

IN THE SUPREME COURT OF OHIO

STATE <i>ex rel.</i> ANGELA M. FORD, ESQ.,	:	
	:	CASE NO. 2015-1470
Relator,	:	
	:	
-vs-	:	ORIGINAL ACTION
	:	IN PROHIBITION
HONORABLE ROBERT P. RUEHLMAN,	:	AND MANDAMUS
	:	
Respondent.	:	

MOTION OF STANLEY M. CHESLEY AND THE LAW FIRM OF WAITE,
SCHNEIDER, BAYLESS & CHESLEY CO., L.P.A. TO INTERVENE

VOLUME IV OF V

John W. Zeiger, Esq. (0010707)
Marion H. Little, Jr., Esq. (0042679)
Zeiger, Tigges & Little LLP
41 S. High Street, Suite 3500
Columbus, OH 43215
Phone: (614) 365-4113
Fax: (614) 365-7900
Email: zeiger@litolio.com
little@litolio.com

*Attorneys for Proposed Intervenor
Waite, Schneider, Bayless & Chesley Co., L.P.A.*

Donald J. Rafferty, Esq. (0042614)
Cohen Todd Kite & Sanford, LLC
250 East Fifth Street, Suite 2350
Cincinnati, Ohio 45202
Phone: (513) 333-5243
Fax: (513) 241-4490
Email: DRafferty@ctks.com

*Attorneys for Proposed Intervenor
Waite, Schneider, Bayless & Chesley Co., L.P.A.*

James W. Harper, Esq. (0009872)
Michael J. Friedmann, Esq. (0090999)
Hamilton County Prosecutor's Office
230 East Ninth Street, Suite 4000
Cincinnati, Ohio 45202
Phone: (513) 946-3159
Fax: (513) 946-3018
Email: James.Harper@hcpros.org
Email: michael.friedmann@hcpros.org

*Attorneys for Respondent
the Honorable Robert P. Ruehlman*

Brian S. Sullivan, Esq. (0040219)
Christen M. Steimle, Esq. (0086592)
Dinsmore & Shohl, LLP
255 E. Fifth Street, Suite 1900
Cincinnati, Ohio 45202
Phone: (513) 977-8200
Fax: (513) 977-8141
Email: brian.sullivan@dinsmore.com
Email: christen.steimle@dinsmore.com

Attorneys for Relator Angela M. Ford

Vincent E. Mauer, Esq. (0038997)
Frost Brown Todd LLP
301 E. Fourth Street, Suite 3300
Cincinnati, Ohio 45244
Phone: (513) 651-6785
Fax: (513) 651-6981
Email: vmauer@fbtlaw.com

*Attorneys for Proposed Intervenor
Stanley M. Chesley*

Johnetta Moore, et. al, v. A. H. Robins, et. al., 98-CI-795. All cases in that action were settled pursuant to an agreement in May 2001.

2. Plaintiffs brought this lawsuit based on Defendants' failure to discuss or disclose all information related to the settlement funds they received in settlement of Plaintiffs' cases to the Plaintiffs herein. Specifically, Defendants failed to inform their clients about the material terms of the settlement, the extent to which other plaintiffs participated in the settlement, the amount of funds deducted from settlement proceeds for attorneys' fees and expenses, the amount of funds that were not distributed to Plaintiffs, the fact that they established a corporation with settlement funds and the amount of settlement funds transferred to that corporation.

PARTIES

3. Plaintiff Mildred Abbott is a resident of Cawood, Kentucky and was a plaintiff in the *Moore* action.

4. Plaintiff Elizabeth Abney is a resident of Lexington, Kentucky and was a plaintiff in the *Moore* action.

5. Plaintiff Juanita Alton is a resident of Somerset, Kentucky and was a plaintiff in the *Moore* action.

6. Plaintiff JoAnn Alvey is a resident of Louisville, Kentucky and was a plaintiff in the *Moore* action.

7. Plaintiff Cindy Armstrong is a resident of Lexington, Kentucky and was a plaintiff in the *Moore* action.

8. Plaintiff Jody Baldridge is a resident of Lexington, Kentucky and was a plaintiff in the *Moore* action.

9. Plaintiff Lee Bartley, Jr. is a resident of Somerset, Kentucky and was a plaintiff in the *Moore* action.

10. Plaintiff Eleanor Berry is a resident of Ashland, Kentucky and was a plaintiff in the *Moore* action.
11. Plaintiff Margie Berry is a resident of McKee, Kentucky and was a plaintiff in the *Moore* action.
12. Plaintiff Easter Bishop is a resident of London, Kentucky and was a plaintiff in the *Moore* action.
13. Plaintiff Carol Boggs is a resident of Ironton, Kentucky and was a plaintiff in the *Moore* action.
14. Plaintiff Angie Bowman is a resident of Williamstown, Kentucky and was a plaintiff in the *Moore* action.
15. Plaintiff James Branham is a resident of Lexington, Kentucky and was a plaintiff in the *Moore* action.
16. Plaintiff Kathy Branham is a resident of Lexington, Kentucky and was a plaintiff in the *Moore* action.
17. Plaintiff Vicki Brewer is a resident of Kenvir, Kentucky and was a plaintiff in the *Moore* action.
18. Plaintiff Karen Brown is a resident of Lawrenceburg, Kentucky and was a plaintiff in the *Moore* action.
19. Plaintiff Deborah Browning is a resident of Barbourville, Kentucky and was a plaintiff in the *Moore* action.
20. Plaintiff Christina Bucher is a resident of Richmond, Kentucky and was a plaintiff in the *Moore* action.
21. Plaintiff Leslie Bullock is a resident of Somerset, Kentucky and was a plaintiff in the *Moore* action.

22. Plaintiff Judy Dile is a resident of Campbellsville, Kentucky and was a plaintiff in the *Moore* action.

23. Plaintiff Teresa Duff is a resident of Hazard, Kentucky was a plaintiff in the *Moore* action.

24. Plaintiff Susan Ezell is a resident of Carlisle, Kentucky and was a plaintiff in the *Moore* action.

25. Plaintiff Rhonda Franklin is a resident of Ashland, Kentucky and was a plaintiff in the *Moore* action.

26. Plaintiff Mary Frazier is a resident of Summer Shade, Kentucky and was a plaintiff in the *Moore* action.

27. Plaintiff Freda Frizzell a resident of Salt Lick, Kentucky and was a plaintiff in the *Moore* action.

28. Plaintiff Rhonda Hancock is a resident of Cadiz, Kentucky and was a plaintiff in the *Moore* action.

29. Plaintiff Barbara Hellmueller is a resident of Lexington, Kentucky and was a plaintiff in the *Moore* action.

30. Plaintiff Reva Helton is a resident of Lexington, Kentucky and was a plaintiff in the *Moore* action.

31. Plaintiff Lora Hoover is a resident of Williamstown, Kentucky and was a plaintiff in the *Moore* action.

32. Plaintiff Lorene Hutcherson is a resident of Somerset, Kentucky and was a plaintiff in the *Moore* action.

33. Plaintiff Gerry Jones is a resident of Somerset, Kentucky and was a plaintiff in the *Moore* action.

34. Plaintiff Betty Jordan is a resident of Lexington, Kentucky and was a plaintiff in the *Moore* action.

35. Plaintiff Katherine King is a resident of Richmond, Kentucky and was a plaintiff in the *Moore* action.

36. Plaintiff June McPhearson is a resident of Winchester, Kentucky and was a plaintiff in the *Moore* action.

37. Plaintiff Thelma Merida is a resident of Bimble, Kentucky and was a plaintiff in the *Moore* action.

38. Plaintiff Linda Miller is a resident of Maysville, Kentucky and was a plaintiff in the *Moore* action.

39. Plaintiff Nellie Miller is a resident of Paducah, Kentucky and was a plaintiff in the *Moore* action.

40. Plaintiff Leslie Minton is a resident of Cromwell, Kentucky and was a plaintiff in the *Moore* action.

41. Plaintiff Raymond Parker is a resident of Flatwoods, Kentucky and was a plaintiff in the *Moore* action.

42. Plaintiff Jessie Parsons is a resident of London, Kentucky and was a plaintiff in the *Moore* action.

43. Plaintiff Peggy Spears is a resident of Somerset, Kentucky and was a plaintiff in the *Moore* action.

44. Plaintiff Marjorie Sudduth is a resident of Frankfort, Kentucky and was a plaintiff in the *Moore* action.

45. Plaintiff Mildred Swanson is a resident of Cawood, Kentucky and was a plaintiff in the *Moore* action.

46. Plaintiffs Barbara Abel, Lisa Abraham, Pamela Abrams, Elizabeth Adams, Kathy Adams, Phyllis Adams, Ruby Adams, Ruby Adamson, Susan Adkins, Clantha Akers, Effie Alsip, Phyllis Applegate, Susan Arvin, Clara Atkinson, Karen Austin, Linda Back, Carla Baldwin, Jamie Bailey, Mary Ann Bailey, Vickie Bailey, Charlotte Baker and David Walker on behalf of The Estate of Lane Walker, Carol Barnes, on behalf of the Estate of Danny Abney Marilyn Barnes, Teresa Baumgardener, Melissa Faye Beamon, Linda Beggs, Patricia Belcher, Leisa Belding, Margaret Bingham, Emma Black, Janice Blair, Sharon Blair, Lori Boone, Kathy Bowling, Joie Botkins, Virginia Braden, LaDonna Brame, Ruby Branham, Brenda Bray, Norma Brewer, Alma Brock, Peggy Broughton, Barbara Brown, Joyce Brown, Sharon Brown, Sarah Balenovich on behalf of The Estate of Edith Browning, Billie Brumley, Nathaniel Brumfield, on behalf of the Estate of Wathalee Brumfield, Linda Brumley, Kimberly Brummett, Teresa Bruner, Patricia Bryant, Judy Bundy, Warren Burgess, Janice Burton, Tina Bush, Sherrie Butler, Donna Campbell, Loretta Canada, Buel Cantrell, Linda Carr, Tonya Carter, Wallace Carter, Charlotte Cason, Lisa Caudill, Connie Sue Centers, Tony Childress, Gloria Clark, William Clark, Rosemary Click, Pamela Clift, Danielle Clore, Allen Coker, Judy Coleman, Shirley Coleman, Tara Coleman, Debra Collier, Margaret Collier, Linda Collins, Opal Collins, Linda Colvin, Phyllis Combs, Carolyn Conley, James Cook, Ronnie Cook, Georgia Coots, Donna Muddiman-Cornish, Mark Cornn, Sandra Cotton, Nadine Couch, Joseph Cowley, Jo Ann Cox, Barbara Crain, Doris Creech, Deloris Criswell, Pamela Crowe, Tracy Curtis, Doris Dabney, Darby Daniels, Mary Daughterty, Elizabeth Davis, Sandra Davis, Kathy Lovan-Day, Karen Dean, Bobbie Deaton, Jan Delaney, Regina DeSpain, Gerry Dixon, Al Doser, Belva Dotson, Linda Dunaway, Ynetta Eckert, Martha Elliot, Tami Edwards-Engle, Sandra Erp, Charlotte Estep, Sarah Estes, Elizabeth Fannin, Janet Fentress, Haywood Ferguson on behalf of The Estate of Alma Ferguson, William Fitch, on behalf of the Estate of Sheila Fitch, Vickie Flannery, Paul Floyd, Bernita Flynn, Berenda Ford, Timothy Franklin, Essie Fredrick, Beulah Fugate, Clara Fulks, Patricia

