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# IN THE COURT OF COMMON PLEAS CUYAHOGA COUNTY, OHIO

RANDALL G. STEPHENS  
Plaintiff

Case No: CV-16-857520

Judge: KELLY ANN GALLAGHER

UNION CARBIDE CORPORATION, ET AL  
Defendant

## JOURNAL ENTRY

96 DISP. OTHER - FINAL

DEFENDANTS' MOTION TO DECLARE PLAINTIFF A VEXATIOUS LITIGATOR PURSUANT TO O.R.C. 2323.52, FILED 03/13/2017, IS GRANTED. AS NO ISSUES REMAIN TO BE LITIGATED, THIS ORDER IS FINAL. NO JUST CAUSE FOR DELAY.

COURT COST ASSESSED TO THE PLAINTIFF(S).

PURSUANT TO CIV.R. 58(B), THE CLERK OF COURTS IS DIRECTED TO SERVE THIS JUDGMENT IN A MANNER PRESCRIBED BY CIV.R. 5(B). THE CLERK MUST INDICATE ON THE DOCKET THE NAMES AND ADDRESSES OF ALL PARTIES, THE METHOD OF SERVICE, AND THE COSTS ASSOCIATED WITH THIS SERVICE.

Kelly Gallagher      5/22/17  
Judge Signature                      Date

THE STATE OF OHIO Cuyahoga County	} SS.	I, THE CLERK OF THE COURT OF COMMON PLEAS WITHIN AND FOR SAID COUNTY,
WE HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL		
NOW ON FILE IN MY OFFICE		
WITNESS MY HAND AND SEAL OF SAID COURT THIS <u>11<sup>th</sup></u>		
DAY OF <u>Oct</u> , A.D. 20 <u>17</u>		
CUYAHOGA COUNTY CLERK OF COURTS		
By <u>[Signature]</u>		, Deputy

FILED  
2017 MAY 22 A 10: 58  
CLERK OF COURTS  
CUYAHOGA COUNTY

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-96 SUPREME COURT OF OHIO  
05/15/2017

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

RANDALL G. STEPHENS )

Plaintiff, )

vs. )

UNION CARBIDE CORPORATION, et al. )

Defendants. )

CASE NO.: CV-16-857520

JUDGE KELLY A. GALLAGHER

**OPINION AND ORDER**

**OPINION**

On January 19, 2016, pro se Plaintiff Randall G. Stephens filed a civil action against the Union Carbide Corporation ("Union Carbide"), Union Carbide President Patrick E. Gottschalk, the Dow Chemical Company, Chief Administrator of the Bureau of Workers' Compensation Steve Buchrer and CEO and President of the Dow Chemical Company Andrew N. Liveris.

On February 25, 2016, the Bureau of Workers' Compensation filed their Answer and also filed a Motion to Dismiss the Industrial Commission of Ohio as a Party Defendant, which was granted by the Court on March 10, 2015.

On March 21, 2016, Defendants, Union Carbide, Patrick Gottschalk and Andrew Liveris of the Dow Company filed their Answer and Counterclaim along with a Motion for Judgment on the Pleadings, which was granted on May 16, 2016 for failure to state a claim upon which relief may be granted.

The only issue remaining before this Court is the Defendant's Counterclaim seeking to declare the Plaintiff a Vexatious Litigator.

## I. Procedural Background

Plaintiff has a history of filing civil litigation in the Cuyahoga County Court of Common Pleas, specifically against Union Carbide. The first two civil actions filed by the Plaintiff against Union Carbide were barred by *res judicata*. (See Stephens v. Union Carbide Corp., CV-90-198878 (Zingale, S.) and Stephens v. Union Carbide Consumer CV-93-249145 (Calabrese, A)).

The Plaintiff then filed a tort action against Union Carbide in Stephens v. Union Carbide Corp., CV-98-368818 (Burnside, J.). This action was dismissed without prejudice. Plaintiff refiled the action in Stephens v. Union Carbide Corp., CV-99-383935 (Burnside, J.), which was dismissed with prejudice.

Plaintiff appealed these decisions to the Eighth District Court of Appeals (CA-99-077173) and the Supreme Court of the United States (Supreme Court of the United States Case No. 02-1138) and was unsuccessful.

