

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

SANTANA JADE CLINE,)	CASE NO. 21 CV 004359
)	
Plaintiff-Counterclaim)	JUDGE KIM J. BROWN
Defendant,)	
)	
v.)	
)	
WEDGEWOOD HILLS HOA, et al.)	
)	
Defendants.)	

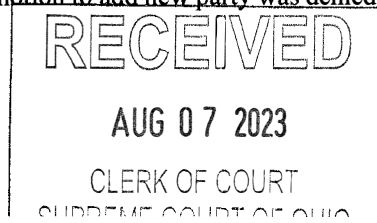
DECISION FOLLOWING BENCH TRIAL, HELD ON JULY 19, 2023

This matter is before the Court on Defendant/Counterclaimant Kaman & Cusimano, LLC’s (“K&C”) counterclaim seeking to have Plaintiff/Counterclaim Defendant Santana Jade Cline (“Cline”) declared a vexatious litigator pursuant to R.C. 2323.52. All of Cline’s affirmative claims against K&C, and Defendants Wedgewood Hills Homeowners Association (“Wedgewood”) and RZ Realty, LLC were previously dismissed via Entry and Order dated April 22, 2022. The only remaining claim is K&C’s counterclaim against Cline seeking to have her declared a vexatious litigator. The matter was heard at a bench trial on July 19, 2023¹. For the reasons that follow, the Court enters judgment in favor of Counterclaimant K&C and finds Plaintiff/Counterclaim Defendant Santana Jade Cline is a vexatious litigator under R.C. 2323.52.

I. FACTS

This is an action seeking a declaration that Cline is a vexatious litigator under R.C. 2323.52. For over a decade, Cline has been a prodigious litigant filing dozens of legal actions in this Court

¹ Non-Party and alleged father or stepfather of Plaintiff, Tim Dials’ motion to intervene filed July 17, 2023 was denied for failure to comply with Civ.R. 24(C) and Non-Party’s motion to add new party was denied as moot on the day the bench trial went forward.



and federal and state courts in Ohio and across the country. Many of Cline's lawsuits involved the property located at 8243 Chippenham Drive in Dublin, Ohio ("Property"). Cline has repeatedly litigated the same baseless claims over and over in this and other courts and has employed various meritless delay tactics. The instant action against Wedgewood and K&C is one in a long string of litigation filed to harass opposing litigants.

On March 13, 2007, HSBC filed a foreclosure complaint against Cline in this Court captioned *HSBC Bank v. Cline*, Franklin County C.P. No. 07-cv-3604 ("Foreclosure Action"). This Court granted summary judgment to HSBC. Cline unsuccessfully appealed the foreclosure action and the Property was set for sheriff's sale. The sale set off an improbable series of litigation spanning multiple courts, jurisdictions, and states which continues today, more than a decade later.

As shown on the Foreclosure Action docket, Cline filed five separate bankruptcy petitions, all of which were timed to stop the sale of the Property. The first four Bankruptcies were filed in the United States Bankruptcy Court, Southern District of Ohio. In 2008, Cline filed a Chapter 13 bankruptcy petition, case number 2:08-bk-53519, which stopped a scheduled foreclosure sale. Cline filed a second Chapter 7 bankruptcy petition, case number 2:08-bk-60588, to once again halt the sale. When HSBC again tried to schedule a sheriff's sale, Cline moved for relief from judgment in the Foreclosure Action arguing that her signature on the note had been forged. This Court denied Cline's motions. Cline then filed a third bankruptcy petition in 2010, case number 2:10-bk-58115, which stayed the sheriff's sale for the third time.

