

EX.3

FILED
COMMON PLEAS COURT
FRANKLIN CO., OHIO
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CLERK OF COURTS

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

CHARLES EVANS,

Plaintiff,

v.

Case No. 07CV-10-14834 (Sheward, J.)

CAROL M. DAVIS, et. al.

Defendants.

DECISION AND ENTRY DENYING PLAINTIFF CHARLES EVANS' MOTIONS FOR LEAVE TO CONTINUE LEGAL PROCEEDINGS IN CASE NUMBERS 08CVA-10-14340 AND 07DR-000355

The Plaintiff has filed two motions most recently. First, on May 13, 2009, Plaintiff filed a Motion for Leave pursuant to R.C. 2323.52(F)(1) to Continue Legal Proceedings in Case No. 08CVA10-14340 which was pending before Judge Cain, before he stayed the matter in January 2009. Intervenor Sandy Sullivan (who is the Defendant in Judge Cain's case) filed a Memorandum in Opposition on May 27, 2009. In response, Plaintiff filed a Motion to Strike on May 28, 2009. Next, Plaintiff filed a Motion for Leave to Continue Proceedings in Case No. 07DR-000355 on May 27, 2009. Defendant Davis, by and through her domestic court case attorney, Robert Bracco, filed a Memorandum in Opposition on June 5, 2009.

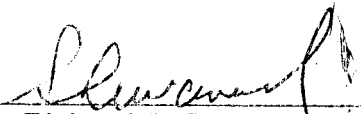
With respect to the matter in front of Judge Cain, Plaintiff seeks to pursue his claim that Defendant Sullivan violated his confidences. With respect to the domestic relations matter, Plaintiff's counsel in that matter, Stephen Ames, represents that Mr. Evans has agreed not to file any pro se motions while he is represented by Mr. Ames.

The Plaintiff filed an appeal, 09-AP-500 on May 13, 2009. The Court of Appeals dismissed the appeal on June 11, 2009. Now that this Court has jurisdiction to review the matters, it finds that with respect to the Motion for Leave to Proceed in Judge Cain's case that the Plaintiff's motion does not meet the statutory standard for granting leave to proceed. Before leave may be granted under R.C.2323.52(F) the court must be "satisfied that the proceedings or application are not an abuse of process of the court in question and that there are reasonable grounds for the proceedings or application." Here, the Plaintiff has not convinced the Court that there are grounds for the relief he seeks in front of Judge Cain. In fact, counsel for Sandy Sullivan submits that Sullivan was privileged to make the statements she allegedly made and for which the Plaintiff has brought claims for Conflict of Interest and Breach of Confidentiality – Malpractice in Judge Cain's Case. *Hecht v. Levin* (1993), 66 Ohio St. 3d 458, 460; *Kutnick v. Fischer* 2004-Ohio-5378. Plaintiff does not rebut this argument. Thus, the Court finds that there are no reasonable grounds for proceeding in that action.

Next, with respect to the domestic relations matter, the Court finds that there is a dispute that remains unresolved and even Defendant Davis admits the proceeding must go forward in order for her to divorce from Plaintiff Evans. But, that it not to say the Plaintiff may in willy-nilly fashion file needless motions. Plaintiff proposes his filings be limited to those made through Stephen Ames. This Court questions the constitutionality of such a restriction, but since the matter is not squarely before the Court, the Court makes no finding on it. Rather, the proposal by Defendant Davis' attorney, that Mr. Evans withdraw his writ of prohibition against Judge Loudon in order for the divorce to proceed and then identify what motions he wishes the Court to address, provides better

safeguards for all parties involved. Thus, the Court DENIES the Plaintiff's request to proceed in the domestic relations matter at this time. Should the Plaintiff amend his motion and propose a meaningful manner to proceed, the Court will consider granting leave to proceed with the domestic relations case.

Accordingly, both of the Plaintiff's Motions to Proceed are DENIED. It is so ORDERED.



Judge Richard S. Sheward

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