

IN THE SUPREME COURT OF OHIO

DISCOVER BANK,

Plaintiff-Appellee,

13-1365

v.

CASE NO _____

JOVITA BAILEY,

Defendant-Appellant.

**ON APPEAL FROM THE
COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT
CASE NO. 12 AP 1001**

**APPELLANT JOVITA BAILEY MEMORANDUM
IN SUPPORT OF JURISDICTION**

**JOVITA BAILEY, DEFENDANT-APPELLANT
PRO SE
2518 NASSAU DRIVE
COLUMBUS, OHIO 43232**

**DOUGLAS HATHWAY, ESQ.
ATTORNEY FOR DISCOVER BANK
175 SOUTH THIRD ST, SUITE 900
COLUMBUS, OH 43215**

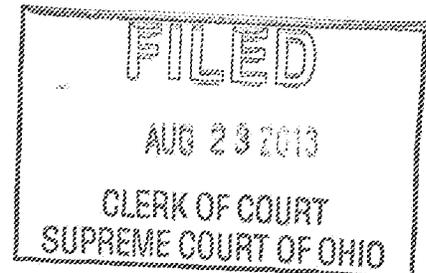


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**EXPLANATION OF WHY THIS IS A CASE OF PUBLIC OR GREAT GENERAL
INTEREST**

This case involves a question of significant importance to every citizen around the State of Ohio: whether a lawyers and or courts responsible for supporting the laws of Ohio and why is the oath of office for these attorneys and Ohio Courts a hollow formality because in Ohio the practice of ignoring Ohio Revised Code 1703.01 to 1703.31 is a way of life Attorney Douglas Hathaway, Raymonf F. Moats, III along with the law firm of WELTMAN, WEINBERG & REIS CO., L.P.A., 175 South Third Street, Suite 900, Columbus, Ohio 43215, representing their client DISCOVER BANK in Case No. 12 AP 1001 Discover Bank v. Jovita Bailey, Court of Appeals of Ohio Tenth Appellate District now before this OHIO SUPREME COURT on appeal. The actions by these lawyers and courts have been taken for the purpose of harassing and maliciously injuring Appellant Jovita Bailey. Similarly, with a full and complete knowledge of the law they have presented a claim or defense that cannot be justified under existing Ohio Revised Code 1703.01 to 1703.31 nor can they support their claim or defense with a good faith argument that the foregoing statutes should be extended, modified, or reversed.

The OHIO CONSTITUTION Section 2 (B) (1) & 2 provides the following:

“The Supreme Court shall have original jurisdiction in the following:

(g) Admission to the practice of law, the discipline of persons so admitted, and all other matters relating to the practice of law”.

This case calls into practice of this Court and lawyers whether in Ohio the fact that DISCOVER BANK, their attorneys and law firm must obey the laws of the State of Ohio?

Appellant submits that it is not disputed that Discover Bank is conducting business and maintaining court actions without a licenses from the Ohio Secretary of State as mandated by OHIO REVISED CODE 1703.01 to 1703.31.

Is Discover Bank, their slew of attorneys in this case and the law firm being allowed to ignore the foregoing law by the courts in Ohio, by openly displaying a bitter and venomous hatred of Appellant because she is a pro se/pro per litigant? It doesn't seem to matter to the to the Discover Bank, et al., the courts that this Appellant is right, it matters only Appellant is pro se; an inferior, low life being, and the courts have a position and the income of their brotherhood to protect.

Appellant submits that if her being pro se is not the reason for upholding and enforcing the law by the Ohio courts, is it judicial activism because the judicial rulings by the trial court and the Court of Appeals for the Tenth Appellant District has been based on personal or political considerations rather than on existing law found in the Ohio Revised Code 1703.01 to 1703.31.

Appellant submits that the issue of why this case is a case of public or great general interest being existing law is not being enforced due to Appellant being pro se and or judicial activism supporting the credit card industry.

STATEMENT OF THE CASE AND FACTS

This is an action that was born out of fraud upon the Franklin County Ohio Municipal Court and the Court of Common Pleas. Discover Bank filed the action in the Municipal Court, outside of that court's financial limits and the court ordered a change of venue to the Common Pleas Court. The Trial Court granted Discover Bank motion for summary judgment without notice or opportunity for a hearing. The Appellant appealed to the Court of Appeals and the Tenth District Court of Appeals affirmed the trial courts action on May 2, 2013 and on July 2, 2013 denied Appellants Motion for Reconsideration. The appellate court found Appellant did not raise any new issues for consideration and did not point out any issues which were wrongly decided in our initial decision. The appellate court failed to address the issue that this Appellate raised for the first time on appeal that the trial court lacked subject matter jurisdiction and therefore granting summary judgment was void from the very outset.