Gaunce, Barbara Gay, Melissa Gayheart, Ken Gayheart, Crystal Seals-Gibson, Ginger Davidson-Gibson, James Gibson, on behalf of the Estate of Jessie Gibson, Joni Gibson, Tara Gifford, Gladys Gilbert, Stephanie Gist, Ruby Godbey, Eddie Golden, Debra Goode, Joyce Gordon, Patrick Graham, Tammie Grant, Amy Gray, Donna Green, Sherry Green, Janet Coons-Greene, Peggy Grigsby, Allie Hall, Norma Hall, Renee Hall, Shannon Hall, Barbara Hampton, Leona Gail Handley, Joyce Hanley, Rebecca Harris, Debra Harrison, Diane Harrison, Joy Hassler, Yolanda Hayden, Vikki Henley, Barbara Heizer, Wanda Helton, Bonnie Henderson, Gary Hendrickson, Vickie Henry, Marcus Highley, Charlene Hill, Karen Hillard, Janice Hilton, Linda Hinkle, Jacqueline Hocker, Gwen Holt, Tami Holt, Myra Hood, Vicky Hood, Evelyn Hopkins, Charlene Horn, Mary Horning, Cloyd Hoskins, Linda Hoskins, Mary Howard, Marilyn Howard, Toloria Howard, Donna Howser, Charlotte Hughes, Marcia Hughes, Margie Hulse, Sheila Humphreys, Margaret Hunt, Wanda Hunter, Brenda Hutchcraft, Katherine Hutchison, James Ingram, Emma Ison, Della Jackson, Betty Davidson, on behalf of the Estate of Evelyn Jackson, Katina Jackson, Mary Jackson, Linda James, Lynn Jefcoat, Debbie Jeffrey, Garnet Johnson, Ernestine Johnstone, April Slatten Jones, Franklin Jones, Judy Jones, Kathy Jones, Linda Jones, Marlene Jones on behalf of the Estate of Loretta Emond-Stidham, Troy Jones, Betty Kelly, Gerald King, Pattie Kitts, Betty Kluck, Lucille Krey, Bill Lady, on behalf of the Estate of Mary Lady, Linda Larkins, Emily Lewis, Beverly Little, Sandra Dee Littleton, Lois Lockard, on behalf of the Estate of Lloyd Lockard, Linda Long, Sherry Long, Nona Lucas, Charlotte Lush, Paula Mann, Pamela Marlowe, Arlene Marshall, Bobbie Martin, Linda Martin, Mary Martin, Connie Mason, Joni McClanahan, Karen Thompson McClain, Lavonna McDaniel, Connie McGirr, Linda Malone McGowan, Roberta McGuire, Tammy McGuire, Jacquelyn McMurty, Sheila Lynn Meece, Andrea Messamore, Wanda Metzger, Deloris Miller, Linda L. Miller, Orene Miller, Belinda Million, William Miracle on behalf of The Estate of Kathy Miracle, Beverly Mitchell, Eudora Montgomery, Ella Moore, on behalf of the Estate of Jonetta Moore, Margaret Moore, Rhonda

Moore, April Morris, Louisa Moss, Angela Lewis Mullinix, Aileen Mullins, Mary Napier, Wanda Faye Neace, Elizabeth Neal, Linda Nevels, Diana Newlin, Wilma Noe, Kathy Nolan, Sheila Nolan, Rita Profitt Norman, April Keltner Nuxoll, Rhonda Osburn, Glenora Pace, Bertha Pack, Louverna Parks, Myrtle Parris, Angela Peace, Judith Peck Wageman, Lisa Peek, Recie Pennington, Helen Perkins, Jeff Perkins, Stacy Perkins, Joy Perry, on behalf of the Estate of Milton Lewis, Doris Phelps, Norma Pickett, Sonja Pickett, Debra Bays-Plybon, Kathy Pollitte, Brian Powell, Glenna Brock-Powell, Mary P'Pool, Trena Preston, Suzanne Price, Lynne Pursel, Sharon Rainwater, Billie Reese, Brenda Rentas, on behalf of the Estate of Anthony Rentas, Arlie Rhodes, Evelyn Rhodes, Raymond Riley, Levetta Rivera, Odena Roaden, Billie June Roberts, Dyan Roberts, Michelle Sharpe Roberts, Patricia Roberts, Renee Roberts, Patricia Robinson, Fetina Robison, Carol Rogers, Cathy Rose, Vina Rose, Larry Roseberry, Jr. on behalf of the Estate of Larry Roseberry, Sr., Bobby Sallee, Mary Sams, Kathy Sands, Justus Scharold, Debbie Vogt Schneider, Maxine Seals, Monica Sexton, Terry Shanks, Margaret Sharon, Claudia Sebastian-Shepard, Debra Shepherd, Janet Short, Linda Caudill, on behalf of the Estate of Laureda Short, Monica Shuffett, Loretta Sidwell, Rosemary Godby-Simmons, Ada Sizemore, Carole Slone, Barbara Smith, Elaine Smith, Freda Smith, Wesley Smith on behalf of The Estate of Sharon Smith, Joe Ann Perkins Spencer, Cora Stapleton, Debbie Staton, Paul Stauffer, Corina Stearns, Connie Stephens, Nancy Stephens, Kathy Daniels-Stephenson, Iva Stevens, Sharon Stevenson, Marlene Stewart, Betty Stone, Lesta Irene Stout, Donna Stromowsky, Connie Sturgill, Shirley Sudduth, on behalf of the Estate of Marjorie Sudduth, Pam Sullivan and Sharon Stephens, on behalf of the Estate of Rebecca Lovell, Lisa Swiger, Ella Tackett, Patty Tackett, Priscilla Tafolla, Charles Tapley, Ella Taylor, Linda Taylor, Mary Taylor, Jeanne Thomas, Nancy Thompson, Lisa Thurman, Steve Toler on behalf of The Estate of Linda Toler, Roy Toler, Elizabeth Trent, Jenny Trimble, Joetta Tucker, Deborah Turner, Drucilla Turner, Marie Turner, Patricia Turner, Valorie Turner, Linda Vance, Bobbie Walker, Loraine Wallen, Cindy

Walters, Berry Ward, on behalf of the Estate of Martin Ward, Elizabeth Thompson-Washburn, Wanda Watkins, Cheryl Watson, Irene Wells, Joyce Goff Wells, Judy Whitaker, Kim White, Mary White, Patricia White, Catherine Whitlock, Joyce Whitt, Betty Widener, Peter Wilds, Carol Quisenberry-Williams, Todd Williams on behalf of The Estate of Gloria Williams, Bethany Willinger, Geneva Wilson, Robert Wilson, Melody Winer, Connie Wolfe, Bill Wombles, Amanda Edwards Wood, Artie Woods, Fern Wooten, Debora Wright, Edwina Wright, Roger Wright, Sandra Wright, Tammy Wright, Doyle Yancy, Sheila Yates and Sandra Zeman were Plaintiffs in the *Moore* action and are from the following cities in Kentucky: Argillite, Ary, Asher, Ashland, Bagdad, Beatyville, Beaver Dam, Berea, Big Stone Gap, Bledsoe, Bonnyman, Brooksville, Bulan, Burlington, Burnside, Busy, Butler, Campbellsville, Cave City, Caywood, Central City, Clay City, Coldiron, Columbia, Corbin, Corinth, Crab Orchard, Cumberland, Cynthiana, Danville, Eubank, Edyville, Elkhorn City, Emmalena, Eubank, Evarts, Ewing, Feds Creek, Flat Lick, Flatwoods, Flemingsburg, Florence, Fort Mitchell, Fort Wright, Frankfort, Fredonia, Garrett, Georgetown, Grand Rivers, Greenup, Hanson, Harlan, Harold, Harrodsburg, Hazard, Heidrick, Hopkinsville, Hudson, Hyden, Independence, Irvine, Jamestown, Jeffersonville, Jenkins, Kings Mountain, Kuttawa, LaGrange, Lancaster, Lawrenceburg, Lebanon, Lexington, Lily, Littcarr, London, Lost Creek, Louisa, Louisville, Lynch, Manchester, Mayfield, Maysville, Midway, Monticello, Morehead, Mount Edna, Mount Sterling, Mount Vernon, Mt. Washington, Mousie, Nancy, New Haven, Nicholasville, Nortonville, Olive Hill, Owensboro, Owingsville, Paducah, Paint Lick, Paris, Partridge, Pennington Gap, Pikeville, Pineville, Prestonsburg, Princeton, Quincy, Raceland, Richmond, Rush, Russell Springs, Salyersville, Science Hill, Smith, South Williamson, Somerset, Stamping Ground, Stanford, Stanton, Thealka, Thornton, Tompkinsville, Versailles, Virgie, Wallingford, Wallins Creek, West Liberty, White Plains, Whitesburg, Whitley City, Williamstown, Winchester, Wingo, Woodbine and Wooten. In addition to the Kentucky residents, there are Plaintiffs residing in Fayetteville, Arizona,

Fort Meyers, Florida, Largo, Florida, Ocala, Florida, Palm Bay, Florida, Zephyrhills, Florida, Douglasville, Georgia, Centralia, Illinois, Chicago, Illinois, Effingham, Illinois, Macedonia, Illinois, Olney, Illinois, Maple Grove, Minnesota, Las Vegas, Nevada, Kernersville, North Carolina, Cincinnati, Ohio, Dayton, Ohio, Fairborn, Ohio, Ironton, Ohio, Miamisburg, Ohio, West Union, Ohio, Maine, Miami, Oklahoma, Leesville, South Carolina, Collierville, Tennessee, New Tazewell, Tennessee, Red Boil Springs, Tennessee, St. Charles, Virginia, Pound, Virginia, Rose Hill, Virginia, New Haven, West Virginia and Pineville, West Virginia.

47. Defendant Stanley M. Chesley (“Defendant Chesley”) is an attorney licensed in the Commonwealth of Kentucky with his principal place of business located at 1513 Fourth & Vine Tower, One West Fourth Street, Cincinnati, Ohio, 45202.

48. Defendant Shirley A. Cunningham, Jr. (“Defendant Cunningham”) is an attorney licensed in the Commonwealth of Kentucky, with his principal place of business located at the Law Offices of Shirley Allen Cunningham, Jr., 3101 Richmond Road, Lexington, Kentucky 40509.

49. Defendant William J. Gallion (“Defendant Gallion”) is an attorney licensed in the Commonwealth of Kentucky, with his principal place of business located at Barrister Hall, Gallion & Associates, 163 Main Street, Lexington, Kentucky 40507.

50. Defendant Melbourne Mills, Jr. (“Defendant Mills”) is an attorney licensed in the Commonwealth of Kentucky, with his principal place of business located at Barrister Hall, 163 East Main Street, Lexington, Kentucky 40507.

51. Defendant The Kentucky Fund for Healthy Living, Inc., is a Kentucky corporation, whose officers and directors include Defendants Cunningham, Gallion and Mills, with its principal place of business located at 130 Dudley Road, Edgewood, Kentucky 41017. Its

agent for service of process at is J. Whitney Wallingford, 3141 Beaumont Centre Circle, Suite 302, Lexington, Kentucky 40513.

JURISDICTION AND VENUE

52. Defendants Gallion and Mills reside in Fayette County, Kentucky. During the relevant time period, Defendants Cunningham, Gallion, and Mills all practiced law through professional business entities located in Fayette County, Kentucky. Defendant Chesley was co-counsel in the *Moore* action and represented plaintiffs, many of whom resided or still reside in Fayette County, Kentucky. The Kentucky Fund for Healthy Living, Inc.'s principal place of business was in Fayette County, Kentucky.

53. The damages that are the subject matter of this Complaint exceed the jurisdictional minimum of this Court.

THE BOONE COUNTY ACTION

54. American Home Products Corporation, through two of its divisions, Wyeth-Ayerst Laboratories and A.H. Robins Company, manufactured and distributed the diet drug combination popularly known as Fen-Phen.

55. Fen-Phen was prescribed by physicians and distributed to thousands of Kentuckians during the mid-1990's until the product was discovered to cause heart damage and was removed from the market by the Food and Drug Administration in September 1997.

56. All of the plaintiffs were prescribed Fen-Phen, and upon information and belief, were required to undergo medical testing to prove physical injury.

57. The heart damage sustained by plaintiffs as a direct result of ingesting the prescription drug Fen-Phen varies and includes heart valve disease with aortic, tricuspid and mitral insufficiency, atrial enlargement, ventricular hypertrophy, pulmonic insufficiency, cardiomyopathy, diastolic dysfunction and death.

58. In July 1998, Defendants Cunningham, Gallion and Mills filed a class action on behalf of five individuals against American Home Products Corporation for past and future medical expenses, physical injuries, pain and suffering and economic loss and punitive damage sustained as a result of illness from ingesting the diet drug Fen-Phen. Defendants' class action complaint asserted claims for medical monitoring, bodily injury, strict products liability, negligence, breach of express warranty by the distributing Defendants Duff & Bariatrics, breach of implied warranty by the distributing Defendants Duff & Bariatrics, fraud, active concealment and non-disclosure, violation of the Kentucky Consumer Protection Act and medical malpractice by Bariatrics, Inc. of Kentucky and Dr. Rex Duff.

59. Upon information and belief, the action was certified as a class on May 5, 1999.

60. Upon information and belief another similar action filed in Boone County by Defendant Chesley on July 30, 1999, styled Courtney, et al. v. American Home Products Corporation, et al., Civil Action No. 99-CI-84 and was consolidated with the *Moore* action on December 8, 1999 upon Motion by Defendant Chesley.

61. Upon information and belief, lawsuits filed in federal courts from around the country were transferred to an MDL court in the Eastern District of Pennsylvania and, on or about November 18, 1999 a National Class Action Settlement Agreement was entered into and approved by the presiding judge, on or about August 28, 2000.

62. According to court records, Defendants Chesley, Cunningham, Gallion, and Mills (hereinafter referred to collectively as "the Attorney Defendants") continued to represent individuals who remained members of the national class action while also representing the plaintiffs in the *Moore* action who opted out of the national class action.

