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HON ALISON HATHEWAY
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RULE 58 WHICH SHALL BE TAXED
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**IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

STEPHEN SOUDERS,

Plaintiff,

v.

ANNA NICOLE LAZOR, ET AL.,

Defendant.



D142631910

CASE NO. A 2305350

JUDGE ALISON HATHEWAY


**ENTRY DECLARING
PLAINTIFF STEPEHN
SOUDERS A VEXATIOUS
LITIGATOR AND
GRANTING
DEFENDANTS' MOTION
FOR SUMMARY
JUDGMENT**

This matter is before the Court upon Defendants Nathan A. Lennon and Rick L. Weil's Motion for Summary Judgment, filed on June 14, 2024. The Court, having considered the Motion and responsive brief, and being fully apprised of the relevant facts and laws, finds Defendants' Motion to be well taken. The Court hereby **GRANTS** Defendants' Motion for Summary Judgment and finds the Plaintiff, Stephen Souders, to be a vexatious litigator pursuant to R.C. 2323.52.

STATEMENT OF FACTS

As stated in this Court's entry dismissing Plaintiff's complaint, this case arises from alleged posts and comments made about the Plaintiff in a Facebook group called, "Are We Dating the Same Guy Cincinnati/Dayton" and other communications among the Defendants. See Entry Dismissing Plaintiff's Complaint With Prejudice. The current case is a refile because Plaintiff's first complaint ("*Souders I*"), filed under Hamilton County Court of Common Pleas No. A 2302516, was dismissed by this Court. Although, counterclaims remain pending in that case.

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Plaintiff then refiled his complaint (“*Souders II*”) based on the same allegations as the first complaint, but also with new claims against the same and new Defendants. Specifically, Plaintiff brought claims for (1) libel and libel per se, (2) false light, (3) right of publicity, (4) extortion, (5) intimidation of a witness, (6) menacing by stalking, (7) telecommunications harassment, (8) abuse of process, (9) unprofessional conduct toward opposing counsel and Court, (10) sanctions pursuant to R.C. § 2323.51 and Civ. R. 11, (11) willful abuse of process to deprive of Civil Rights; 2nd, 4th, and 5th Amendments under US and Ohio Constitution, and (12) breach of contract. Although the Court dismissed Plaintiff’s complaint, counterclaims remain pending in this case, including Defendants Lennon and Weil’s counterclaim to declare Plaintiff a vexatious litigator. Before the Court now is Defendants Lennon and Weil’s Motion for Summary Judgment on their counterclaim.

LAW AND ANALYSIS

A. Summary Judgment Standard

Under Civ. R. 56(C), “[s]ummary judgment is proper when there exists no genuine issue of material fact, the party moving for summary judgment is entitled to judgment as a matter of law, and the evidence, when viewed in favor of the nonmoving party, permits only one reasonable conclusion that is adverse to that party.” *Collett v. Sharkey*, 1st Dist. Hamilton No. C-200446, 2021-Ohio-2823, ¶ 8.

The moving party carries the initial burden of informing the court of the basis for the motion and identifying those portions of the record that set forth specific facts that demonstrate its entitlement to summary judgment. *Dresher v. Burt*, 75 Ohio St.3d 280, 292-293, 662 N.E.2d 264 (1996). If the moving party fails to meet this burden, summary judgment is not appropriate. If the moving party meets this burden, summary judgment

is appropriate only if the nonmoving party fails to meet its reciprocal burden setting forth specific facts establishing that a genuine issue exists for trial. *Id.* at 293, 662 N.E.2d 264. “[T]he opposing party may not rest upon mere allegation in the pleadings but must respond with affidavits or other appropriate materials to show that there is a genuine issue of fact for trial.” *9900 Timbers Dr. Investment LLC v. Nan Li*, 1st Dist. Hamilton No. C-190224, 2020-Ohio-1473, ¶ 8.

