

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION

EDWARD F. WHIPPS, :
 :
 Plaintiff, : CASE NO. 05 CV 11685 ✓
 vs. : JUDGE MCINTOSH
 JAMES M. RYAN, et al., :
 Defendants. :

FILED
COURT OF COMMON PLEAS
AUG 01 2012
FRANKLIN COUNTY
CLERK OF COURTS

SKY BANK, :
 :
 Plaintiff, : CASE NO. 06 CV 1244
 vs. : JUDGE MCINTOSH
 MICHAEL F. COLLEY, et al., :
 Defendants. :

Order Declaring James M. Ryan a Vexatious Litigator

MCINTOSH, J.

This matter is before the Court on Motion by DB Midwest, LLC (DB”) to Declare Defendant, James M. Ryan, A Vexatious Litigator, filed June 18, 2012 and Defendant Ryan’s Motion for Definite Statement, filed July 2, 2012. Upon review and for the following reasons, the Court finds as follows.

Rather than file an opposition to DB’s motion, Ryan requested a more definite statement pursuant to Civ.R. 12(E). However, motions for definite statements are limited to ambiguities or defects in pleadings. A “Motion for Definite Statement” is not a

procedurally proper response to motions. Accordingly, Ryan's "Motion for Definite Statement" is DENIED.

DB moves to have Ryan declared a vexatious litigator pursuant to R.C. 2323.52 as a result of his many motions and appeal that delayed the final disposition of this case.

Revised Code 2323.52(A)(3) defines a "vexatious litigator" as follows:

{a}ny 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 order for the Court to find a party to be a vexatious litigator, R.C. 2323.52(A)(2) provides that the conduct of the party must satisfy any one of the following requirements:

- (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.

In this case, Ryan, at all times appearing pro se, has filed multiple motions and appeals that served only to delay this action. His motions include challenging his previous counsel's request to withdraw, challenging a motion to reduce the bid at Sheriff's Sale, request to order the dismissal of the appointed receiver and allow Ryan to file an action against the receiver, and multiple appeals to both the Tenth District Court of Appeals and Supreme Court of Ohio despite the fact that final judgment in this case was long ago entered and affirmed. None of the challenges presented by Ryan were

supported by good faith arguments based in the law and instead have been solely for the purpose of delaying this action.

Based upon the foregoing, the Court finds Defendant James M. Ryan to be a vexatious litigator pursuant to R.C. 2323.52. As a result and in accordance with R.C. 2323.52(D)(1)(a)-(c), Ryan must first request and obtain leave from this Court before doing any of the following:

- (1) Instituting legal proceedings in this Court, the court of claims, any other court of common pleas, municipal court, or county court;
- (2) Continuing any legal proceedings already instituted in any of the foregoing courts;
- (3) Making any application, other than an application for leave to proceed pursuant to R.C. 2323.52(F)(1), in which Ryan is involved and pending in any court listed in R.C. 2323.52(D)(1).

Pursuant to R.C. 2323.52(H), the Clerk of Courts is hereby ORDERED to send a certified copy of this Order to the Supreme Court of Ohio for publication.

So Ordered.

Franklin County Court of Common Pleas

Date: 08-01-2012
Case Title: EDWARD F WHIPPS TRST -VS- JAMES M RYAN
Case Number: 05CV011685
Type: ORDER

It Is So Ordered.



A handwritten signature in black ink, appearing to read "Stephen L. McIntosh", is written over a faint circular official seal. The signature is fluid and cursive.

/s/ Judge Stephen L. McIntosh

Court Disposition

Case Number: 05CV011685

Case Style: EDWARD F WHIPPS TRST -VS- JAMES M RYAN

Motion Tie Off Information:

1. Motion CMS Document Id: 05CV0116852012-07-0299970000
Document Title: 07-02-2012-MOTION FOR DEFINITE STATEMENT
Disposition: MOTION DENIED
2. Motion CMS Document Id: 05CV0116852012-06-1899980000
Document Title: 06-18-2012-MOTION
Disposition: MOTION GRANTED