THE SETTLEMENT, DISMISSAL AND DECERTIFICATION

63. The Boone County action was mediated on April 30 and May 1, 2001 and the mediation resulted in an agreed-upon settlement for 440 plaintiffs.

64. By Order entered May 16, 2001, a copy of which is attached as Exhibit A to this Complaint, the Court dismissed the *Moore* Action and also decertified the class.

65. Upon information and belief, settlement funds were distributed to the plaintiffs over the course of several months following the mediation date.

SETTLEMENT FUNDS MISAPPROPRIATED

66. Nearly a year later, in a June 6, 2002 Order, a copy of which is attached as Exhibit B to this Complaint, the Court states that it retained jurisdiction over the action to “oversee the handling and distribution of settlement funds” and ordered the Clerk of the Court to seal all further orders and to provide copies only to an amended service list of five attorneys that included the Attorney Defendants.

67. In another Order entered June 6, 2002 (signed February 15, 2002), a copy of which is attached as Exhibit C to this Complaint, the Court stated that the Final Settlement and Dismissal authorized the Attorney Defendants to allocate funds to individuals and to retain funds for any “anticipated and unanticipated contingencies and liabilities,” approved an accounting of settlement proceeds, including attorneys’ fees and expenses; Ordered that 50% of the remaining funds be distributed to Plaintiffs on a pro rata basis and 50% be retained by the Attorney Defendants for “indemnification or contingent liabilities.”

68. No statement or accounting of settlement funds or attorneys’ fees and expenses, pursuant to the Court’s June 6, 2002 Order, appears in the record and no “indemnification or

contingent liabilities” have ever been identified by the defendants.

69. On or about March 2002, plaintiffs received a second settlement check.

70. In an Order dated July 31, 2002, a copy of which is attached as Exhibit D to this Complaint, the Court stated that it had again received an accounting of funds and was “**advised of the consent of the individual plaintiffs who received settlements for use of the remaining funds for charitable purposes**” (emphasis added) and Ordered that “Ten percent (10%) of the remaining funds shall be set aside to pay all outstanding litigation and administrative expenses” and defendants are to be reimbursed for “claims or suits” brought within the time frame referred to in the Final Settlement and Dismissal and “side letter.”

71. The record of the *Moore* Action does not contain a statement or accounting of the outstanding expenses as of July 31, 2002 or a statement or accounting of any claims or suits paid by defendants pursuant to the terms of the Final Settlement and Dismissal and “side letter.”

The “side letter” does not appear in the public record.

THE TRUST/NON PROFIT CORPORATION

72. In its July 31, 2002 Order, the Court further ordered that all remaining settlement funds be placed in a trust and further stated that 5% of the assets may be used for the expense of establishing the trust and up to “**30% of the assets available for distribution on an annual basis shall be used to pay fees and expenses incurred by the trustees.**” (emphasis added).

73. On or about January 13, 2003, the Court entered an Amended Order, a copy of which is attached as Exhibit E to this Complaint, that authorized the transfer of remaining settlement funds to a trust or nonprofit corporation and listed all of the appointed members of the Board of Directors: Defendants Cunningham, Gallion, and Mills and another individual, Mark Modlin.

74. Upon information and belief, Mr. Modlin is a trial consultant retained by the Attorney Defendants and a personal friend of the presiding Judge in the *Moore* Action.

75. On or about January 23, 2003 a non profit corporation, The Kentucky Fund for Healthy Living, Inc. was registered with the Secretary of State by the Defendants as a 501(c)(3) corporation.

76. On or about December 19, 2003, Defendants Cunningham, Gallion, and Mills filed a Motion requesting that the Court relinquish its jurisdiction over the non profit corporation, The Kentucky Fund for Healthy Living, Inc.. By Order entered on December 30, 2003, a copy of which is attached as Exhibit F to this Complaint, the Court granted the Motion.

77. The record of the *Moore* Action does not contain a statement of the amount of funds transferred to The Kentucky Fund for Healthy Living, Inc., or a statement or accounting of the use of funds, and none was provided to the Plaintiffs.

78. Upon information and belief, approximately **\$20 million remained** in The Kentucky Fund for Healthy Living at the time the initial Complaint was filed in this case.

GENERAL FACTUAL ALLEGATIONS

79. The Attorney Defendants negotiated an aggregate-lump sum Settlement Agreement with American Home Products on behalf of Plaintiffs and then, in accordance with the terms of the settlement agreement, allocated the aggregate Settlement Amount among Plaintiffs in fixed dollar amounts as reflected in Exhibit 3 to the Settlement Agreement.

80. Without informing Plaintiffs of the terms of the Settlement Agreement, their allocation of the aggregate Settlement Amount, the allocation to any of the other Plaintiffs, or the manner in which Plaintiffs' individual "settlement offers" were calculated, and, in many cases after

affirmatively misrepresenting the terms of the Settlement Agreement, e.g., by informing Plaintiffs that a given amount, which was only a fraction of the actual allocated amount, was the best result that they could obtain, The Attorney Defendants “negotiated” settlements with Plaintiffs that were substantially smaller than the previous allocations.

81. Upon information and belief, the Attorney Defendants, personally or through their agents, made additional affirmative misrepresentations by informing many Plaintiffs that they could go to jail, or could be fined and forced to return their settlement funds, if they discussed the fact or terms of their settlement with anyone, including spouses and adult children.

82. Plaintiffs received \$71,165,015.13 of the total Settlement Proceeds.

83. The record of the Boone County Action does not contain an accounting of the attorneys’ fees and expenses, and the Attorney Defendants failed to provide individual Plaintiffs with such an accounting.

84. Each of the Attorney Defendants personally received and/or exercised dominion and control over Settlement Proceeds in amounts in excess of his contracted-for fee.

85. Plaintiffs did not give informed consent to the creation of a non-profit corporation with settlement funds and were never advised of the amount of funds transferred to The Kentucky Fund for Healthy Living which was created, managed and controlled by the Attorney Defendants.

CLASS ACTION ALLEGATIONS

86. This action is brought pursuant to CR 23 on behalf of all individuals who were members of the settlement class action styled Johnetta Moore, et. al, v. A. H. Robins, et. al., 98-CI-795. Plaintiffs seek, among other things, disclosure of all settlement terms, disclosure of all settlement funds received by the Defendants and the uses of those funds, for themselves and on

behalf of all individuals who were members of that class action.

87. The named Plaintiffs, including those who would serve as representative Plaintiffs, are members of the settlement class they seek to represent. The members of the class are so numerous that joinder is impractical as it would involve over 440 individual litigants.

88. The class should be certified pursuant to CR 23 of the Kentucky Rules of Civil Procedure because the claims herein are common to all members of the class in this action and because individual complaints may result in inconsistent or varying adjudications. The named Plaintiffs, including those who would serve as representative Plaintiffs, have been subject to the same or similar settlement and post-settlement practices that affect each class member. The claims of the named Plaintiffs are typical of those of the class which they seek to represent. The class representatives who are designated will fairly and adequately represent the class and will be dedicated to recovering, for all Plaintiffs, any settlement funds that were utilized for any unauthorized purpose. Those Plaintiffs will vigorously prosecute the claims of all class members and pursue the interests of the class members as a whole.

89. There are questions of fact and law common to the class which predominate over any questions affecting only individual members. These predominating questions include, but are not limited to:

Whether or not the settlement information provided to all plaintiffs was accurate and complete.

Whether the Defendants breached their ethical, fiduciary and professional duties to the Plaintiffs.

Whether the Plaintiffs are entitled to a complete accounting of all settlement funds, including fees and expenses paid to the Defendants and copies of all settlement documents.

Whether the Plaintiffs are entitled to recover settlement funds diverted for improper or unauthorized purposes.

Whether the formation of The Kentucky Fund for Healthy Living and the handling of

funds placed with the corporation was appropriate or in the best interest of the Defendants former clients.

Whether the plaintiffs are entitled to an accounting of the settlement funds transferred to the non profit corporation, The Kentucky Fund for Healthy Living, owned and operated by the defendants.

90. The claims of the named Plaintiffs, including those who would serve as representative Plaintiffs, are typical of the claims of the class members in that all of the members of the class are entitled to an accounting of the settlement funds, information related to the settlement process and negotiations and recovery of all funds improperly and unlawfully diverted for unauthorized purposes.

91. A class action is a superior and an appropriate method for the fair and efficient adjudication of the claims asserted in this Complaint. Upon certification and designation of class representatives, named Plaintiffs who are not class representatives would participate in the action only as members of the class certified rather than with any individual rights or responsibilities.

SPECIFIC ALLEGATIONS

92. Plaintiff Mildred Abbott was not informed of the manner in which her settlement amount was decided upon and was never informed that she had a right to opt out of the settlement. Ms. Abbott was informed that there may be “some money left, not enough to go around” and that those funds were “going to be put in charity.” Ms. Abbott received two settlement checks although she was never told to expect a second check. Ms. Abbott was not asked to consent to funds being donated to charity and was never informed that a nonprofit corporation was established by the Defendants with settlement funds. Ms. Abbott was never informed of the amount of settlement funds paid by the pharmaceutical companies in the *Moore* Action. Ms. Abbott was not given a copy of her settlement agreement and the terms were not reviewed with her. Ms. Abbott was warned that

she could not discuss the fact that she had settled her case or the amount of her settlement. She was not advised that any expenses were deducted from her settlement funds.

93. Plaintiff Elizabeth Abney never met or talked with an attorney. After responding to an advertisement and becoming a plaintiff in the *Moore* Action, she did not hear anything from her attorney's office for two years unless she initiated a phone call. She was never informed of the manner in which her settlement amount was decided upon and was never informed that she had a right to opt out of the settlement. Ms. Abney was not asked to consent to funds being set aside for charitable or any other purpose. She was never informed that a nonprofit corporation was established by the defendants with settlement funds. Ms. Abney was never informed of the amount of settlement funds paid by the pharmaceutical companies in the *Moore* Action. Ms. Abney was not given a copy of her settlement agreement and the terms were not reviewed with her. Ms. Abney was warned that she could not discuss the fact that she had settled her case or the amount of her settlement. In September 2004, Ms. Abney requested a copy of her settlement agreement and she was told that it was a confidential document and that it could not be released and that she could lose her settlement funds if it was disclosed to anyone. Ms. Abney received one settlement check. She was not advised that any expenses were deducted from her settlement funds.

94. Plaintiff Juanita Alton never met with or talked to an attorney. She was never informed of the manner in which her settlement amount was decided upon and was never informed that she had a right to opt out of the settlement. Ms. Alton was told by an assistant

from her attorney's office at the time she was presented with settlement papers that the settlement was confidential and that she "could not talk about it or tell anyone she got a settlement." She was told the settlement was confidential "because it would ruin the company's name and they did not want anyone to know they had been sued." She was not told that there would be a second distribution of settlement funds but received a call and was told to come to Lexington and that it would be "well worth a trip." At that time, she was presented with a second settlement check and was told "this is the end of the settlement money" and that the attorneys had a "little bit" of money left over that would be donated to a charity of their choice since it was too small an amount to distribute. She was not asked to consent to any settlement funds being donated to charity. She was never informed that a nonprofit corporation was established by the Defendants with settlement funds. Ms. Alton was never informed of the amount of settlement funds paid by the pharmaceutical companies in the *Moore* Action. Ms. Alton was not given a copy of her settlement agreement and the terms were not reviewed with her. Ms. Alton received two settlement checks. She was not advised that any expenses were deducted from her settlement funds.

95. Plaintiff JoAnn Alvey never met with an attorney. She was never told to expect a second check after receiving her first settlement check but received a phone call and was asked to come to an office in downtown Lexington. She was told that the attorneys were "going through their books again and found some more money." She was never informed of the manner in which her settlement amount was decided upon and was never informed that she had

a right to opt out of the settlement. She was very surprised at the small amount of her settlement since it barely covered her accumulated medical expenses at the time. The person she was meeting with told her he had a full time job and was working for the attorneys on the side. Ms. Alvey was told by that person that there were funds remaining that amounted to a "pittance" that would be given to a "charity of their choice." She was never informed that a nonprofit corporation was established by the Defendants with settlement funds. Ms. Alvey was never informed of the amount of settlement funds paid by the pharmaceutical companies in the *Moore* Action. Ms. Alvey was not given a copy of her settlement agreement. She was told "never to discuss what she received" and that "this is our secret." Ms. Alvey received two settlement checks. She was not advised that any expenses were deducted from her settlement funds.