B. Vexatious Litigator Statute

R.C. 2323.52 “allows a party that has repeatedly encountered vexatious conduct to have the offending person declared a ‘vexatious litigator.’ *City of Madeira v. Oppenheimer*, 1st Dist. Hamilton No. C-200458, 2021-Ohio-2958, ¶ 5. A two-pronged test exists to determine whether a court may declare someone a vexatious litigator: (1) the person must have “engaged in vexatious conduct in a civil action or actions” and (2) such vexatious conduct must have been “habitual, persistent, and without reasonable grounds.” *Id.* at ¶ 7, *see also* R.C. 2323.52(A)(3). Additionally, the First District Court of Appeals has determined these elements must be established by clear and convincing evidence. *Id.*

“Vexatious conduct” is “conduct of a party in a civil action’ that: (a) ‘obviously serves merely to harass or maliciously injure another party to the civil action’; (b) ‘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 (c) ‘is imposed solely for delay.’” *Id.* at ¶ 10, *quoting* R.C. 2323.52(A)(2). Vexatious conduct includes the “consistent repetition of arguments and legal theories that have been rejected by the court numerous times.” *Stephens v. Downtown Property Mgt.*, 1st Dist. Hamilton No. C-220332, 2023-



Ohio-1988, ¶ 19, quoting *Prime Equip. Group, Inc. v. Schmidt*, 2016-Ohio-3472, 66 N.E.3d 305, ¶ 40 (10th Dist.).

For conduct to be habitual, it need not to encompass multiple cases. *City of Madeira* at ¶ 25, citing *Prime Equip* at ¶ 40-41. Rather, “[i]t is the nature of the conduct, not the number of actions, which determines whether a person is a “vexatious litigator””. *Uh Oh Ohio, LLC v. Buchanan*, 1st Dist. Hamilton No. C-230118, 2024-Ohio-11, ¶ 12, quoting *Stephens* at ¶ 19. Habitual has been defined as “of the nature of a habit; according to habit; established by or repeated by force of habit’ or ‘doing, practicing, or acting in some matter by force of habit; customarily doing a certain thing.” *Prime Equip.* at ¶ 40-41, quoting *Davie v. Nationwide Ins. Co. of America*, 8th Dist. Cuyahoga No. 105261, 2017-Ohio-7721, ¶ 63, Webster's Third New International Dictionary 1017 (1993).

C. Defendants’ are entitled to summary judgment on their counterclaim to declare Stephen Souders a vexatious litigator.

Defendants argue that Plaintiff has engaged in vexatious conduct in multiple cases since 2016. In addition to his vexatious conduct in *Souders I* and *Souders II*, Defendants argue Plaintiff engaged in vexatious conduct in a civil stalking protection order action in Warren County¹, a lawsuit he filed against his former employer², and in two custody cases between Plaintiff and his ex-wife³. While Defendants make persuasive arguments regarding Plaintiff’s pro se conduct in cases other than *Souders I* and *Souders II*, the Court believes it does not need to analyze Plaintiff’s conduct in those cases as his conduct in the cases before this Court is sufficient to declare him a vexatious litigator under R.C.

¹ Warren County Case No. 23CS4455

² *Souders v. Mount St. Joseph Univ.*, 2016 U.S. Dist. LEXIS 66649, (S.D. Ohio March 11, 2016).

³ *Souders v. Souders*, 2016-Ohio-3522; *Souders v. Souders*, 2022-Ohio-1953.



2323.52. Conduct does not have to span multiple cases in order to declare someone a vexatious litigator. *City of Madeira* at ¶ 25, citing *Prime Equip* at ¶ 40-41.

