

FILED

IN THE COURT OF COMMON PLEAS
LAKE COUNTY, OHIO

2016 DEC 27 P 12:23

MAUREEN G. KELLY
LAKE CO. CLERK OF COURT

JAMES J. COMINSKY, : CASE NO.: 2015 CV 001181
Plaintiff : JUDGE H. F. INDERLIED, JR. (Ret.)
-vs- : (By Assignment #15 JA 2596 of
DIANE MALNER, et al., : the Chief Justice of the Ohio
Defendants : Supreme Court
: JUDGMENT ENTRY

This matter came on for bench trial on September 26, 2016, upon the counterclaim of Diane Malner, the Court having previously granted summary judgment against plaintiff on plaintiff's amended complaint that was filed April 27, 2016. Present were the parties and their counsel, the plaintiff *pro se* and the defendant Diane Malner by Robert S. Rosplock, Esq.

Based on the evidence presented at trial and the findings of Fact and Conclusions of Law entered by this Court, the Court finds as follows:

1. Plaintiff's conduct in bringing and maintaining the action filed against it by plaintiff constitutes frivolous conduct as defined in R.C. 23223.51(A)(2), and such conduct constitutes a willful violation of Civ.R. 11.

2. Plaintiff is a vexatious litigator as defined in R.C. 2323.52.

JOURNALIZED

IT IS THEREFORE ORDERED that plaintiff be and is hereby declared a vexatious litigator and, as a result of such determination and pursuant to R.C. 2323.52(D)(1), this Court hereby enters its order prohibiting plaintiff from doing any of the following without first obtaining leave of that 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 this 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.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to R.C. 2323.52(H), the Clerk of this Court shall send a certified copy of the order to the Supreme Court for publication in a manner that the supreme court determines is appropriate and that will facilitate the Clerk of the court of claims and a clerk of a court of appeals, court of common pleas, municipal court, or county court in refusing to accept pleadings or other papers submitted for filing by persons who have been found to be a vexatious litigator under R.C. 2323.52 and who have failed to obtain leave to proceed

under R.C. 2323.52. This order shall be subject generally to the other provisions of R.C. 2323.52 relating to a person declared to be a vexatious litigator.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment be and it is hereby rendered for defendant Diane Malner against plaintiff in the sum of Twenty-Eight Thousand, Six Hundred Ninety-Nine Dollars and Sixty-Two Cents (\$28,699.62) as and for her reasonable and necessary attorney fees to 1:30 p.m. on the date of trial. Plaintiff may file her motion for legal fees incurred after the testimony regarding legal fees within thirty (30) days of the filing of the final entry by the Court, should defendant elect to seek such additional fees.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff pay the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that execution may issue on the within judgments.

cc: James J. Cominsky, pro se
Robert S. Rosplock, Esq.



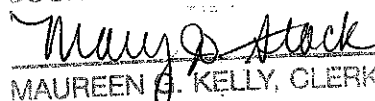
H. F. INDERLIED, JR. JUDGE (Ret.)

FINAL APPEALABLE ORDER
Clerk to serve pursuant
to Civ.R. 58 (B)

Directions to Clerk:

Pursuant to Civ. R. 58(B), you are to serve notice of this judgment and its date of entry upon the journal to all parties not in default for failure to appear within three days of the judgment's entry upon the journal, and note the service in the appearance docket.

COPIES OF THIS ORDER TO BE FILED IN THE LAKE COUNTY CLERK OF COURTS OFFICE.

 DEPUTY
MAUREEN G. KELLY, CLERK OF COURTS