A sheriff's sale was scheduled yet again, and yet again Cline moved for relief from judgment in this Court. Cline continued to claim that the note was forged despite this Court's ruling to the contrary. (*HSBC Bank v. Cline*, Franklin Cty. C.P. No. 07CV003604 (May 5, 2011)). In 2011 Cline filed her fourth bankruptcy, case number 2:11-bk-54893, which once again stayed the

sheriff's sale. She also filed an adversary proceeding, case number 2:11-ap-02336, again asserting claims of forgery relating to the promissory note. The 2011 bankruptcy was dismissed, and the Foreclosure Action restarted once again, but Cline was undeterred. Out of options in the Foreclosure Action, she filed a quiet title lawsuit against MERS in this Court. (*Cline v. MERS, et al.*, Franklin County C.P. No. 12CV002287). The lawsuit once again stopped the foreclosure sale. This Court granted summary judgment to the defendants on the issues of claim and issue preclusion, concluding that Cline sought to re-litigate matters that were raised or could have been raised in the Foreclosure Action then-pending in this Court. (*Cline v. MERS, et al.*, Franklin County C.P. No. 12CV002287 (Feb. 20, 2013)). Cline's subsequent appeal was denied. (*Cline v. MERS, et al.*, 10th Dist. No. 13AP-136 (April 13, 2013)).

Despite denial of her last quiet title action, Cline again tried to re-litigate the same claim and issues. On April 25, 2013, Cline turned to the federal courts and filed suit in the Southern District of Ohio against MERS, HSBC, and the lender's legal counsel, Ohio attorney Benjamin Carnahan, alleging fraudulent foreclosure, conspiracy, and violations of the Fair Debt Collection Practices Act. (*Cline v. MERS, et al.*, No. 2:13-cv-401 (S.D. Ohio). The district court dismissed Cline's claims noting:

Cline is advised that the court will consider sanctions should she file post-judgment motions in this action that are frivolous and brought for purposes of delay, harassment, or imposing needless cost on defendants.

(*Cline v. Mtge. Electronic Registration Systems, Inc.*, S.D. Ohio No. 2:13-CV-401, 2013 WL 6687257, *6). On September 30, 2013, HSBC once again petitioned the court to schedule a sheriff's sale in the Foreclosure Action. On the same day, Cline removed the Foreclosure Action to the Southern District of Ohio. (*HSBC v. Cline*, No. 2:13-cv-978 (S.D. Ohio). Removal was found to be improper and the case was remanded back to this Court.

Then Cline took her battle to California. While the Southern District of Ohio litigation was pending, on November 1, 2013, Cline filed suit in the United States District Court for the Central District of California against CBSK, HSBC, and MERS once again alleging that the note was fraudulent. (*Cline v. CBSK*, No. 8:13-CV-01720-JLS-JPR (C.D. Cal.); K&C Exhibit 39).² Cline once again sued HSBC's Ohio legal counsel, this time in California federal court. (*Id.*). The court dismissed Cline's claims on *res judicata* stating:

Cline is advised that the Court will consider sanctions should she file post-judgment motions in this action that are frivolous and brought for purposes of delay, harassment, or imposing needless cost on defendants. To avoid sanctions, Cline must demonstrate a legitimate basis in law and fact for the relief she seeks.

(*Cline v. CBSK*, C.D. Cal. No 13-1720-JLS, 2015 WL 1005520, *6 (March 5, 2015).

Cline next moved on to Nevada where she filed her fifth bankruptcy petition which was used to cancel yet another scheduled sheriff's sale of the Property. On September 21, 2015, Cline filed a Notice of Bankruptcy and Suggestion of Stay in the Foreclosure Action after she filed a Chapter 11 bankruptcy petition in Nevada. (*In re Santana Cline*, No. 2:15-bk-15412 (Bankr. D. Nev.)). The court issued a bench ruling granting HSBC's motion for *in rem* relief from stay, concluding that Cline's Nevada bankruptcy was filed as "part of a scheme to delay, hinder, and defraud creditors."

Cline then quitclaimed the Property to Timothy Dials. Dials filed for bankruptcy in the Southern District of West Virginia and identified the Property as an asset. (*In re: Dials*, SD West Virginia No. 6:16-bk-60085). This bankruptcy once again stayed the Foreclosure Action. The West Virginia bankruptcy action was as litigious and frivolous as Cline's multiple bankruptcies. In granting HSBC *in rem* relief from stay relative to the Property, the court stated:

² Cline filed many of her out-of-state filings in the Foreclosure Action in this Court. (*See, e.g.*, K&C Exhibit 39).

