

ORIGINAL

No. GEN – 13 – 1008

IN THE SUPREME COURT OF OHIO

APPEAL FROM THE COURT OF APPEALS
10th APPELLATE DISTRICT
FRANKLIN COUNTY, OHIO
Case No. 13-AP-376

AKIM M. RAHMAN,
Appellant

V

WELLS FARGO BANK N.A.,
Appellee

APPELLANT'S JUDICIAL NOTICE OF ADJUDICATIVE FACTS
PURSUANT TO OHIO RULES OF EVIDENCE, ARTICLE II, RULE 201

Justifications:

Since the reasons of returning mortgage payment checks (three), of perpetrated trespass and now the production of fraudulent documentations etc. by the Appellee & team are still mystery despite the fact that the case has gone thru from lower Court to Superior Court, as a victim, Appellant deserves knowing the reasons of these wrongful actions of the Appellee.

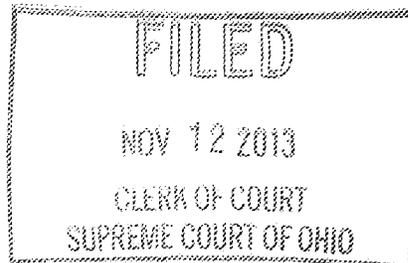
Furthermore, since the Appellee has waived "memorandum response" under S.Ct.Prac.R. 7.03(E) and since now it has chosen not to file "opposing reconsideration" under S.Ct.Prac.R. 18.03(A) where Appellant's "motion for reconsideration" is pending, filing this judicial notice is an opportunity for the victim of this *dilemma* so that thru this Superior Court the reasons can be known and the miscarriage of the justice produced by the lower Courts can be corrected.

Attn: John Kopf
Thompson Hine LLP
41 S. High Street, Suite # 1700
Columbus, OH 43215

Akim Rahman
4428 Trailane Drive
Hilliard, OH 43026
Phone: 614-777-4333 (H)
Email: akim_rahman@hotmail.com

Attorney(s) on the record for the Appellee

Pro Se, Appellant



I, the Appellant, pursuant to Ohio Rules of Evidence, Article II, Rule 201, *Judicial Notice of Adjudicative Facts*, file this JUDICIAL NOTICE OF ADJUDICATIVE FACTS and ask the Honorable Court to grant this judicial notice of adjudicative facts (i.e. the facts of the case) so that justice can be served without prejudice.

Since the reasons of returning mortgage payment checks (three), perpetrated trespass and now the production of fraudulent documentations etc. by the Appellee & team are still mystery despite the fact that the case has gone thru from lower Court to Superior Court, as a victim, Appellant deserves knowing the reasons of these wrongful actions of the Appellee. Furthermore, since the Appellee have waived “memorandum response” and now it has failed filing “opposing consideration” to Appellant’s “motion for reconsideration” filing this judicial notice is an opportunity for the victim of this *dilemma* so that thru this Superior Court the reasons can be known and miscarriage of the justice produced by the lower Courts can be corrected. In this aspect, Appellant’s this submission fulfills the requirements set forth under the Article II, Rule 201 that says

- (B) Kinds of facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.
- (D) When mandatory. A court shall take judicial notice if requested by a party and supplied with the necessary information.
- (E) Opportunity to be heard. A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.
- (F) Time of taking notice. Judicial notice may be taken at any stage of the proceeding.

The Appellant here absolutely believes that there is a justiciable case before this Court where taking this Judicial Notice by the Honorable Court is logical and it is in compliance with Article II, Rule 201 of the Ohio Rules of Evidence. In the captioned case, the reasons of taking the judicial notice can be summarized in eight folds where the relevant exhibits are enclosed herewith for the Superior Court's review.

