

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, OHIO

CASSANDRA WILTZ, :
 Plaintiff, :
 -vs- : Case No. 24 CV H 04 0331
 DR CHAD MICHAEL MILLER, et al., :
 Defendants. :

**Judgment Entry Granting Defendants' 6/11/24
 Motion for Judgment on the Pleadings
 and Declaring Plaintiff Cassandra Wiltz a Vexatious Litigator**

On June 11, 2024, Defendants Dr. Chad Michael Miller, Riverside Methodist Hospital, Elizabeth Wipper, M.S.W., Kay Ellen Goodall, C.N.P., Valerie Toivonen, L.S.W., and Deborah K. Reynard ("Moving Defendants") moved for judgment on the pleadings on their counterclaim to declare Plaintiff Cassandra Wiltz ("Wiltz") a vexatious litigator. For the reasons set forth below, that motion is granted.

I. Facts and procedural history

Moving Defendants cite to 41 cases filed by Wiltz in state and federal courts in Ohio. Of the cases that have concluded, all were either dismissed or resulted in a judgment for the defendant, and all appeals by Wiltz were unsuccessful. The cases filed by Wiltz and their outcomes are as follows:

	Case	Court	Case number	Outcome
1	<i>Wiltz v. New Jersey, et al.</i>	U.S. District Court, S.D. Ohio	2:09-cv-00592	Dismissed with prejudice for lack of jurisdiction
2	<i>Wiltz v. Moundbuilders Guidance Center</i>	C.P., Licking	2009 CV 00212	Dismissed with prejudice and discovery sanctions granted



	Case	Court	Case number	Outcome
3	<i>Wiltz v. Clark Schaefer Hackett & Co, et al.</i>	C.P., Franklin	2010 CV 011570	Granted summary judgment for some defendants and judgment on the pleadings for remaining defendants
4	Appeal of #2	5th Dist.	11 CA 22	Dismissed with prejudice and sanctions affirmed
5	Appeal of #3 (consolidated with #6)	10th Dist.	11AP-64	Judgment for defendants affirmed (as to No. 11AP-64)
6	Appeal of #3 (consolidated with #5)	10th Dist.	11AP-282	Remanded (only appeal No. 11AP-282) because the trial court lacked jurisdiction to rule on a post-judgment motion after Wiltz filed appeal No. 11AP-64
7	Appeal of #3	10th Dist.	12 AP-169	Dismissed for failure to prosecute (failure to timely file brief)
8	Appeal of #7	Supreme Court of Ohio	2012-1527	Declined to accept jurisdiction
9	Appeal of #4	Supreme Court of Ohio	2012-0922	Declined to accept jurisdiction
10	<i>Wiltz v. Moundbuilders Guidance Ctr., et al.</i>	U.S. District Court, S.D. Ohio	2:13-CV-00523	Dismissed
11	<i>Wiltz v. Accountancy Bd. of Ohio</i>	Court of Claims	2014-00431JD	Initially dismissed on the merits; on remand, dismissed for failure to prosecute
12	Appeal of #11	10th Dist.	14 AP-645	Remanded on two claims to reconsider immunity issue
13	<i>Wiltz v. Ohio Civil Rights Comm.</i> (administrative appeal)	C.P., Knox	15 AP-03-0092	Dismissed for failure to prosecute
14	Appeal of #13	5th Dist.	15 CA-000021	Affirmed dismissal
15	Appeal of #11	10th Dist.	16AP-169	Affirmed dismissal
16	Appeal of #11 (consolidated with #15 & #17)	10th Dist.	16AP-278	See #15

