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

RODNEY E. LEMONS
Plaintiff

ALISON D. EDELSTEIN, ET AL
Defendant

Case No: CV-15-839186

Judge: VJ RONALD SUSTER

JOURNAL ENTRY

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PENDING BEFORE THE COURT IS DEFENDANTS' MOTION FOR SUMMARY JUDGMENT ON THEIR COUNTERCLAIM. DEFENDANTS SEEK A DECLARATION THAT PLAINTIFF, RODNEY E. LEMONS ("LEMONS"), IS A VEXATIOUS LITIGATOR WITHIN THE MEANING OF R.C. § 2323.52. WHILE LEMONS HAS NOT OPPOSED THE MOTION, THE COURT HAS CAREFULLY CONSIDERED ITS MERITS.

A VEXATIOUS LITIGATOR IS "ANY PERSON WHO HAS HABITUALLY, PERSISTENTLY, AND WITHOUT REASONABLE GROUNDS ENGAGED IN VEXATIOUS CONDUCT" IN A STATE COURT. R.C. § 2323.52(A)(3). THE STATUTE DEFINES VEXATIOUS CONDUCT AS FOLLOWS:

"(2) "VEXATIOUS CONDUCT" MEANS CONDUCT 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."

R.C. § 2323.52(A)(2).

DEFENDANTS' MOTION REFERENCES SEVERAL CASES FILED BY LEMONS THAT THEY CLAIM EVIDENCE VEXATIOUS CONDUCT. THE CASES WERE FILED IN HIS INDIVIDUAL CAPACITY OR UNDER THE NAME OF BRIDGE ENTERPRISES, INC.. THESE INCLUDE TWO CUYAHOGA COURT OF COMMON PLEAS CASES, NAMELY, LEMONS, ET AL. V. EDELSTEIN, ET AL., CUYAHOGA COMMON PLEAS CASE NO. CV-12-782479 (CASE ORIGINALLY FILED IN SUMMIT COUNTY COURT OF COMMON PLEAS AS CASE NO. 2011-09-5387 AND LATER TRANSFERRED TO CUYAHOGA COUNTY), AND BRIDGE ENTERPRISES, INC. V. EDELSTEIN, ET AL., JUDGE DAVID T. MATIA AND ATTORNEY ELLIOT RESNICK, CUYAHOGA COMMON PLEAS CASE NO. CV-11-749351.

DEFENDANTS' LIST OF PURPORTEDLY VEXATIOUS CASES ALSO INCLUDES A FEDERAL ACTION: LEMONS V. CUYAHOGA COUNTY COURTS ET AL., CASE NO. 1:13-CV-2704. THE COURT IS MINDFUL, HOWEVER, OF THE EIGHTH DISTRICT'S HOLDING THAT FEDERAL ACTIONS ARE NOT TO BE CONSIDERED IN DETERMINING VEXATIOUS LITIGATOR STATUS. CARR V. RIDDLE, 136 OHIO APP. 3D 700, 737 N.E.2D 976, 2000 OHIO APP. LEXIS 350 (8TH DIST. 2000); SEE ALSO CATUDAL V. CATUDAL, 2015-OHIO-1559, 2015 OHIO APP. LEXIS 1496, ¶ 11 (10TH DIST.). BUT SEE BORGER V. MCERLANE, 2001-OHIO-4030, 2001 OHIO APP. LEXIS 5544 (1ST DIST.) ("ALTHOUGH WE AGREE WITH CARR THAT CIVIL ACTIONS FILED IN A FEDERAL COURT CANNOT BE THE PREDICATE ACTIONS FOR DECLARING A PERSON A 'VEXATIOUS LITIGATOR' UNDER R.C. 2323.52, THAT IS NOT TO SAY THAT THEY DO NOT

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HAVE ANY EVIDENTIARY RELEVANCE FOR DETERMINING 'VEXATIOUS CONDUCT' AS DEFINED IN R.C. 2953.52(A)(2)(A), OR TO IDENTIFY A 'VEXATIOUS LITIGATOR' AS DEFINED IN R.C. 2953.52(A)(3)."

THIS COURT, IN ACCORDANCE WITH THE EIGHTH DISTRICT'S DECISION IN CARR, WILL NOT CONSIDER -- IN ANY FASHION -- THE FEDERAL CASE THAT LEMONS FILED. AS NOTED ABOVE, HOWEVER, DEFENDANTS LISTED AND DISCUSSED TWO CUYAHOGA COMMON PLEAS CASES IN THEIR MOTION FOR SUMMARY JUDGMENT AND THIS ACTION. IN ADDITION, DEFENDANTS DISCUSSED THE CRIMINAL CASE CAPTIONED STATE V. LEMONS, CASE NO. CR-13-576552-A, IN WHICH LEMONS' CONDUCT AGAINST THE DEFENDANTS RESULTED IN A CONVICTION OF ALL EIGHT COUNTS OF AN INDICTMENT BY A JURY, AND LEMONS IS CURRENTLY SERVING A THIRTY (30) MONTH PRISON SENTENCE. LEMONS APPEALED THE CONVICTION, WHICH WAS AFFIRMED. STATE V. LEMONS, 2015 OHIO APP. LEXIS 2338, 2015-OHIO-2382 (8TH DIST.). EVEN THAT DID NOT STOP HIM. AFTER THE COURT AFFIRMED THE CASE, LEMONS PURSUED THIS CIVIL ACTION AGAINST DEFENDANTS.

