

IN THE FRANKLIN COUNTY COURT OF COMMON PLEAS
CIVIL DIVISION

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| NICOLE L. CAMPBELL, | : | |
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| Plaintiff, | : | Case No. 18CVH08-6657 |
| | : | |
| vs. | : | JUDGE JENIFER FRENCH |
| | : | |
| STEPHEN A. CAMPBELL, | : | |
| | : | |
| Defendant. | : | |
| _____ | : | |
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| STEPHEN A. CAMPBELL, | : | |
| | : | |
| Third-Party Plaintiff, | : | |
| | : | |
| vs. | : | |
| | : | |
| ELIZABETH A. WERNER, et al., | : | |
| | : | |
| Third-Party Defendants. | : | |

DECISION AND ENTRY GRANTING PLAINTIFF’S
MOTION FOR SUMMARY JUDGMENT,
FILED NOVEMBER 7, 2018
AND
DECISION AND ENTRY DENYING PLAINTIFF’S
MOTION TO STRIKE DEFENDANT’S MEMORANDUM CONTRA
TO PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT,
FILED DECEMBER 10, 2018

This matter is before the Court on the Motion for Summary Judgment, filed by *pro se* Plaintiff, Nicole L. Campbell (hereinafter “Plaintiff” or “Ms. Campbell”), on November 7, 2018. On December 3, 2018, *pro se* Defendant/Third-Party Plaintiff, Stephen A. Campbell (hereinafter “Defendant” or “Mr. Campbell”), filed a Memorandum Contra to Plaintiff’s Motion for Summary Judgment, and on December 11, 2018, Plaintiff filed a Reply Memorandum in Support of Her Motion for Summary Judgment. In addition, on December 10, 2018, Plaintiff filed a Motion to

Strike Defendant's Memorandum Contra to Plaintiff's Motion for Summary Judgment, and on December 18, 2018 Defendant filed a Memorandum Contra to Plaintiff's Motion to Strike, as well as a Reply Memorandum in Support of His Memorandum Contra to Plaintiff's Motion for Summary Judgment.

For the reasons that follow, Plaintiff's Motion for Summary Judgment is **GRANTED**, and Plaintiff's Motion to Strike Defendant's Memorandum Contra to Plaintiff's Motion for Summary Judgment is **DENIED**.

I. BACKGROUND

Ms. Campbell instituted this action by filing a *pro se* Complaint against Mr. Campbell, requesting that this Court declare Mr. Campbell a vexatious litigator for his conduct in connection with the parties' divorce, civil protection proceedings, and child custody proceedings. In response, Mr. Campbell filed counterclaims against Ms. Campbell, as well as claims against a number of Third-Party Defendants.

Plaintiff now moves the Court for an Order granting summary judgment against Defendant as to Count One of her Complaint, declaring him to be a vexatious litigator, as defined in R.C. 2323.52.

II. STANDARD OF REVIEW

When deciding Plaintiff's Motion for Summary Judgment, the Court must first examine the standard under which summary judgments are properly granted. A motion for summary judgment is properly granted in favor of the moving party, if the court, upon viewing the evidence in a light most favorable to the party against whom the motion is made, determines that: 1) there are no genuine issues as to any material fact; 2) the movant is entitled to a judgment as a matter of law; and, 3) the evidence is such that reasonable minds can come to but one conclusion and that

conclusion is adverse to the opposing party. See Civ.R. 56(C); *State ex. rel. Howard v. Ferreri* (1994), 70 Ohio St.3d 587, 589; *Miller v. Bike Athletic Co.* (1998), 80 Ohio St.3d 607, 617.

A party seeking summary judgment, on the grounds that the nonmoving party cannot prove its case, bears the initial burden of: 1) informing the trial court of the basis for the motion; and, 2) identifying those portions of the record which demonstrate the absence of a genuine issue of material fact on the essential element(s) of the nonmoving party's claims. See *Vahila v. Hall* (1997), 77 Ohio St.3d 421, 429, citing, *Dresher v. Burt* (1996), 75 Ohio St.3d 280, 293, 662 N.E.2d 264; *Mitseff v. Wheeler* (1988), 38 Ohio St.3d 112, 115. "The moving party cannot discharge its initial burden under Civ.R. 56 simply by making a conclusory assertion that the nonmoving party has no evidence to prove its case. Rather, the moving party must be able to specifically point to some evidence of the type listed in Civ.R. 56(C) which affirmatively demonstrates that the nonmoving party has no evidence to support the nonmoving party's claims." *Dresher*, at 288-289. If the moving party fails to satisfy this initial burden, the motion for summary judgment must be denied. See *Kulch v. Structural Fibers, Inc.* (1997), 78 Ohio St.3d 134, 147; *Dresher*.

