

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

CASE NUMBER: CV-2012-02-0789

GEORGE ZAKAIB vs CITY OF AKRON

Judge: TAMMY O'BRIEN

ORDER FILED: 10/04/2012

NOTICE

TO: OHIO SUPREME COURT
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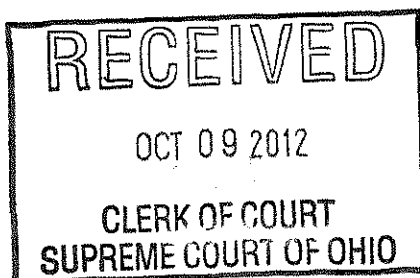
You are hereby notified that the following has been filed with the Summit County Clerk of Courts Office:

ORDER NAMING GEORGE ZAKAIB A VEXATIOUS LITIGATOR.

10/04/2012

Daniel M. Horrigan

Summit County Clerk Of Courts



DANIEL M. HOFFIGAN

2012 SEP 28 AM 11:09

SUMMIT COUNTY
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

GEORGE ZAKAIB,)	CASE NO. CV 2012 02 0789
)	
Plaintiff,)	JUDGE TAMMY O'BRIEN
)	
VS.)	
)	
CITY OF AKRON, <i>et al.</i> ,)	(1) <u>JUDGMENT ENTRY</u>
)	
Defendants.)	(2) <u>ORDER OF REFERENCE</u>
)	<u>TO ASSIGN ORAL HEARING</u>
)	<u>ON ATTORNEY FEES TO THE</u>
)	<u>MAGISTRATE</u>
)	

This matter comes before the Court on the Motion for Default Judgment filed by Defendant City of Akron ("Akron"), the Motion for Summary Judgment filed by Defendants Akron, Duane Groeger, Jodie Forester, Ralph Coletta, Robert Hathaway, Pamela Williams, Michael Dobbertin, Janice Sturkey, Herbert Moss, and The City of Akron Housing Appeals Board, and the Dispositive Motion filed by Plaintiff George Zakaib ("Zakaib"). While Defendants have responded to Zakaib's dispositive motion, Zakaib has never responded to Akron's Motion for Default Judgment or Defendant's Motion for Summary Judgment. Accordingly, Akron's Motion for Default Judgment and Defendant's Motion for Summary Judgment remain unopposed.

The Court has considered the pending motions, Akron's Response to Dispositive Motion, the alleged facts of this matter, Civ.R. 56(C), and applicable law. Upon due consideration, the Court:

- (1) GRANTS Akron's unopposed Motion for Default Judgment;
- (2) GRANTS the unopposed Motion for Summary Judgment filed by Defendants Akron, Duane Groeger, Jodie Forester, Ralph Coletta, Robert Hathaway, Pamela Williams, Michael Dobbertin, Janice Sturkey, Herbert Moss, and The City of Akron Housing Appeals Board; and

- (3) DENIES Zakaib's Dispositive Motion.
- (4) Akron's request for attorney fees is also GRANTED. Pursuant to the authority provided for in Civ.R. 53, and pursuant to and in accordance with Loc.R. 8 of the Court of Common Pleas of Summit County, General Division, an oral hearing on Akron's attorney fees will be held before the Magistrate on **October 24, 2012 at 1:00 p.m.**

The Court further determines that Zakaib is a vexatious litigator as defined in R.C. 2323.52(A)(3). In light of this finding, unless leave of Court is first obtained, Zakaib may not 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 that he has instituted in the Summit County Court of Common Pleas, and/or 3) make any application, other than an application for leave to proceed. The Summit County Clerk of Courts shall add George Zakaib to their list of vexatious litigators.

ANALYSIS

1. Factual Background.

On February 17, 2009, the City of Akron Housing Appeals Board ("Board") issued a demolition order for the property located at 349-353 E. South Street, Akron, Ohio 44311 ("the Property"). Zakaib filed an administrative appeal of this decision ("Appeal"). *See George Zakaib v. Housing Appeals Board, et al.*, Summit County Court of Common Pleas Case No. CV 2009 03 2132. Zakaib's administrative appeal was assigned to Judge Callahan. The Appeal addressed the issue of whether the City of Akron had the authority to condemn and raze the Property through the decision of the Housing Appeals Board. Judge Callahan granted the Board's Motion to Dismiss based upon Zakaib's failure to perfect his appeal. Zakaib's appeal to the Ninth District Court of Appeals was dismissed as Zakaib failed to file his brief. *See George Zakaib v. Housing Appeals Board, et al.*, 9th Dist. No.25132.

