

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

2010 JUN -4 AM 11:30

NAOMI SMITH, Administrator of
the Estate of Barbara J. Smith, et al.,

Plaintiffs,

vs.

CHARLES COPELAND, et al.,

Defendants.

SUMMIT COUNTY
CLERK OF COURTS

JUDGE PAUL J. GALLAGHER

JUDGMENT ENTRY
[Final and Appealable]

This matter is before the Court upon Plaintiffs' Motion for Summary Judgment. Defendants have responded with a Motion for Joinder, a Motion for Change of Venue, and a brief asserting various complaints and statements of irrelevant law.

The standard of review for a motion for summary judgment is as follows:

- (1) whether there is any genuine issue of material fact to be litigated;
- (2) whether, in viewing the evidence in the 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* (1996), 75 Ohio St.3d 280; *Wing v. Anchor Media, L.T.D.* (1991), 59 Ohio St.3d 108.

Civ. R. 56(C) provides:

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.

Plaintiffs' Complaint seeks relief from Defendants' vexatious litigation conduct pursuant to R.C. §2323.52.

R.C. §2323.52(A) provides:

- (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 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.

(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 different parties in the civil action or actions. * * *

The record in this matter and Plaintiffs' evidence from other court proceedings establishes that the Defendants Copeland habitually, persistently, and without reasonable grounds engage in conduct that serves merely to harass; 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, and; conduct that is imposed solely for delay.

Viewing the evidence in the light most favorable to the Defendants Copeland, the Court finds there is no genuine issue of fact which remains to be litigated and that reasonable minds can come to but one conclusion, which is adverse to the Defendants Copeland.

Accordingly, Plaintiffs are entitled to judgment as a matter of law and this Court hereby declares Defendants Charles and David Copeland vexatious litigators within the meaning of R.C. §2323.52(A)(3).

The Defendants Copeland are hereby PROHIBITED INDEFINITELY from doing any of the following without prior leave of the undersigned Judge or the successors of the undersigned Judge:

- (a) Instituting any legal proceedings in the Court of Claims or in any Court of Common Pleas, Municipal Court, or County Court [R.C. §§2323.52(D)(1)(a) and (E)];
- (b) Continuing any legal proceedings that the Defendants David and / or Charles Copeland have instituted in any of the Courts specified in section (a) above, prior to the entry of this judgment [R.C. §2323.52(D)(1)(B)];
- (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 the Defendants Charles and / or David Copeland, or another person in any of the Courts specified in section (a) above [R.C. §2323.52(D)(1)(c)].

This Judgment and Prohibition shall be applied broadly to include any activity related to civil law, including but not limited to transmitting complaints, applications, other forms of assertions of claims or rights, motions, subpoenas, discovery (such as notices of deposition or of other matters, interrogatories, requests for admissions or inspection, etc.) or conducting any other activities of any kind directed to persons or entities (including, but not limited to, governmental entities, business entities, not for profit organizations, etc.) in connection with civil legal matters.

The Court advises the Defendants Copeland to become familiar with all of the provisions of R.C. §2323.52, as it includes restrictions that come into effect automatically, in addition to those specifically ordered by this Court in the present Judgment. This Judgment shall remain in force indefinitely.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiffs' Motion for Summary Judgment is GRANTED. Defendants Charles and David Copeland are hereby declared vexatious litigators pursuant to R.C. §2323.52. The Clerk of Court shall provide notice to the Supreme Court of Ohio of this Judgment. Defendants Copeland shall pay the costs of this action. This is a final and appealable Order; there is no just cause for delay.

It is so Ordered.



JUDGE PAUL J. GALLAGHER

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