	Case	Court	Case number	Outcome
17	Appeal of #11 (consolidated with #15 & #16)	10th Dist.	16AP-320	See #15
18	Appeal of #14	Supreme Court of Ohio	2016-0945	Declined to accept jurisdiction
19	<i>Wiltz v. Cleveland Clinic, et al.</i>	C.P., Cuyahoga	CV-19-912910	Dismissed some defendants and granted judgment on the pleadings for remaining defendants
20	Appeal of #19 (consolidated with #22)	8th Dist.	19 CA 109147	Affirmed dismissal and judgment for defendants on the pleadings
21	<i>Wiltz v. Ohio State Univ. Wexner Med. Ctr., et al.</i>	Court of Claims	2019-00404JD	Dismissed
22	Appeal of #19 (consolidated with #20)	8th Dist.	20 CA 109483	See #20
23	Appeal of #19	8th Dist.	20 CA 110075	Appeal dismissed; two motions for reconsideration denied
24	Appeal of #21	10th Dist.	21 AP-560	Dismissed as untimely
25	Appeal of #20	Supreme Court of Ohio	2020-0097	Declined to accept jurisdiction
26	Appeal of #20 & #22	Supreme Court of Ohio	2021-0267	Dismissed on Wiltz's motion
27	Appeal of #20 & #22	Supreme Court of Ohio	2021-1420	Declined to accept jurisdiction
28	<i>Wiltz v. Ohio State Univ. Wexner Med. Ctr.</i>	Court of Claims	2021-00392JD	Dismissed with prejudice for failure to re-file action within one year
29	Appeal of #28	10th Dist.	21 AP-553	Affirmed dismissal
30	<i>Wiltz v. Ohio State Univ. Wexner Med. Ctr.</i>	Court of Claims	2021-00735JD	Verdict for defendant in bench trial
31	<i>Wiltz v. Ohio State Univ. Wexner Med. Ctr., et al.</i>	Court of Claims	2022-00671JD	Stayed pending case to declare Wiltz a vexatious litigator in C.P., Franklin
32	<i>Wiltz v. Ohio State Univ.</i>	Court of Claims	2023-00385JD	Stayed pending case to declare Wiltz a vexatious litigator in C.P., Franklin

	Case	Court	Case number	Outcome
33	<i>Wiltz v. Ohio Health, et al.</i>	C.P., Delaware	23 CV H 07 0523	Dismissed as to some defendants and granted judgment on the pleadings for remaining defendants
34	Appeal of #30 (consolidated with #35)	10th Dist.	23 AP-557	Pending
35	Appeal of #30 (consolidated with #34)	10th Dist.	23 AP-638	See #34
36	Appeal of #33 (consolidated with #38)	5th Dist.	23 CA E 11 0097	Pending
37	Appeal of #30	10th Dist.	24 AP-006	Pending
38	Appeal of #33 (consolidated with #36)	5th Dist.	24 CA E 02 0009	See #36
39	Appeal of #30	10th Dist.	24 AP-131	Dismissed <i>sua sponte</i> for failure to timely file brief
40	<i>Wiltz v. OhioHealth Riverside Methodist Hospital, et al.</i>	U.S. District Court, S.D. Ohio	2:24-cv-1407	Dismissed for lack of subject matter jurisdiction, failure to prosecute, and failure to comply with a court order
41	<i>Wiltz v. Dr. Miller, et al.</i> (this case)	C.P., Delaware	24 CV H 04 0331	Pending

Wiltz's early litigation concerned her employment termination and issues with the Ohio Accountancy Board related to that termination.

Wiltz's more recent cases share a common fact pattern. Wiltz's claims in those recent cases focus on an alleged failure by the defendants to diagnose and treat Wiltz for cancer and various digestive-tract disorders and the alleged failures on the part of various defendants to maintain accurate medical records and to provide those records to Wiltz in accordance with Ohio and federal law. None of these claims has ever been successful.

In *Wiltz v. Cleveland Clinic*, Wiltz claimed that the Cleveland Clinic, Ohio Gastroenterology Group, Inc., and various OhioHealth facilities and practices misdiagnosed or failed to diagnose her cancer related to an alleged swallowing problem.

2021-Ohio-62, ¶ 5 (8th Dist.). Wiltz also claimed that the healthcare providers failed to provide Wiltz with her medical file, though she was able to attach medical records to her voluminous court filings. *Id.* at ¶ 46.

In *Wiltz v. Ohio State University Wexner Medical Center*, Wiltz claimed that the hospital failed to diagnose and treat her cancer. 2022-Ohio-4533, ¶ 2 (10th Dist.). She further contended that the hospital failed to provide her with her medical records and also fraudulently altered those records to conceal the alleged misdiagnosis. *Id.* at ¶¶ 2, 5, 19.

In *Wiltz v. Ohio State University Wexner Medical Center*, a second case filed against Ohio State University Wexner Medical Center in the Court of Claims, Wiltz again claimed that the hospital failed to treat her for mouth cancer and thrush. (Court of Claims Case No. 2021-00735JD, 6/27/23 Magistrate’s Decision 6, adopted as a final judgment on 8/11/23.) Wiltz also claimed that the hospital and its employees fabricated entries in Wiltz’s medical records. (*Id.* at 2.) The case was tried to the bench, and the trier of fact found “the substance of [Wiltz’s] testimony [] simply hard to believe” and “lacked credibility.” (*Id.* at 1, 2.) The magistrate further found no failure by the defendants to provide medical treatment and no evidence of the alleged thrush diagnosis or suspicion of oral cancer. (*Id.* at 5–6.) The magistrate further noted that Wiltz had made claims about incomplete medical records in the past, which had been dismissed. (*Id.* at 3.)