In 2001, Plaintiff filed a contract claim unrelated to Union Carbide in Stephens v. DBA Alexander Finishers et al., CV-01-453858 (Kilbane-Koch, J.). This case was stayed and removed from the active docket due to a bankruptcy petition.

Plaintiff then filed another suit against Union Carbide in Stephens v. Union Carbide Corp., CV-15-847817 (Gallagher, S.), wherein the case was dismissed for failure to state a claim upon which relief may be granted.

In the instant matter, the Defendant's Counterclaim also indicates that between 1993 and 2009, the Plaintiff filed five federal cases with the United States District Court for the Northern District of Ohio, and on July 31, 2009, United States District Judge James S. Gwin, in Case No: 1:09 CV 1219, issued a Memorandum of Opinion and Order enjoining Mr. Stephens from filing any new lawsuits or other documents without obtaining leave of the court.

Although Mr. Stephens was declared a vexatious litigator in federal court, Ohio's vexatious litigator statute, R.C. 2323.52, clearly prevents this court from applying a vexatious litigator determination by a federal court to the instant matter. See Huntington Natl. Bank v. Pacific Fin. Services., 2006-Ohio-4486, 86822.

## II. Ohio's Vexatious Litigator Law

The Ohio Revised Code in Section 2323.52(A)(2) defines vexatious conduct as follows:

“(2) “Vexatious conduct” means 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 in a 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.”

Ohio Revised Code Section 2323.52(A)(3) states:

“(3) “Vexatious litigator” means 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. “Vexatious litigator” does not include a person who is authorized to practice law in the courts of this state under the Ohio Supreme court Rules for the Government of the Bar of Ohio unless that person is representing or has represented self pro se in the civil action or actions. For the purpose of division (A)(3) of this section, “civil action” includes a proceeding under section 2743.75 of the Revised Code.”

Ohio Revised Code 2323.52, Ohio's vexatious litigator statute, was enacted to “prevent abuse of the system by those persons who persistently and habitually file lawsuits without reasonable grounds and/or otherwise engage in frivolous conduct in the trial courts of this state. Such conduct clogs the court dockets, results in increased costs, and oftentimes is a waste of judicial resources- resources that are supported by the taxpayers of this state. The unreasonable

burden placed upon courts by such baseless litigation prevents the speedy consideration of proper litigation.” Mayer v. Bristow, 91 Ohio St.3d 3, 23, 740 N.E.2d 656 (2000).

A restriction on pro se filings by vexatious litigators is consistent with law predating R.C. 2323.52. Sailing, Inc. v. Pavarini, 2007-Ohio-6844, 89150. Prior to the statute, the courts were understood to have inherent powers to limit a particular litigants access to the courts or to prevent additional filings in a particular case. See Smith v. Ohio Dept. of Human Serv. (1996), 115 Ohio App.3d 755, 759. This understanding carried forward after the adoption of R.C. 2323.52. Sailing, Inc. v. Pavarini, 2007-Ohio-6844, 89150.

In this instant case, Mr. Stephens submitted to this court an “Order by the Court of Agreed Settlement by All Parties.” In said document, Mr. Stephens awarded himself close to five billion dollars, payable in six payments by Dow Chemical Company. In this case he also claimed specific performance to convey land which he claimed a “right”. The land to which he claimed entitlement was the State of Ohio. The Plaintiff continues to file motions in this matter, despite his complaint being dismissed with prejudice. It is clear from the record, that Mr. Stephens has established a pattern of persistently filing complaints with this Court that are patently frivolous and vexatious, and appear calculated to harass the defendants and abuse the judicial process

#### **ORDER**

Pursuant to O.R.C. 2323.52, this Court declares Plaintiff Randall Stevens to be a vexatious litigator.

Furthermore, pursuant to R.C. 2323.52, Mr. Stephens is prohibited from doing one or more of the following without first obtaining the leave of the court to proceed:

- (1) Institute legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court;

- (2) Continue any legal proceedings he has instituted in the court of claims or in a court of common pleas, municipal court, or county court, prior to the entry of the orders; and
- (3) Make any application, other than an application for leave to proceed under R.C. 2323.52(F)(1), in any legal proceeding instituted by him or another person in the court of claims or in a court of common pleas, municipal court, or county court.

**SO ORDERED:**

Kelly Gallagher  
Judge Kelly Ann Gallagher

5/22/17  
Date