

IN THE SUPREME COURT OF OHIO

THE FAHEY BANKING COMPANY, : CASE NO. 2015-1287
Plaintiff-Appellee, :
v. :
PERCY SQUIRE, ET AL. : ON APPEAL FROM THE
Defendant-Appellant. : MAHONING COUNTY COURT
OF APPEALS
CASE NO. 15 MA 105

APPELLEE THE FAHEY BANKING COMPANY'S MOTION TO DISMISS APPEAL

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Appellant, Pro Se

**APPELLEE THE FAHEY BANKING COMPANY'S MOTION TO DISMISS APPEAL FOR
MOOTNESS AND LACK OF A FINAL APPEALABLE ORDER**

Now comes Appellee, The Fahey Banking Company ("Fahey Bank"), by and through the undersigned counsel, and hereby moves this Court pursuant to S.Ct. Prac. R. 4.01(A) to dismiss the above captioned appeal as the matter is moot and moreover, there is not and never was a final appealable order.

Specifically, Appellant has appealed a "Notice of Assignment" of a non-oral hearing that was to take place on June 30, 2015. The non-oral hearing was cancelled. As a result this matter is moot and this case should be dismissed. For this reason alone the Seventh District Court of Appeals was correct in initially dismissing the appeal *sua sponte* and later denying reconsideration. A copy of the Court's docket showing the cancellation of the hearing is attached hereto as Exhibit 1. As the hearing has been cancelled the underlying matter is moot and there is no live controversy to adjudicate. This appeal should be dismissed.

Moreover, as the Court of Appeals held, a "Notice of Assignment" is not a final appealable order. Appellant made the same contentions before the Appellate Court that he is making here. That contention has now been twice rejected. Since there is no final appealable order, Appellant's appeal should be dismissed.

Finally, Appellant is attempting to use this baseless appeal for an improper purpose, i.e., to dictate the Trial Court's actions, which is wholly impermissible. The Trial Court controls its own docket. Based upon the statements set forth in Appellant's Motion for Stay he is simply seeking the same impermissible relief in this case that he is seeking in the baseless original action before this Court for Writ of Prohibition filed against Magistrate DeLaurentis in Supreme Court Case Number 15-1071. While Fahey

Bank believes that the Action for Writ of Prohibition should be dismissed as it too is baseless, Appellant has already requested relief in the Supreme Court and therefore he clearly and unmistakably understands the proper means for requesting a remedy. To that extent and due to the filing of the original action, Appellant's statement in his Motion for Stay that the dismissal "deprives [Appellant] of a remedy" is clearly false. [See Motion for Stay at p. 4.]

For all of these reasons, this appeal should be dismissed.

RESPECTFULLY SUBMITTED:

KEMP, SCHAEFFER & ROWE CO., L.P.A.

By: /s/ Scott N. Schaeffer
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2010 CV 03723

Case Type	Civil - Common Pleas	Action:	FORECLOSURE
Case Status:	CLOSED	Status Date:	05/14/2012
File Date:	09/27/2010	Case Judge:	DURKIN, JOHN M.
DCM Track:		Next Event:	

- All Information
- Party
- Event
- Docket
- Financial
- Receipt
- Disposition

Party Information

FAHEY BANKING COMPANY - PLAINTIFF

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Disp Date	
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Events				
Date/Time	Location	Type	Result	Event Judge
02/28/2011 07:00 AM	COURTROOM #4	NOTES FOR COURT	CANCELLED	DELAURENTIS, DOMINIC
04/06/2011 01:30 PM	COURTROOM #4	HEARING ON MOTION FOR DEFAULT	CONTINUED	DELAURENTIS, DOMINIC
05/04/2011 07:00 AM	COURTROOM #4	NOTES FOR COURT	CANCELLED	DELAURENTIS, DOMINIC
05/23/2011 10:30 AM	COURTROOM #4	TELEPHONE CONFERENCE	RESET	DELAURENTIS, DOMINIC
05/23/2011 02:00 PM	COURTROOM #4	TELEPHONE CONFERENCE	HEARD	DELAURENTIS, DOMINIC
05/25/2011 08:30 AM	COURTROOM #4	TRIAL TO COURT	CANCELLED	DELAURENTIS, DOMINIC
06/22/2011 01:30 PM	COURTROOM #4	HEARING ON SUMMARY JUDGMENT	DEFAULT JUDGMENT	DELAURENTIS, DOMINIC
08/09/2011 07:00 AM	COURTROOM #4	NOTES FOR COURT	CONTINUED	DELAURENTIS, DOMINIC
09/01/2011 07:05 AM	COURTROOM #4	NOTES FOR COURT	OVERRULED	DELAURENTIS, DOMINIC