This instant action is now before the OHIO SUPREME COURT with Appellant's Memorandum in Support of Jurisdiction along with her Notice of Appeal to the OHIO SUPREME COURT.

ARGUMENT IN SUPPORT OF PROPOSITION OF LAW

Proposition of Law: NO BANK MAY CONDUCT BUSINESS IN OHIO OR MAINTAIN A COURT ACTION IN OHIO WITHOUT BEING LICENSE BY THE OHIO SECRETARY OF STATE.

The right of Appellant, Jovita Bailey to represent her own cause has long been recognized in the United States, and even predates the ratification of the Constitution of this Nation. In Faretta v. California, 422 U.S. 806 (1975), the Supreme Court of the United States held that criminal defendants have a constitutional right to refuse counsel and represent themselves in state criminal proceedings.

Appellant submits that Ohio Revised Code 1703.29 (A), provides:

“the failure of any corporation to obtain a license under section 1703.01 to 1703.31, inclusive of the Revised Code does not affect the validity of any contract with such corporation, but no foreign corporation which should have obtained such license shall maintain any action in any court until it has obtained such license.”

The Trial Court in the case at bar, granted Summary Judgment for Discover Bank, a foreign corporation that was void ab initio, void from the beginning because DISCOVER BANK has never been licensed by the Ohio Secretary of State.

Appellant submits that DISCOVER BANK has thumbed their nose at the mandate of Ohio Revised Code 1703.29 (A) by knowingly and blatantly maintaing legal action in the FRANKLIN COUNTY, OHIO MUNICIPAL COURT

during the year 2012 numbering three hundred cases and continues to tramp on the rights of citizens of Ohio during 2013 to date one hundred and eighty cases, being achieved by DISCOVER BANK army of lawyers perpetrating the fraud upon the court and the public by the knowledge that DISCOVER BANK does not have a license to operate in Ohio.

Appellant Bailey also calls this Honorable Court's attention to Ohio Revised Code 1703.03 that provides:

"No foreign corporation not excepted from sections 1703.01 to 1703.31 of the Revised Code, shall transact business in this state unless it holds an unexpired and uncanceled license to do so issued by the secretary of state." (EMPHASIS ADDED).

There is no doubt that Discover Bank marches to their own drummer, not the laws of the State of Ohio perpetrated a fraud upon the court and the good public citizens of the State of Ohio , with or without the court's cooperation or complicity as demonstrated in the four hundred and eighty cases filed in the FRANKLIN COUNTY MUNICIPAL COURT during 2012 and 2013. **See a NOTICE FROM THE OHIO SECRETARY OF STATE , JANUARY 4, 2013.** This Notice reflects no license is on file and no record is on file for Discover Bank.

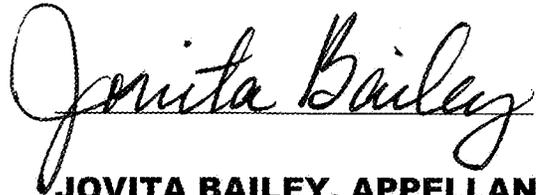
Furthermore, Appellant must point out that Discover Bank

fraud upon the court and the public they illegally do business with in the State of Ohio they allege a breach of contract. However, Appellant submits under a breach of contract would require DISCOVER BANK to bring into court, a signed contract, agreement, or note. This DISCOVER BANK brings in the "terms of agreement" which has no signature or persons name on it, a template that could apply to anyone.

A CONCLUSION

**Jovita Bailey, respectfully urges this Court to accept Jurisdiction of
this appeal.**

Respectfully submitted

A handwritten signature in cursive script that reads "Jovita Bailey". The signature is written in black ink and is positioned above the printed name.