This is the paradigmatic case for a judicial estoppel finding, namely, one where parties engage in abusive and endless litigation in the hopes of buying time, clogging a busy judicial system, and, in the process, compromising our state and federal tribunals' abilities to justly and rapidly adjudicate real controversies between parties with viable claims and defenses.

In re Dials, No. 6:16-BK-60085, 2019 WL 3778380, at *2 (Bankr. S.D.W. Va. Aug. 9, 2019). The court highlighted Cline's improper motives, harassing litigation tactics, and frivolous filings.

This Court is not the first to be concerned with Ms. Cline and Mr. Dials' bad faith. The Nevada Bankruptcy Court, in its *in rem* order, found that "[Ms. Cline] failed to establish by clear and convincing evidence that the case was not filed in bad faith; due to foreclosure judgment in the state of Ohio, the subject property . . . is not property of the estate; that there are multiple indices that [Ms. Cline] filed her bankruptcy in bad faith, including [Ms. Cline's] numerous other bankruptcy filings, her failure to make a payment on the home since 2006 while she continued to occupy it, the multiple state and federal court matters initiated by the Debtor, . . . and that the filing of [Ms. Cline's] bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors . . ." *In re Cline*, No. 15-154120btb, at Doc. 100, p. 2 (Bankr. D. Nev. Apr. 7, 2016).

In re Dials, 575 B.R. 137, 151, n. 5 (Bankr. S.D.W. Va. 2017).

Cline tried several more times to reassert frivolous and vexatious claims against HSBC and its legal counsel in other courts. In 2017, Cline filed a new lawsuit against HSBC and its Kentucky legal counsel in the Southern District of New York, which she quickly dismissed after the case was transferred to the Southern District of Ohio. (*See Cline v. HSBC Bank, USA*, S.D. Ohio Case No. 2:17-cv-00449).

Cline brought the litigation full circle back to this Court in 2021. After Cline stalled the Foreclosure Action for fourteen years, HSBC's counsel filed a notice of substitution of counsel on May 19, 2021. (*HSBC v. Cline*, Franklin County C.P. No. 07CV003604). Four days later, Cline filed two brand new lawsuits: another quiet title action against HSBC and MERS (*Cline v. HSBC, et al.*, Franklin County C.P. No. 21CV003242) and this lawsuit against Wedgewood, its management company, and Wedgewood's law firm, Kaman & Cusimano, alleging the invalidity

of yet another lien (*Cline v. Wedgewood Hills HOA*, Franklin County C.P. No. 21CV004359).³ Cline dismissed her newest claim against HSBC on August 2, 2021, the day before HSBC filed its motion to dismiss. (*Cline v. HSBC, et al.*, Franklin County C.P. No. 21CV003242). The claims Cline asserted against Wedgewood and K&C in this case were also dismissed. (*See* April 22, 2022 Entry and Order).

Cline's conduct continued in the instant case. After her affirmative claims against K&C, Wedgewood and RZ Realty, LLC were dismissed, the Court scheduled a bench trial on K&C's counterclaim seeking to declare Cline a vexatious litigator for July 12, 2022. On July 8, 2022, Cline filed an affidavit of disqualification in the Supreme Court of Ohio, attaching to her affidavit a May 10, 2022 email purporting to be from K&C's attorney, Timothy Brick. The filing of Cline's affidavit caused the July 12, 2022 bench trial to be continued. Mr. Brick denies having authored or sent said email and Cline, despite being ordered by the Court to produce a copy of said email in electronic format, has provided no evidence substantiating the email's authenticity.

The bench trial was rescheduled for July 19, 2023. The clerk mailed notice of the trial date to Ms. Cline. Mr. Dials attempted to file an appeal on July 18, 2023 to further delay the bench trial. The appeal was dismissed on July 19, and the bench trial proceeded thereafter. Neither Cline nor Dials attended.