THE EVIDENCE THEREFORE ESTABLISHES THAT IN ADDITION TO THE PRESENT ACTION, LEMONS HAS FILED TWO STATE COURT LAWSUITS THAT 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 REITERATES THAT ITS DETERMINATION IS NOT INFLUENCED IN ANY WAY BY LEMONS' FEDERAL COURT FILING. THE TWO FRIVOLOUS COMMON PLEAS CASES ARE QUITE ENOUGH. INDEED, "SEPARATE, REPETITIVE ACTIONS ARE NOT NECESSARY FOR A VEXATIOUS LITIGATOR FINDING, AND SUCH A FINDING CAN BE BASED UPON ACTIONS IN A SINGLE CASE." ROO V. SAIN, 2005-OHIO-2436, 2005 OHIO APP. LEXIS 2320, ¶ 18 (10TH DIST.).

FOR ALL OF THE FOREGOING REASONS:

1) DEFENDANTS' UNOPPOSED MOTION FOR SUMMARY JUDGMENT IS GRANTED PURSUANT TO CIV.R. 56(C).

2) THE COURT, PURSUANT TO R.C. § 2323.52, DECLARES PLAINTIFF LEMONS A VEXATIOUS LITIGATOR. CONSISTENT WITH THAT DESIGNATION, PURSUANT TO § 2323.52(D) LEMONS IS ORDERED INDEFINITELY PROHIBITED FROM DOING ANY OF THE FOLLOWING WITHOUT FIRST OBTAINING LEAVE OF THIS COURT TO PROCEED:

(A) INSTITUTING LEGAL PROCEEDINGS IN THE COURT OF CLAIMS OR IN A COURT OF COMMON PLEAS, MUNICIPAL COURT, OR COUNTY COURT;

(B) CONTINUING ANY LEGAL PROCEEDINGS THAT HE HAS INSTITUTED IN ANY OHIO TRIAL COURT PRIOR TO THE ENTRY OF THIS ORDER;

(C) MAKING ANY APPLICATION, OTHER THAN AN APPLICATION FOR LEAVE TO PROCEED UNDER R.C. § 2323.52(F)(1), IN ANY LEGAL PROCEEDINGS INSTITUTED BY HIM OR ANOTHER PERSON IN ANY OF THE OHIO TRIAL COURTS LISTED ABOVE; OR

(D) INSTITUTING OR CONTINUING ANY LEGAL PROCEEDINGS IN THE COURT OF APPEALS WITHOUT FIRST OBTAINING LEAVE FROM THE COURT OF APPEALS PURSUANT TO R.C. § 2323.52(F)(2). PROVIDED, HOWEVER, THAT THIS COURT'S JOURNAL ENTRY AND OPINION DOES NOT AFFECT LEMON'S RIGHT TO APPEAL HIS CLASSIFICATION AS A VEXATIOUS LITIGATOR.

THE CLERK OF COURTS, CUYAHOGA COUNTY, OHIO, IS HEREBY ORDERED TO SEND A CERTIFIED COPY OF THIS JOURNAL ENTRY TO THE OHIO SUPREME COURT FOR PUBLICATION PURSUANT TO R.C. § 2323.52(H).

PLAINTIFF IS TO PAY ALL COSTS ASSOCIATED WITH THIS CASE.

AS THIS COURT'S PREVIOUS ORDER GRANTING DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS ON LEMONS' COMPLAINT DISPOSED OF ALL OTHER CLAIMS IN THE INSTANT MATTER, THIS ORDER CONSTITUTES A

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FINAL JUDGMENT IN THIS ACTION.

PURSUANT TO CIV. R. 54(B), THE COURT FINDS THERE IS NO JUST REASON FOR DELAY.

IT IS SO ORDERED.

COURT COST ASSESSED TO THE PLAINTIFF(S).

PURSUANT TO CIV.R. 58(B), THE CLERK OF COURTS IS DIRECTED TO SERVE THIS JUDGMENT IN A MANNER PRESCRIBED BY CIV.R. 5(B). THE CLERK MUST INDICATE ON THE DOCKET THE NAMES AND ADDRESSES OF ALL PARTIES, THE METHOD OF SERVICE, AND THE COSTS ASSOCIATED WITH THIS SERVICE.

THIS ENTRY TAKEN BY JUDGE RONALD SUSTER.

Ronald Suster

Judge Signature

12/09/2015

THE STATE OF OHIO Cuyahoga County	} SS.	I, THE CLERK OF THE COURT OF COMMON PLEAS WITHIN AND FOR SAID COUNTY,
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL <u>CV-15-839106</u> <u>12/9/2015 JOURNAL ENTRY</u>		
NOW ON FILE IN MY OFFICE		
WITNESS MY HAND AND SEAL OF SAID COURT THIS <u>9th</u> DAY OF <u>DECEMBER</u> A.D. 20 <u>15</u>		
CUYAHOGA COUNTY CLERK OF COURTS		
By <u>[Signature]</u> , Deputy		

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