In *Wiltz v. OhioHealth, et al.*, Wiltz made similar claims against OhioHealth and various providers at Ohio ENT and Allergy Physicians and Ohio Skin and Cancer Inc. (No. 23 CV H 07 0523 10/12/23 J. Entry 2.) Wiltz claimed that the defendants failed to diagnosis her swallowing disorder. (*Id.* at 2–3.) Wiltz also made allegations about

falsification of medical records. (*Id.*)

In this case, Wiltz alleges negligence against OhioHealth's¹ Riverside Methodist Hospital and several of OhioHealth's medical professionals for their treatment of Wiltz's alleged partner, Dan Burnett, whose interests she attempts to represent. (4/1/24 Compl. ¶¶ 19, 96.) Wiltz claims that Burnett suffered from the same swallowing problem as Wiltz and similarly was not treated for that alleged medical issue. (*Id.* at ¶¶ 27, 29, 50.) Wiltz also claims that the defendants negligently failed to prevent Burnett from falling, which eventually resulted in a stroke. She further claims that the defendants caused Burnett's death by wrongfully removing Burnett's feeding tube. (*Id.* at ¶¶ 33–54.)

The cases filed by Wiltz follow a familiar pattern. Wiltz files the cases, then refuses to respond to written discovery or agree to be deposed. She also fails to respond to dispositive motions, then later seeks relief from judgment and pursues appeals. There are also frequent attempts to delay rulings on pending motions in which Wiltz cites alleged mail failures to support her claim that she was never served with those motions. In this case, Wiltz failed to reply to Moving Defendants' counterclaim and is in default. She also failed to respond to Moving Defendants' requests for admissions, which were deemed admitted. (6/26/24 J. Entry.) After Moving Defendants filed their potentially case-dispositive motion, Wiltz filed a motion to compel new service of all documents filed by defendants and delay any ruling on the Moving Defendants' motion. I denied Wiltz's motion on July 18, 2024. (7/18/24 J. Entry.)

¹ Moving Defendants note that they are OhioHealth "related entities, agents and employees." (Defs.' 6/11/24 Mot. 10.)

II. Law and analysis

A. Standard for a motion for judgment on the pleadings

Civil Rule 12(C) states: “[a]fter the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings.” The standard for evaluating a motion for judgment on the pleadings is the same as the standard for a motion to dismiss. A motion for judgment on the pleadings presents only questions of law. *Gessner v. Gregg’s Pawn Shop, Inc.*, 2009-Ohio-713, ¶ 11 (5th Dist.). “The determination of a motion under Civil Rule 12(C) is restricted solely to the allegations in the pleadings and the nonmoving party is entitled to have all material allegations in the complaint, with all reasonable inferences to be drawn therefrom, construed in [his] favor.” *Id.*, citing *Peterson v. Teodosio*, 34 Ohio St.2d 161, 165–66 (1973). All factual allegations in the pleadings of the nonmoving party are accepted as true. *Cirotto v. Heartbeats of Licking Cty.*, 2010-Ohio-4238, ¶ 17 (5th Dist.).

B. Consideration of prior cases filed by Wiltz

This court takes judicial notice of the cases listed in the chart above. *Caghan v. Caghan*, 2015-Ohio-1787, ¶ 62 (5th Dist.) (a court may take judicial notice of judicial opinions and public records that are readily accessible on the internet); *Helfrich v. Madison*, 2012-Ohio-551, ¶ 41 (5th Dist.) (a court may take judicial notice of the docket of prior lawsuits filed in its own court). *See also State ex rel. Everhart v. McIntosh*, 2007-Ohio-4798, ¶¶ 8, 10 (judicial notice of readily accessible court records is permitted). A court may take judicial notice of the records of other courts without converting a Rule 12 motion into a motion for summary judgment. *See, e.g., State ex rel. Scott v. Cleveland*, 2006-Ohio-6573, ¶ 26 (decided under Civil Rule 12(B)(6)).

When considering whether Wiltz is a vexatious litigator, however, I have not

considered the cases filed by her in federal court or in the Supreme Court of Ohio because those courts are not listed in the vexatious-litigator statute. I have, however, considered the evidentiary relevance of these case in evaluating Wiltz's vexatious conduct. *Ferrero v. Staats*, 2018-Ohio-3235, ¶¶ 7–8 (5th Dist.) (federal cases and Supreme Court appeals may be considered as relevant evidence of vexatious conduct); *Watkins v. Perry*, 2017-Ohio-9347, ¶ 35 (11th Dist.) (court examined conduct in a criminal matter in assessing vexatious conduct).