96. Plaintiff Cindy Armstrong was never informed of the manner in which her settlement amount was decided upon and was never informed that she had a right to opt out of the settlement. She was told that there may be a "very little" amount of settlement funds left over and she agreed to donate the funds, assuming it was "less than \$100.00." She was never informed that a nonprofit corporation was established by the Defendants with settlement funds and would not have agreed to a larger donation to charity. She was never informed of the amount of settlement funds paid by the pharmaceutical companies in the *Moore* Action. Ms. Armstrong was not given a copy of her settlement agreement and the terms were not reviewed with her. Ms. Armstrong received one settlement check. She was not advised that any expenses were deducted from her funds.

97. Plaintiff Jody Baldrige was never informed of the manner in which his settlement amount was decided upon and was never informed that he had a right to opt out of the settlement. His settlement meeting lasted five minutes and he recalls being surprised that they did not even check his identification before giving him a check. He does not recall anything being mentioned about additional funds or any settlement funds being donated to charity or used for any other purpose. He was never informed that a nonprofit corporation was established by the Defendants with settlement funds. He was never informed of the amount of settlement funds paid by the pharmaceutical companies in the *Moore* Action. Mr. Baldrige was not given a copy of his settlement agreement and the terms were not reviewed with him. Mr. Baldrige received one settlement check. He was not advised that any expenses were deducted from his settlement funds.

98. Plaintiff Lee Bartley never met or talked with an attorney. The only Correspondence he received was for a release of his medical records and a request for him to get a physicians' evaluation. He was never informed of the manner in which his settlement amount was decided upon and was never informed that he had a right to opt out of the settlement. At the time he picked up a second check he was told that there was a small amount of money left over and that the attorneys were "asking that you contribute what was left over to charity". He was led to believe that the amount was very small. Afterward, Mr. Bartley thought it strange that an attorney would ask a client to donate funds to charity and that he was never told how much money was involved or to which charity it would be donated. He was never informed that

a nonprofit corporation was established by the defendants with settlement funds. He was never informed of the amount of settlement funds paid by the pharmaceutical companies in the *Moore* Action. Mr. Bartley was not given a copy of his settlement agreement and the terms were not reviewed with him. Mr. Bartley received two settlement checks. He was not advised that and expenses were deducted from his settlement funds.

99. Plaintiff Margie Berry was too afraid to comment on her settlement experience saying she had been "scared to death". Later, she wanted to talk to an attorney because her "fear had weighed on her" for too long and because she believes her attorneys' conduct "harmed her health" by threatening her with going to jail. At the time she settled her case she was told she could not say anything about her settlement, even to her family. She was told that she could go to jail and would be fined if she told anyone. Ms. Berry developed serious heart problems from taking the diet drug and did not believe she was well compensated and felt her attorneys were "blackmailing her" when she settled her case. Nothing was mentioned to her about funds being donated to charity. She was never informed that a nonprofit corporation was established by the defendants with settlement funds. She was never informed of the amount of settlement funds paid by the pharmaceutical companies in the *Moore* Action. She was not given a copy of her settlement agreement and the terms were not reviewed with her. Ms. Berry received two settlement checks. She was not advised that any expenses were deducted from her settlement funds.

100. Plaintiff Eleanor Berry was never informed of the manner in which her settlement amount was decided upon and was never informed that she had a right to opt out of the settlement. She was informed that there may be a "small amount of money left over", maybe

"\$25.00", that may be donated to charity. Ms. Berry was never informed that a nonprofit corporation was established by the Defendants with settlement funds. Ms. Berry was never informed of the amount of settlement funds paid by the pharmaceutical companies in the *Moore* Action. Ms. Berry was not given a copy of her settlement agreement and the terms were not reviewed with her, except that she was "warned not to tell anyone" and if she did she was told she "may have to forfeit" what she got. She received two settlement checks. She was not advised that any expenses were deducted from her settlement funds.

101. Plaintiff Easter Bishop was never informed of the manner in which her settlement amount was decided upon and was never informed that she had a right to opt out of the settlement. She was never informed that a nonprofit corporation was established by the Defendants with settlement funds. Ms. Bishop was never informed of the amount of settlement funds paid by the pharmaceutical companies in the *Moore* Action. Ms. Bishop was not given a copy of her settlement agreement and the terms were not reviewed with her. She received one settlement check. She was not advised that any expenses were deducted from her settlement funds.

102. Plaintiff Carol Boggs was never informed of the manner in which her settlement amount was decided upon and was never informed that she had a right to opt out of the settlement. There was "no discussion of how much the overall settlement was and how it was divided". She was told that she got "less than others because of her age, since she would have less time to enjoy it". Ms. Boggs was told that things were "under a gag order" and that she could "be fined and would have to give the money back if she talked about the settlement". She

was told that the drug companies required it because "if they ever sold their company they did not want the bad publicity". She was told that if she discussed the settlement, she could be 'fined and forced to repay the settlement or go to jail". She was never informed that a nonprofit corporation was established by the Defendants with settlement funds. Ms. Boggs was never informed of the amount of settlement funds paid by the pharmaceutical companies in the *Moore* Action. Ms. Boggs was not given a copy of her settlement agreement and the terms were not reviewed with her. She received two settlement checks. She was not expecting a second check but received a call asking her to meet her at a mall in Ashland by the Information Center. The caller would not tell her the reason for the meeting but said it "wasn't anything bad but that it could not be discussed on the phone because of the gag order. Ms. Boggs was not advised that any expenses were deducted from her settlement funds.

103. Plaintiff Angie Lynn Bowman was never told to expect a second check after receiving her first settlement check but received a phone call and was asked to come to an office in downtown Lexington. Her sister was also a plaintiff and was told, when they came together, that she could not accompany her when she signed her settlement agreement. She specifically asked what amount of money the pharmaceutical companies had agreed to pay in the overall case and how many people were involved in the case and was told she was not entitled to know that information because it was confidential. She recalls being told money would be set aside for future claims but does not recall the reason and was told that, if any was left, it would be distributed. She was not told that any funds would be donated to charity. She was never

informed that a nonprofit corporation was established by the defendants with settlement funds. Ms. Bowman was not given a copy of her settlement agreement. She was not advised that any expenses were deducted from her settlement funds.

104. Plaintiff James Branham was not informed of the manner in which his settlement amount was decided upon and was not informed that he had a right to opt out of the settlement. He was not given a copy of his settlement agreement and the terms were not reviewed with him although he was warned not to discuss the settlement. He has a vague recollection that he was told that there may be some settlement funds left over that may be given to charity but he was not asked to approve any donation. In April 2004, he was contacted by an investigator for the Kentucky Bar Association about the case. He was never informed that a nonprofit corporation was established by the defendants with settlement funds and was never informed of the amount of settlement funds paid by the pharmaceutical companies in the *Moore* Action. Mr. Branham received two settlement checks. He was not advised that any expenses were deducted from his settlement funds.

105. Plaintiff Kathy Branham was never informed of the manner in which her settlement amount was decided upon and was never informed that she had a right to opt out of the settlement. She was not given a copy of her settlement agreement and the terms were not reviewed with her. She was never informed that a nonprofit corporation was established by the defendants with settlement funds and was never informed of the amount of settlement funds paid by the pharmaceutical companies in the *Moore* Action. Ms. Branham received two

settlement checks. She was not advised that any expenses were deducted from her settlement funds.

106. Plaintiff Christina Bucher was not informed of the manner in which her settlement amount was decided upon and was not provided with a copy of her settlement agreement. Ms. Bucher does not recall anything being said about a donation to charity and did not approve any. She was not provided with a copy of her settlement agreement and was not advised that any expenses were deducted from her settlement funds. She received one settlement check.

107. Plaintiff Leslie Bullock was not informed of the manner in which her settlement amount was decided upon and was not provided with a copy of her settlement agreement. Ms. Bullock was not asked to approve any donation to charity does not recall anything being said about a donation to charity. She was not provided with a copy of her settlement agreement and was not advised that any expenses were deducted from her settlement funds. She received two settlement checks.

108. Plaintiff Judy Dile was not informed of the manner in which her settlement amount was decided upon and was not provided with a copy of her settlement agreement. The terms of her settlement agreement were not reviewed with her except she was warned not to discuss the terms of her settlement agreement. Nothing about money being donated to charity was mentioned to her. Ms. Dile was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Dile received two settlement checks. She was not informed that any expenses

were deducted from her settlement funds.

109. Plaintiff Susan Ezell never met with an attorney. She was not informed of the manner in which her settlement amount was decided upon and was not informed that she had a right to reject the settlement offer and proceed to trial. When she signed her settlement agreement, she asked for a copy but her request was denied. She was told there could be "no paper trail" and no one could know about the settlement. She wanted her son in the room with her to review her settlement agreement and her request was refused. A donation to charity was never discussed with her and she would "absolutely not" have agreed to that suggestion. She received two settlement checks. She was not informed that any expenses were deducted from her settlement funds.

110. Plaintiff Rhoda Franklin was not informed of the manner in which her settlement amount was decided upon and was not informed that she had a right to reject the settlement offer and proceed to trial. A donation to charity was mentioned but Ms. Franklin indicated that a donation would be acceptable only if it was a small amount. The terms of her settlement agreement were not reviewed with her except she was warned not to discuss the settlement. She was not given a copy of her settlement agreement. Ms. Franklin was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Franklin received two settlement checks. She was not informed that any expenses were deducted from her settlement funds.

111. Plaintiff Mary Frazier never met with an attorney. She was not informed of the

manner in which her settlement amount was decided upon and was not informed that she had a right to reject the settlement offer and proceed to trial. A donation to charity was never discussed with her. The terms of her settlement agreement were not reviewed with her. Ms. Frazier was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Frazier received one settlement check. She was not informed that any expenses were deducted from her settlement funds.

112. Plaintiff Freda Frizzell never met with an attorney. When her case was settled she asked to have her son with her because she is 72 years old and on medication. She was told he could not be with her unless he had a power of attorney. When she said she would give him a power of attorney right then, he was allowed in the room with her. She was not informed of the manner in which her settlement amount was decided upon. She was not asked to approve a donation to charity but vaguely recalls being told that if "a few hundred dollars" was left over it would be given to charity. The terms of her settlement agreement were not reviewed with her, other than being warned not to discuss the settlement and she was not given a copy of the agreement. Ms. Frizzell was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Frizzell received two settlement checks. She was not informed that any expenses were deducted from her settlement funds.

113. Plaintiff Rhonda Hancock never met with an attorney. She was not informed of

the manner in which her settlement amount was decided upon. She was informed that "there may be additional money and that they may want to donate it to charity". She asked how much they were talking about and informed them she "would want to know if it was over \$100.00." She was told she would be called but never was. The terms of her settlement agreement were not reviewed with her and she was not given a copy. Ms. Hancock was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Hancock received two settlement checks. She was not informed that any expenses were deducted from her settlement funds.

114. Plaintiff Barbara Hellmueller never met with an attorney. She was not informed of the manner in which her settlement amount was decided upon. The terms of her settlement agreement were not reviewed with her and she was not given a copy of her settlement agreement. She was not asked and did not consent to any funds being donated to charity but recalls being told that some funds were being donated to charity. Ms. Hellmueller was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Hellmueller received two settlement checks. She was not informed that any expenses were deducted from her settlement funds.

115. Plaintiff Reva Helton never met with an attorney. She was not informed of the manner in which her settlement amount was decided upon. The terms of her settlement agreement were not reviewed with her and she was not given a copy of her settlement

agreement. She was not asked and did not consent to any funds being donated to charity. Ms. Helton was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Helton received one settlement check. She was not informed that any expenses were deducted from her settlement funds.

116. Plaintiff Lora Hoover was not informed of the manner in which her settlement amount was decided upon. The terms of her settlement agreement were not reviewed with her and she was not given a copy of her settlement agreement. She was not asked and did not consent to any funds being donated to charity. Ms. Hoover was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Hoover received two settlement checks. She was not informed that any expenses were deducted from her settlement funds.

117. Plaintiff Lorene Hutcherson was not informed of the manner in which her settlement amount was decided upon. The terms of her settlement agreement were not reviewed with her and she was not given a copy of her settlement agreement. She was not asked and did not consent to any funds being used for charitable purposes although she was told that if there were any funds remaining they may be donated to charity. Ms. Hutcherson was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Hutcherson received two settlement checks. She was not informed that any expenses were deducted from her settlement

funds.

118. Plaintiff Gerry Jones never met with an attorney. She was not informed of the manner in which her settlement amount was decided upon. The terms of her settlement agreement were not reviewed with her, other than being warned that she could be fined for disclosing the fact that she got a settlement or the amount. She was told "not to even answer if they called by saying anything but yes or no" because "the phones might be bugged". When she later received a phone call to come to a meeting, she was told they could not tell her the reason for the meeting over the phone but that she "would be happy". When she arrived at the meeting, she was given a second check. She was not given a copy of her settlement agreement. Ms. Jones was not asked and did not consent to any funds being donated to charity although she recalls something being said about that possibility. Ms. Jones was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Jones received two settlement checks. She was not informed that any expenses were deducted from her settlement funds.