II. LAW AND ARGUMENT

K&C seeks a declaration by this Court that Cline is a vexatious litigator. Pursuant to R.C. 2323.52, a "vexatious litigator" is a person who has "habitually, persistently, and without reasonable grounds engaged in vexatious conduct in a civil action or actions, * * *, whether the

³ This Court determined in its April 22, 2022 Entry and Order that Wedgewood Hills HOA's lien is valid.

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 further defined as conduct that satisfies any of the following: (1) “The conduct obviously serves merely to harass or maliciously injure another party to the civil action”; (2) “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”; and (3) “The conduct is imposed solely for delay.” R.C. 2323.52(A)(2)(a)-(c).

“A person * * * who has defended against habitual and persistent vexatious conduct in the court * * * may commence a civil action in a court of common pleas with jurisdiction over the person who allegedly engaged in the habitual and persistent vexatious conduct to have that person declared a vexatious litigator.” R.C. 2323.52(B). If a party is determined to be a vexatious litigator, that party must first obtain leave of court to institute new legal proceedings or continue any legal proceedings previously instituted. R.C. 2323.52(D)(1).

In *Davie v. Nationwide Ins. Co. of America*, the Eighth District Court of Appeals further elaborated on this issue as follows:

As the Ohio Supreme Court explained in *Mayer v. Bristow*, 91 Ohio St.3d 3, 740 N.E.2d 656 (2000):

“The purpose of the vexatious litigator statute is clear. It seeks 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.”

Id. at 13, quoting *Cent. Ohio Transit Auth. v. Timson*, 132 Ohio App.3d 41, 50, 724 N.E.2d 458 (10th Dist.1998). “It is patently unfair and unreasonable that any person should be continually forced to defend against, and the court system should be forced to handle, the same unwarranted complaint that cannot be supported by any

recognizable good-faith argument.” *Hull v. Sawchyn*, 145 Ohio App.3d 193, 197, 762 N.E.2d 416 (8th Dist.2001).

It is the “nature of the conduct, not the number of actions,” that determines whether a person is a “vexatious litigator.” *Prime Equip. Grp., Inc. v. Schmidt*, 2016-Ohio-3472, 66 N.E.3d 305, ¶ 40 (10th Dist.), quoting *Borger v. McErlane*, 1st Dist. Hamilton No. 010262, 2001-Ohio-4030. “Whether undertaken in an array of cases or in a single action, the consistent repetition of arguments and legal theories that have been rejected by the court numerous times can constitute vexatious litigation.” *Prime Equip. Grp.* at ¶ 40.

In determining whether a party is a vexatious litigator, the trial court may consider the party’s conduct in other, older cases as well as his or her conduct in the case in which the vexatious litigator claim is brought. See, e.g., *Catudal v. Netcare Corp.*, 10th Dist. Franklin No. 15AP-133, 2015-Ohio-4044, ¶ 8; see also *Prime Equip. Grp.*, 2016-Ohio- 3472, 66 N.E.3d 305, at ¶ 20 (finding no “restriction” on the trial court’s reliance on conduct occurring in cases that terminated more than one year before plaintiff filed its vexatious litigator complaint in determining that party was a vexatious litigator); *Buoscio v. Macejko*, 7th Dist. Mahoning No. 00-CA-00138, 2003-Ohio-689, ¶ 33 (“Under R.C. 2323.52(A)(3), a person’s behavior in prior civil actions can also form the basis for declaring him a vexatious litigator.”); *Georgeadis v. Dials*, 10th Dist. Franklin No. 99AP-232, 1999 Ohio App. LEXIS 5848, *9-*10 (Dec. 9, 1999) (affirming trial court’s decision to declare appellant a vexatious litigator where her vexatious conduct was demonstrated by her actions in both the current action and prior actions).