C. Wiltz is a vexatious litigator.

Under R.C. 2323.52—the vexatious-litigator statute—any person or government legal representative “who has defended against habitual and persistent vexatious conduct” in any court in Ohio may commence an action in a court of common pleas to have the person who allegedly engaged in the habitual and persistent vexatious conduct declared a vexatious litigator either while the vexatious litigation is pending or within a year thereafter. R.C. 2323.52(B). A “[v]exatious litigator” is:

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.

R.C. 2323.52(A)(3).

“Vexatious conduct” is:

[C]onduct 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.

R.C. 2323.52(A)(2). Courts interpreting Ohio's vexatious-litigator statute have held that "the consistent repetition of arguments and legal theories that have been rejected by the court numerous times can constitute vexatious litigation." *Prime Equip. Group, Inc. v. Schmidt*, 2016-Ohio-3472, ¶ 40 (10th Dist.). See also *Howdyshell v. Battle*, 2019-Ohio-5232, ¶ 18 (5th Dist.) (raising and re-raising arguments that have already been rejected by courts is vexatious conduct). No weight is given to the party's subjective intent in filing the alleged vexatious court filings. *Prime Equip.* at ¶ 41.

In *Castrataro v. Urban*, a vexatious litigator filed several duplicative lawsuits and appeals concerning the same alleged medical malpractice that had allegedly been committed by the same defendants. 2003-Ohio-6953, ¶¶ 2-4, 10-13 (5th Dist.). In finding Castrataro a vexatious litigator, the court found it important that she split her single case into two separate cases in two different courts but alleged the same claims against the same parties. *Id.* at ¶ 58.

Here, Wiltz, like *Castrataro*, filed multiple cases in different courts alleging similar claims, many against the same or similar groups of defendants. By the time she filed this case and her 2023 case in this court, Wiltz's claims had been rejected multiple times by other courts, dating back to the dismissal of her 2019 case against the Cleveland Clinic and OhioHealth, which was affirmed on appeal in early 2021. *Cleveland Clinic*, 2021-Ohio-62, at ¶ 5 (8th Dist.). While the defendants sometimes differ from case to case, Wiltz makes the same frivolous allegations of misdiagnosis of cancer and swallowing disorders and medical-records violations involving alleged

falsified and missing records. She makes these allegations without any factual basis. This activity alone meets the standard to declare Wiltz a vexatious litigator.

Yet Wiltz's conduct has gone even further than repeatedly filing the same claims. Wiltz frequently makes arguments that are not supported by the law, claiming that defendants and the court failed to serve her with filings. *See, e.g., Cleveland Clinic* at ¶¶ 38–44; *Wiltz v. Ohio Accountancy Bd.*, 2016-Ohio-8345, ¶¶ 28, 31 (10th Dist.); *Wiltz v. Clark Schaefer Hackett & Co.*, 2011-Ohio-6664, ¶ 6 (10th Dist.) (“*Clark II*”); *Wiltz v. Clark Schaefer Hackett & Co.*, 2011-Ohio-5616, ¶¶ 27–28 (10th Dist.) (“*Clark I*”). These allegations about service are often coupled with baseless allegations of obstruction of Wiltz's mail delivery: “The Court engaged in behavior that discriminated against the plaintiff (because she is a pro se party), when it used ‘mail accepting procedures’ and ‘an agreement with the postal service’ to insure that the plaintiff could not file documents.” *Cleveland Clinic* at App'x. In this case, Wiltz alleges that defendants obstructed the delivery of mail by conspiring with agents of the U.S. Postal Service. (4/1/24 Compl. ¶¶ 95, 96(a), 110.)

Moreover, these baseless arguments about service are often used as a justification for relief from an adverse judgment, for reconsideration, or to delay a decision on a dispositive motion. *Cleveland Clinic* at ¶ 12, App'x (Civil Rule 60(B) motion after dismissal was granted raised arguments about mail irregularities and service); *Ohio Accountancy* at ¶¶ 10, 28–32 (Civil Rule 60(B) motion alleged a failure to receive notices from the court after Wiltz failed to attend a conference with the court and failed to timely object to the magistrate's decision); *Clark II* at ¶¶ 1, 6 (motion for reconsideration of an appeal decision alleged a failure to receive the motions the court granted); *Clark I* at ¶ 10 (post-judgment motion alleged that Wiltz was never served

with dispositive motions). (*See* Pl.’s 6/26/24 Mot. to Compel 1 (seeking to delay this decision until Wiltz was re-served with filings by her chosen method of service).)

