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STATE OF OHIO
IN THE COURT OF COMMON PLEAS OF LAKE COUNTY
CIVIL DIVISION

BRYAN ANTHONY REO,	Case No. 15CV001590 Case No. 16CV000825
Plaintiff,	Hon. Richard L. Collins
v.	
MARTIN LINDSTEDT,	
Defendant.	

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PLAINTIFF'S BRIEF IN OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

NOW COMES Bryan Anthony Reo ("Plaintiff"), pro se, and hereby propounds upon this Honorable Court and Martin Lindstedt ("Defendant") Plaintiff's Brief in Opposition to Defendant's Motion for Summary Judgment, docketed 9-27-2018, ("Defendant's Motion").

I. PERSONAL JURISDICTION

DEFENDANT HAS WAIVED ANY OBJECTIONS TO PERSONAL JURISDICTION AND HAS PERSONALLY SUBMITTED TO THE JURISDICTION OF THIS COURT.

Defendant appears to claim that this court lacks personal jurisdiction over him. (Defendant's Motion pg. 3). Defendant filed an answer and counter-claim and third-party complaint and voluntarily submitted to the court's jurisdiction in doing so. When a defendant

files an answer in a civil action the defendant voluntary assents to personal jurisdiction, see *Synder Computer Systems Inc. v Stives*, 175 Ohio App.3d 653 (Ohio App. 10th Dist., 2012). See also, *Maryhew v. Yova*, 11 Ohio St.3d 154, 464 N.E.2d 538 (1984), where the court held that personal jurisdiction could be obtained by, "the voluntary appearance and submission of the defendant or his legal representative, or by certain acts of the defendant or his legal representative which constitute an involuntary submission to the jurisdiction of the court." Id. at 540. In light of those cases it is clear Defendant's personal jurisdiction claim is frivolous.

Furthermore, this Court enjoys personal jurisdiction over Defendant because Defendant caused tortious injury to Plaintiff in the State of Ohio by an act outside of the State of Ohio that was committed by Defendant with the purpose of injuring Plaintiff when Defendant might reasonably have expected that Plaintiff would be injured in the State of Ohio. R.C. § 2307.382(A)(6); Civ.R. 4.3(A)(9); *Kauffman Racing Equip., L.L.C., v. Roberts,* 126 Ohio St.3d 81, (Ohio 2010) (holding that a non-commercial website intentionally used to defame an Ohio resident provides Ohio courts personal jurisdiction over foreign tortfeasor). Again, Defendant's personal jurisdiction claim is frivolous.

II. STATUTE OF LIMITATIONS

Plaintiff previously sued Defendant in federal court over the controversy at issue in the instant civil action, but said civil action was dismissed without prejudice for lack of subject matter jurisdiction due to diversity jurisdiction not being properly shown by Plaintiff (attached as Exhibit 1 is a copy of the docket from United States District Court showing a dismissal entry, dismissed without prejudice). In the complaint in the instant civil action Plaintiff invoked R.C. § 2305.19(A), which pertinently provides that "In any action that is commenced * * *, if the plaintiff fails otherwise than upon the merits, * * * the plaintiff's representative may commence a new action within one year after the date of * * * the plaintiff's failure otherwise than upon the merits[.]" *Menno v. Salem Hunting Club*, 7th Dist. Columbiana No. 11CO2, 2012-Ohio-4553, ¶ 13 ("When a complaint is refiled under the saving statute, the case relates back to the date of the original complaint for purposes of satisfying any statute of limitations problems.").

The original complaint against Lindstedt was filed in ND of Ohio on 4/16/2014 and given the applicable statutes of limitations of 1 year [libel] or 4 years [intentional infliction of emotional distress] depending on the tort, any conduct that was libel and occurred on or after 4/16/2013 was timely filed on 4/16/2014, and any conduct that was intentional infliction of emotional distress that occurred on or after 4/16/2010 was timely filed on 4/16/2014. When the action filed in ND of Ohio was transferred by the court to WD of Missouri and then dismissed without prejudice for lack of subject matter jurisdiction [otherwise than upon the merits] on 9/10/2015, the Plaintiff availed himself of the savings statute by filing the instant action in this Court on 9/18/2015, well within the one year period provided by the savings statute, and the complaint relates back to the date of the original complaint for satisfying any statutes of limitation problems.

