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

DOUG WOODS
Plaintiff

ERIN WEBB
Defendant

Case No: CV-20-933418

Judge: MICHAEL J RUSSO

JOURNAL ENTRY

92 DEFAULT - FINAL

9/16/2020: THIS CASE IS BEFORE THE COURT ON PLAINTIFF DOUG WOOD'S COMPLAINT AGAINST ERIN WEBB TO DECLARE HER CONDUCT TO BE FRIVOLOUS AND HAVE HER DECLARED A VEXATIOUS LITIGATOR. DEFENDANT DID NOT RESPOND TO PLAINTIFF'S COMPLAINT, SO THE COURT SET THE MATTER FOR A DEFAULT HEARING VIA ZOOM. COURT REPORTER KIM GIEL PRESENT. PLAINTIFF PRESENT PRO SE, DEFENDANT PRESENT WITH COUNSEL OF RECORD, ROBERT BROOKS, II. THE COURT DETERMINED FROM THE OHIO SUPREME COURT WEBSITE THAT ATTORNEY BROOKS HAS BEEN SUSPENDED FROM THE PRACTICE OF LAW SINCE 11/01/2019, AND HE WAS NOT PERMITTED TO PARTICIPATE IN THE HEARING.

THE UNDISPUTED EVIDENCE (VIA SWORN AFFIDAVIT) SHOWS THAT DEFENDANT WAS A TENANT OF PLAINTIFF, AND THE INITIAL DISPUTE BETWEEN THEM AROSE WHEN PLAINTIFF EVICTED DEFENDANT AND SOUGHT RESTITUTION FOR DAMAGED PROPERTY. SINCE THE CONCLUSION OF THAT LAW SUIT, WHICH RESOLVED IN PLAINTIFF'S FAVOR, DEFENDANT HAS FILED NUMEROUS MOTIONS, TWO LAWSUITS, AND ENGAGED IN OTHER JUDICIAL CONDUCT SEEKING TO PREVENT MR. WOODS FROM PROCURING HIS RECOVERY, WHICH SHE ALLEGES WAS FRAUDULENT BUT WHICH SHE NEVER SOUGHT TO REMEDY USING PROPER METHODS. FOR THE FOLLOWING REASONS, JUDGMENT IS RENDERED FOR PLAINTIFF AND AGAINST DEFENDANT AS TO HIS CLAIM FOR VEXATIOUS CONDUCT.

LAW AND ANALYSIS

PURSUANT TO R.C. §2323.52, A PERSON WHO HAS "DEFENDED AGAINST HABITUAL AND PERSISTENT VEXATIOUS CONDUCT" MAY ASK A TRIAL COURT TO DECLARE THE PERSON WHO ENGAGED IN THAT CONDUCT A VEXATIOUS LITIGATOR. TO DECLARE A PERSON A "VEXATIOUS LITIGATOR," A PLAINTIFF MUST DEMONSTRATE THAT THE DEFENDANT: 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 APPEALS, 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 THE CIVIL ACTION OR ACTIONS. RC. 2323.52(A)(3).

"VEXATIOUS CONDUCT" IS DEFINED AS CONDUCT THAT (1) OBVIOUSLY SERVES MERELY TO HARASS OR MALICIOUSLY INJURE ANOTHER PARTY TO THE CIVIL ACTION, (2) IS NOT WARRANTED UNDER EXISTING LAW AND CANNOT BE SUPPORTED BY A GOOD FAITH ARGUMENT FOR AN EXTENSION, MODIFICATION OR REVERSAL OF EXISTING LAW OR (3) IS IMPOSED SOLELY FOR DELAY. R.C. §2323.52(A)(2)(A)-(C). "CONDUCT" INCLUDES "[T]HE 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. §§2323.52(A)(L); 2323.5L(A)(L)(A).

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THE OHIO SUPREME COURT EXPLAINED THE PURPOSE OF THE VEXATIOUS LITIGATOR STATUTE AS FOLLOWS: 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 OFTEN IS A WASTE OF JUDICIAL RESOURCES. THE UNREASONABLE BURDEN PLACED UPON 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 *CENT. OHIO TRANSIT AUTH. V. TIMSON*, 132 OHIO APP.3D 41, 50, 724 N.E.2D 458 (10TH DIST.1998).