JOVITA BAILEY, APPELLANT

PRO SE

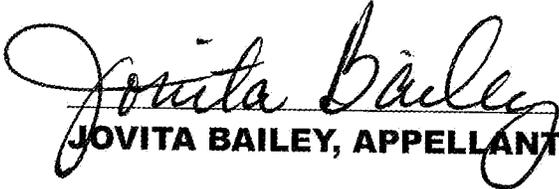
AUGUST 20, 2013

2518 NASSAU DRIVE

COLUMBUS, OH 43232

SERVICE

A copy of the foregoing MEMORANDUM IN SUPPORT OF JURISDICTION was sent by U.S. MAIL, POSTAGE PREPAID THIS 20th day of August, 2013 to Douglas Hathway, E.S.Q., Suite 900, Columbus, Ohio 43215, attorney for DISCOVER BANK.



JOVITA BAILEY, APPELLANT, PRO SE

APPENDIX

IN THE SUPREME COURT OF OHIO

DISCOVER BANK,

Plaintiff-Appellee,

v.

CASE NO _____

JOVITA BAILEY,

Defendant-Appellant.

**ON APPEAL FROM THE
COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT
CASE NO. 12 AP 1001**

NOTICE OF APPEAL OF APPELLANT JOVITA BAILEY

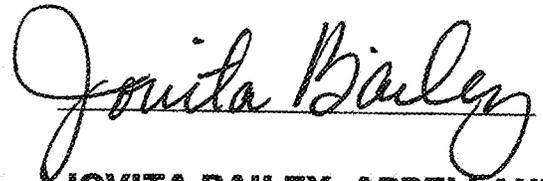
Appellant Jovita Bailey hereby gives notice of her appeal to the Supreme Court of Ohio from the Decision rendered on May 2, 2013 with the Judgment being affirmed on July 11, 2013 by the Court of Appeals of Ohio Tenth Appellate District. This cause raises a substantial constitutional question and is one of public or general interest.

Respectfully submitted,


JOVITA BAILEY, PRO SE
August 20, 2013

CERTIFICATE OF SERVICE

A copy of the NOTICE OF APPEAL was sent by U.S. Mail postage prepaid this 20th day of August, 2013 to Douglas Hathway, Esq., Attorney for Discover Bank and the law firm of WELTMAN, WEINBERG & REIS CO., L.P.A, Law firm for DISCOVER BANK.

A handwritten signature in cursive script that reads "Jovita Bailey". The signature is written in black ink and is positioned above the printed name and address.

**JOVITA BAILEY, APPELLANT
PRO SE
2518 NASSAU DRIVE
COLUMBUS, OH 43232**

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Discover Bank,	:	
	:	
Plaintiff-Appellee,	:	
	:	
v.	:	No. 12AP-1001
	:	(C.P.C. No. 12 CVH 56956)
Jovita Bailey,	:	
	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

JUDGMENT ENTRY

For the reasons stated in the decision of this court rendered herein on May 2, 2013, appellant's assignments of error are overruled. Therefore, it is the judgment and order of this court that the judgment of the Franklin County Court of Common Pleas is affirmed. Costs shall be assessed against appellant.

TYACK, DORRIAN & McCORMAC, JJ.

/S/JUDGE _____

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Discover Bank,	:	
	:	
Plaintiff-Appellee,	:	
	:	
v.	:	No. 12AP-1001
	:	(C.P.C. No. 12 CVH 56956)
Jovita Bailey,	:	
	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on May 2, 2013

Weltman, Weinberg & Reis Co. L.P.A., and Matthew G. Burg,
for appellee.

Jovita Bailey, pro se.

APPEAL from the Franklin County Court of Common Pleas

TYACK, J.

{¶ 1} Jovita Bailey is appealing from the judgment rendered against her as a result of her credit card debt to Discover Bank. She assigns two errors for our consideration:

I. THE TRIAL COURT COMMITTED REVERSIBLE ERROR AS A MATTER OF LAW IN ITS JUDGMENT ENTRY OF NOVEMBER 7, 2012 GRANTING DISCOVER BANK'S MOTION FOR SUMMARY JUDGMENT.

II. THE TRIAL COURT ERRED AS A MATTER OF LAW IN EGREGIOUSLY AND FLAGRANTLY IGNORING THE "ORIGINAL CASE SCHEDULE" TO THE PREJUDICE OF

THE DEFENDANT-APPELLANT THEREBY DEPRIVING
HER THE FUNDAMENTAL FAIRNESS AND SUBSTANTIAL
JUSTICE ASSURED BY THE DUE PROCESS CLAUSE OF
THE FIFTH AND FOURTEENTH AMENDMENTS TO
UNITED STATES CONSTITUTION.