If the moving party satisfies its initial burden, "the nonmoving party then has a reciprocal burden outlined in Civ.R. 56(E) to set forth specific facts showing that there is a genuine issue for trial and, if the nonmovant does not so respond, summary judgment, if appropriate, shall be entered against the nonmoving party." *Dresher*, at 288-289; followed by *Conway v. Calbert* (C.A.10 1997), 119 Ohio App.3d 288, 291, 695 N.E.2d 271, 272-273. Thus, "[a] motion for summary judgment forces the non-moving party to produce evidence on issues for which that party bears the burden of production at trial." *Wade-Hairston v. Franklin Cty. Bd. of Mental Retardation and Developmental Disabilities* (Dec. 17, 1998), Franklin App. No. 98AP-456, unreported, citing, *Wing v. Anchor Media, Ltd. of Texas* (1991), 59 Ohio St.3d 108, 111; see, also, *Dresher*, at 288-

289; *Carter v. Consol. Rail Corp.* (C.A.10 1998), 126 Ohio App.3d 177, 181, citing, *Stewart v. B.F. Goodrich Co.* (1993), 89 Ohio App.3d 35, 623 N.E.2d 591; *Cullen v. Ohio Dept. of Rehab. & Corr.* (C.A.10 1998), 125 Ohio App.3d 758, 764, citing, *Stewart*. “The non-movant must also present specific facts and may not merely rely upon the pleadings or on unsupported allegations.” *Wade-Hairston*, citing, *Shaw v. J. Pollock & Co.* (1992), 82 Ohio App.3d 656, 612 N.E.2d 1295. Moreover, “[w]hen a party moves for summary judgment supported by evidentiary material of a type and character set forth in Civ.R. 56[(C)], the opposing party has a duty to submit materials permitted by Civ.R. 56(C) to show that there is a genuine issue for trial.” *Wade-Hairston*, citing, *Harless v. Willis Day Warehousing Co.* (1978), 54 Ohio St.2d 64, 375 N.E.2d 46.

III. DISCUSSION

As stated above, Plaintiff requests the Court for an Order granting summary judgment against Defendant as to Count One of her Complaint, and declaring Defendant/Mr. Campbell to be a vexatious litigator, as defined in R.C. 2323.52.

Ohio Revised Code 2323.52 concerns civil actions to have a person declared a vexatious litigator and states in pertinent part as follows:

(B) A person . . . who has defended against habitual and persistent vexatious conduct in the court of claims or in a court of appeals, court of common pleas, municipal court, or county court may commence a civil action in a court of common pleas with jurisdiction over the person who allegedly engaged in the habitual and persistent vexatious conduct to have that person declared a vexatious litigator. The person . . . may commence this civil action while the civil action or actions in which the habitual and persistent vexatious conduct occurred are still pending or within one year after the termination of the civil action or actions in which the habitual and persistent vexatious conduct occurred.

R.C. 2323.52(B).

In addition, pursuant to R.C. 2323.52(A)(2), “vexatious conduct” is the 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.

Lastly, R.C. 2323.52(A)(3) defines a “vexatious litigator” as “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.”

In the case at hand, Plaintiff contends that the facts clearly demonstrate that Mr. Campbell has engaged in a long history of vexatious conduct against not only Plaintiff (Mr. Campbell’s ex-wife), but also against the Guardian Ad Litem for their daughter, Plaintiff’s Legal Counsel, Licking County School Officials, and the Licking County Family YMCA. Plaintiff contends that Mr. Campbell has filed numerous cases and pleadings in Franklin County and Licking County initiating litigation multiple times against Plaintiff, and other parties that Mr. Campbell believed to be involved in their domestic case. See, e.g. Licking County Court of Common Pleas Case No. 2018CV00488; Licking County Court of Common Pleas Case No. 2018CV00610; Franklin County Municipal Court Case (Ex. 7 of Plaintiff’s Motion for Summary Judgment); Licking County Court of Common Pleas Case No. 2017CV0797; Franklin County Court of Common Pleas Case No. 17CV007128; and the filings in the parties’ domestic action, Franklin County Common Pleas Case No. 11DR003194. Plaintiff contends that all of these filings were done without basis and were filed solely to harass and maliciously harm Plaintiff and anyone with any association with Plaintiff or anyone that had any involvement in their domestic case.

Plaintiff further contends that Mr. Campbell has threatened to sue the Pataskala Police Department and has made “criminal complaints” to the department regarding two police officers (Ex. 13 of Plaintiff’s Motion for Summary Judgment); has threatened to sue Plaintiff’s employer, The Ohio State University Medical Center, as well as Plaintiff’s immediate supervisor, Plaintiff’s mother, Plaintiff’s counsel during the domestic trial, and Plaintiff’s counsel’s law firm (Ex. 14 of Plaintiff’s Motion for Summary Judgment); and has filed bar complaints against Plaintiff’s previous attorneys and the Guardian Ad Litem (Ex. 15 of Plaintiff’s Motion for Summary Judgment). Plaintiff further contends that Mr. Campbell has filed false complaints with Health and Human Services, the Licking County Job and Family Services, and the Licking County Children’s Services (Ex. 15, 16, 17 and 18 of Plaintiff’s Motion for Summary Judgment), with the sole purpose of harassing Plaintiff and to cause her to incur voluminous attorneys’ fees, and to intimidate, harass and punish anyone involved in the ongoing domestic court case.

