

IN THE SUPREME COURT OF OHIO

ROBERT H. DUES,

CASE NO. 06-1069

Appellant/Cross-Appellee,

On Appeal from the Court of
Appeals of the Third Appellate
Judicial District of Ohio,
Shelby, County

vs.

MINSTER FARMERS COOPERATIVE
EXCHANGE COMPANY, INC.

Court of Appeals
Case No. 17-05-28

Appellee/Cross-Appellant.

Case 05CV000048

**NOTICE TO THE COURT OF CONTINUING VIOLATION OF DUE PROCESS
BY OFFICERS OF THE COURT IN DISREGARDING REMAND BY
THE SUPREME COURT OF OHIO**

Robert H. Dues
6052 Short Rd.
Houston, OH 45333
937-295-3065
937 295-2350 (fax)

Michael A. Burton (0064921)
15 Willipie St., Suite 300
P. O. Box 33
Wapakoneta, OH 45895-0033
419 738-8195
419 738-8182 (facsimile)

Robert H. Dues
Pro se
For Appellant/Cross-Appellee

Counsel For Appellee-Cross-Appellant,
Minster Farmers Cooperative Exchange
Company, Inc.

Now comes Robert Dues, Appellant/Cross-Appellee, pro se; and states that certain rights as both pro se and Appellant/Cross Appellee are continuing to be violated by Michael A. Burton, Attorney for Minster Farmers Cooperative Exchange, Inc., in that Dues did receive a MOTION TO DISMISS WITHOUT PREDJUDICE on September 29, 2008, and Dues did receive a MOTION TO DISMISS WITH PREDJUDICE on September 30, 2008; See Exhibit 1 (pages 1 thru 21 referenced are the same filings as filed by Dues in the Supreme Court of Ohio on September 19, 2008), and Exhibit 2 with exact same pages as 1 thru 21 filed by Dues on September 19, 2008.

In their MEMORANDUM IN SUPPORT, the Appellee/Cross-Appellant, Burton, states that he did not receive a copy of Dues' NOTICE TO THE COURT OF VIOLATION OF DUE PROCESS BY OFFICERS OF THE COURT. Dues hereby states that a copy of the documents filed in the Supreme Court of Ohio on September 19, 2008, were, in fact, sent to Burton, by regular U. S. Mail. A Certificate of Mailing is attached herewith and made a part hereof, see Exhibit 3.

On October 2, 2008, Dues did receive JUDGEMENT ENTRY OF DISMISSAL WITH PREDJUDICE. See Exhibit 4.

1. Dues did not receive a copy of Reply Brief of Plaintiff Regarding Start Date of Finance Charge Calculation which was filed on May 22, 2008.
2. Dues did not receive a copy of Decision/Order On Starting Date For Finance Charge Calculation on June 10, 2008.
3. Dues did not receive Notice of Telephone Scheduling Conference which was filed on July 9, 2008.
4. Dues was not made a part of Telephone Status Conference which was held at

9:30 a.m. on July 14, 2008.

5. Dues found that the Status of his case is "closed".

6. Dues received **JUDGEMENT ENTRY OF DISMISSAL WITH PREJUDICE** which was mailed on October 3, 2008, and received by ordinary U. S. Mail on October 4, 2008..

Minster Farmers Cooperative Exchange (Burton) refused to abide by the Decision/Order Entry of The Supreme Court of Ohio in that there has been no calculation from March, 1982, to determine the correct amount due to settle the open book account. Instead, Burton has the case dismissed without regard to the order of the Supreme Court of Ohio.