119. Plaintiff Betty Jordon was not informed of the manner in which her settlement amount was decided upon. The terms of her settlement agreement were not reviewed with her and she was not given a copy of her settlement agreement. She was told that if funds were left over they may be donated to charity. Ms. Jordon refused to consent to a donation saying she "would not consent to any funds going to anyone" but herself. She called many times over the course of a year asking if there were additional funds to distribute and was told nothing was

known. Ms. Jordon was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Jordon received two settlement checks. She was not informed that any expenses were deducted from her settlement funds.

120. Plaintiff Katherine King was not informed of the manner in which her settlement amount was decided upon. The terms of her settlement agreement were not reviewed with her and she was not given a copy of her settlement agreement. She was not informed of any settlement funds being donated for charity. Ms. King was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. King received two settlement checks. She was not informed that any expenses were deducted from her settlement funds.

121. Plaintiff June McPhearson turned down the settlement amount initially offered to him. When a paralegal mentioned the possibility of settlement funds being donated to charity he responded "I have my own charities" and refused for any of his funds to be donated by counsel. Mr. McPhearson was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. McPhearson received two settlement checks. He was not informed that any expenses were deducted from his settlement funds. Mr. McPhearson was contacted by an investigator for the Kentucky Bar Association about the case months ago.

122. Plaintiff Linda Miller was not informed of the manner in which her settlement

amount was decided upon. The terms of her settlement agreement were not reviewed with her and she was not given a copy of her settlement agreement. She did not authorize any donation to charity but recalls being told that if the attorneys decided to do that they would "send something in the mail". She was never contacted. Ms. Miller was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Miller received two settlement checks. She was not informed that any expenses deducted from her settlement funds.

123. Plaintiff Jessie Parsons was not informed of the manner in which her settlement amount was decided upon. The terms of her settlement agreement were not reviewed with her and she was not given a copy of her settlement agreement. She was not told of any donation to charity. Ms. Parsons was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Parsons received two settlement checks. She was not informed that any expenses were deducted from her settlement funds.

124. Plaintiff Peggy Spears was not informed of the manner in which her settlement amount was decided upon. The terms of her settlement agreement were not reviewed with her, except for the need to keep everything confidential. She was not given a copy of her settlement agreement. She was told that there may be a small amount of funds left over and she consented to a donation if it was "under \$10.00 to \$15.00". Ms. Spears was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Spears received two settlement checks. She

was not informed that any expenses were deducted from her settlement funds.

125. Plaintiff Marjorie Sudduth was not informed of the manner in which her settlement amount was decided upon. The terms of her settlement agreement were not reviewed with her and she was not given a copy of her settlement agreement. When she received a call to come to a meeting after receiving the first check, the caller would not tell her the reason for the meeting. She was not asked to consent to a donation to charity but was told that if there were any additional funds it would be "a very small amount and would be donated to charity. Ms Sudduth was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Sudduth received two settlement checks. She was not informed that any expenses were deducted from her settlement funds.

126. Plaintiff Thelma Merida never met with an attorney. She was not informed of the manner in which her settlement amount was decided upon and rejected the first settlement offer. The terms of her settlement agreement were not reviewed with her and she was not given a copy of her settlement agreement. Nothing about settlement funds being donated to charity was discussed with her. Ms. Merida was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Merida received two settlement checks. She was not informed that any expenses were deducted from her settlement funds.

127. Mildred Swanson was not informed of the manner in which her settlement amount

was decided upon. The terms of her settlement agreement were not reviewed with her and when she asked for a copy, her request was denied. She was not asked to donate funds to charity but was told that the judge approved a donation. She was not informed of the total amount of the settlement with the pharmaceutical companies and was not informed of the creation of a trust or nonprofit corporation. Ms. Swanson received one settlement check. She was not informed that any expenses were deducted from her settlement funds.

128. Plaintiff Vickie Brewer was never asked to assist with, approve or comment on any issues related to the *Moore* Action and was never informed of any responsibilities as a class representative. Ms. Brewer was told she could not discuss her settlement with anyone and was not provided with a copy of her settlement records. Ms. Brewer was never informed that any settlement funds would be donated to charity and never approved the establishment of a trust or nonprofit corporation for charitable or other purposes. Ms. Brewer was never informed of the total amount of settlement funds paid by the pharmaceutical companies in the *Moore* Action, was never involved in the negotiations related to her settlement or informed of the manner in which her settlement amount was decided upon and was never informed of her right to reject the settlement offer. Ms. Brewer did not have an adequate opportunity to review her settlement agreement and the terms were not reviewed with her by counsel. Ms. Brewer received one settlement check. She was not advised of any expenses deducted from her settlement funds.

129. Plaintiff Karen Brown never met with an attorney, was never informed of the manner in which her settlement amount was decided upon and was never informed that she had

a right to opt out of the settlement. Ms. Brown was informed that there may be some "additional funds" amounting to "a couple of dollars" that may be donated to charity. Ms. Brown was not asked to consent to funds being donated to charity and was never informed that a nonprofit corporation was established by the defendants with settlement funds. Ms. Brown was never informed of the amount of settlement funds paid by the pharmaceutical companies in the Moore Action. Ms. Brown was not given a copy of her settlement agreement and the terms were not reviewed with her. Ms. Brown was warned that she could not discuss the fact that she had settled her case or the amount of her settlement. Ms. Brown received two settlement checks. She was not advised that any expenses were deducted from her settlement funds.

130. Plaintiff Deborah Browning was not informed of the manner in which her settlement amount was decided upon and was not provided with a copy of her settlement agreement. Ms. Browning refused the settlement offer initially presented to her. The day she received her second settlement check, Ms. Browning was told that the attorneys involved in the case may want to donate settlement funds to charity. Ms. Browning informed the representative she met with that she preferred to donate funds to her own charities. Ms. Browning was not advised that any expenses were deducted from her settlement funds.

131. Plaintiff Teresa Duff was not informed of the manner in which her settlement amount was decided upon and was not informed that she had a right to reject the settlement offer and proceed to trial. She was warned not to discuss her settlement and was told she could go to jail if she did. Ms. Duff did not consent to any settlement funds being donated to charity.

Ms. Duff was never informed of the total amount of the settlement with the pharmaceutical companies and was never informed of the creation of a trust or nonprofit corporation. Ms. Duff received two settlement checks. She was not informed that any expenses were deducted from her settlement funds.

132. Plaintiff Leslie Minton was never informed of the manner in which her settlement amount was decided upon and flatly rejected the initial offer she was presented with and refused to sign the settlement agreement presented to her. Ms. Minton was never informed she could opt out of the settlement and proceed to trial. She was told that "left over" funds may be donated to charity but her approval was not requested. Ms. Minton received two settlement checks. She was not informed that any expenses were deducted from her settlement funds.

133. Plaintiff Raymond Parker was not informed of the manner in which his settlement amount was decided upon and refused to accept the settlement amount initially offered. He received a second settlement check after being told that "additional funds had become available". Mr. Parker requested a better explanation of how those funds were acquired but was none was provided. Mr. Parker requested a copy of his settlement agreement but his request was denied on the ground that the document was confidential. Mr. Parker was informed that there may be a minor amount of settlement funds left over and that the attorneys may want to donate those funds to charity. Mr. Parker was not asked to approve any donation to charity. Mr. Parker was never informed that a trust or nonprofit corporation was created by the defendants. Mr. Parker was not informed of the amount of the overall settlement, the manner in which his

settlement amount was decided upon or the amount of settlement funds transferred to the nonprofit corporation. He was not advised that any expenses were deducted from his settlement funds.

134. The Plaintiffs in Paragraph 46 had settlement experiences that are similar to those of the specific Plaintiffs named above. Approximately one-hundred and three (103) of these Plaintiffs were told that they could go to jail or prison if they discussed their settlement with anyone and the others were told that they could be sued, fined and/or required to pay their settlement money back. Many of these Plaintiffs have felt threatened and distraught because they were warned not to disclose the amount of their settlement to their spouses or children. Some were told not to deposit their settlement check in the bank where they regularly do business and others were directed to specific financial brokerage firms to deposit their check. All of these Plaintiffs were told, if anything, that their attorney may donate funds to charity if there were any left over but that the amount would be small, or "odd cents", "1.00", "\$10.00", "no more than \$25.00", an amount "not worth the postage" to send, or "not worth the drive" to pick up, or "an amount so small that it would cost more to distribute".

COUNT I

(Breach of Fiduciary Duty)

135. Plaintiffs incorporate by reference the allegations set forth in Paragraphs 1-134 as if fully set forth herein.

136. An attorney-client fiduciary relationship existed between each of the Plaintiffs and each of the Attorney Defendants as Attorney Defendants knowingly and willingly placed themselves

in a unique position of trust and confidence with respect to the Plaintiffs and the Plaintiffs placed their complete trust and confidence in the Attorney Defendants and in their ability to faithfully and honestly perform their duties.

137. The Attorney Defendants were at all times obligated to act faithfully and honestly and to refrain from misrepresenting or failing to disclose material information concerning the settlement and the handling, distribution and administration of the settlement funds.

138. As detailed previously, the Attorney Defendants breached their fiduciary duties to Plaintiffs, e.g., by failing to provide Plaintiffs with necessary and legally-required information regarding the Settlement Agreement's terms and by misappropriating for their own use and/or otherwise exercising dominion and control over Settlement Proceeds that belonged to the Plaintiffs, and/or aided and abetted each others' breaches of fiduciary duty to Plaintiffs by failing to call attention to the other Attorney Defendants' actions.

139. As a result of the Attorney Defendants' breaches of their fiduciary duties, Plaintiffs were damaged in an amount in excess of the jurisdictional limits of the Court and Plaintiffs are entitled to remedies including but not limited to a compensatory damages award, disgorgement or forfeiture of all attorneys' fees – contracted-for and otherwise – taken by the Attorney Defendants from the Settlement Proceeds.

140. The Attorney Defendants' breaches of fiduciary duties were committed in bad faith and with malice, oppression and with reckless indifference to the rights of the Plaintiffs for which Plaintiffs are entitled to recover punitive damages in addition to compensatory damages.

BOONE CIRCUIT COURT
54TH JUDICIAL DISTRICT
Case No. 05-CI-436

MILDRED ABBOTT, *et al.*,

PLAINTIFFS

v.

STANLEY M. CHESLEY, *et al.*,

DEFENDANTS

PLAINTIFFS' MOTION TO AMEND AGREED PROTECTIVE ORDER

Plaintiffs, by and through counsel, respectfully request that the Court amend the Agreed Protective Order (Jan. 30. 2015) in this case to reflect that only the information contained in CR 7.03(1) shall be redacted from documents produced prior to them being filed, with no other information or documents being confidential or filed under seal without further agreement of the parties or Order of the Court. As grounds for this Motion, Plaintiffs would show that since Defendant Chesley is the party seeking to designate documents as confidential and to have them filed under seal, he bears the burden of showing at a hearing that there is good cause for the designation and to have the documents sealed. There is a strong presumption of public access to court records and Defendant Chesley has not shown an interest that outweighs that presumption of disclosure. A Memorandum of Law in support of this Motion is filed herewith.

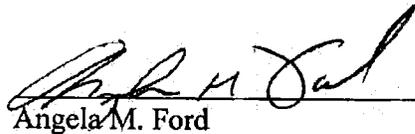
WHEREFORE, Plaintiffs respectfully request that the Court amend the Agreed Protective Order (Jan. 30. 2015) in this case to reflect that only the information contained in CR 7.03(1) shall be redacted from documents produced prior to them being filed, with no other information or documents being confidential or filed under seal without further agreement of the parties or Order of the Court.



NOTICE OF HEARING

THIS MATTER SHALL COME ON FOR HEARING ON APRIL 28, 2015 AT 9:00 A.M. IN THE BOONE CIRCUIT COURT, OR AS SOON THEREAFTER AS COUNSEL MAY BE HEARD.

Respectfully submitted,



Angela M. Ford
KBA No. 81510
Chevy Chase Plaza
836 Euclid Avenue, Suite 311
Lexington, Kentucky 40502
(859) 268-2923
Email: amford@windstream.net

William T. Ramsey
NEAL & HARWELL, PLC
TBA No. 9248
150 Fourth Avenue North
Suite 2000
Nashville, TN 37219
(615) 244-1713
Email: bramsey@nealharwell.com

COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served via electronic and U.S. Mail this the 21 day of April, 2015, to the following:

Frank Benton, IV, Esq.
P.O. Box 72218
Newport, KY 41072

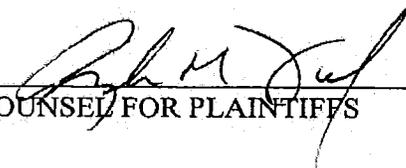
Mary E. Meade-McKenzie, Esq.
105 Seahawk Drive
Midway, KY 40347

Mitzy L. Evans
Evans Law Office
177 South Main Street
P.O. Box 608
Versailles, KY 40383

Luther C. Conner, Jr., Esq.
103 Cross Street
Albany, KY 42602

Sheryl G. Snyder, Esq.
Griffin Terry Sumner, Esq.
Frost Brown Todd LLC
400 West Market St., 32nd Floor
Louisville, KY 40202

Michael R. Dowling, Esq.
P.O. Box 1689
Ashland, KY 41105-1689



COUNSEL FOR PLAINTIFFS

BOONE CIRCUIT COURT
54TH JUDICIAL DISTRICT
Case No. 05-CI-436

MILDRED ABBOTT, *et al.*,

PLAINTIFFS

v.