Zakaib then filed another complaint. *See George Zakaib v. Akron Housing Appeals Board*, Summit County Court of Common Pleas Case No. CV 2009 12 9084 ("Collateral Attack I"). Collateral Attack I was assigned to Judge Callahan. The Complaint in Collateral Attack I relied upon the same facts as the Appeal and even recognized that the Appeal had been dismissed for lack of jurisdiction. The Complaint in Collateral Attack I sought a declaratory judgment, injunctive relief and damages, all involving the same facts that were previously litigated in the Appeal. Zakaib also sought a temporary restraining order and preliminary injunction. Judge Callahan dismissed Collateral Attack I and noted that Zakaib sued a party that was not *sui juris*, the Housing Appeals Board, and that the issues raised were the same as those raised in the Appeal. *See* February 5, 2010 Judgment Entry, Case No. CV 2009 12 9084.

On February 5, 2010, the City of Akron issued a permit to Bob Bennett Construction to demolish the Property. The City of Akron filed a Notice of Demolition, notifying the Court that

the demolition had occurred, on February 8, 2010. See February 10, 2010 Notice of Demolition, Case No. CV 2009 12 9084.

Zakaib then filed a Complaint alleging that Defendants the City of Akron, Duane Groeger, Jodie Forester, Ralph Coletta, Robert Hathaway, Pamela Williams, Michael Dobbertin, Janice Sturkey, Herbert Moss, and The City of Akron Housing Appeals Board caused damages through breach of contract, illegal operations and procedures, and acted in disregard with respect to eminent domain (“Collateral Attack II”). See *George Zakaib v. Summit County, Ohio, et al.*, Summit County Court of Common Pleas Case No. CV 2012 02 0787 Collateral Attack II was assigned to Judge Gallagher. Zakaib alleged in Collateral Attack II that Defendants demolished and destroyed the Property and that, in doing so, Defendants violated and performed illegal acts such as trespass. Judge Gallagher recently granted summary judgment in favor of Defendants County of Summit, Ohio, John Labriola, and Richard Dobbins. See September 17, 2012 Judgment Entry and September 20, 2012 Revised Judgment Entry, Case No. CV 2012 02 0787.

Zakaib commenced action based upon the same underlying facts in *George Zakaib v. Norman Bennett, et al.*, Case No. CV 2012 02 0786, assigned to Judge Teodosio. On June 1, 2012, Judge Teodosio dismissed Zakaib’s Complaint in Case No. CV 2012 02 0786. Judge Teodosio held that “it is compellingly concluded that Bennett * * * was acting under a contract with the City of Akron whose authority to demolish the building was clearly established.” See June 1, 2012 Final Judgment Entry at 4, Case No. CV 2012 02 0786. Judge Teodosio further concluded that “Zakaib can prove no set of facts in this claim * * * which would entitle him to recover.” *Id.* at 5. The court’s dismissal of CV 2012 02 0786 has not been challenged and the time to appeal has passed.

Zakaib commenced the instant action on February 10, 2012. As argued in his other four lawsuits, Zakaib argues that the Property was wrongfully demolished. Defendants deny Zakaib’s allegations and Akron has asserted Counterclaims for vexatious and frivolous conduct. Zakaib has never responded to the Counterclaims and Defendants have requested default judgment.

The Court will separately address below the pending Motions.

2. Akron’s Motion for Default Judgment.

In response to Plaintiff’s Complaint, Akron asserts Counterclaims for vexatious and frivolous conduct. Akron specifically asserts:

12. George Zakaib, acting pro se, has habitually, persistently, and without reasonable grounds engaged in vexatious conduct in civil action or actions in the Summit County Court of Common Pleas, including:
 - a. *George Zakaib v. Summit County Ohio, et al.*, Case No. CV 2012 02 0787.
 - b. *George Zakaib v. Norman Bennett, et al.*, Case No. CV 2012 02 0786.

- c. *George Zakaib v. Housing Appeals Board, et al.*, Case No. CV 2009 03 2132.
- d. *George Zakaib v. Akron Housing Appeals Board*, Case No. CV 2009 12 9084, the docket of which contains relevant portions of Ninth District Court of Appeals Case No. C.A. 25132.