The safeguards to one's right of confrontation are mandated by the 14th Amendment U. S. Constitution and are embodied in the term "**procedural due process**". Those whose rights are to be affected are entitled to reasonable notice and opportunity to be heard and shall present any claim or defense. The essence of "**substantive due process**" is protection from arbitrary and unreasonable action. *Babineaux vs. Judiciary Commission, La., 341 So.2d 396, 400.*

CONCLUSION

Attorney Burton is attempting to arbitrarily and capriciously dismiss this case without regard to the Order of the Supreme Court of Ohio. Meanwhile, the open book account of Dues has neither been settled nor closed. Therefore, either Minster Farmers Coop. Exchange or their assignee or purchasing third party, may at any time in the future, demand payment for any assumed amount due and owing. This Court did ORDER the Trial Court to calculate the statutory interest due and owing on this open book account. Now, therefore, Dues requests this Court to ORDER the settlement and closing of this open book account.

Dues reminds this Honorable Court that he is pro se, and asks to be held to less stringent standards than those of licensed attorneys; Haines v. Kerner.

Respectively submitted,



Robert Dues, Pro se
6052 Short Road
Houston, Ohio 45333
937 295-3065

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of this Document was sent by ordinary U.S.

Mail on this 6 day of October, 2008, to Michael A. Burton, Atty. for Appellee

Cross/Appellant, at 15 Willipie St., Suite 310, P. O. Box 33, Wapakoneta, Ohio 45895.


Robert Dues

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

**THE MINSTER FARMERS
COOPERATIVE EXCHANGE
COMPANY, INC.**

Plaintiff,

vs.

ROBERT H. DUES

Defendant.

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CASE NO. 05CV000048

**MOTION TO DISMISS WITHOUT
PREJUDICE**

Now comes Plaintiff, by and through counsel, and respectfully requests an Order from this Court dismissing Plaintiff's Complaint without prejudice. A Memorandum in Support is attached. A proposed Order is also enclosed for the Court's consideration.

Respectfully submitted,

X 

Michael A. Burton (0064921)
15 Willipie Street, Suite 310, PO Box 33
Wapakoneta, Ohio 45895
419/738-8165 Telephone
419/738-8170 Facsimile
mike@burtonlawoffice.com
Attorney for Plaintiff

Exhibit 1

MEMORANDUM IN SUPPORT

On March 26, 2008, the Ohio Supreme Court reached its Judgment Entry in its Case Number 06-1069 related to this matter. The Supreme Court remanded this case for further consideration consistent with its Judgment Entry. Defendant's former attorney, Bryan Niemeyer, was allowed to withdraw by Order of Withdraw of Counsel filed May 14, 2008. After briefs and replies by both parties, this Court entered its Decision/Order on Starting Date for Finance Charge Calculation filed June 10, 2008. To the best of the undersigned's knowledge, no subsequent Orders have been filed, and there are no contested matters pending herein.

On September 19, 2008, Defendant filed a Notice to the Court of Violation of Due Process by Officers of the Court with the Ohio Supreme Court. See Exhibit A attached. The undersigned received this Notice on or about September 20, 2008. At the same time, Defendant filed a Notice of Hearing with the Supreme Court, see Exhibit B attached. Although the Certificate of Service attached to this Notice of Hearing indicates counsel for Appellees was served on September 19, 2008, the undersigned never received a copy of this Notice of Hearing from Mr. Dues. The Exhibit B was obtained by accessing the Supreme Court case docket on the Ohio Supreme Court's website. See a copy of the Supreme Court's docket attached as Exhibit C. To the best of the undersigned's knowledge, the Supreme Court has not granted this hearing request. This Notice filed by Dues is not a proper pleading. Jurisdiction of the case being solely before this Court.

Plaintiff, the Minster Farmers Cooperative Exchange Company, Inc., desires to dismiss this case without prejudice. Dismissal is proper and can be made at the sole request of Plaintiff because there are no other contested matters herein, other than Plaintiff's Complaint. A proposed Order which would conclude all matters pending in this case is provided for the Court's consideration.