In response, Defendant has filed a Memorandum Contra Plaintiff’s Motion for Summary Judgment. However, the Court finds that Defendant does not actually respond to Plaintiff’s claim or request that he be declared a vexatious litigator. Instead, Defendant attempts to address each of the Counterclaims he has filed against Plaintiff, and argues why he believes them to be valid claims. However, the Court will address the merits and sustainability of Defendant’s Counterclaims against Plaintiff in a separate Decision regarding Plaintiff’s Motion to Dismiss Defendant’s Counterclaims.

Based on the foregoing, and after reading through the exhibits attached to Plaintiff’s Motion for Summary Judgment, the Court agrees with Plaintiff and finds that it is clear that Mr. Campbell has been using his multiple and frivolous filings and lawsuits to harass Plaintiff and anyone that is even remotely related to the parties’ domestic proceedings. The Court further finds

that many of the lawsuits and filings were not warranted under existing law or supported by a good faith argument. See also, Magistrate's Decision in Franklin County Common Pleas Case No. 11DR- 3194, attached as Ex. A. to Plaintiff's Reply Memorandum in Support of Her Motion for Summary Judgment ("Father's efforts to try to prove things that were not relevant to this litigation consumed time and resources (ie. attorney fees) needlessly. Furthermore, Father filed motions during the litigation that the Magistrate finds to be frivolous." at 39); and ("The Magistrate finds that Father engaged in certain actions and tactics that were simply harassment." at 40).

As such, the Court finds that there is no genuine issue of material fact that Mr. Campbell is a vexatious litigator as defined by R.C. 2323.52(A)(3), and accordingly hereby **GRANTS** Plaintiff's Motion for Summary Judgment, as to Count I of her Complaint, and declares Mr. Campbell to be a vexatious litigator. In addition, pursuant to R.C. 2323.52(D), the Court hereby **ORDERS** that Mr. Campbell, as a vexatious litigator, shall be prohibited from doing all 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 the vexatious litigator had instituted in any of the courts specified in division (D)(1)(a) of R.C. 2323.52 prior to the entry of the order;
- (c) Making any application, other than an application for leave to proceed under division (F)(1) of R.C. 2323.52, in any legal proceedings instituted by the vexatious litigator or another person in any of the courts specified in division (D)(1)(a) of R.C. 2323.52.

The Court further finds that Count Two of Plaintiff's Complaint remains pending and shall be set for trial.

IT IS SO ORDERED.

Copies to:

Nicole L. Campbell
P.O. Box 156
Summit Station, Ohio 43073
Pro Se Plaintiff

Stephen A. Campbell
P.O. Box 14354
Columbus, Ohio 43214
Pro Se Defendant and Third-Party Plaintiff

Ryan L. Thomas, Esq.
Titus G. Donnell, Esq.
Donnell & Thomas Law, LLC
503 S. Front Street, Suite 250
Columbus, Ohio 43215
*Counsel for Third-Party Defendant,
Elizabeth Werner, Esq.*

Michael S. Loughry, Esq.
Cara M. Wright, Esq.
Mazanec, Raskin & Ryder Co., LPA
175 South Third Street, Suite 1000
Columbus, Ohio 43215
*Counsel for Third-Party Defendant, Licking
Heights Local School District*

Michael R. Henry, Esq.
Crabbe, Brown & James, LLP
500 South Front Street, Suite 1200
Columbus, Ohio 43215
*Counsel for Third-Party Defendants,
Licking County Family YMCA and Brianna
Michelle Gibson*

Franklin County Court of Common Pleas

Date: 01-25-2021
Case Title: NICHOLE L CAMPBELL -VS- STEPHEN A CAMPBELL
Case Number: 18CV006657
Type: DECISION/ENTRY

It Is So Ordered.



/s/ Judge Jenifer A. French

Court Disposition

Case Number: 18CV006657

Case Style: NICHOLE L CAMPBELL -VS- STEPHEN A CAMPBELL

Motion Tie Off Information:

1. Motion CMS Document Id: 18CV0066572018-11-0799950000

Document Title: 11-07-2018-MOTION FOR SUMMARY JUDGMENT - PLAINTIFF: NICHOLE L. CAMPBELL

Disposition: MOTION GRANTED

2. Motion CMS Document Id: 18CV0066572018-12-1099980000

Document Title: 12-10-2018-MOTION TO STRIKE - PLAINTIFF: NICHOLE L. CAMPBELL

Disposition: MOTION DENIED

THE STATE OF OHIO }
Franklin County, ss } I, MARYELLEN O'SHAUGHNESSY, Clerk
OF THE COURT OF COMMON
PLEAS WITHIN AND FOR
SAID COUNTY,

HEREBY CERTIFY THAT THE ABOVE AND FORE-
GOING IS TRULY TAKEN AND COPIED FROM THE
ORIGINAL Judgment Entry
NOW ON FILE IN MY OFFICE
WITNESS MY HAND AND SEAL OF SAID COUNTY
THIS 13th DAY OF April A.D. 2021
MARYELLEN O'SHAUGHNESSY, Clerk
By [Signature] Deputy