

EX. 7

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

In re Charles Evans,

Case No. 07CVH10-14634

Plaintiff.

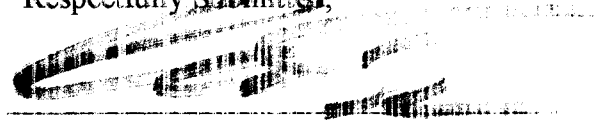
Judge Sheward

MOTION TO STRIKE
INTERVENOR SULLIVAN'S MEMORANDUM CONTRA
TO CHARLES R. EVANS' MOTION FOR LEAVE PURSUANT TO
OHIO REVISED CODE 2323.52(F)(1) TO CONTINUE
LEGAL PROCEEDINGS IN CASE NO. 08 CVA10-14340
&
REQUEST FOR DEFINITE STATEMENT
FOR PROPER SERVICE

CLERK OF COURTS - CIVIL
2009 MAY 29 PM 5:5
COURT OF COMMON PLEAS
FRANKLIN COUNTY
OHIO

Now comes Charles Evans, and moves the Court to STRIKE Intervenor Sullivan's Memorandum Contra to Charles R. Evans' Motion for Leave. The basis is set forth in the attached memorandum.

Respectfully Submitted,



Charles R. Evans
1892 Rear Oakland Park Ave
Columbus, Ohio 43224
614-268-7330 Ext. 2

MEMORANDUM

Importantly, pursuant to R.C. 2323.52, the statutory requirement for a motion for leave is an administrative function of the trial court, as intended by the legislature.

Under R.C. 2323.52, pursuant to his "vexatious" ruling, Judge Sheward retains administrative authority to rule on all motions for leave. Wherein *Mayer vs. Bristow* (2000), 91 Ohio St. 3d 3, 2000-Ohio-109, the "entire" statute was determined to be constitutional in its entirety under Section 16, Article I of the Ohio Constitution.

The Ohio Supreme Court states: "We hold also that R.C. 2323.52 grants authority to the court of common pleas to order a vexatious litigator to obtain leave before proceeding." *Eristow, supra*.

Pursuant to the final appealable decision pursuant to R.C. 2323.52 (F)(2), Charles R. Evans received a civil penalty for alleged vexatious conduct. The penalty, *i.e.* “sentence” requires Charles R. Evans to file for leave to institute or continue state court actions. Where this is an administrative civil penalty requirement, Intervenor and Defendant have no “standing” in R.C. 2323.52 to challenge the required motion for leave. The penalty phase of the “sentence” is complete and the “sentence” is being served pursuant to statute. Evans must report to his administrative probation officer, *i.e.*, Judge Sheward, to seek permission to pursue “freedoms” taken away by a judicial order.

Significantly, Mr. Brudny’s pleading (and also Mr. Campbell’s likely forthcoming memorandum contra) are not relevant where their clients have no standing in the administrative function of the Court as to the statutory requirement in the civil penalty for alleged vexatious conduct and the statutory rights attached to it. Intervenor and Defendant have no standing in an administrative review of this statutory requirement.

As a matter of law, any pleading addressing the civil penalty and administrative review required under R.C. 2323.52 must be STRICKEN.

Mr. Brudny’s vain attempt alleging that the Court is stayed is also incorrect and improper. “In routing all claims brought by a vexatious litigator to a single trial court for preliminary review, R.C. 2323.52 establishes the trial court as *the administrative conduit* through which a statutory scheme is effectuated.” *Bristow, id.* @ 17. [Emphasis added.]

While the matter may be under appeal and jurisdiction of the merits of the case divested, the administrative penalty phase continues {R.C. 2323.52(G)}, and therefore, Charles R. Evans’ collateral statutory rights also remain intact.

There is no request to “stay the sentence”. Therefore, the penalty of administrative review and the statutory rights pursuant to the penalty in R.C. 2323.52 are not stayed. As part of the “sentence” Charles R. Evans has a statutory right to seek leave. Judicial economy is served where the statute spells out the procedure for complying with the “sentence”.

The opposing interested parties have NO say in this phase of the case. This memorandum contra *and all pleadings to follow* must be stricken in their entirety and not considered under any set of circumstances, and not discussed *ex parte* without Charles R. Evans present.

Further, Mr. Brudny has filed *multiple* branches in his memorandum contra, specifically his request for a ruling on the merits-see Part II of Intervenor Sandy Sullivan's Memorandum Contra @ pg. 3.

This Court is statutorily obligated to rule "yea" or "nay" on Evans' request for leave as to whether a prima facie case has been pled, nothing more, nothing less.

Whereupon granting of leave, the merits of Sullivan's **publicly admitted** violation of confidentiality in a therapist-client relationship which was NOT part of a legal proceeding as there was NO hearing is NOT absolutely privileged where an admitted violation of the **REVISED CODE** is NOT considered hearsay and there is NO case law that addresses the aforesaid...will be prosecuted in *Judge Cain's Court*.

