

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel.,
GREGORY T. HOWARD

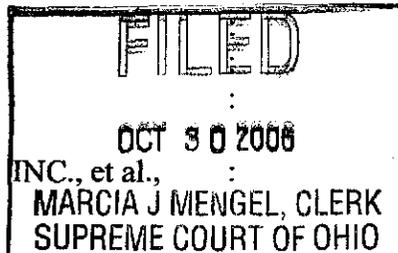
Case No. 03-1572
Trial Court Case No. 97AP-860

Appellant,

-vs-

SEAWAY FOOD TOWN, INC., et al.,

Appellees.



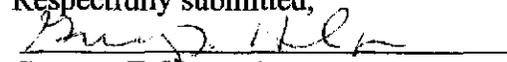
MOTION FOR LEAVE TO FILE MOTION TO DISMISS SPARTAN STORES
ASSOCIATES, LLC., NOTICES OF FAILURE OF APPELLANT'S GREGORY T.
HOWARD TO PAY SANCTIONS AND REQUEST FOR APPROPRIATE
SANCTIONS, *INSTANTER*

On or about 23rd October, 2006, Appellee Spartan Stores Associates, LLC., filed a "Fifth Notice of Failure of Appellant Gregory T. Howard to Pay Sanctions" (hereinafter, "the Notice"). Appellee nor their legal counsel did not, allege that it is "Seaway Food Town, Inc." or that it was authorized to receive payment of the court-ordered attorney fees on behalf of an incorporation formerly known as, "Seaway Food Town, Inc." Instead, as evidenced in the Notice, Appellee alleges by and through their legal counsel that "Appellee Spartan Stores Associates, LLC., (formerly known as Seaway Food Town, Inc.), hereby notifies this Court that Appellant Gregory T. Howard has again failed to make payments as ordered by this Court."

Accordingly, pursuant to the provisions of S.Ct. Prac. R. XIV, Section 4 and the reasonable grounds set forth herein, Appellant Gregory T. Howard respectfully requests

that this Court permit him to file instanter the attached Motion to Dismiss Appellee's Notice(s) and Request for appropriate Sanctions.

Respectfully submitted,



Gregory T. Howard
P.O. Box 3096
Toledo, Ohio 43607-0096
Telephone: (419) 241-9051

Plaintiff- Appellant, Pro-se

PROOF OF SERVICE

This is to certify that a copy of the foregoing of Gregory T. Howard was sent via ordinary U.S. Mail this 25th day of October, 2006 to:

Eastman & Smith, Ltd.
C/O Thomas A. Dixon, Esq.
One Seagate, 24th Floor
Toledo, Ohio 43699-0032

Ohio Attorney General Office
Shawn M. Wollan, Esq.
150 East Gay Street, 22nd Floor
Columbus, Ohio 43215

Governor Bob Taft
77 High Street, 30th Floor
Columbus, Ohio 43215-6117

The Ohio Attorney General Chief of
Chief Counsel Staff
State Office Tower
30 East Broad Street, 17th Floor
Columbus, Ohio 43266-0410


Gregory T. Howard
Appellant-Claimant, pro-se

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel., : Case No. 03-1572
GREGORY T. HOWARD : Trial Court Case No. 97AP-860

Appellant,

-vs-

SEAWAY FOOD TOWN, INC., et al.,

Appellees.

MOTION TO DISMISS SPARTAN STORES ASSOCIATES, LLC., NOTICES OF FAILURE OF APPELLANT'S GREGORY T. HOWARD TO PAY SANCTIONS AND REQUEST FOR APPROPRIATE SANCTIONS, *INSTANTER*

Appellee Spartan Stores Associates, LLC." "Fifth Notice of Failure of Appellant Gregory T. Howard to Pay Sanctions" should be dismissed and appropriate sanctions should be entered against it for misrepresenting or impersonating to this Court that it is Seaway Food Town, Inc., or that it is a party to this action and that it is owed court ordered attorney fees. Pursuant to the order of this Court, Appellant was ordered to first pay Appellee Industrial Commission of Ohio the amounts he owed to it and then commence payment to **Seaway Food Town, Inc.**, at a rate of \$50.00 per month until entire amount of \$938.00 is paid and the notice(s) at issue is nothing more than another frivolous filing that must be dismissed and appropriate sanctions must be entered consistent with S. Ct. Prac. R. XIV, Section 5.

The Ohio Supreme Court has delineated a clear set of procedures for filing motions in the Supreme Court of Ohio. Under Rule XIV Section 4(A), the Court clearly

affords a party the right to file a motion to dismiss or for appropriate sanctions requesting that the Court consider such filing in order to make a judgment or ruling upon it. The Rule further provides that a motion for an order or other relief be made by filing a motion for the order or relief and that it state with particularity the grounds on which it is based. The Appellant is a party to this action. The Notice(s) of the Appellee required that Appellee be a party to this action in order to file anything in this action. Appellee has failed to demonstrate that it is a party to this action as required by the Rule. Therefore, the Appellant has complied with the requirements of Rule XIV, Section 4(A) by asking this Court to file a motion for an order or other relief and by stating with particularity the grounds upon which it is based, to wit: Appellee Spartan Stores Associates, LLC.” “Fifth Notice of Failure of Appellant Gregory T. Howard to Pay Sanctions” should be dismissed and appropriate sanctions should be entered against it for misrepresenting/ impersonating to this Court that it is Seaway Food Town, Inc., or that it is a party to this action and that it is owed court ordered attorney fees.

