

ORIGINAL

IN THE SUPREME COURT OF OHIO

RANDY VAUGHN, : Case No. 2014-0281
Plaintiff-Appellant, : On Appeal from the Hamilton
County Court of Appeals,
vs. : First Appellate District
PAYCHEX INSURANCE AGENCY, INC., : Court of Appeals
Case No. C 1300396
Defendants-Appellee. :

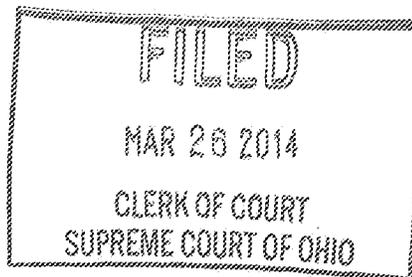
MEMORANDUM IN OPPOSITION TO PLAINTIFF-APPELLANT,
RANDY VAUGHN'S MEMORANDUM IN SUPPORT OF JURISDICTION

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ARGUMENT

This case involves a simple question regarding whether a trial court can hold an arbitration provision contained in a contract is unconscionable when there is no evidence in the record to support such a holding. *See generally* Memorandum in Support of Jurisdiction. Plaintiff-Appellant made no effort to describe why this case involves a matter of public or great concern as required under S.Ct.Prac. R. 702. Nor did Plaintiff-Appellant explain why this case involves a substantial constitutional question.

Plaintiff-Appellant is not seeking to have the holding of the Court of Appeals reversed. Instead, Plaintiff-Appellant asks this Court to order that the case be remanded to the trial court so Plaintiff-Appellant can present evidence of unconscionability. Plaintiff-Appellant did not obtain a stay of the decision by the First District Court of Appeals reversing the trial court decision and ordering the trial court to enter a stay of the proceedings pursuant to R.C. 2711.02. That stay has been entered by the trial court. The Entry is attached as Exhibit A. Accordingly this appeal is moot. *See Miner v. Witt*, 82 Ohio St. 237, 92 N.E. 21 (1910), syllabus (“It is not the duty of the court to answer moot questions, and when, pending proceedings in error in this court, an event occurs, without the fault of either party, which renders it impossible for the court to grant any relief, it will dismiss the petition in error.”); *Tschantz v. Ferguson*, 57 Ohio St.3d 131, 133, 566 N.E.2d 655 (1991) (stating “[n]o actual controversy exists where a case has been rendered moot by an outside event”); *Lingo v. Ohio Cent. R.R., Inc.*, 10th Dist. No. 05AP-206, 2006-Ohio-2268, ¶ 20, quoting *Grove City v. Clark*, 10th Dist. No. 01AP-1369, 2002-Ohio-4549, ¶ 11 (concluding an action is moot when it does not involve an “actual genuine, live controversy, the decision of which can definitely affect existing legal relations”).

CONCLUSION

Plaintiff-Appellant has not demonstrated that the issues involved in this appeal involve a substantial constitutional question or that the case issues are matters of public or great concern. Plaintiff-Appellant's appeal is also moot as the trial court has already entered the stay of the case pending the arbitration.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of March, 2014, a true and accurate copy of the foregoing Memorandum in Opposition was served via First Class U.S. Mail, postage prepaid, upon the following:

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IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

COPY OF ENTRY FILED
MAR 26 2014

RANDY VAUGHN,

Plaintiff,

-vs-

PAYCHEX INSURANCE AGENCY,
INC.,

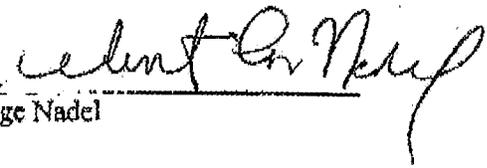
Defendant.

: Case No. A1204123
:
: Judge Nadel
:
: ENTRY
:
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Pursuant to R.C. 2711.02, this matter is stayed pending arbitration.

SO ORDERED.

Dated: 3-25-14, 2014



Judge Nadel

EXHIBIT A