13. George Zakaib's vexatious conduct obviously serves to harass or maliciously injure the City of Akron, its departments, agents, employees or others.

- 14. George Zakaib's vexatious 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.

* * *

16. Plaintiff's Complaint constitutes frivolous conduct as defined in Ohio Revised Code §2323.51 as the action was commenced to merely harass or maliciously injure Defendants and was commenced for an improper purpose.

17. Further, allegations or other factual contentions contained in the Complaint have no evidentiary support or are not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

WHEREFORE, Defendant, City of Akron, demands the following relief:

- a. that George Zakaib, be declared a vexatious litigator, pursuant to Ohio Revised Code §2323.52.
- b. that George Zakaib, be enjoined indefinitely from instituting, pro se, any legal proceedings in the court of common pleas, municipal court, county court, or court of claims without first obtaining leave from the court, pursuant to Ohio Revised Code §2323.52(D)(1)(a) and §2323.52(E).
- c. that George Zakaib, be enjoined indefinitely from continuing any legal proceedings in the court of common pleas, municipal court, county court, or court of claims, that George Zakaib, acting pro se, has instituted prior to the entry of the order, pursuant to Ohio Revised Code §2323.52(D)(1)(b).
- d. that George Zakaib, be enjoined from making any applications, acting pro se, other than application for leave to proceed, in any legal proceedings instituted by George Zakaib in the court of common pleas, municipal court, county court, or court of claims pursuant to Ohio Revised Code §2323.52(D)(1)(c).

e. that judgment be issued against George Zakaib for court costs, reasonable attorney fees, and other reasonable expenses incurred by the City of Akron in connection with this matter.

f. that this Court grant any other relief it deems just and fair.

See Akron's Counterclaims at ¶¶ 12-14, 16-17. Zakaib has not responded to Akron's Counterclaims.

Akron filed a Motion for Default Judgment on July 3, 2012. Akron argues that, "[d]ue to George Zakaib's failure to answer, the City is entitled to have the court declare Mr. Zakaib vexatious and award attorney fees to the City." *See* Motion for Default Judgment at 1. Zakaib has never responded to Akron's Motion. The Court finds that, because Zakaib has never responded to Akron's Counterclaims, default judgment is appropriate pursuant to Civ.R. 55(A).

Pursuant to R.C. 2323.52 (A)(3), a "vexatious 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. '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 himself pro se in the civil action or actions.

R.C. 2323.52(A)(2) defines vexatious conduct as:

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 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.

"Conduct" is defined in R.C. 2323.51(A)(1)(a) as:

The filing of a civil action, the assertion of a claim, defense, or other position in connection with a civil action, the filing of a pleading, motion, or other paper in a civil action, including, but not limited to, a motion or paper filed for discovery purposes, or the taking of any other action in connection with a civil action.

In light of Zakaib's default, it is undisputed that Zakaib is not registered to practice law in the courts of this State and that he has taken part in "conduct" as defined above on a number of occasions against Akron in the Summit County Court of Common Pleas. Zakaib's conduct falls

squarely within the requirements of R.C. 2323.52(A)(2) as cited above. It is further undisputed that Zakaib's conduct is habitual and persistent as he has asserted the same claims, based upon the same facts, against Akron in the different lawsuits. Zakaib's conduct was knowingly and intentionally undertaken and his actions have been without reasonable grounds and are irreconcilable with well established Ohio law.

WHEREFORE, the Court GRANTS Akron's Motion for Default Judgment and DECLARES that Plaintiff George Zakaib has habitually, persistently, and without reasonable grounds engaged in vexatious conduct in actions against the City of Akron, in the Summit County Court of Common Pleas and is found to be a vexatious litigator as defined in R.C. 2323.52(A)(3). Pursuant to R.C. 2323.52, Zakaib may do none of the following without first obtaining leave of court 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 that he has instituted in the Summit County Court of Common Pleas, and/or 3) make any application, other than an application for leave to proceed.

Akron's request for attorney fees is GRANTED. Pursuant to the authority provided for in Civ.R. 53, and pursuant to and in accordance with Loc.R. 8 of the Court of Common Pleas of Summit County, General Division, an oral hearing on Akron's attorney fees will be held before the Magistrate on **October 24, 2012 at 1:00 p.m.**

Inasmuch as this matter is in Reference, all motions, correspondence, orders and/or requests shall be directed to the Magistrate.