DEFENDANT WAS CLEARLY FRUSTRATED BY THE RESULT OF THE INITIAL LITIGATION. SHE STATED DURING THE HEARING THAT SHE "BARELY SUES THE PLAINTIFF" WHILE HE "SUES PEOPLE ALL THE TIME." PLAINTIFF IS A LANDLORD WITH MULTIPLE PROPERTIES AND OCCASIONALLY NEEDS TO ENGAGE IN LITIGATION; THE VOLUME OF HIS LITIGATION DOES NOT AUTOMATICALLY MEAN THAT HIS LITIGATION IS VEXATIOUS, NOR IS HIS CONDUCT AT ISSUE HERE. THE DEFENDANT, HOWEVER, HAS ACTED ON HER FRUSTRATIONS IN A COUNTERPRODUCTIVE MANNER BY BRINGING DUPLICATIVE AND INAPPROPRIATE LITIGATION THAT COULD NOT RESOLVE THE UNDERLYING ISSUE AND WHICH WAS NOT SUPPORTED BY LAW. INSTEAD, SHE ABUSED THE SYSTEM AND PLACED AN UNDUE BURDEN ON THE GARFIELD HEIGHTS MUNICIPAL COURT, WASTING BOTH TIME AND RESOURCES IN AN ALREADY BURDENED SYSTEM.

AS TO WOODS' CLAIM FOR COMPENSATION FOR DEFENDING AGAINST WEBB'S LAWSUITS, THE COURT FINDS THAT WOODS' CLAIM TO DECLARE WEBB'S CONDUCT FRIVOLOUS IS INAPPROPRIATE AS A STANDALONE CLAIM, AS THE CONDUCT IN QUESTION IS PROPERLY MADE THROUGH A MOTION BEFORE THE MUNICIPAL COURT IN THE CASE WHERE THE CONDUCT OCCURRED. R.C. 2323.51.

CONCLUSION

THE COURT HEREBY DECLARES DEFENDANT ERIN WEBB TO BE A VEXATIOUS LITIGATOR. DEFENDANT IS PROHIBITED FROM DOING ANY OF THE FOLLOWING WITHOUT FIRST OBTAINING LEAVE OF THIS COURT TO PROCEED:

- I. INSTITUTING LEGAL PROCEEDINGS IN THE COURT OF CLAIMS OR IN A COURT OF COMMON PLEAS, MUNICIPAL COURT, APPELLATE COURT, OR COUNTY COURT, OR;
- 2. CONTINUING ANY LEGAL PROCEEDINGS THAT THE VEXATIOUS LITIGATOR HAD INSTITUTED IN THE COURT OF CLAIMS OR IN A COURT OF COMMON PLEAS, MUNICIPAL COURT, APPELLATE COURT, OR COUNTY COURT PRIOR TO THE ENTRY OF THE ORDER, OR;
- 3. MAKING ANY APPLICATION, OTHER THAN AN APPLICATION FOR LEAVE TO PROCEED UNDER REVISED CODE § 2323.52(F), IN ANY LEGAL PROCEEDINGS INSTITUTED BY THE DEFENDANT OR ANOTHER PERSON IN THE COURT OF CLAIMS OR IN A COURT OF COMMON PLEAS, MUNICIPAL COURT, APPELLATE COURT, OR COUNTY COURT.

THESE ORDERS DO NOT PREVENT DEFENDANT FROM APPEALING HER DECLARATION AS A VEXATIOUS LITIGATOR.

THE CLERK OF COURTS IS ORDERED TO SERVE CERTIFIED COPIES OF THIS ORDER ON THE OHIO SUPREME COURT FOR PUBLICATION PURSUANT TO OHIO REV. CODE § 2323.52(H); THE GARFIELD HEIGHTS MUNICIPAL COURT; AND THE PARTIES TO THIS ACTION.

COURT COST ASSESSED TO THE DEFENDANT(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.



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Wendy J. Rusto

Judge Signature

09/17/2020

The State of Ohio }
Cuyahoga County }

I, The Clerk of the Court
SS. Of Common Pleas within
And for said County

Hereby certify that the above and foregoing is truly
Taken and copied from the original

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Now on file in my office

Witness my hand and seal of said Court this 17
Day of ~~February~~ A.D. 2021

CUYAHOGA COUNTY CLERK OF COURTS
By [Signature] Deputy