STANLEY M. CHESLEY, *et al.*,

DEFENDANTS

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS'
MOTION TO AMEND AGREED PROTECTIVE ORDER**

Plaintiffs, in support of their Motion to Amend Agreed Protective Order, state as follows:

STATEMENT OF THE CASE

This Court entered judgment against Defendant Chesley on August 1, 2014. See Order (Aug. 1, 2014). Subsequent Orders of this Court made the Judgment final and awarded pre-judgment and post-judgment interest against him. See Order (Sept. 19, 2014); Amended Order (Sept. 19, 2014); Order (Oct. 22, 2014); Second Amended Judgment (Oct. 22, 2014). Defendant Chesley has appealed this Court's rulings to the Court of Appeals. See Court of Appeals of Kentucky, Case Nos. 2014-CA-001725, 2014-CA-001900 and 2014-CA-001984. Defendant Chesley did not stay enforcement of the Judgment by giving a supersedeas bond pursuant to CR 62.03 and 73.04.

Plaintiffs served interrogatories and requests for production of documents regarding Defendant Chesley's assets that may be available for satisfaction of the Judgment. Prior to producing any asset information or documents, counsel for Defendant Chesley insisted on a protective order maintaining the confidentiality of documents the producing party designated as "confidential" and requiring any pleadings with confidential information or attaching confidential documents to be filed under seal. Counsel for Plaintiffs agreed to a protective order

in good faith, as discussed in a hearing before this Court, to avoid further delay on the production of documents and to avoid a hearing on a protective order for documents not yet produced and confidentiality claims not yet made. Plaintiffs specifically reserved the right to request the modification of the order. This Court entered the Agreed Protective Order on January 30, 2015. See Agreed Protective Order (Jan. 30, 2015).

As this Court is aware, Defendant Chesley's discovery responses and production of documents have already been the subject of a motion to compel and a motion for contempt. See Order (Feb. 13, 2015); Order (Mar. 27, 2015). As Defendant Chesley has begun to trickle out document production over the last few months, his confidentiality designations have not been made in good faith. He has designated all discovery documents as "Confidential," without regard as to whether redaction of a portion of a document would be more appropriate than the wholesale designation of documents as "confidential."

This Court has already seen the procedural difficulty in allowing Defendant Chesley to unilaterally designate any document he wishes as "Confidential." In filings before this Court on the motions to compel and for contempt, it was necessary to file items under seal, which creates an additional administrative burden upon the Court, the Clerk's office and Plaintiffs. If Defendant Chesley and other witnesses are deposed, under the existing Protective Order, Defendant Chesley will designate some or all of the depositions as "Confidential," creating another procedural burden based upon the many anticipated exhibits to the depositions.

Moreover, Plaintiffs' initial tracking of Defendant Chesley's disposition and transfer of his assets since this action was filed has already established the likely need to file fraudulent conveyance actions to recover assets. Once again, documents remaining confidential and required to be filed under seal in courts in other states in actions against third parties will present

procedural burdens and obvious problems. The other court may view the alleged confidential nature of the documents differently and may conflict with the existing protective order. The defendant or defendants in the fraudulent conveyance actions would obviously have to receive the documents and those persons may not be subject to this Court's Orders.

If the all-encompassing protective order that is currently in place remains in place, Plaintiffs will be forced to bring a motion before this Court every time they have a document that needs to have its confidential designation removed. Each such motion will be contested, as shown by Defendant Chesley's steadfast failure to pay the judgment against him and his affirmative conduct in attempting to block enforcement of the judgment by filing a declaratory judgment action in Ohio seeking a declaration that this Court's Judgment does not comply with Ohio law.

CR 7.03 Sets Forth the Information Generally Considered To Be Confidential

Without a specific showing that a document or portion of a document contains confidential information, CR 7.03 already provides appropriate privacy protection for filings made with the Court. That rule requires that in this case, any party filing a document with the Court must redact portions of social security and taxpayer identification numbers, the month and date of a person's birth and financial account numbers. CR 7.03(1). Any additional redaction or limitation on access requires a showing of good cause. CR 7.03(4).¹

Counsel for Plaintiffs has already redacted the items listed in CR 7.03(1). Defendant Chesley bears the burden of showing a right to confidentiality that exceeds CR 7.03(1) and the

¹ The Supreme Court of Kentucky enacted CR 7.03 in 2009. See Supreme Court of Kentucky Order 2009-01 (entered Feb. 11, 2009, effective Apr. 1, 2009). There have been minor amendments to the rule that are not relevant to this matter. See Order 2010-09 (amending rule to exempt domestic violence matters from subsection (1)); Order 2013-12 (amending rule to redact all but last four digits of social security and taxpayer identification numbers instead of the entire number).

public's presumptive right of access. No other portion of the documents he has produced or may produce in the future should be considered confidential or be required to be filed under seal.

Chesley's designation of all asset discovery documents and many of his written discovery answers as confidential is nothing more than an attempt to shield from public view the actions he took to shield his assets from his creditors and avoid payment of the judgment entered by this Court. Chesley's refusal to pay the judgment of this Court is his decision, his desire to circumvent the Kentucky Rules of Civil Procedure, delay these proceedings and his creditors' execution efforts are not.

ARGUMENT

I. This Court May Amend the Agreed Protective Order.

This Court, of course, has the authority to revise or reconsider an interlocutory order. JPMorgan Chase Bank, N.A. v. Bluegrass Powerboats, 424 S.W.3d 902, 909 (Ky. 2014). In this case, the need to revise the existing order was discussed prior to the entry of the order. Indeed, the Agreed Protective Order itself recognizes this Court's ability to modify its terms, the only provision of the Order insisted upon by Plaintiffs' counsel. See Agreed Protective Order (Jan. 30, 2015) at ¶ 15. Plaintiff's counsel agreed to the order in good faith to avoid the need to litigate the language in the order prior to documents being produced and claims of confidentiality asserted. Chesley did not demonstrate good faith in his claims of confidentiality. The Agreed Protective Order is an interlocutory order because, although there is a final judgment against Defendant Chesley, this Court has authority to enter orders to enforce its judgment. Akers v. Stephenson, 469 S.W.2d 704, 706 (Ky. 1970).

II. Defendant Chesley Cannot Show an Interest in Non-Disclosure that Outweighs the Presumptive Right of Access to Court Records.

Although a trial court has a right to control access to its own records and files, that right “is constrained by a general, common-law right to ‘inspect and copy public records and documents, including judicial records and documents.’” Roman Catholic Diocese of Lexington v. Noble, 92 S.W.3d 724, 730, 731 (Ky. 2002) (quoting Nixon v. Warner Communications, Inc., 435 U.S. 589, 597 (1978)). Indeed, judicial documents are presumptively available to the public. Id. at 731; see also Maclean v. Middleton, 419 S.W.3d 755, 761 (Ky. Ct. App. 2014) (stating that “there is a strong presumption in favor of public access to court records”). As the Court of Appeals stated in Maclean, “court records should not be sealed as a matter of routine practice simply at the request of the parties.” 419 S.W.3d at 761. That directive is encompassed in CR 7.03(4)’s requirement of good cause for redaction or sealing beyond the privacy information delineated in subsection (1). The party seeking to seal any part of a trial court record bears the burden of proving that sealing the record is necessary at a hearing before the trial court. Cline v. Spectrum Care Academy, Inc., 316 S.W.3d 320, 325 (Ky. Ct. App. 2010); see also Courier-Journal and Louisville Times Co. v. Peers, 747 S.W.2d 125, 129 (Ky. 1988) (holding that a hearing must be held prior to ordering a hearing closed or the record sealed); Lexington Herald-Leader Co. v. Meigs, 660 S.W.2d 658, 663 (Ky. 1983) (same). The trial court must also consider less restrictive alternatives to sealing the record. See Meigs, 660 S.W.2d at 663. The party seeking to seal the record must identify less onerous alternatives and show that the interest he seeks to protect cannot be protected by less restrictive means. Id. at 664; Cline, 316 S.W.3d at 325.

The Supreme Court of Kentucky holds that trial courts must apply a balancing test between the court’s right to control access and the public’s presumptive right of access. Noble, 92 S.W.3d at 731. That balancing test adopted by the Court utilizes a “sliding scale,” which

gives great weight to records “that play an important role in determining the litigants’ substantive rights.” Id. at 732. Such records can only be sealed for “the most compelling reasons.” Id. (quoting United States v. Beckham, 789 F.2d 401, 413 (6th Cir. 1986)). Conversely, “documents and records that play only a minor or negligible role in adjudicating the rights of the litigants are afforded little weight.” Id. For records that fall between these two extremes, the trial court is to exercise its judgment and discretion in determining which documents, if any, should be sealed. Id.

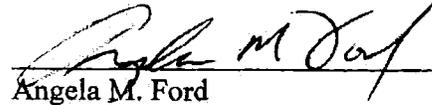
In this case, to the extent asset discovery materials are filed with this Court (or other courts in fraudulent conveyance actions or other actions to enforce this Court’s Judgment), they are relevant to and play a role in determining Plaintiffs’ ability to collect on their judgment against Defendant Chesley. These are important substantive rights and Defendant Chesley must provide compelling reasons to justify excluding from public review the documents and testimony that will decide them. It is not enough that he wants to keep the information private and his transactions secret. He bears the burden of showing that particular documents should be sealed. Moreover, the Court should consider whether some less onerous alternatives, such as redaction, would satisfy whatever interest Defendant Chesley can show in the privacy of documents he wishes to keep confidential. Cline, 316 S.W.3d at 325. Aside from the information required to be redacted under CR 7.03(1), Defendant Chesley has made no such showing.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court amend the Agreed Protective Order (Jan. 30, 2015) to provide that the information set forth in CR 7.03(1) shall be redacted from documents produced prior to them being filed, with no other information

or documents being confidential or filed under seal without further agreement of the parties or order of the Court.

Respectfully submitted,



Angela M. Ford
KBA No. 81510
Chevy Chase Plaza
836 Euclid Avenue, Suite 311
Lexington, Kentucky 40502
(859) 268-2923
Email: amford@windstream.net

William T. Ramsey
NEAL & HARWELL, PLC
TBA No. 9248
150 Fourth Avenue North
Suite 2000
Nashville, TN 37219
(615) 244-1713
Email: bramsey@nealharwell.com

COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served via electronic and U.S. Mail this the 21 day of April, 2015, to the following:

Frank Benton, IV, Esq.
P.O. Box 72218
Newport, KY 41072

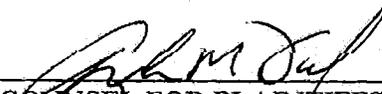
Mary E. Meade-McKenzie, Esq.
105 Seahawk Drive
Midway, KY 40347

Mitzy L. Evans
Evans Law Office
177 South Main Street
P.O. Box 608
Versailles, KY 40383

Luther C. Conner, Jr., Esq.
103 Cross Street
Albany, KY 42602

Sheryl G. Snyder, Esq.
Griffin Terry Sumner, Esq.
Frost Brown Todd LLC
400 West Market St., 32nd Floor
Louisville, KY 40202

Michael R. Dowling, Esq.
P.O. Box 1689
Ashland, KY 41105-1689



COUNSEL FOR PLAINTIFFS

AOC-025.1 Doc. Code: RS
Rev. 3-09
Page 1 of 1
Commonwealth of Kentucky
Court of Justice www.courts.ky.gov
CR 45; RCr 7.02



SUBPOENA
 SUBPOENA DUCES TECUM

Case No. 05-CI-0436
Court CIRCUIT
County Boone
Date April 16, 2007

MILDRED ABBOTT, et al.

PLAINTIFF

VS

STANLEY M. CHESLEY, et al.

