May 19, 2008. A Complaint in Forcible Entry and Detainer was filed with the Athens County Municipal Court due to Johnson's breach of her lease agreement for non-payment of rent on May 28, 2008. The Athens County Municipal Court granted judgment for possession on June 13, 2008, and issued a writ of restitution on July 3, 2008. Johnson's efforts to quash the writ were denied by the Athens County Municipal Court per its Journal Entry filed on July 7, 2008, and the execution of the writ of restitution was ordered to proceed as scheduled. Accordingly, the Court finds that Johnson's allegations with regard to violation of Ohio Landlord-Tenant Law and of perjury and falsification of records are without merit.

Turning now to Defendants' Counterclaim, the Court finds that Johnson has filed numerous lawsuits against individuals and public officials in different courts in the State of Ohio. The vexatious litigator statute was designed to stop litigators who often "use litigation, with seemingly indefatigable resolve and prolificacy, to intimidate public officials and employees or cause the emotional and financial decimation of their targets,... Such conduct, which employs court processes as amusement or a weapon in itself, undermines the people's faith in the legal system, threatens the integrity of the judiciary, and casts a shadow upon the administration of justice. Thus, the people, through their representatives, have a legitimate, indeed compelling,

interest in curbing the illegitimate activities of vexatious litigators.” *Mayer v. Bristow* (2000), 91 Ohio St.3d 3, 13.

The evidence before the Court demonstrates that Johnson has a pattern of using litigation in an effort to intimidate those who have become her targets. Johnson sued her prior landlord in the United States District Court for the Southern District of Ohio on July 25, 2006, in *Cyndi Johnson v. University Housing*; Case Number 2:06-CV-628, and her landlord’s property manager in the case of *Cyndi Johnson v. G. Maxine Young*; Case Number 2:06-CV-818, also filed in the United States District Court for the Southern District. Johnson sued the Municipal Court Judge and the Clerk of Court in which her eviction was heard on two occasions in the cases *Cyndi Johnson v. Judge Grim, et al.*, Case Number 2:06-CV-00739 and *Cindy Johnson v. Grim, et al.*, Case Number 2:08-CV-00093 both filed in the United States District Court for the Southern District of Ohio.

The Ohio Civil Rights Commission became a target of Johnson in 2006 in the case of *Cinseree Johnson v. Ohio Civil Rights Commission*, filed in the United States District Court for the Southern District of Ohio Case Number 2:06-CV-0626. Other public agencies and officials to have been sued by Johnson include Ohio University and officials of Ohio University in the cases of *Cinseree Johnson v. Ohio University*, Case Number 2:06-CV- 00530 and *Cinseree Johnson v. Carpinelli, et al.*, Case Number 2:06-CV- 0819 both filed in the United States District Court for the Southern District of Ohio. The City of Cleveland and another public official, the Cleveland City Prosecutor, have been sued by Johnson due to her assertion that her mother was murdered by University Hospital. See, *Cindy Johnson v. City of Cleveland*, United States District Court for the Northern District of Ohio Case Number 1:07-CV-3135.

Johnson's former employer, Wendy's Restaurant, has been the focus of four lawsuits by Johnson. *Cyndi Johnson v. Wendy's Restaurant* Case Number 2:05-CV- 01060; *Cyndi Johnson v. James Harris* Case Number 2:06-CV-892; *Cyndi Johnson v. Wendy's Management Group, Inc.*, Case Number 2:07-CV-01259 filed in the United States District Court for the Southern District of Ohio, and *Cindy Johnson v. Wendy's Management Group, Inc.*, Case Number CH2008-0369 filed in Muskingum County Common Pleas Court.

Johnson has filed several other frivolous suits in the state courts as well. Last year, Johnson sued the Athens Messenger and Brown Publishing Company in this Court in the case of *Cindy Johnson v. The Athens Messenger*, Case No. 07CI0379. Also in 2007, Johnson filed two lawsuits against University Hospital Case Medical Center in the cases *Cindy Johnson v. University Hospital Case Medical Center, et al.* in the Cuyahoga Common Pleas Court Case No. CV-07-638214 and Case No. CV-08-653394 both of which have been dismissed and are on appeal.

