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FILED

2005 MAR 31 AM 9: 11

ELEANOR J. EDWARDS
PAULDING COUNTY OHIO

IN THE COURT OF COMMON PLEAS OF PAULDING COUNTY, OHIO

JANET GOYINGS,

Plaintiff,

vs.

ROMANE RICKELS,

Defendant.

_____/

Case No. CI-04-318

JUDGMENT ENTRY

THIS CAUSE came on for consideration of the parties' respective motions for summary judgment; and, the Court having considered the pleadings, memoranda, certified copies of court documents, and the affidavits finds that there is no genuine issue as to any material fact and, construing the evidence most strongly in favor of the Defendant, that reasonable minds can come to but one conclusion and that conclusion is that the Plaintiff is entitled to judgment as a matter of law determining that the Defendant is a vexatious litigator as that term is defined in Section 2323.52(A)(3) of the Ohio Revised Code and that the Plaintiff's motion for summary judgment should be granted.

The Court further finds that the Defendant's motion for summary judgment is not well taken and should be and hereby is overruled.

IT IS THEREFORE ORDERED that the Defendant be and hereby is determined to be a vexatious litigator.

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MARCIA J. MENGEL, CLERK
SUPREME COURT OF OHIO

IT IS FURTHER ORDERED that the Defendant be and hereby is prohibited from doing any of the following without first obtaining leave of this Court to proceed, to-wit:

1. Instituting any legal proceedings in the Court of Claims or in a Court of Common Pleas, Municipal Court, or County Court in the State of Ohio;

2. Continuing any legal proceedings that the Defendant has instituted in the Court of Claims or in a Court of Common Pleas, Municipal Court, or County Court within this State prior to the entry of this order;

3. Making any application, other than an application for leave to proceed in any legal proceedings instituted by the Defendant in the Court of Claims or in a Court of Common Pleas, Municipal Court, or County Court within this State.

IT IS FURTHER ORDERED that the Defendant pay the costs herein.

IT IS FURTHER ORDERED that the Clerk of this Court shall send a certified copy of this order to The Supreme Court of Ohio for publication in a manner that The Supreme Court determines is appropriate pursuant to Section 2323.52(H) of the Ohio Revised Code.

DATED this 31st day of March, 2005.

J. David Webb, JUDGE

Copy to

Michael C. Jones, Esq.
James P. Spriggs, Esq.
Counsel for Plaintiff

Romane Rickels
344 E. Rosewood Ave., Apt. 35
Defiance, OH 43512

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JDW/br

IN THE COURT OF COMMON PLEAS OF PAULDING COUNTY, OHIO

JANET GOYINGS,

Plaintiff,

vs.

ROMANE RICKELS,

Defendant.

_____/

Case No. CI-04-318

DECISION

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2005 MAR 31 AM 9:10
CLERK OF COURTS
PAULDING COUNTY, OHIO

THIS CASE is before the Court on the parties' respective motions for summary judgment and the Court has considered the pleadings, memoranda, certified copies of various pleadings, and affidavits.

This matter arises out of multiple cases that all have there origin in the guardianship and estate proceedings of Minnie Rickels in the Paulding County Probate Court.

The Plaintiff was appointed Guardian of and later Administratrix of the Estate of Minnie M. Rickels by the Probate Division of this Court. Plaintiff has supported her motion for summary judgment with affidavits and certified copies of various court documents, while the Defendant has submitted no materials of evidentiary quality as contemplated by Rule 56(E) of the Ohio Rules of Civil Procedure.

The Court finds that there is no genuine issue as to the following material facts:

1. Plaintiff was appointed Guardian of Minnie Rickels in September of 2002.

2. Plaintiff was appointed Administratrix of the Estate of Minnie Rickels in March of 2003.

3. Defendant has filed three (3) separate complaints against the Plaintiff in this Court, being Case No. CI-04-193, Case No. CI-04-203, and Case No. CI-03-233.

4. Defendant has filed nine (9) separate appeals to the Third District Court of Appeals, eight (8) of which arose out of the Guardianship and Estate proceedings and one (1) of which arose out of Case No. CI-04-193 in this Court.

5. In Case No. 11-02-09, the Third District Court of Appeals dismissed the Defendant's appeal as moot on December 11, 2002.

6. On December 19, 2002, the Third District Court of Appeals denied the Defendant's "objections" to the Third District Court of Appeals' dismissal of Case No. 11-02-09 as moot.

7. On December 31, 2002, the Third District Court of Appeals denied the Defendant's motion for "reversal" of the Third District Court of Appeals' denial of the Defendant's "objections" to the dismissal of Case No. 11-02-09 as moot.

8. In Case No. 11-03-09, the Defendant appealed the Probate Court's determination that a document submitted by the Defendant as the will of Minnie Rickels was not a valid will and the Third District Court of Appeals affirmed the Probate Court's determination.

9. In Case No. 11-03-12, the Third District Court of Appeals dismissed Defendant's appeal from a "verbal-denial-of-filing" for want of jurisdiction.