Furthermore, in Rule XIV, Section 5(A) provides that sanctions can be entered against a person who signs an action or represented party, or both, for frivolous conduct, for prosecution for delay, harassment, or any other improper purposes. The Rule further provides sanctions to include an award to the opposing party of reasonable expenses, reasonable attorney fees, costs or double costs, or any other sanctions the Supreme Court considers just. As set forth below, this Court should take appropriate action consistent with Rule XIV, Section 5(A) against the Appellee and their legal counsel for their frivolous filing, harassment of the Appellant and for their legal counsel’s misconduct

regarding converting the payments entrusted to its care to fraudulently use the proceeds as its own.

Appellant's Motion to Dismiss and Request for Sanctions are appropriate against the Appellee and their legal counsel herein which should include an award of reasonable expenses, double costs, and other appropriate sanctions by this Court as they are just and Appellant's Motion and Request must be granted as a matter of law. In Appellee's notice(s) that it asks that this Court take appropriate action consistent with its December 14, 2005 Entry against Appellant, and as evidenced in the Appellee's Notice(s) "Appellee Spartan Store Associates, LLC., (formerly known as Seaway Food Town, Inc.), hereby notifies this Court that Appellant Gregory T. Howard has again failed to make payments as ordered by this Court." This Court ordered Appellant to commence payment to Seaway Food Town, Inc. at a rate of \$50.00 per month and not to Appellee Spartan Store Associates, LLC., or their attorneys in this matter. Appellant submits a letter to him from Appellee Spartan Store Associates, LLC., dated 11-25-2003, which clearly supports that Appellee Spartan Store Associates, LLC., is not a party to this action as it must be before it can receive payment of attorney fees as ordered by this Court.

Appellee has not alleged that it is "Seaway Food Town, Inc.," as it must before it can receive payment of attorney fees as ordered by this Court. In fact, it alleges that it is formerly known as "Seaway Food Town, Inc." Further, Appellee's attorneys has not alleged that it is owed attorney fees on behalf of Seaway Food Town, Inc., as it must before it can receive payment of attorney fees as ordered by this Court. Appellee or their legal counsel has not demonstrated there are reasonable grounds for their notices of failure of Appellant Gregory T. Howard to pay sanctions in this action. Appellee's

Notices therefore, must be dismissed in their entirety as frivolous filings, and based upon the misconduct by Appellee, Appellant respectfully requests that this Court take appropriate action consistent with S. Ct. Prac. R. XIV, Section 5(A) against Appellee and their legal counsel. Accordingly, based upon these claims at issue as set forth herein all of this Court's improper orders as they relate to Appellant are void and this Court must reconsider/vacate all of its prior decisions in question and reopen the instant case and proceed to judgment on Appellant's pending motion filed 11-8-2005. See, S. Ct. Prac. R. XIV, Section 4(A).

Appellant claims that the documents filed in this Court records for this case (by the way, it appears that Case Number is 2003-1572), supports that he paid the amounts owed to the Industrial Commission of Ohio, that he made payments of \$50.00 to Appellee Spartan's legal counsel in February, March, April, May, June, July, August of 2006 and that the action that this Court took on December 14, 2005 was improper. Further Appellant claims to the contrary of Appellee's legal counsel that he made payments of \$50.00 to Spartan's legal counsel in September, and October of 2006 as well and that this action that was brought by the Appellee was brought for the purpose to harass the Appellant or otherwise maliciously injure him. To date, upon information and belief, Appellant has paid the amounts owed to the Industrial Commission of Ohio, and Appellant do not believe that Seaway Food Town, Inc., has received the \$450.00 payments made to Spartan's legal counsel and further asserts that its legal counsel has converted the said payments entrusted to its care to fraudulently use it as its own.

Based upon this misconduct by Spartan/their legal counsel, Appellant respectfully requests that this Court take appropriate action afforded to him consistent with S. Ct. Prac. R. XIV, Section 4(A) and with S. Ct. Prac. R. XIV, Section 5(A).

Respectfully submitted,


Gregory T. Howard
P.O. Box 3096
Toledo, Ohio 43607-0096
Telephone: (419) 241-9051

Plaintiff- Appellant, Pro-se

PROOF OF SERVICE

This is to certify that a copy of the foregoing of Gregory T. Howard was sent via ordinary U.S. Mail this 25th day of October, 2006 to:

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C/O Thomas A. Dixon, Esq.
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The Ohio Attorney General Chief of
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State Office Tower
30 East Broad Street, 17th Floor
Columbus, Ohio 43266-0410


Gregory T. Howard
Appellant-Claimant, pro-se



SPARTAN STORES, INC.

THE FOOD PEOPLE

November 25, 2003

Mr. Michael Kwiatkowski
Ohio Civil Rights Commission
One Government Center
Jackson & Erie Streets, Room 936
Toledo, OH 43604

RECEIVED
OCRC-TOLEDO
NOV 26 2003

Dear Mr. Kwiatkowski:

I am in receipt of the Charge of Discrimination involving Gregory T. Howard (TOL) 72032599 (27931) 100903. After reviewing the charge and noting the termination date of Mr. Howard, I have determined that he was not an employee of Spartan Stores and his charge is more than three years old.

Spartan Stores purchased Food Town in August of 2000. Mr. Gregory was terminated on March 25, 1999. I do not have any personnel records on this individual. I will consider this charge closed against Spartan Stores unless I hear otherwise. Please feel free to contact me at 419-891-4243.

Sincerely,

Cynthia M. Kozak

Cynthia M. Kozak
Human Resource Manager
Spartan Stores - Pharm Division

INDUSTRIAL COMMISSION
OF OHIO
TOLEDO REGIONAL OFFICE
2006 MAY -2
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APP(2-1A D)

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PLAINTIFF'S EXHIBIT
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