Where a vexatious litigator claim is based on conduct in multiple cases, the party bringing the vexatious litigator claim need not have been a party to all of the cases relied upon which they rely. A vexatious litigator claim may be supported by evidence of the alleged vexatious litigator’s vexatious conduct in other actions to which the person bringing the vexatious litigator claim was not a party. See, e.g., *Prime Equip. Grp.*, 2016-Ohio-3472, 66 N.E.3d 305, at ¶ 19; R.C. 2323.52(A)(3) (indicating that a vexatious litigation claim may be based on “conduct * * * against the same party or against different parties in the civil action or actions”); *Ealy*, 2007-Ohio-4080 (evidence of multiple prior court actions instituted by a city commission meeting participant against various city and county employees, all which were found to lack any basis, supported the determination that meeting participant had engaged in “vexatious conduct” under R.C. 2323.52(A)(2) and was a vexatious litigator under R.C. 2323.52(A)(3)).

Davie v. Nationwide Ins. Co. of Am., 8th Dist. Cuyahoga No. 105261, 2017-Ohio-7721, ¶¶ 39-

44.

While civil actions filed in a federal court cannot be the exclusive predicate actions for declaring a person a vexatious litigator under R.C. 2323.52, they may still be considered. *Borger v. McErlane*, 1st Dist. Hamilton No, C-010262, 2001-Ohio-4030. A litigant's federal court proceedings are relevant and admissible under Evid.R. 406 to show that the defendant was acting in conformity with a habit of filing groundless lawsuits. *Id.* at *4. A defendant's lengthy litigation history including baseless claims asserted in state and federal litigation is probative evidence that she was acting habitually, persistently, and without reasonable grounds. *Id.* "Such a pattern of conduct in other jurisdictions is extremely relevant to the issue of whether a plaintiff's state action is vexatious in nature." *Id.*; see also *McClure v. Fischer Attached Homes*, 145 Ohio Misc.2d 38, 2007-Ohio-7259, 882 N.E.2d 61, ¶ 32 (finding that conduct in federal court may be used to establish that the litigant was acting in conformity with habit); *Ferrero v. Staats*, 5th Dist. Stark No. 2018CA00016, 2018-Ohio-3235, ¶ 8 (federal cases have evidentiary relevance in determining whether a litigant's conduct served merely to harass or maliciously injure another party). Here, Cline's federal litigation is a carryover from the Foreclosure Action which led to the initiation of the instant case and may be considered in determining that Cline is a vexatious litigator pursuant to R.C. 2323.52.

Here, K&C has presented the Court with uncontroverted evidence of numerous unwarranted and frivolous filings made by Cline. Cline's litigation history speaks for itself, as do the many judges that have dismissed her claims and called for sanctions. A review of the actions taken by Cline in this and other courts leads to this Court's conclusion that she is a person who has "habitually, persistently, and without reasonable grounds engaged in vexatious conduct in a civil action or actions, * * *". In continuing to pursue meritless claims after receiving repeated adverse rulings at each of the trial court, and appellate levels, Cline's conduct can only be described as was

“not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law” and for the purpose of delay and harassment to Plaintiff. *See* R.C. 2323.52(A)(2)(a)-(c). Cline also habitually and without merit brings claims against legal counsel of her opposing litigants in courts in various states. Finally, within the context of the instant case Cline has exhibited vexatious conduct in filing with the Court an email purporting to be from opposing counsel exhibiting the Court’s prejudice. K&C’s counsel, Timothy Brick, attested at the bench trial that he did not author or send the May 10, 2022 email attached to Cline’s Affidavit of Disqualification, and confirmed with his firm’s IT department that no such email originated from his firm’s email system. Cline has offered no evidence supporting the email’s authenticity. Moreover, in failing to respond to K&C’s Request for Admission No. 5, pursuant to Civ.R. 36(A)(1) Cline admitted that the following statement contained in her Affidavit of Disqualification is false:

“On June 14", 2022 Judge Brown set a bench trial in the underlying matter after counsel for one of the defendants, Kaman & Cusimano (“Kaman”), represented by Timothy T. Brick (#0040526) had contacted Affiant via email three weeks before to not appeal the underlying case. They made the statement that: “We have made sure the court will rule in our favor.” (Emails attached) to the Affiant.”