The statute of limitations for intentional infliction of emotional distress is generally four years. *Allen v. Pirozzoli*, 2016-Ohio-2645 (8th App. Dist. 2016), see also, *Yeager v. Local Union 20, Teamsters, Chauffeurs, Warehousemen & Helpers of Am.*, 6 Ohio St.3d 369, 375, 453 N.E.2d 666 (1983).

The complaint filed in ND of Ohio in April of 2014 included causes of action for intentional infliction of emotional distress, that case was transferred to Missouri and dismissed without prejudice in September of 2015, immediately after which the instant action was initiated in this court. Any cause of action for intentional infliction of emotional distress from conduct occurring on or after 4/16/2010, was timely filed in ND of Ohio on 4/16/2014 and was properly and timely filed per the savings statute in Lake County Court of Common Pleas on 9/18/2015.

Defendant, in addition to not understanding waiving personal jurisdiction by appearing in an action and filing a counter-claim with his answer, also appears to not understand the savings statute and relation back to the original date. Defendant's misunderstanding of Ohio law and civil procedure does not entitle him to summary judgment. Defendant is not entitled to summary judgment because he doesn't understand the statutes of limitations, the savings statute, personal jurisdiction, or arithmetic.

Defendant's contention that some (or all) of Plaintiff's claims are time-barred is frivolous in light of applicable Ohio law. Furthermore, Defendant has committed recently committed numerous other acts of libel, such as alleging Plaintiff is guilty of fraud, wire fraud, and perjury, within the twelve months prior to Plaintiff initiating the instant civil action. By no means could any of those claims be time-barred. It is even possible that Defendant's claim that this case was adjudicated upon the merits [dismissed with prejudice] and that Plaintiff's claims are time-barred might constitute an attempt by Defendant to perpetrate a fraud upon this honorable Court.

Additionally, the 16CV complaint was filed in 2016 on causes of action arising from conduct throughout 2015 and 2016, that is to say the 2016 complaint did not plead causes of action from prior to 2015.

III. MATERIAL DISPUTES OF FACT

Plaintiff made numerous and detailed allegations against Defendant in Plaintiff's Complaint (see Plaintiff's Complaint). Defendant has entirely failed to address the substance of the allegations and has actually supported Plaintiff's assertions by stating "Google Bryan Reo" which if done will produce numerous results that resolve to Defendant's website, www.whitenationalist.org and www.christian-identity.net/forum where Defendant has extensively libeled Plaintiff. Defendant also attaches as exhibits, posts from Defendant's own website wherein he has placed Plaintiff's picture and made libelous remarks against Plaintiff.

IV. DEFENDANT IS NOT ENTITLED TO SUMMARY JUDGMENT

Defendant, as the moving party in a motion for summary judgment has a burden to discharge and he has not discharged it.

See- *Kulch v. Structural Fibers*, 677 NE 2d 308 (Ohio 1997), which held, *in Dresher v. Burt (1996), 75 Ohio St.3d 280, 295, 662 N.E.2d 264, 275,* we limited paragraph three of the syllabus of Wing. In Dresher, at 293, 662 N.E.2d at 274, we held:

> "[A] party seeking summary judgment, on the ground that the nonmoving party cannot prove its case, 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. 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."

Defendant has tellingly failed to provide any actual basis upon which he seeks summary judgment. Does Defendant allege that Plaintiff has no evidence with which to prove his case? Does Defendant claim that there is no genuine dispute as to any material fact and that he is entitled to judgment as a matter of law? Does Defendant cite record evidence to show the absence of a genuine dispute? Defendant cites nothing other than his own rants.

This Court should grant summary judgment in favor of Plaintiff. Defendant has not only not denied calling Plaintiff a homosexual prostitute, insurance fraudster, con-artist, sexual criminal, murderer, hurling all manner of vile accusations at Plaintiff, he openly admits making those accusations and then simply claims he is allowed to say whatever he wants via some alleged right under the First Amendment.

It is time to bring this four year saga to an end by granting Plaintiff summary judgment.

Respectfully submitted

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Certificate of Service

I, Bryan Reo, do hereby certify that a true and genuine copy of the foregoing has been dispatched by United States regular mail, postage prepaid to the Defendants at:

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On this 24 day of october. 2018

X