Charles Evans' good faith argument is inapposite of Mr. Brudny's repeated attempts to avoid trial where he has NO defense to Evans' good faith claims. Mr. Brudny's request for a decision on the merits in his Memorandum Contra is wholly improper and must be stricken.

Intervenor Sandy Sullivan's admitted public violation of the law (in addition to a violation of her administrative code) is before Judge Cain, not the instant court. However, Mr. Brudny asserts on page 2 of his Memorandum Contra, "To the exten[t] this Motion could be inferred it was to be filed before Judge Cain, Judge Cain should not entertain this motion." Evans never filed or inferred the Motion for Leave was to be filed before Judge Cain. Mr. Brudny's allegation is frivolous conduct.

"In routing all claims brought by a vexatious litigator to a single trial court for preliminary review, R.C. 2323.52 establishes the trial court as the administrative conduit through which a statutory scheme is effectuated." *Bristow, id. @ 17*. As Mr. Brudny is a licensed attorney, this alleged "vexatious" pro se should not have to point out that Judge Cain has nothing to do with the administrative decision of Judge Sheward. Mr. Brudny's Memorandum Contra is little more than an underhanded attempt to *further* bias Evans in front of Judge Sheward, which is clearly redundant given the conclusion of the proceedings. Sadly, Judge Sheward failed to address the true vexatious and frivolous litigators in this case, hint-they have licenses.

However, Judge Sheward has a responsibility to NOT arbitrarily dismiss good faith claims The only remedy to an arbitrary denial for leave is a Writ of Mandamus.

“...an original action in mandamus is an appropriate means by which a vexatious litigator could effectively challenge arbitrary denials of leave. *Bristow, id.* @ 17. See *State ex rel. Glass, Molders, et al CLC v. State Emp. Relations Bd.* (1993), 66 Ohio St. 3d 157, 159.

Judge Sheward should be aware that the complaint for professional ethical violations against Sandy Sullivan was filed with her licensing board at nearly the same time as the instant legal action was filed against Carol Davis. (November/October 2007, respectively)

How could Evans in a million years have ever known that Sullivan would be a “witness” at that point in 2007? Intimidating and harassing???

And even more incredible, the actual case filed against Sullivan after she admitted under a public consent agreement in May 2008, occurred *before* the in camera disclosure of witnesses, insisted upon, and under protective order, by Joel Campbell at pre-trial on November 19, 2008. The case against Sullivan was filed *prior to* disclosure? How could Evans possibly have known that Sullivan might be a “witness”? Intimidating and harassing Davis’ witness???

Evans had NO idea who Davis’ witnesses were. This was plainly addressed by Evans’ memorandum contra to summary judgment.

However, the most telling of a poor decision for “vexatious” conduct is the fact that Sullivan and Davis did not even know each other when Davis fraudulently abused the CPO process (she met Sullivan 2 months later) and therefore, Sullivan had no personal knowledge of the claims against Davis. How could she even be a witness? Or Davis’ paramour, Charles Riley who Davis met in July 2008-his verified admission in the pending legal action)? Yet, Evans is alleged vexatious for harassing and intimidating witnesses who were not even disclosed to him(?)...and where the pending Sullivan lawsuit asserts admitted violations of client confidentiality which she confessed on public record, where the claim was substantiated, and where Sullivan was publicly reprimanded.

REQUEST FOR DEFINITE STATEMENT FOR PROPER SERVICE

There is an issue of service where R.C. 2323.52 and the final appealable order of this Court fail to expressly address who is to be served pursuant to the civil administrative penalty requiring leave to be requested of the trial court. Without any

guidance and where this is a civil penalty requiring administrative review, Evans, in good faith, served the court which would be directly affected by the administrative decision of the trial court.

Where this is an *administrative* decision of the trial court, the parties have no standing as to the Motion for Leave pursuant to R.C. 2323.52(F)(2). Upon granting of leave, it would appear that the respective trial courts where the actions were instituted or pending would notify the respective parties of the trial court's administrative granting of leave to proceed with the legal actions.

Charles R. Evans requests a definite statement as to who is/are the proper party(ies) for service where "R.C. 2323.52 establishes the trial court as the administrative conduit through which a statutory scheme is effectuated." *Bristow, supra*.

WHEREFORE, for good cause shown, Charles R. Evans requests the Memorandum Contra be **DISMISSED** and/or **STRICKEN** in its entirety.

Additionally, Charles R. Evans requests a definitive statement as to proper parties to be served a Motion for Leave pursuant to R.C. 2323.52(F)(2) where there is no express direction provided in the statutory scheme for this civil administrative matter.


Respectfully Submitted,



Charles R. Evans

Certificate of Service

A copy of the foregoing has been personally served to Judge David Cain or a member of his staff and a copy has been faxed to: James Brudny at 614-232-2410 and Joel Campbell at 614-228-6369 on the 28th day of May 2009.



Charles R. Evans, V.L. (*alleged*)