Based on the foregoing, this Court finds by a preponderance of the evidence that Cline has habitually, persistently, and without reasonable grounds engaged in vexatious conduct in a civil action in the Franklin County Court of Common Pleas. She has habitually, persistently, and without reasonable grounds engaged in conduct that obviously serves merely to harass or maliciously injure another party to a civil action; and she has engaged in conduct that is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law. This Court finds by a preponderance of the evidence that Plaintiff/Counterclaim Defendant Santana Jade Cline is a vexatious litigator.

Accordingly, being fully advised in this matter, the Court finds Plaintiff/Counterclaim Defendant Santana Jade Cline is a vexatious litigator and FINAL JUDGMENT is entered as follows:

1. Judgment is granted in favor of Kaman & Cusimano, LLC on its counterclaim to have Santana Jade Cline declared a vexatious litigator;
2. Santana Jade Cline is declared to be a vexatious litigator under Ohio Revised Code §2323.52;
3. Santana Jade Cline is prohibited from instituting, continuing, or making any application in:
 - a. Any legal proceedings in the court of common pleas, municipal court, or county court without first seeking and obtaining leave of court to proceed; and
 - b. Any appeal without first seeking and obtaining leave of court to proceed.

It is **FURTHER ORDERED** that, pursuant to R.C. 2323.52(H), the clerk of the court shall send a certified copy of this Order to the Clerk of the Supreme Court of Ohio for publication in a manner that the Supreme Court determines is appropriate and that will facilitate the clerk of the court of claims and a clerk of a court of appeals, court of common pleas, municipal court, or county court in refusing to accept pleadings or other papers submitted for filing by Santana Cline without first obtaining leave to proceed under this section.

IT IS SO ORDERED.

*****THIS IS A FINAL, APPEALABLE ORDER AND
THERE IS NO CAUSE FOR DELAY*****

Order prepared and approved by:

/s/Timothy T. Brick
TIMOTHY T. BRICK (0040526)
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Kaman & Cusimano LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was served this July 26, 2023 by electronic and/or ordinary U.S. Mail, postage prepaid, upon the following:

Santana J. Cline
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/s/Timothy T. Brick
TIMOTHY T. BRICK (0040526)
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Gallagher Sharp LLP
Counsel for Defendant Kaman & Cusimano LLC

Franklin County Court of Common Pleas

Date: 08-01-2023

Case Title: SANTANA J CLINE -VS- WEDGEWOOD HILLS HOA ET AL

Case Number: 21CV004359


Type: ENTRY

It Is So Ordered.



/s/ Judge Kim Brown

Electronically signed on 2023-Aug-01 page 13 of 13

THE STATE OF OHIO Franklin County, ss	} I, MARYELLEN O'SHAUGHNESSY, Clerk OF THE COURT OF COMMON PLEAS WITHIN AND FOR SAID COUNTY,
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL.	
DECISION	
NOW ON FILE IN MY OFFICE. WITNESS MY HAND AND SEAL OF SAID COUNTY THIS <u>1</u> DAY OF <u>AUG</u> A.D. 20 <u>23</u>	
MARYELLEN O'SHAUGHNESSY, Clerk	
By 	Deputy

Court Disposition

Case Number: 21CV004359

Case Style: SANTANA J CLINE -VS- WEDGEWOOD HILLS HOA ET
AL

Case Terminated: 06 - Court Trial

Final Appealable Order: Yes

Motion Tie Off Information:

1. Motion CMS Document Id: 21CV0043592023-07-1799970000
Document Title: 07-17-2023-MOTION TO INTERVENE - NON-
PARTY: TIMOTHY DIALS
Disposition: MOTION DENIED
2. Motion CMS Document Id: 21CV0043592023-07-1799950000
Document Title: 07-17-2023-MOTION TO ADD PARTY - PRO SE -
NON-PARTY: TIMOTHY DIALS
Disposition: MOTION IS MOOT