2. **Defendants' Motion for Summary Judgment.**

a. **Standard of Review.**

In reviewing a motion for summary judgment, the Court must consider the following: (1) whether there is no genuine issue of material fact to be litigated; (2) whether in viewing the evidence in a light most favorable to the non-moving party it appears that reasonable minds could come to but one conclusion; and (3) whether the moving party is entitled to judgment as a matter of law. *Dresher v. Burt*, 75 Ohio St.3d 280, 662 N.E.2d 264 (1996); *Wing v. Anchor Media, L.T.D.*, 59 Ohio St.3d 108, 570 N.E.2d 1095 (1991). If the Court finds that the non-moving party fails to make a sufficient showing on an essential element of the case with respect to which it has the burden of proof, summary judgment is appropriate. *Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S.Ct. 2548, 91 L.E.2d 265 (1986).

Civ.R. 56(C) states the following, in part, in regards to summary judgment motions:

Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of the evidence in the pending case, and written stipulations of fact, if any timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

Where a party seeks summary judgment on the ground that the nonmoving party cannot prove its case, the moving party bears the initial burden of informing the trial court of the basis for the motion, and identifying those portions of the record that demonstrate the absence of a genuine issue of material fact on the essential element(s) of the nonmoving party's claims. *Dresher*, 75 Ohio St.3d at 293. The *Dresher* court continued,

the moving party cannot discharge its initial burden under Civ.R. 56 simply by making a conclusory assertion that the nonmoving party has no evidence to prove its case. Rather, the moving party must be able to specifically point to some evidence of the type listed in Civ.R. 56(C) which affirmatively demonstrates that the nonmoving party has no evidence to support the nonmoving party's claims. If the moving party fails to satisfy its initial burden, the motion for summary judgment must be denied. However, if the moving party has satisfied its initial burden, the nonmoving party then has a reciprocal burden outlined in Civ.R. 56(E) to set forth specific facts showing that there is a genuine issue for trial and, if the nonmovant does not so respond, summary judgment, if appropriate, shall be entered against the nonmoving party.

Banks v. Ross Incineration, 9th Dist. No.98CA007132 (Dec. 15, 1999).

b. **Whether Plaintiff's Complaint is barred by collateral estoppel and *res judicata*.**

Upon due consideration, the Court finds that summary judgment is appropriate as Zakaib's Complaint is barred by collateral estoppel and *res judicata*. Collateral estoppel prevents the re-litigation of a previously litigated and determined action. Collateral estoppel does not deal with legal claims but rather factual issues. "[C]ollateral estoppel * * * precludes the re-litigation, in a second action, of an *issue* that has been actually and necessarily litigated and determined in a prior action which was based on a different cause of action. * * * In short, under the rule of collateral estoppel, even where the cause of action is different in a subsequent suit, a judgment in a prior suit may nevertheless affect the outcome of the second suit." *McMaster v. City of Akron*, 9th Dist. No.17133, at p. 3, citing *Trautwein v. Sorgenfrei*, 58 Ohio St.2d 493, 495, 391 N.E.2d 366 (1979). See also *Gerstenberger v. Macedonia*, 97 Ohio App.3d 167, 172, 646 N.E.2d 489 (9th Dist.1994).

The issues that are currently before the Court were already decided in the prior actions. At issue herein is whether the demolition proceeding and the decision of the Board were improper, unconstitutional, or illegal. These issues have already been litigated and are now barred by collateral estoppel.

The present issues are also barred by the doctrine of *res judicata*. "If the prior cause of action involves identical issues, then that prior cause of action is conclusive of the rights, questions and facts in issue as between the parties or their privies. If identical causes of action

are involved, the prior action is *res judicata*.” *Gerstenberger*, 97 Ohio App.3d at 174, 646 N.E.2d 489, *citing Jacobs v. Teledyne, Inc.*, 39 Ohio St.3d 168, 169-170, 529 N.E.2d 1255 (1988).

Zakaib asserts the same claims in this lawsuit as in his prior actions - - *i.e.*, that the Property was, or was about to be, illegally demolished. In this litigation, Zakaib again attacks the legality and propriety of the Board’s demolition order. The Court finds that the re-litigation of the same causes of action are now barred through *res judicata* and that summary judgment is appropriate.

b. Whether Zakaib’s Complaint is barred by the Statute of Limitations.

