

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

RECEIVED  
AUG 02 1999  
MARCIA J. MENGEL, CLERK  
SUPREME COURT OF OHIO

KATHRYN H. PAVARINI *et al* )  
 )  
Plaintiffs )  
 )  
vs. )  
 )  
ROBERT MANNING )  
 )  
 )  
Defendant )  
 )  
 )  
 )  
 )  
 )

CASE NO. 377857  
JUDGE JUDITH KILBANE-KOCH  
ORDER

F

Defendant's Motion for Default Judgment and Motion for Sanctions Pursuant to Civ. R. 37 came on for hearing on the 29th day of July 1999 at 8:30 a.m. -- postcards were mailed by the Court to all Parties.

Defendant presented return receipts for certified mail, which demonstrate delivery to Kathryn Pavarini on July 16, 1999, and to Philip Pavarini on July 17, 1999, of letters advising both Pavarinis of the date and time of the default hearing and of the fact that judgment may be rendered against them at said hearing. Both receipts were signed by Bridget Richmond, and were delivered to the address supplied by Plaintiffs upon their complaint. Additionally, Defendant provided a receipt from the US Post Office which demonstrated payment for the postage for certified mail, as well as payment for postage for regular delivery mail, a copy of which Defendant sent to, and which was received by this Court. Plaintiff provided copies of the letters sent via regular and certified mail to the Pavarinis; said letters indicated that judgment may be rendered against each of the Pavarinis on July 29, 1999 when the motions for default and for sanctions would be heard. This Court finds that Plaintiffs were served with notice of this hearing, and were served with notice that judgment may be rendered against them.

Handwritten initials and date: 8/2/99

Defendant filed his answer and counterclaim on May 7, 1999, and was served upon Plaintiffs in accordance with the Rules of Civil Procedure. Further, this Court finds that Plaintiffs have failed to answer or otherwise move in regard to the counterclaim, and this Court further finds that Plaintiffs are in default of answer regarding Defendant's counterclaim.

This Court also finds that Defendant has served Requests for Production, Requests for Admission, Interrogatories, and Notices of Deposition upon each Plaintiff, and this Court finds that Plaintiffs have failed to make response or otherwise move regarding any of these requests, interrogatories or notices. This Court finds that Defendant complied with the requirements of Local R. 11 by requesting Plaintiffs to resolve the discovery impasse by issuing letters to both Plaintiffs on June 15, 1999. Further, this Court finds that Plaintiffs failed to attend properly noticed depositions of the Plaintiffs on June 22, 1999, that there was no good reason for Plaintiffs' failure to attend their depositions, and that sanctions against Plaintiffs for their complete and utter refusal to make meaningful discovery are appropriate.

Accordingly, this Court dismisses with prejudice the complaint of Kathryn Pavarini and Philip Pavarini as the appropriate sanction for their failure to make response to any discovery and for their failure to attend their properly noticed depositions.

Further, as Plaintiffs are in default of answer regarding the counterclaim of Defendant, and as the conduct of Plaintiffs in regard to this matter, and in regard to other matters where Plaintiffs have acted in a *pro se* capacity, has been found to be frivolous and vexatious, this Court finds that Kathryn Krinek Pavarini and Philip Pavarini are found to be vexatious litigators subject to O.R.C. 2323.52(D)(2), and it this Court also finds that the vexatious and frivolous conduct by Kathryn Krinek Pavarini and Philip Pavarini has occurred in cases which have been active within one (1) year prior to the entry of this order and in cases in which the Defendant/counterclaimant was a party.

Accordingly, it is ordered, adjudged and decreed that Kathryn Krinek Pavarini and Philip Pavarini are prohibited from instituting and/or maintaining legal proceedings in a *pro se* capacity in a court of common pleas, municipal court, or county court without first obtaining

the leave of this court to proceed. Further, it is ordered that Kathryn Krinek Pavarini and Philip E. Pavarini be prohibited from making any application *pro se*, other than an application for leave to proceed under O.R.C. 2323.51(F) in any legal proceedings instituted by Kathryn Krinek Pavarini and/or Philip E. Pavarini or another person in any Ohio Court of Common Pleas, municipal court, or county court. This order shall remain in force indefinitely pursuant to the authorization of O.R.C. 2323.52. Further, Kathryn Krinek Pavarini and Philip Pavarini are required to comply with all provisions of O.R.C. 2323.52(F).

In accordance with the authorization of O.R.C. 2323.52, the Cuyahoga County Clerk of Courts is instructed to send a certified copy of the order to the Supreme Court of Ohio for publication pursuant to O.R.C. 2323.52(H). Further, Kathryn Krinek Pavarini and Philip E. Pavarini are subject the restrictions of O.R.C. 2323.52(I), such that whenever it appears by suggestion of the parties or otherwise that either Kathryn Krinek Pavarini or Philip Pavarini have instituted, continued, or made an application in legal proceedings without obtaining leave to proceed from this Court pursuant to O.R.C. 2323.52(F), the court in which the legal proceedings are pending shall dismiss the proceedings or application of the vexatious litigator.

Costs to be paid by Plaintiffs Kathryn Pavarini and Philip Pavarini.

No just cause for delay.

*Judith Kilbane Koch*  
 JUDGE JUDITH KILBANE-KOCH

THE STATE OF OHIO } Cuyahoga County	SS. I. GERALD E. FUERST, 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>order</u>	
<u>determining vexatious litigation in</u>	
NOW ON FILE IN MY OFFICE. Vol. 2365 ps. 74-81	
WITNESS MY HAND AND SEAL OF SAID COURT THIS <u>30<sup>th</sup></u>	
DAY OF <u>July</u> A.D. 199 <u>9</u>	
GERALD E. FUERST, Clerk	
By <u>J. Michael Drot</u>	Deputy

RECEIVED FOR FILING  
 JUL 29 1999  
 BY [Signature] CLERK  
 DEP.