Respectfully submitted,

X 

Michael A. Burton (0064921)
15 Willipie Street, Suite 310, PO Box 33
Wapakoneta, Ohio 45895
419/738-8165 Telephone
419/738-8170 Facsimile
mike@burtonlawoffice.com
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify a true copy of the foregoing has been served upon **Defendant, Robert H. Dues**, at his address of 6052 Short Road, Houston, Ohio 45333, via United States mail, Certificate of Mailing, postage prepaid, **this 29th day of September, 2008.**

X 

Michael A. Burton (0064921)
Attorney for Plaintiff

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

THE MINSTER FARMERS
COOPERATIVE EXCHANGE
COMPANY, INC.

Plaintiff,

vs.

ROBERT H. DUES

Defendant.

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CASE NO. 05CV000048

**JUDGMENT ENTRY OF DISMISSAL
WITHOUT PREJUDICE**

Based upon Plaintiff's Motion to Dismiss, and for good cause shown, and the resolution of all issues pending herein, Plaintiff's Complaint hereby is dismissed without prejudice.

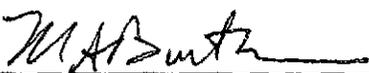
IT IS FURTHER ORDERED any additional court costs herein shall be paid by Plaintiff.

IT IS FURTHER ORDERED Attorney Michael A. Burton and Defendant, Robert H. Dues, pro se, shall be supplied file-stamped copies of this Judgment Entry of Dismissal, by regular United States mail.

IT IS SO ORDERED.

X _____
James F. Stevenson, Judge

Approved by:

X 

Michael A. Burton (0064921)
Attorney for Plaintiff

September 30, 2008

Robert H. Dues
6052 Short Road
Houston, Ohio 45333

In Re: The Minster Farmers Cooperative Exchange Company, Inc. vs. Robert H. Dues
Shelby County Common Pleas Court – Civil Division
Case No. 05CV000048
Motion to Dismiss With Prejudice/Judgment Entry of Dismissal With Prejudice

Dear Mr. Dues:

Enclosed is a copy of the Motion to Dismiss With Prejudice and the Judgment Entry of Dismissal With Prejudice which we have filed in the Shelby County Common Pleas Court. You have previously received the Motion to Dismiss Without Prejudice and the Judgment Entry of Dismissal Without Prejudice. Please be advised, the **“without prejudice”** pleadings were mistakenly worded and should be filed as **“with prejudice”**. Since we had a trial in this case, the correct manner to dismiss is with prejudice.

Therefore, the first versions of the pleadings **“without prejudice”** have been pulled from the Shelby County Clerk’s office and **will not be filed.** The enclosed pleadings **“with prejudice”** are the corrected pleadings and have been filed with the Shelby County Common Pleas Court.

We apologize for the confusion. Please contact our office if you have any questions.

Very sincerely,



Michael A. Burton

Enclosures
MAB/arm

S:\Minster Farmers\2008-09-30 Dues, Robert Hr..doc

Exhibit 2

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

**THE MINSTER FARMERS
COOPERATIVE EXCHANGE
COMPANY, INC.**

Plaintiff,

vs.

ROBERT H. DUES

Defendant.

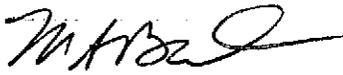
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CASE NO. 05CV000048

**MOTION TO DISMISS WITH
PREJUDICE**

Now comes Plaintiff, by and through counsel, and respectfully requests an Order from this Court dismissing Plaintiff's Complaint with prejudice. A Memorandum in Support is attached. A proposed Order is also enclosed for the Court's consideration.

Respectfully submitted,

X 

Michael A. Burton (0064921)
15 Willipie Street, Suite 310, PO Box 33
Wapakoneta, Ohio 45895
419/738-8165 Telephone
419/738-8170 Facsimile
mike@burtonlawoffice.com
Attorney for Plaintiff

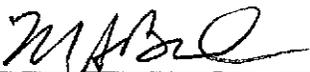
MEMORANDUM IN SUPPORT

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Plaintiff, the Minster Farmers Cooperative Exchange Company, Inc., desires to dismiss this case with prejudice. Dismissal is proper and can be made at the sole request of Plaintiff because there are no other contested matters herein, other than Plaintiff's Complaint. A proposed Order which would conclude all matters pending in this case is provided for the Court's consideration.