In this case, Wiltz argued, without any basis, that “defendants and the State of Ohio also, clearly, have an agreement with the U.S. Postal Service that mail will not be delivered to me and that mail that I attempt to send to others will also not be delivered by the postal service.” (Pl.’s 6/26/24 Mot. to Compel 9.) Wiltz further contended, also without evidence to support her argument, that “[she] was subjected (by the postal service) to a barrage of both verbal and written harassment and threats . . . [including] a statement by a postal service worker who calls herself ‘Kiki’ that Ohio Health, the State of Ohio, and the postal service are going to ‘take her down.’” (*Id.* at 10.)

Wiltz also frequently makes baseless allegations of “fraud” against parties and the court when Wiltz simply disagrees with the facts or conclusions reached. *See, e.g., Cleveland Clinic, 2021-Ohio-62*, at ¶ 49 (8th Dist.) (alleging that the court’s findings of fact were “fraudulent,” an argument rejected on appeal); *Clark II* at ¶¶ 25–28 (alleging “fraud and misconduct” by serving filings by mail because Wiltz allegedly did not receive those documents, an argument rejected on appeal).

Wiltz has engaged in precisely the manner and character of vexatious conduct that the vexatious-litigator statute seeks to prevent. *See* R.C. 2323.52(A)(2)(a)–(c). She engaged in all three types of vexatious conduct. She files claims and motions that are not supported by the facts or law. She engages in motion practice for the purpose of delay. This conduct coupled with the volume of cases filed by Wiltz serves little purpose other than to harass the defendants. I, therefore, declare Wiltz a vexatious litigator under R.C. 2323.52.

III. Conclusion

Wiltz is declared a vexatious litigator under R.C. 2323.52. As a result of that finding, Wiltz is prohibited from:

(a) Instituting legal proceedings in the court of claims, a court of common pleas, a municipal court, or a county court in Ohio;

(b) Continuing any legal proceedings that Wiltz had instituted prior to this judgment entry in any of the courts listed above in (a);

(c) Making any application, other than an application for leave to proceed under R.C. 2323.52(F)(1), in any legal proceedings instituted by Wiltz or any other person in any of the courts listed above in (a).

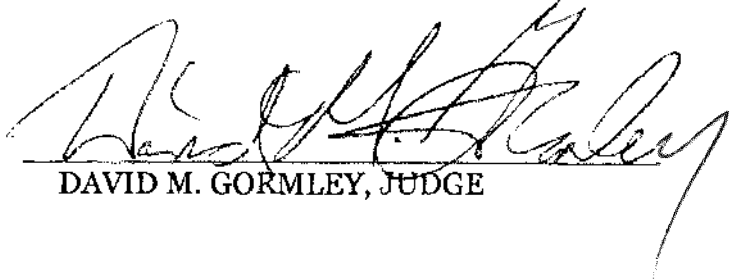
This judgment will remain in effect indefinitely and will not expire.

As a result of the finding above, under R.C. 2323.52(D)(3), Wiltz “may not institute legal proceedings in a court of appeals, continue any legal proceedings that [Wiltz] had instituted in a court of appeals prior to entry of th[is] order, or make any application, other than the application for leave to proceed allowed by [R.C.2323.52](F)(2) . . . , in any legal proceedings instituted by [Wiltz] or another person in a court of appeals without first obtaining leave of the court of appeals to proceed pursuant to [R.C. 2323.52](F)(2).”

If Wiltz seeks to institute or continue any legal proceedings in the court of claims, a court of common pleas, a municipal court, or a county court in Ohio, Wiltz must apply to this court and present reasonable grounds to satisfy this court that the proceedings and application are not an abuse of process of the court in question and that the proceedings are based on reasonable grounds.

This order also prohibits Wiltz from continuing with her claims in this case because I have determined that Wiltz has engaged in vexatious conduct in pursuing those claims. This judgment entry terminates this case.

In accordance with R.C. 2323.52(H), the clerk of courts is directed to send a certified copy of this judgment entry to the Supreme Court of Ohio for publication.



DAVID M. GORMLEY, JUDGE

The clerk of this court is hereby ordered to serve a copy of this judgment entry upon all parties or their counsel through the clerk's e-filing system, by regular mail, or by fax.

**THIS IS A FINAL APPEALABLE ORDER.
THERE IS NO JUST CAUSE FOR DELAY.**

The Clerk is ordered to serve upon the parties not in default to appear, notice of the judgment and date of entry upon the journal within three days of journalization.