Date/Time	Location	Type	Result	Event Judge
11/07/2011 07:00 AM	COURTROOM #4	NOTES FOR COURT	RESET	DELAURENTIS, DOMINIC
12/07/2011 07:00 AM	COURTROOM #4	NOTES FOR COURT	CANCELLED	DELAURENTIS, DOMINIC
01/17/2012 07:00 AM	COURTROOM #4	NOTES FOR COURT	COMPLETED	DELAURENTIS, DOMINIC
05/31/2012 07:00 AM	COURTROOM #4	NOTES FOR COURT	GRANTED	DELAURENTIS, DOMINIC
06/15/2012 07:00 AM	COURTROOM #4	NOTES FOR COURT	RESET	DELAURENTIS, DOMINIC
08/16/2012 07:00 AM	COURTROOM #4	NOTES FOR COURT	TAKEN UNDER ADVISEMENT	DELAURENTIS, DOMINIC
09/21/2012 10:00 AM	COURTROOM #4	TELEPHONE CONFERENCE	HEARD	DELAURENTIS, DOMINIC
10/18/2012 07:00 AM	COURTROOM #4	NOTES FOR COURT	TAKEN UNDER ADVISEMENT	DELAURENTIS, DOMINIC
11/30/2012 07:00 AM	COURTROOM #4	NOTES FOR COURT	RESET	DELAURENTIS, DOMINIC
12/12/2012 10:00 AM	COURTROOM #4	TELEPHONE CONFERENCE	CANCELLED	DELAURENTIS, DOMINIC
12/17/2012 10:30 AM	COURTROOM #4	TELEPHONE CONFERENCE	HEARD	DELAURENTIS, DOMINIC
06/13/2013 07:00 AM	COURTROOM #4	NOTES FOR COURT	OVERRULED	DELAURENTIS, DOMINIC
07/02/2013 07:00 AM	COURTROOM #4	NOTES FOR COURT	RESET	DELAURENTIS, DOMINIC
08/13/2013 07:00 AM	COURTROOM #4	NOTES FOR COURT	COMPLETED	DELAURENTIS, DOMINIC
08/30/2013 09:00 AM	COURTROOM #4	TELEPHONE CONFERENCE	CANCELLED	DELAURENTIS, DOMINIC
10/15/2013 10:30 AM	COURTROOM #4	MOTION	CANCELLED	DELAURENTIS, DOMINIC
12/12/2013 09:00 AM	COURTROOM #4	MOTION HEARING	CANCELLED	DELAURENTIS, DOMINIC
08/07/2014 09:30 AM	COURTROOM #4	GARNISHMENT HEARING	OVERRULED AS MOOT	DELAURENTIS, DOMINIC
10/14/2014 08:30 AM	COURTROOM #4	NON-ORAL HEARING	TAKEN UNDER ADVISEMENT	DURKIN, JOHN M.
11/04/2014 07:00 AM	COURTROOM #4	NOTES FOR COURT	RESET	DURKIN, JOHN M.
12/09/2014 07:00 AM	COURTROOM #4	NOTES FOR COURT	CASE STAYED	DURKIN, JOHN M.
06/23/2015 07:00 AM	COURTROOM #4	NOTES FOR COURT	COMPLETED	DURKIN, JOHN M.
06/30/2015 08:00 AM	COURTROOM #4	NON-ORAL HEARING	CANCELLED	DELAURENTIS, DOMINIC

Docket Information

Date	Description	Docket Text	Amount	Image Avail.
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