In *Souders I* and *Souders II*, Plaintiff has filed multiple motions and briefs that include statements wholly irrelevant to this lawsuit and repeatedly reargues issues this Court has already decided. Ironically, in his response in opposition to Defendants' motion for summary judgment, his vexatious conduct continued as he used at least thirteen and a half pages of his response as an appeal, arguing this Court erred in dismissing his complaint and violated his rights. Vexatious conduct includes the "consistent repetition of arguments and legal theories that have been rejected by the court numerous times." *Stephens* at ¶ 19, quoting *Prime* at ¶ 40. Even since Defendants filed their motion for summary judgment, Plaintiff's vexatious conduct has continued. For instance, Plaintiff filed a motion for reconsideration, which this Court denied on August 27, 2024, that contained multiple case cites that were incomplete, incorrect, irrelevant to his claims, or simply did not exist. *See* Def. Memo. in Opp. at 2-7. Most recently, Plaintiff filed a Motion for Findings of Fact from Conclusions of Law pursuant to Civ. R. 52, which as will be addressed in a separate entry, is not warranted under the law nor does a good faith basis under existing law exist. *See* Def. Response in Opp. at 1-2.

Plaintiff's conduct is vexatious not only because it is unwarranted under existing law and unsupported by good faith argument, but also because it serves to harass or maliciously injure Defendants. Plaintiff's refiled complaint contained multiple irrelevant statements against the Defendants. For example, Plaintiff stated one defendant had "express[ed] a desire to be sexually-intimate with him," another defendant "attempted to solicit [him] to purchase a membership to her OnlyFans account," and another defendant



suffered from "severe mental-illnesses" and his relationship with her was strained because he took care of her children. See Complaint at ¶¶ 16, 17, 68. None of these statements were relevant to the claims Plaintiff brought against Defendants, but served only to harass or maliciously injure those Defendants. Additionally, in response to Defendant Greves's counterclaim for malicious prosecution, Plaintiff filed a motion to dismiss with over fifty pages of an irrelevant and confidential police investigative file attached that involved a sexual assault case unrelated to any portion of this case. Again, no basis exists for Plaintiff to include such an exhibit, except to harass or injure Defendant Greves.

Throughout the pendency of *Souders I* and *Souders II*, Plaintiff has repeatedly engaged in conduct that "obviously serves merely to harass or maliciously injure" Defendants and is not "warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law." *City of Madeira* at ¶ 10, quoting R.C. 2323.52(A)(2). Further, Plaintiff's conduct has been "habitual, persistent, and without reasonable grounds." *Id.* at ¶ 7. He has repeatedly made arguments that have no good faith basis under Ohio law – including arguments this Court has already rejected. Further, he has made statements or included information about Defendants that are completely irrelevant to this case and can only serve to harass or injure the Defendants.

CONCLUSION

Even when taking all facts in light most favorable to the nonmoving party, no genuine dispute of material fact remains and Defendants Lennon and Weil are entitled to judgment as a matter of law. Further, Plaintiff fails to meet his reciprocal burden



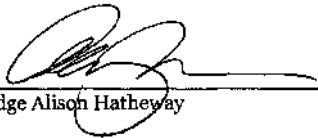
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setting forth specific facts establishing that a genuine issue exists. Therefore, Defendants' counterclaim to declare Plaintiff a vexatious litigator is **GRANTED**.

Pursuant to R.C. 2323.52(D), it is the order of this Court that Plaintiff Stephen Souders is a vexatious litigator and he shall be prohibited from the following without first obtaining leave of court to proceed: (1) instituting legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court; (2) continuing any legal proceedings that the vexatious litigator instituted in any of the courts specified herein prior to this order; and (3) making any application, other than an application for leave to proceed under R.C. 2323.52(F)(1), in any legal proceedings instituted by the vexatious litigator or another person in any of the courts specified herein. R.C. 2323.52(D)(1)(a)-(c).

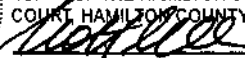
The Clerk of Courts shall send a certified copy of this Order to the Supreme Court of Ohio for publication deemed appropriate for enforcement of this order.

IT IS SO ORDERED.



Judge Alison Hatheway



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