Respectfully submitted,

X 

Michael A. Burton (0064921)
15 Willipie Street, Suite 310, PO Box 33
Wapakoneta, Ohio 45895
419/738-8165 Telephone
419/738-8170 Facsimile
mike@burtonlawoffice.com
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify a true copy of the foregoing has been served upon **Defendant, Robert H. Dues**, at his address of 6052 Short Road, Houston, Ohio 45333, via United States mail, Certificate of Mailing, postage prepaid, **this 30th day of September, 2008.**

X 

Michael A. Burton (0064921)
Attorney for Plaintiff

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

THE MINSTER FARMERS
COOPERATIVE EXCHANGE
COMPANY, INC.

Plaintiff,

vs.

ROBERT H. DUES

Defendant.

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CASE NO. 05CV000048

**JUDGMENT ENTRY OF DISMISSAL
WITH PREJUDICE**

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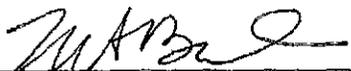
IT IS FURTHER ORDERED any additional court costs herein shall be paid by Plaintiff.

IT IS FURTHER ORDERED Attorney Michael A. Burton and Defendant, Robert H. Dues, pro se, shall be supplied file-stamped copies of this Judgment Entry of Dismissal, by regular United States mail.

IT IS SO ORDERED.

X _____
James F. Stevenson, Judge

Approved by:

X 

Michael A. Burton (0064921)
Attorney for Plaintiff

U.S. POSTAL SERVICE	CERTIFICATE OF MAILING
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT PROVIDE FOR INSURANCE--POSTMASTER	
Received From:	
<i>Robert Jones</i>	
<i>6059 West Rd</i>	
<i>Houston, Ohio 45333</i>	
One piece of ordinary mail addressed to:	
<i>Michael R. Burton</i>	
<i>15 Willipiel St. Suite 300</i>	
<i>P.O. Box 33</i>	
<i>Wapakoneta, Ohio 45895</i>	

PS Form 3817, Mar. 1989

U.S. POSTAGE
PAID
HOUSTON, OH. OH
45333
SEP 26 1988
AMOUNT
\$1.10
00081166-02



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Exhibit 3

08 OCT -2 AM 9:33

MICHELE K. MUMFORD
SHELBY COUNTY CLERK

**IN THE COMMON PLEAS COURT OF SHELBY COUNTY, OHIO
CIVIL DIVISION**

**THE MINSTER FARMERS
COOPERATIVE EXCHANGE
COMPANY, INC.**

Plaintiff,

vs.

ROBERT H. DUES

Defendant.

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CASE NO. 05CV000048

**JUDGMENT ENTRY OF DISMISSAL
WITH PREJUDICE**

Based upon Plaintiff's Motion to Dismiss, and for good cause shown, and the resolution of all issues pending herein, Plaintiff's Complaint hereby is dismissed with prejudice.

IT IS FURTHER ORDERED any additional court costs herein shall be paid by Plaintiff.

IT IS FURTHER ORDERED Attorney Michael A. Burton and Defendant, Robert H. Dues, pro se, shall be supplied file-stamped copies of this Judgment Entry of Dismissal, by regular United States mail.

IT IS SO ORDERED.

Shelby County Common Pleas Court
Sidney, Ohio

ORIGINAL SIGNED

X _____
James F. Stevenson, Judge

Take Notice

On 10/2/08

A final appealable order was filed in case number

05CV48

Michele K. Mumford
Shelby County Clerk of Courts

STATE OF OHIO, SHELBY COUNTY CLERK
Michele K. Mumford, Clerk of the Court
I hereby certify that the foregoing is a true and correct copy of the original as the same is on file in my office.
MICHELE K. MUMFORD, CLERK
Michele Mumford
Deputy

Exhibit 4