DEFENDANT

The Commonwealth of Kentucky to:

Name Custodian of Records - Clark Schaefer Hackett
Address 300 Buttermild Pike, Suite 101
Fort Mitchell, KY 41017

You are commanded to appear before: (select one of three choices)

_____ Court The Grand Jury of _____ County
 Other Angela M. Ford & Court Reporter

You are to appear at: Office of Angela M. Ford, PSC, Attorney, Chevy Chase Plaza, 836 Euclid Ave., Suite 311, KY 40502, or provide prior to April 28, 2015, the documents requested in Exhibit A

on the 28 day of April, 2015 at 10:00 a.m. OR p.m. Eastern Central Time

To testify in behalf of _____
 To produce Documents described in Exhibit A attached

To give depositions

You are commanded to produce and permit inspection and copying of the following documents or objects (or to permit inspection of premises): See attached Exhibit A

on the 28 day of April, 2015 at 10:00 a.m. OR p.m. Eastern Central Time
at the following address: 836 Euclid Ave., Suite 311, Lexington, KY 40502

Issuing Officer/Attorney Licensed in Kentucky
By: [Signature]

Angela M. Ford
Name of Requesting Attorney
Phone# (859) 268-2923

PROOF OF SERVICE

This subpoena was served by delivery of a true copy to: Brian Todd
This 20 day of April, 2015 By: [Signature]

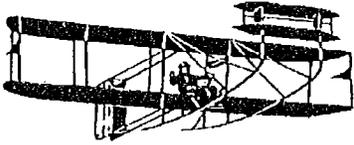


EXHIBIT "A"

All communications and records in all forms, including but not limited to, federal and state income tax returns, gift tax returns, financial statements and work papers, related to Stanley Chesley, the firm Waite, Schneider, Bayless, Chesley and any entity in which Stanley Chesley or Waite, Schneider, Bayless, Chesley has held in interest from 2005 to present. Public companies are not included in this request.

All documents related to Trusts created by Stanley Chesley or to which Stanley Chesley has transferred assets of any kind.

PYPER & NORDSTROM, LLC



COUNSELORS AT LAW

REASONED ADVICE. AGGRESSIVE ADVOCACY.

tpyper@panlawyers.com

April 28, 2015

VIA TELECOPY TO
(859) 268-9141

Angela M. Ford, Esq.
Chevy Chase Plaza
836 Euclid Ave., Suite 311
Lexington, KY 40502

Re: Mildred Abbott, et al. v. Stanley M. Chesley, et al.
Case No. 05-CI-0436, Boone County Circuit Court
Subpoena to "Custodian of Records- Clark Schaefer Hackett"

Dear Ms. Ford:

Please be advised that the undersigned represents the professional accounting firm of Clark, Schaefer, Hackett & Co. ("CSH"). For the purposes of this letter, CSH is presumed to be the entity to whom you directed a subpoena duces tecum that was served on April 20, 2015 that purports to emanate from the above-captioned case. Please consider this letter as raising objections to said subpoena.

CSH is constrained to object to the production of documents and information pursuant to your subpoena upon various grounds. A non-exclusive list of reasons why CSH objects includes:

1. The subpoena fails to give CSH reasonable time to comply.
2. Complying with the subpoena would entail undue burden and expense to CSH, especially given the breadth and vagueness of the requests set forth on the subpoena's Exhibit A. It would appear appropriate that the costs and expenses attendant to any response by CSH to your subpoena be advanced by you as I understand Kentucky Rule 45.02 permits. Additionally, it certainly appears improper under Rule 45.04(3) that the subpoena appears to demand compliance be had in Lexington.

7601 Paragon Road, Suite 301 - Dayton, OH 45459 - Telephone: (937) 610-1990 - Facsimile: (937) 610-1991



PYPER & NORDSTROM, LLC

Angela M. Ford
April 28, 2015
Page Two

3. The subpoena is in many respects vague and ambiguous as to what is sought, and the request is capable of varying and inconsistent interpretations. Taken as a whole, the subpoena arguably requests every iota of information CSH might possess as to the persons or entities named or referenced by it, rendering it overbroad in the extreme. CSH has no obligation to poll each and every person affiliated with it to ascertain whether any or all such persons possess responsive materials. I am also unaware of any obligation to determine whether an entity is a "public company". Moreover, many of the terms used in the subpoena, such as "public companies" are themselves vague, and none are defined by you.
4. Complying with the subpoena unquestionably places CSH at risk of criminal penalties, a fact that a reasonable inquiry by you would have disclosed. I call your attention to the provisions of 28 U.S.C. § 7216 which proscribes any person engaging in the business of preparing tax returns from, *inter alia*, knowingly disclosing any information furnished in connection with the preparation of tax returns. Pursuant to that statute's regulations, CSH is a tax return preparer that is not permitted to disclose tax returns and tax return information, which includes information furnished in connection with the preparation of tax returns. While a client may consent to the disclosure of tax returns and tax return information no such consent has been provided to CSH. Thus, CSH simply cannot comply with your subpoena without potentially exposing itself to criminal penalties.
5. The subpoena to CSH appears to violate the terms of an injunction entered by the Common Pleas Court of Hamilton County, Ohio. In investigating this matter, I became aware of the case of Stanley M. Chesley v. Angela M. Ford, Esq., et al., being Case No. A1500067 on the docket of said Court and, more particularly, injunctive relief entered by Judge Ruehlman in that case on January 14, 2015. Aspects of that Court's January 14th Order appear implicated here as it appears that Court enjoined you from serving any Chesley asset related discovery on any Ohio person or entity, and CSH is an Ohio corporation. Indeed, that Order appears to have enjoined you from issuing any subpoena seeking documents from any Ohio entity. While CSH is obviously not a party to that action, especially given the potential criminal penalties outlined herein CSH should not be placed in the unenviable position of complying with a subpoena that arguably violates an injunction stopping its very issuance.

7601 Paragon Road, Suite 301 - Dayton, OH 45459 - Telephone: (937) 610-1990 - Facsimile: (937) 610-1991

PYPER & NORDSTROM, LLC

Angela M. Ford
April 28, 2015
Page Three

6. It is my understanding that your subpoena arises from efforts to collect upon a judgment entered against Stanley Chesley. I am unaware of any effort by you to give notice of your subpoena to Mr. Chesley and/or his counsel and I understand such notice is required under Rule 45.03(3) of Kentucky's Rules of Civil Procedure. Equally problematic if not more so, however, is that your subpoena unquestionably implicates the interests of others against whom or which no judgment has been entered and indeed may not be parties to your case, and I am unaware of any effort by you to give notice to such persons or entities. By way of example, I note your subpoena seeks tax returns and other information relative to "the firm Waite, Schneider, Bayless, Chesley". It is my understanding that said entity is not a party to your case and that there is no judgment against that entity and yet your subpoena, without notice, seeks information of unquestionable sensitivity, which appears improper. This argument applies with equal force to any unnamed "entity" that would or may fall within your description.

For all the foregoing reasons, CSH objects to producing whatever documents or electronically stored information it possesses that is arguably called for by the subpoena. Should you have any questions concerning any aspect of the foregoing, you may feel free to contact me.

Very truly yours,

PYPER & NORDSTROM, LLC



Thomas H. Pyper

THP/laa

7601 Paragon Road, Suite 301 - Dayton, OH 45459 - Telephone: (937) 610-1990 - Facsimile: (937) 610-1991



**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
May 7, 2015 03:20 PM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 409921**

STANLEY M CHESLEY

vs.

ANGELA M FORD

A 1500067

**JUDGE
JODY M LUEBBERS**

FILING TYPE: REPLY

PAGES FILED: 11

EFR200

EXHIBIT

6

exhibitsticker.com

**COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

Stanley M. Chesley,	:	Case No. A1500067
Petitioner	:	
v.	:	
	:	Judge Ruchlman
Angela M. Ford, Esq., et al.	:	
Respondents.	:	

**PETITIONER’S OPPOSITION TO RESPONDENT ANGELA FORD’S MOTION TO
DISMISS SUPPORTED BY THE AFFIDAVITS OF FRANK V. BENTON, IV OR,
ALTERNATIVELY, MOTION FOR AN ORDER DIRECTING THE LIMITED
DEPOSITION OF RESPONDENT ANGELA FORD**

Petitioner Stanley M. Chesley (“Chesley”) opposes Defendant Angela Ford’s Motion To Dismiss The Complaint (the “Motion”) because the Motion is contrary to applicable law and ignores several important and relevant facts.¹ The Motion is not supported by any evidence.

The Motion asserts three baseless arguments: (1) lack of personal jurisdiction over Respondent Angela Ford (“Ford”) under Ohio’s statute and constitutional rules; (2) lack of a case and controversy subject to judicial review; and (3) violation of the constitutional full faith and credit requirement of the United States constitution. Chesley will refute these three arguments in order thus demonstrating that the Motion should be denied.

BACKGROUND FACTS

Chesley’s discussion of the facts herein will be limited to correcting only Ford’s most egregious misstatements or omissions and providing important facts that demonstrate why the Motion must be denied.

Ohio Facts. Chesley filed: (a) his First Amended And Supplemental Verified Petition For Declaratory Judgment And Injunctive Relief (the “Verified Petition”); (b) Petitioner’s

¹ The Motion was first filed in the federal court and was “terminated” by Judge Economus after he remanded this matter to the Court because Ford’s assertion of complete diversity was simply not true – Ford has clients in Ohio, the Ohio Respondents.

Motion For Order Restraining Registration and Enforcement of Kentucky Judgment and Document Destruction ("Petitioner's Motion"); (c) Petitioner's Verified Memorandum in Support of Motion for Injunctive Relief (the "Verified Supporting Memo"); and (d) his Combined (1) Verified Motion and (2) Supporting Memorandum Seeking Amplification of Restraining Order ("Amplification Motion")² because Ford acted in Kentucky and threatened actions in Ohio against Ohio citizens, residents, domiciliaries and property.

Chesley's Filings include a thorough discussion of Ohio related facts including Ford's threats to subpoena, depose and attempt to seize assets from non-party Ohio citizens. Ford's attacks in Kentucky on nonparty Ohioans have already begun via subpoenas that seek private financial information of several Ohioans.

Ford is also trying to seize assets from Chesley all of which are located in Ohio. Ford filed a motion in federal court seeking to dissolve the Court's January 14, 2015 injunction in which she argued that, pursuant to the injunction, Chesley's creditors are "prohibited from enforcing the [Chesley Judgment], at some point in the future, if and when they come to Ohio to domesticate their judgment against Chesley." (See page 3). The Chesley Filings and Ford's own words make it clear that Ford intends to take collection action in Ohio.³ She should not be permitted to take those actions until she complies with Ohio law.

The Chesley Filings reveal that the Motion distorts the nature and purpose of Chesley's Filings. Chesley is not seeking and did not receive a stay of Ford's collection action while

² Collectively, those four filings are "Chesley's Filings." Three of the filings are verified so that the facts stated therein and the documents attached thereto are evidence that this Court may consider. Also available as evidence is the two Affidavits of Frank V. Benton, IV filed herein on April 28, 2015.

³ This, as the Motion admits, would require her to supply the requested information thus coming into compliance with Ohio law and meeting Chesley's request to provide the requested information. See page 14 of the Motion's discussion of Ohio Revised Code 2329.023(A).

Chesley's appeal of the Chesley Judgment⁴ is pending in Kentucky. Since this case was filed, Chesley has produced over 5,000 pages of documents to Ford and he agreed to be deposed by Ford, all while this Court's prohibition order was in place. Chesley is not behaving like a man who sought or obtained a stay pending appeal.

On April 20, 2015 Ford served a subpoena on Clark, Schaeffer & Hackett ("CSH"), Chesley's accountant, seeking production of a wide range of confidential financial information relating to several Ohio citizens. Ford is now harming Ohioans by seeking to obtain and publicize their private financial information.⁵

Chesley asks the Court to apply Ohio procedural law to protect Ohio citizens, residents, domiciliaries and property before Ford can use the Chesley Judgment in Ohio. Among those Ohio procedural laws are requirements that Ford list the names and addresses of Chesley's judgment creditors and that Ford disclose the amount owed on the Chesley Judgment.⁶

Kentucky Facts. After nearly ten years and two Kentucky Supreme Court decisions, Ford obtained for her clients in the Abbott Case a summary judgment holding Chesley jointly liable for a seven year old \$42,000,000 judgment entered against the Criminal Defendants.

Ford's post-judgment discovery in Kentucky includes

- (i) service on Chesley of two sets of interrogatories that exceed permissible limits under Kentucky's civil rules,
- (ii) receipt of Chesley's interrogatory answers that exceed 45 pages in length,
- (iii) receipt of over 5,000 pages of financial documents from Chesley,
- (iv) a subpoena to CSH that violates this Court's January 14, 2015 order by seeking information on at least ten Ohioans,

⁴ Capitalized terms not defined herein have the same meaning as in Chesley's Filings. Ford admits that she has "succeeded at satisfying a significant portion of the" Chesley Judgment.

