

Mel M. Marinkovic
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12/12/12

FILED
DEC 21 2012
CLERK OF COURT
SUPREME COURT OF OHIO

Petitioner
Pro se

IN THE SUPREME COURT OF OHIO

12-2152

STATE EX REL. MARINKOVIC,)
)
Petitioner,)

Number _____
Related Appeals 12-1678 ; 12-1680
Trial Case Mahoning 2012 cv 256

v.)

MAHONING COUNTY)
COURT OF APPEALS,)
Respondent.)

**PETITIONER'S AFFIDAVIT
IN SUPPORT OF PETITION
FOR WRIT OF MANDAMUS
TO COMPEL APPEAL
OR TO ALLOW NEW ACTION
PURSUANT TO THE
VEXATIOUS STATUTE
(R.C. 2323.52)**

Petitioner declares under penalty of perjury under the laws of the State of Ohio as follows:

1. The representations of fact he makes in the attached Petition for Writ of Mandamus are true as based on his own participation in the case and his memory, and the documents attached to it are true copies of what they appear to be.

2. The core issues in the dismissals of the lower trial action are (1) whether the trial court had jurisdiction to enter a default order against petitioner on vexatiousness in August 2012 after the a prior vexatious order was already issued against the petitioner in Trumbull in February

2012 which removed the jurisdiction of all courts to continue any cases in Ohio, and (2) whether the 2nd District's denial of leave to appeal erred because petitioner's claims were good and were

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not ruled against by the trial court and because petitioner was not in default since he fully opposed the counterclaim as part of his opposition to summary judgment, and (3) whether the court may granted summary judgment for default to defendants who did not make that motion to begin with.

3. Since there is no appeal on file and presumably the clerk would not send the file to the 7th District and to this Court, petitioner is forced to submit here much of the lower record.

4. Like the Trumbull clinic action, the petitioner also seeks leave to start a new complaint, because even if the vexatious label sticks, the lower court did not reach merits (nor could it because its jurisdiction here was removed and the clinic court ruled lack of standing which prevents reaching any merits), and the statutes of limitation are still not exceeded if petitioner files a new action now. In the clinic case the longest limitation period is 4 years for conversion and in this action the longest limitation period is 3 years for fraud, so the claims are still available since neither court addressed them and neither court ruled against them.

DATED: December 15, 2012

M. M. M. S.

Sworn to, or affirmed, and subscribed in my presence this 15th day of December 2012.



JAMES HAZLEY
Notary Public, State of Ohio
My Comm. Expires 05-28-2017

J. J. J.
Notary Public
My Commission Expires: 5/28/17