2008 has seen no decline in Johnson's penchant for litigation. On February 12, 2008, she filed medical malpractice actions against Edward Michelson, M.D. in the cases *Cindy Johnson v. Edward Michelson, et al.* Case No. CV-08-650702, and Robert Schillz, M.D. in *Cindy Johnson v. Robert Schillz, et al.* Case No. CV-08-650701, both filed in the Cuyahoga Common Pleas Court. Two months later Johnson filed a lawsuit against the Chair of the Athens County Democratic Party in the case *Cindy Johnson v. Susan Gwinn*, Athens Common Pleas Court Case No. 08CI0152, alleging the election for Executive Committee Chair held on April 3, 2008, was held in violation of the Athens County Democratic Party's constitution and bylaws. On May 9, 2008, Johnson filed yet another lawsuit in Cleveland with the case of *Cinseree Johnson v. DeLuca Chrysler-Jeep, Inc., et al.*, Cuyahoga Common Pleas Court Case No. CV-08-659217.

Accordingly, the Court finds that Johnson has a history of filing frivolous lawsuits in the State of Ohio, and is a vexatious litigator as that term is defined in R.C. § 2323.52 (A) (3).

Based on a review of all of the cases discussed above, this Court finds that Johnson has engaged in conduct that obviously serves to harass another party to the lawsuit. Based on a review of all of the cases discussed above as well as her conduct in filing her claim in this Court while simultaneously pursuing her claims in the Athens County Municipal Court, the Fourth Appellate District and the United States Bankruptcy Court, this Court finds that Johnson has engaged in conduct that is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law. Based on a review of all of the cases discussed above, this Court finds that Johnson has engaged in conduct that is imposed solely to harass and cause considerable expense to Defendants. *See, e.g., Castrataro v. Urban* (2003), 155 Ohio App.3d 597.

After review of the parties' filings, this Court finds that there is no genuine issue as to any material fact and that reasonable minds can come to but one conclusion, which is adverse to Plaintiff, with the evidence construed most strongly in her favor. Defendants, Kris Pyle and Ambling Management Company are granted summary judgment in their favor.

Accordingly, this Court hereby ORDERS:

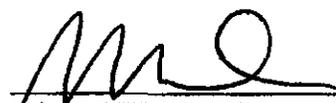
- 1) Cindy Johnson a.k.a. Cyndi Johnson a.k.a. Cinseree Johnson is declared a vexatious litigator as defined in Ohio Revised Code § 2323.52;
- 2) Cindy Johnson a.k.a. Cyndi Johnson a.k.a. Cinseree Johnson is prohibited from, directly or indirectly, instituting a legal proceeding, continuing a legal proceeding or making any application for relief or filing any motions in a legal proceeding in a court of common pleas,

municipal court or county court, court of appellate jurisdiction or any federal court without first obtaining leave of that court to proceed;

3) Defendants are awarded their reasonable attorneys' fees in the defense and prosecution of this action; and

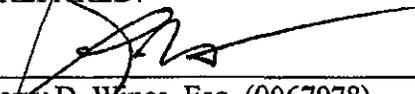
4) Defendants are awarded all costs incurred in the defense and prosecution of this action.

The Court determines that this is a final appealable Order in accordance with Civ. R. 54(A) and the Clerk of Courts is directed to serve copies of this Entry pursuant to Civ. R. 58(B). Costs taxed to Plaintiff. The Clerk of Courts is kindly directed to circulate file-stamped copies of this Order to counsel for Defendants and *Pro se* Plaintiff. SO ORDERED.



Michael Ward, Judge

PREPARED:



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STATE OF OHIO, ATHENS COUNTY
I, THE UNDERSIGNED, HEREBY
CERTIFY THE FOREGOING AS A
TRUE COPY OF THE ORIGINAL
3 DAY OF Feb. 20. 09
CLERK/DEPUTY 