1. Court record shows that Appellee has waived filing of "memorandum of response"
2. Court record further shows that Appellee has not filed "opposing reconsideration" in response to the Appellant's recent "motion for reconsideration", which is pending
3. Motion for reconsideration along with exhibits show that Appellee & team have motivationally & strategically taken new route of abusive actions and violation of laws, rules and regulations (appellee has fraudulently produced documentations, violated Section 2901.22 of Ohio Revised Code and caused fears & emotional distress to Appellant without reason.
4. Appellee has motivationally & strategically perpetrated trespass the home, broke door lock and caused damages where the causes of these alleged actions are still unknown at least to the victim
5. Appellee has forced the Appellant stopping mortgage payment (appellee returned three months payment checks to appellate prior to foreclosure commencement) and by so doing it has justified its late fee charges and then foreclosure commencement
6. The trial bench barely acknowledges (in terms of a word) the trespass issue in its ruling despite having counterclaims pending and having recorded the counterclaim on the trial day (March 11 of 2013) as it is required by Civil R. 15 (B).

Here the Common Plea Court and the trial bench erred by not properly applying the provision of the Civ. R. 15 (B) as to the evidence of the Appellant counter / cross claim established by the evidence received during and before the trial thru various motions filed by the Appellant with the Court.

- i. the ruling of the lower Court is without merits
- ii. lower Court has deprived defendant legal rights

- iii. lower court has improperly applied the Civ. R. (s) including Civil. R. 15(B) in its ruling; on the record during trial, the counterclaim was repeatedly mentioned, however, the Civil. R. 15 (B) was not applied in trial ruling.
- iv. lower court has denied defendant constitutional rights
- v. court has failed its obligation to prosecute on alleged trespass & other abuses
- vi. court has failed entering judgment when both parties were in agreement on injuries & settlement (Attorney Fuller initiated the move)
- vii. court has failed entering judgment when Plaintiff switched its position on injuries
- viii. bench has utilized technique of defraud suppressing the whole facts of the case
- ix. it was premeditated trial – bench has deliberately failed implementing Civ. R. 15 (B) ---- plaintiff did not deny, bench has never asked defendant for evidence

Legal Analysis

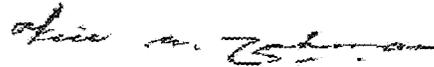
In captioned case, the Appellee and its legal team now openly acknowledge that there was mortgage payment checks returned, perpetrated trespass, door locks were broken etc. and now very recently the Appellee & the team had fraudulently produced documentations utilizing government resources, government offices for its private interests. These are the facts supported by exhibits and Court records as well as Appellee's statements and they are not subject to reasonable dispute. They are known within the territorial jurisdiction of the trial court or they are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. But the reasons of these wrongful actions and violations of laws including Ohio Revised Code, Title (29); chapter 2901: general provision, section 2901.22 and constitutional provision: the Article IV (B) (3) of Ohio Constitution particularly by the Appellee are still unknown. The reasons of violating the Civil R. 15 (B), by the lower has produced miscarriage of justice, which is now before the superior Court for error correction in the legal

system so that justice can be served without prejudice. Therefore, taking this judicial notice will surely ensure the opportunity to be heard under the Article II of Rule 201.

Conclusion

Therefore, the Appellant asks the Honorable Court to grant this judicial notice of adjudicative facts so that justice can be served without prejudice and the miscarriage of justice produced by the lower Courts can be corrected. Alternatively, since (a) Appellee has waived “memorandum in response” under S.Ct.Prac.R. 7.03(E) and (b) Appellee now has chosen not to file “opposing reconsideration” under the S.Ct.Prac.R. 18.03(A), at a minimum, the Court should grant Appellant’s “motion for reconsideration”, which is currently pending so that “opportunities to be heard” under Ohio Rules of Evidence, Article II, Rule 201 (E) can be fulfilled.

Respectfully submitted



Akim Rahman, Ph.D.

Enclosure(s): Exhibits

- a. Transcript of Trial Bench – A

This exhibit should show that Appellant fulfills the requirement under the Civil. R. 15 (B) where the Civ. R. 15 (B) clearly says
When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings.