{¶ 2} As indicated above, the judgment against Jovita Bailey resulted from the granting of a motion for summary judgment. Her primary assertion, which was raised after judgment had been granted and a garnishment pursued, was that Discover Bank had not complied with the requirements of Ohio law for a bank chartered in another state to do business in Ohio. Bailey raised this issue too late to have it considered in the trial court before judgment was granted. We cannot fault the trial court for failing to consider an issue not raised.

{¶ 3} The first assignment of error is overruled.

{¶ 4} The second assignment of error argues that the trial court erred in granting summary judgment before the deadline for discovery had passed. The Ohio Rules of Civil Procedure have provisions that allow a party who is defending against a motion for summary judgment to delay a ruling on the motion for summary judgment until additional discovery can be completed. *See* Civ.R. 56(F). Bailey did not use Civ.R. 56(F).

{¶ 5} Bailey claims she was blindsided by the trial court's ruling. Her claim apparently results from her lack of knowledge of the local rules for the court of common pleas for Franklin County. Those rules set forth the time schedule to be applied by the trial court for ruling on motions for summary judgment. The trial court judge did not err in applying the Ohio Rules of Civil Procedures and the local rules.

{¶ 6} The second assignment of error is overruled.

{¶ 7} Both assignments of error having been overruled, the judgment of the Franklin County Court of Common Pleas is affirmed.

Judgment affirmed.

DORRIAN and McCORMAC, JJ., concur.

McCORMAC, J., retired, formerly of the Tenth Appellate District, assigned to active duty under the authority of Ohio Constitution, Article IV, Section 6(C).

IN THE COURT OF APPEALS OF OHIO

3

TENTH APPELLATE DISTRICT

Discover Bank,	:	
	:	
Plaintiff-Appellee,	:	
	:	No. 12AP-1001
v.	:	(C.P.C. No. 12 CVH 56956)
	:	
Jovita Bailey,	:	(REGULAR CALENDAR)
	:	
Defendant-Appellant.	:	

JUDGMENT ENTRY

Appellant, Jovita Bailey's motion for reconsideration does not raise any new issues for consideration and does not point out any issues which were wrongly decided in our initial decision. The motion is therefore denied.

Gary Tyack

 Judge G. Gary Tyack

Julia L. Dorrian

 Judge Julia L. Dorrian

Amy O'Grady

 Judge Amy O'Grady

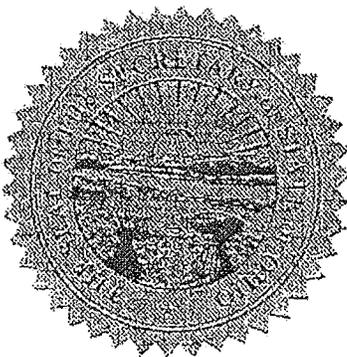
THE STATE OF OHIO Franklin County, ss	} I, MARYELLEN O'SHAUGHNESSY, Clerk OF THE COURT OF APPEALS WITHIN AND FOR SAID COUNTY,
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL	
NOW ON FILE IN MY OFFICE, WITNESS MY HAND AND SEAL OF SAID COUNTY THIS <u>11</u> DAY OF <u>July</u> , A.D. 20 <u>13</u>	
MARYELLEN O'SHAUGHNESSY, Clerk	
By _____	Deputy

Franklin County Ohio Court of Appeals Clerk of Courts- 2013 Jul 09 2:54 PM-12AP001001

**UNITED STATES OF AMERICA
STATE OF OHIO
OFFICE OF THE SECRETARY OF STATE**

I, Jon Husted, do hereby certify that I am the duly elected, qualified and present acting Secretary of State for the State of Ohio, and as such have custody of the records of Ohio and Foreign business entities; that said records show NO RECORD of any Ohio corporation, foreign corporation, Ohio limited liability company, foreign limited liability company, Ohio limited partnership, foreign limited partnership, Ohio limited liability partnership, foreign limited liability partnership, trade name registration or report of use of fictitious name, either active or inactive, known as DISCOVER BANK, filed in this office, as of the date of this certificate.

4



Witness my hand and the seal of the Secretary of State at Columbus, Ohio this 4th day of January, A.D. 2013.

Jon Husted

Ohio Secretary of State

Validation Number: 201300400294

Franklin County Ohio Court of Appeals Clerk of Courts- 2013 Jul 16 9:12 AM-12AP001001