The Court further finds that Zakaib’s Complaint is barred by the applicable statute of limitations found in R.C. 2744.04(A). R.C. 2744.04(A) provides:

An action against a political subdivision to recover damages for injury, death, or loss to person or property allegedly caused by any act or omissions in connection with a governmental or proprietary function, whether brought as an original action, cross-claim, counterclaim, third-party claim, or claim for subrogation, shall be brought within two years after the cause of action accrues, or within any applicable shorter period of time for bringing the action provided by the Revised Code.

Zakaib failed to file his Complaint within the two-year period as provided by R.C. 2744.04(A).

“The goal of any general statute of limitations is to prevent plaintiffs from sleeping on their legal rights to the detriment of defendants. On its fact, R.C. §2744.04(A) bears a real and substantial relationship to this goal.” *Adamsky v. Buckeye Local School Dist.*, 73 Ohio St.3d 360, 362, 653 N.E.2d 212 (1995). Tolling of R.C. 2744.04 is subject to the strict tolling provisions contained in R.C. 2305.16. Here, tolling of the statute of limitations is only allowed where the plaintiff is of unsound mind or is a minor, neither of which applies in this case.

Zakaib filed the underlying Complaint on February 10, 2012. Pursuant to R.C. 2744.04(A), the two-year limitation applies to “injury, death, or loss to person or property allegedly caused by any act or omission in connection with a governmental or proprietary function * * * [and] shall be brought within two years after the cause of action accrues.” R.C. 2744.04(A). The running of the time limit commences on the date of injury.

With respect to the Defendant Board and its members, any injury accrued on the date the order of demolition was issued, February 17, 2009. The only involvement of the individual Board members was the issuance of the February 17, 2009 Order. Thus, the statute of limitations expired on February 17, 2011, *i.e.*, one year before Zakaib filed this suit. Even if the actual date of demolition is used, February 8, 2010, this date is still two years prior to the filing of the underlying Complaint on February 10, 2012. Accordingly, the Court finds that Zakaib’s Complaint is also barred by the applicable statute of limitations found in R.C. 2744.04(A).

c. Whether Defendants are Immune from Liability Pursuant to R.C. 2744 et seq.

The Court further finds that Defendants are immune from liability pursuant to R.C. 2744 et seq. R.C. 2744.02(A)(1) extends immunity from liability to political subdivisions for several governmental functions including the following:

* * * Except as provided in division (B) of this section, a political subdivision is not liable in damages in a civil action for injury, death, or loss to person or property alleged caused by any act or omission of the political subdivision or an employee of the political subdivision in connection with a governmental or proprietary function.

R.C. Chapter 2744 sets forth a three-tier analysis. *Green Cty. Agricultural Soc. V. Liming*, 89 Ohio St.3d 551, 556-557, 733 N.E.2d 1141 (1998). The first tier, R.C. 2744.02(A), vests political subdivisions with “blanket immunity from tort liability arising out of an act or omission by the entity or its agent if the act or omission occurs in the course of ‘governmental’ or ‘proprietary’ function.” *Armbruster v. W. Unity Police Dept.*, 127 Ohio App.3d 478, 483, 713 N.E.2d 436 (6th Dist. 1998). The Court finds that inspection services and the enforcement of the municipal codes are clearly governmental functions. Accordingly, Defendants are subject to blanket immunity under R.C. 2744.02(A)(1).

The second tier, R.C. 2744.02(B), enumerates five exceptions to this general grant of immunity. The only applicable R.C. 2744.02(B) exception is R.C. 2722.02(B)(2) which provides:

(2) Except as otherwise provided * * *, political subdivisions are liable for injury, death, or loss to person or property caused by the negligent performance of acts by their employees with respect to proprietary functions of the political subdivisions.

The Court finds that, at all pertinent times, Defendants were performing “governmental functions” rather than “proprietary functions of the political subdivision.” See, R.C. 2744.02(B) (requiring that, for an exception to R.C. 2744.02 immunity to apply, the “injury, death, or loss * * * [must] be caused by the negligent performance of acts by their employees with respect to proprietary functions of the political subdivision”). See also *Goad v. Cuyahoga Cty. Bd. of Comms.*, 79 Ohio App.3d 521, 607 N.E.2d 878 (8th Dist. 1992) (where performing a governmental function, and regardless of negligence, political subdivision immune under R.C. Chapter 2744); *Campbell v. Rockwell Int’l Corp.*, 10th Dist. No. 90AP-1382 (May 14, 1991) (where city performing a governmental function, city’s actions immune and the R.C. 2744.02(B) exceptions to immunity are inapplicable). At all times, Defendants were performing a “governmental function.” R.C. 2744.02 immunity applies and, as set forth above, none of the exceptions to this immunity apply.