10. In Case No. 11-03-13, the Defendant appealed the Probate Court's denial of the Defendant's exceptions to the Guardian's First and Final Account of the Estate of Minnie Rickels and the Third District Court of Appeals affirmed the decision of the Probate Court and found that "appellant's assertions and arguments, however, are difficult to understand and largely unintelligible." *In Re Rickels Guardianship*, 2004-Ohio 2353 at Page 4.

11. In Case No. 11-04-02, the Third District Court of Appeals *sua sponte* dismissed the Defendant's appeal from the Probate Court's denial of Defendant's motion to dismiss the co-defendant fudiciary as a party for want of jurisdiction on April 15, 2004.

12. On May 10, 2004, the Third District Court of Appeals denied the Defendant's application for reconsideration of its dismissal of the appeal in Case No. 11-04-02 for want of jurisdiction.

13. In Case No. 11-04-03, the Third District Court of Appeals *sua sponte* dismissed the Defendant's appeal from the Probate Court's denial of Defendant's motion for summary judgment for lack of jurisdiction on April 19, 2004.

14. On May 10, 2004, the Third District Court of Appeals denied the Defendant's application for reconsideration of its dismissal of the appeal in Case No. 11-04-03 for want of jurisdiction.

15. In Case No. 11-04-09, the Third District Court of Appeals dismissed the Defendant's appeal from the Probate Court's denial of the Defendant's motion for summary judgment, motion to "Remove Administratrix" and other procedural motions for lack of jurisdiction.

16. In Case No. 11-04-13, the Third District Court of Appeals *sua sponte* dismissed Defendant's appeal from this Court's overruling of his motion for default judgment for want of jurisdiction on October 15, 2004.

17. On November 12, 2004, the Third District Court of Appeals denied the Defendant's application for reconsideration of its dismissal of the appeal in Case No. 11-04-13 for want of jurisdiction.

18. In Case No. 11-05-02, the Third District Court of Appeals *sua sponte* dismissed Defendant's appeal from the Probate Court's denial of the Defendant's motion to dismiss the complaint on jurisdictional grounds for want of jurisdiction on January 26, 2005.

19. On March 2, 2005, the Third District Court of Appeals denied the Defendant's application for reconsideration of its dismissal of the appeal in Case No. 11-05-02.

20. In addition to the foregoing proceedings in the Court of Appeals, the Defendant has attempted to appeal at least four (4) decisions from the Third District Court of Appeals to the Ohio Supreme Court and the Ohio Supreme Court has refused to accept jurisdiction in all of them.

21. Defendant filed numerous motions in the Guardianship and Estate proceedings of Minnie Rickels.

22. Of the nine (9) appeals initiated by the Defendant to the Third District Court of Appeals, one (1) was dismissed as moot, six (6) were dismissed for lack of

jurisdiction, and only two (2) were considered on their merits and the Third District Court of Appeals affirmed the action of the trial court in both of those.

Section 2323.52(A)(3) of the Ohio Revised Code defines a vexatious litigator as follows:

> "Vexatious litigator" means 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 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. . . . . "

Section 2323.52(A)(2) of the Ohio Revised Code defines vexatious conduct as follows:

> "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."

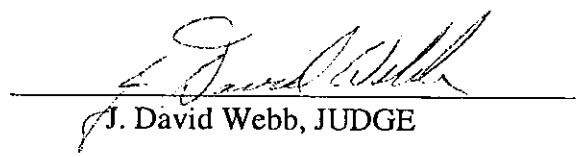
The Court finds from the foregoing undisputed facts, construing the evidence most strongly in favor of the Defendant, that reasonable minds can come to but one conclusion and that conclusion is that the Defendant has habitually, persistently, and without reasonable grounds engaged in conduct which obviously serves merely to harass or maliciously injure the Plaintiff herein and engaged in conduct which is 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 therefore finds that the Plaintiff's motion for summary judgment is well taken and should be granted and that the Defendant should be declared to be a vexatious litigator, pursuant to Section 2323.52 of the Ohio Revised Code.

The Court further finds that the Defendant's motion for summary judgment is not well taken and should be overruled.

DATED this 31st day of March, 2005.



J. David Webb, JUDGE

Copy to Michael C. Jones, Esq.
James P. Spriggs, Esq.
Counsel for Plaintiff

Romane Rickels
344 E. Rosewood Ave., Apt. 35
Defiance, OH 43512

THE STATE OF OHIO } SS CERTIFICATE
PAULDING COUNTY }
I the undersigned Clerk of the Common Pleas Court of the Paulding County, Ohio, hereby certify that the foregoing Decision is taken and copied from the original now on file in said Court, and that it is a true and correct copy thereof
IN TESTIMONY WHEREOF, I hereunto subscribe my name officially and affixed the seal of said court this 31st day of March 2005

ELEANOR EDWARDS, Clerk
By Leah Ann Hart Deputy