(This extra effort was made despite filing counterclaims previously as the incidents arose)

- b. Police Report on trespass - C

Certificate of Service

I certify that a copy of this **Judicial Notice** was sent on November 12 of 2013 for the Appellee, Wells Fargo represented by legal team at the

Attn.: John Kopf, Thompson Hine LLP, 41S. High Street, Suite # 1700, Columbus, OH 43215



Akim Rahman, Ph.D.

1 I close my argument with that, Your
2 Honor, that this has been going on for,
3 what, two years. Wells Fargo was in hurry
4 to file the foreclosure, they could have
5 waited for a couple months, couple years.
6 If they can't wait now, they have not
7 changed the law yet, so that it is clear
8 there is the gap between the parties.

9 I never had any documents. I have
10 my own documents, but not the systematic way
11 they put it in.

12 So with that, I will say this is
13 just misleading, creating environment so
14 they can continue this process which, I
15 mean, is abuse of legal process.

16 Also I claim in my counterclaim I
17 filed for \$500,000.00 as exemplary damage,
18 plus damages that they caused both my doors,
19 changed my locks, tied my dog in the
20 basement, and destroy -- not destroy, damage
21 to the hardwood flooring because the people
22 that locked the system there caused those
23 damages.

24 And with that I ask the Court to
25 determine that in this foreclosure case and

1 give me monetary damage including exemplary
2 damage that I asked for \$500,000.00.

3 And that in another case that was
4 ruled by another court where Wells Fargo,
5 who was the plaintiff, and that was Wells
6 Fargo, Plaintiff versus Steven Tyson, et al,
7 and that was in New York where that court
8 granted \$155,000.00 exemplary damage, plus
9 other damages and costs.

10 Your Honor, I've been in Ohio for
11 almost 20 years. I love this state. I had
12 a job offer in North Carolina State
13 University, I did not go because I love the
14 job and I stayed here. Your Honor, I feel
15 myself bad when something I do wrong to Ohio
16 because I am part of that, but Wells Fargo
17 did not think about it. Wells Fargo did it
18 in New York, they did it in Ohio, tomorrow
19 they may do somewhere else.

20 So what I'm asking this Court, it is
21 now Court's direction to take a measure and
22 put the leaders they can take too, but then
23 to make a law, so I'm asking this Court to
24 determine to dispose of this case and the
25 damages including the exemplary damages so

copy

DOCUMENT NOT SCANNED
PURSUANT TO
THE SUPREME COURT OF OHIO
RULES 8.6 AND 14.1(B)
AND/OR
SUPERINTENDENCE RULE 45

Progress Report By: Det. Dave Cunningham D-2

Incident: 102277

Title: Met with victim- Civil matter

Date: 3/16/2012

Time: 4:03PM

I reviewed this file and attempted to read the victim's statements. I was unable to decipher his handwriting. I called the victim, Akim Rahman, and made arrangements for him to meet with me at the police department at 3:00PM..

Shortly after 3:00PM Rahman stopped by the police department and we discussed the matter. He confirmed that his home was in foreclosure and had been since 2010. He said that his mortgage company was Wells Fargo and he never received a notice that they were sending somebody to his house.

I contacted the phone number left on the documents, Mortgage Maintenance LLC (614-235-0902). I spoke with "Christy". She advised that they were hired by Mortgage Contracting Services to go to he house to determine if it was abandoned and unoccupied. The worker disabled the lock, entered the home and discovered the home was occupied. The lock was replaced and new keys left at the scene.

I contacted Mortgage Contracting Services (813-405-2071- Brittany, 813-387-1100, 888-563-1100) and asked about loan # 37021649. They confirmed that they handled the matter for Wells Fargo (The victim's mortgage holder). She suggested that the victim contact their mortgage company and she connected me to their legal department where I left a voice mail message.

I then explained to the victim, that the matter was a civil matter between him and his mortgage company and not a criminal matter.

Rahman asked that his written statements be released to Wells Fargo if they ask for them. I explained that once the case was closed- the entire file could be released.

Case Closed:

Typed by DRC D2

Ref:
Wells Fargo Bank,
Plaintiff

Akim Rahman
Defendant

Case # 11CV00109

Police Report