The third tier of the analysis leads to R.C. 2744.03. This statute sets forth further defenses and immunities that a political subdivision may assert. However, R.C. 2744.03 is only applicable in the event that the entity is subject to liability. *Armbruster*, 127 Ohio App.3d at 483, 713 N.E.2d 436 (6th Dist. 1998). Because the Court has already found that Defendants are immune under R.C. 2744.01 and that the exceptions to immunity under R.C. 2744.02 are inapplicable, there is no need to progress to the third tier. *See Studer v. Seneca County Humane Society*, 3rd Dist. No.13-99-59, 2000-Ohio-1823 (May 4, 2000) (holding that there was no need to address the third tier, i.e. R.C. 2744.03, where the court already determined that the defendant humane society was immune under R.C. 2744.01.)

The Court finds that the immunity also applies to the individual Defendants. There is absolutely no evidence that Defendants Duane Groeger, Jodie Forester, Ralph Coletta, Robert Hathaway, Pamela Williams, Michael Dobbertin, Janice Sturkey, or Herbert Moss acted outside the scope of their duties. The only conduct performed by these Defendants was quasi-judicial and is subject to R.C. 2744.03(A)(1) immunity. Further, there is no evidence of malicious, reckless or wanton conduct. Accordingly, the Court finds that summary judgment is also appropriate as Defendants are subject to R.C. 2744 immunity.

While Akron further argues that summary judgment is appropriate because Zakaib has failed to state a claim upon which relief can be granted and Zakaib waived his right to appeal on the merits and should not be allowed to make another collateral attack against the order of demolition, in light of the aforementioned findings there is no need to address these alternative arguments. Further, in granting Akron's Motion for Default Judgment, the issue of whether Zakaib is a vexatious litigator has already been determined. In light of the Court's rulings on Defendants' Motions, Zakaib's Dispositive Motion, which argues that genuine issues of fact remain, is DENIED.

CONCLUSION

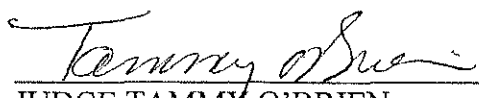
WHEREFORE, for the reasons set forth above and upon due consideration, the Court :

- (1) GRANTS Akron's unopposed Motion for Default Judgment;
- (2) GRANTS the unopposed Motion for Summary Judgment filed by Defendants Akron, Duane Groeger, Jodie Forester, Ralph Coletta, Robert Hathaway, Pamela Williams, Michael Dobbertin, Janice Sturkey, Herbert Moss, and The City of Akron Housing Appeals Board; and
- (3) DENIES Zakaib's Dispositive Motion.
- (4) Akron's request for attorney fees is also GRANTED. Pursuant to the authority provided for in Ohio Civ.R. 53, and pursuant to and in accordance with Loc.R. 8 of the Court of Common Pleas of Summit County, General Division, an oral hearing on Akron's attorney fees will be held before the Magistrate on **October 24, 2012 at 1:00 p.m.**

As set forth above, in granting Akron's unopposed Motion for Default Judgment, there has been a judicial determination that Zakaib is a vexatious litigator as defined in R.C. 2323.52(A)(3). In light of this finding, unless leave of Court is first obtained, Zakaib may not 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 that he has instituted in the Summit County Court of Common Pleas, and/or 3) make any application, other than an application for leave to proceed. The Summit County Clerk of Courts shall add George Zakaib to their list of vexatious litigators.

Pursuant to Civ.R. 58(B), the Clerk of Courts shall serve upon all parties not in default for failure to appear notice of this judgment and this date of entry upon the journal.

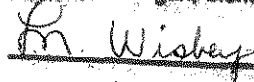
IT IS SO ORDERED.



JUDGE TAMMY O'BRIEN

George Zakaib, pro se Plaintiff, @ 2229 Lewis Drive, Lakewood, OH 44107
Assistant Directors of Law John R. York/Sean W. Vollman
Magistrate John Shoemaker

I certify this to be a true copy of the original
Daniel M. Horrigan, Clerk of Courts.



Deputy
10-4-12