⁵ As shown in the record, Ford seeks to eviscerate the existing Kentucky protective order so that Ford can publicize the private financial information she seeks from CSH, Chesley, Fifth Third Bank and US Bank. As discussed in Chesley's other filings, Ford continues to abuse Kentucky's discovery processes and ignore this Court's order. Ford's actions – removal, subpoenas in Kentucky to an Ohio entity seeking information on Ohioans, a subpoena in Kentucky to a bank based in Ohio and the Motion all reveal Ford's effort to avoid Ohio and the requirements of Ohio law.

⁶ Ford does not deny that this is required. See Motion page 14.

(v) a subpoena to Fifth Third Bank,
(vi) a subpoena to US Bank, and
(vii) a pending motion to eviscerate a protective order that prohibits the publication of confidential financial information – Ford agreed to this order to induce Chesley to produce information but she now wants to publish the private financial information of Chesley and other Ohioans.⁷

As demonstrated in the First Benton Affidavit, several of Chesley’s judgment creditors were and remain Ohio citizens (the “Ohio Respondents”). Ford’s filings in Kentucky include the following concerning those Ohioans:

1. In a July 7, 2011 filing in the Federal Case, Ford stated that the Chesley Judgment “is “in favor of the Abbott plaintiffs.”⁸ Ford also stated that “with respect to each of the Abbott plaintiffs,” Ford provided to in the Federal Case “a detailed breakdown of the gross distribution amount, the amount paid in attorney fees, the pro-rata portion of the total expenses, the pro-rata portion of total expenses,” (emphasis added)
2. In a July 7, 2011 filing in the Federal Case, Ford states that her fees in the Abbott Case then were over \$13,000,000 and that said amount is “precisely 33 percent of the \$40,233,987 gross amount distributed to Ford’s 382 clients,” the persons who are Chesley’s judgment creditors;⁹ and
3. “The total amounts distributed to the Victims in the state court action [the Abbott Case] total over \$40,799,988.32. Attached hereto are the total individual distribution amounts” See page 2 of Defendants’ Victims Response To Proposed Order Regarding Restitution filed by Ford on January 1, 2013, Exhibit E to Chesley’s Filings. The Ohio citizens identified in the First Benton Affidavit are listed as persons to whom Ford has distributed funds.

Ford collected money owed to Ohioans and charged those Ohioans for attorney fees and various expenses pursuant to contracts she has with Ohioans. Undoubtedly, Ford directed many communications to her clients in Ohio over the 10 years the Abbott Case has been pending.

⁷ One thing Ford has not done is depose Chesley. Ford cancelled an agreed deposition date and has not sought to reschedule that event.

⁸ Emphasis added. See page 3 of the Benton Affidavit filed herein on April 28, 2015. That affidavit was also filed in the federal court but is now part of the record in this Court.

⁹ See page 3 Exhibit 2 that is verified by the Second Benton, Aff.

APPLICABLE LAW

The law applicable to the Motion is fairly well settled. Chesley will address applicable law only to the extent needed to correct the inaccuracies in Ford's Motion.

Personal Jurisdiction. Ohio uses a two-step inquiry for determining whether a court can exercise personal jurisdiction over a defendant: (1) whether Ohio's long arm statute is satisfied, and (2) whether the defendant has had "minimum contacts" with Ohio, such that exercising jurisdiction is consistent with due process. See, *Kauffman Racing Equip., L.L.C. v. Roberts*, 930 N.E.3d, 784, 792 (2010).

One relevant provision of Ohio's long arm statute, R.C. 2307.382(A)(1), is "very broadly worded and permit[s] jurisdiction over nonresident defendants who are transacting any business in Ohio." *Manufacturing Co. v. Quality Rubber Prods., Inc.*, 82 Ohio App.3d 369, 373-374, (6th Dist. 1992) (emphasis added). The Ohio Supreme Court has found that an individual transacts business when he or she creates obligations in Ohio through business dealings or carries out business negotiations in Ohio. *Kentucky Oaks*, 53 Ohio St.3d at 74. Here, Ford certainly has contracts with each of her Ohio clients, and those contracts certainly create Ford's continuing obligations to Ohio residents. Furthermore, the contracts themselves satisfy the long arm statute. See R.C. 2307.382(A)(2). Thus, the first prong of the analysis is doubly-satisfied.

As for the due process prong, personal jurisdiction can be general, based on Ford's lifetime accumulated contacts with Ohio, or specific, based on fewer contacts with Ohio but contacts specifically related to this essence of this litigation, the Chesley Judgment. *Kauffman Racing Equip., L.L.C. v. Roberts*, 126 Ohio St.3d 81, 88, (2010). While it seems unlikely that a long-time professional and Lexington resident has not travelled to Ohio enough times to support general jurisdiction, this Court can clearly exercise specific jurisdiction over Ford as she has

ample contacts with Ohio that specifically relate to the Abbott Case that resulted in the Chesley Judgment to which this case is directly related. Under Ohio law, if a “defendant has deliberately engaged in significant activities within state [sic] or created continuing obligations between himself and residents of the forum, he has availed himself of the privilege of conducting business in the forum state, his activities are shielded by the benefits and protections of the forum state’s laws, and it is not unreasonable to require such a defendant to submit to the burdens of litigation in the forum state.” *Ricker v. Fraza/Forklifts of Detroit*, 160 Ohio App.3d 634, 641, (10th Dist.) citing *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 475-476, (1985).

Knowingly entering into a contract with a resident of the forum state constitutes purposeful availment of that forum and submission to court jurisdiction there. *Schnippel Const., Inc. v. Kreps*, 3rd Dist Shelby No. 17-01-16, 2002 WL 235443, at *5 (Feb. 15, 2002); see also *Information Leasing Corp. v. Baxter*, 1st Dist. Hamilton No. C-020029, 2002 WL 1769453, at *3. Chesley’s judgment creditors are Ford’s clients, and several of them, including the Ohio Respondents, are Ohioans. Ford asserts that she has a contract with each of those persons. She has collected money owed to those Ohio residents, she sent money to them and she withheld from their distributions several amounts that she herself calculated and controlled. Ford has purposefully availed herself of the opportunity to work in Ohio.¹⁰

Ford’s many contacts with multiple Ohioans (contracts, communications and the sending of money) arise specifically from the Abbott Case that resulted in the Chesley Judgment and have a substantial connection with this case. The requirements of due process are met. Jurisdiction over Ford can be exercised in Ohio.

A Justicable Controversy. Ford asserts that neither the Verified Petition nor the other filings in this matter constitute a live case or controversy. This is untrue.

¹⁰ All these facts were known to Ford, yet she still removed this case asserting that complete diversity existed.

As an initial matter, declaratory judgment statutes should be interpreted liberally, in order to allow for the swift and conclusive disposition of disputed obligations. *Mid-Am. Fire & Cas. Co. v. Heasley*, 113 Ohio St.3d 133, 136, 2007-Ohio-1248, 863 N.E.2d 142, 145, ¶ 8 (2007).

The Motion cites *MedImmune, Inc.* but provides the Court with an incomplete quotation. *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 127 (2007). The Supreme Court actually said:

Aetna and the cases following it do not draw the brightest of lines between those declaratory-judgment actions that satisfy the case-or-controversy requirement and those that do not. Our decisions have required that the dispute be “**definite and concrete, touching the legal relations of parties having adverse legal interests**”; and that it be “real and substantial” and “**admi[t] of specific relief through a decree of a conclusive character**, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts.” *Id.* (emphasis added).

Similarly, the Ohio Supreme Court has clearly stated that “[f]or a real controversy to exist it is not necessary that the plaintiffs violate the [law], as long as there is a controversy ‘between parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment’” (emphasis added). *Burger Brewing Co. v. Liquor Control Commission, Dept. of Liquor Control*, 34 Ohio St.2d 93, 97 (1973). The key tension to be resolved is whether the threat to the plaintiff’s position is “actual and genuine” as opposed to “possible or remote.” *Mid-Am. Fire & Cas. Co.*, 113 Ohio St.3d 133 at 136, quoting *League for Preservation of Civil Rights v. Cincinnati*, 64 Ohio App. 195, 197, 28 N.E.2d 600 (1st Dist.1940)

Ford cites *Mid-Am. Fire & Cas. Co.* wherein the Ohio Supreme Court held there was no justiciable controversy where an insurer faced threatened litigation from an insured. *Id.* at 135. In this case, the insured had voluntarily dismissed his previous claim for coverage because a Supreme Court ruling extinguished his claim for relief. *Id.* at 135. Thereafter, the insurer sought a declaration that the company was not required to cover the insured’s claim. *Id.* The trial court

dismissed the action, because any future action pursued by the insured would have been frivolous unless the Supreme Court's decision was overruled. *Id.* at 137. Such a possibility was simply too remote to sustain a declaratory judgment action.

The present case is significantly different from *Mid-Am. Fire & Cas. Co.* because here: (a) Chesley asked for very concrete relief that directly impacts the legal relations between the parties; (b) Chesley and Ford are adverse and that Ford has taken action adverse to Chesley; (c) Ford's subpoena to a CSH, an Ohio entity, and her request for the private financial information of at least ten Ohio entities demonstrates the reality and urgency of this litigation¹¹; (d) Ford's subpoenas to two banks seeking information on transactions that occurred in Ohio and Ford's threats to domesticate the Chesley Judgment also prove sufficient immediacy; and (e) this is not a case where an effort to domesticate the action in Ohio would be frivolous as Chesley's assets are in Ohio.

Ford's recent actions in the Kentucky litigation only highlight that there is a real controversy. Ford now openly and explicitly seeks information about Ohio assets and non-party Ohioans and she intends to publish this private financial information.

Despite Ford's bluster, there are only two reasons for a court to dismiss a declaratory judgment without hearing its merits: (1) if there is neither a justiciable issue nor an actual controversy between the parties requiring speedy relief; or (2) if the declaratory judgment would not terminate the uncertainty or controversy. *Cincinnati Cent. Credit Union v. Benson*, 130 Ohio App.3d 755, 762, 721 N.E.2d 410, 415 (1st Dist.1998). For the reasons outlined above, neither of those bases is applicable here.

¹¹ Ford has also issued a second set of asset related interrogatories targeting information concerning Ohio entities. Ford's purposeful use of four Kentucky subpoenas and document requests to Chesley to seek information on Ohio entities is an attempt by Ford to skirt Ohio law and this Court's existing order.

The Full Faith and Credit Requirement. Ford tries to manufacture a constitutional argument by continuing to misconstrue Chesley's actions. Chesley has not asked the Court to overturn the Chesley Judgment or asked to enter a stay pending appeal, two false statements that Ford uses to assert that Chesley seeks to violate the Full Faith and Credit requirement.

Chesley addressed Ford's two false assertions directly in prior filings. See Chesley's Verified Motion Seeking Amplification of Restraining Order filed on February 5, 2015 which is incorporated herein. That filing discusses Ohio's procedural requirements for the registration and enforcement of foreign judgments.¹²

In *Rion v. Mom and Dad's Equipment Sales and Rentals*, 116 Ohio App. 3d. 161 (3d Dist.1996) the court addressed the very issues raised in the Motion. The court said:

However, as stated by the Ohio Supreme Court "Full faith and credit does *not* mean that a judgment of a court in one state is automatically entitled to *enforcement* in another state." . . . (emphasis original)

In this case, the validity of the foreign judgment is not questioned, only its enforceability. Thus, defendant has raised a defense under Ohio law, applicable to UEFJA proceedings by way of R.C. 2329.022. This defense is also valid. . . . Since plaintiffs brought their judgment to Ohio beyond the statutorily stated time period, enforcement is barred. (citations omitted)

The *Rion* case supports exactly what the Chesley's Filings seek: assurance that the Chesley Judgment and Ford's actions comply with applicable Ohio law before the judgment is enforced in Ohio.¹³

¹² Ohio may enforce its procedural requirements consistent with the requirements of full faith and credit. See *Salyer v. Eplion*, 4th Dist. Lawrence No. 08CA18, 2009 WL 891797 (Mar. 31, 2009) (discussing the use of a Kentucky judgment in Ohio the court said, "Rather, Appellee would have been required to obtain an Ohio certificate of judgment pursuant to his domesticated foreign judgment before his judgment would constitute a valid judgment lien capable of being foreclosed upon."). Accord, *First Am. Bank of Ashland v. Stonehenge Computer*, 4th Dist. Lawrence No. 1905, 1990 WL 71918 (May 25, 1990) (Kentucky judgment brought to Ohio using new lawsuit in lieu of UEFJA).

¹³ Other states (e.g. Arizona, Kansas, and Maryland) have the same rule: foreign judgments can be domesticated, but local law applies to determining when, if and how that judgment can be enforced. *Bank v. Yoo*, 2005 WL 3817602 (Md. Circuit Court, Dec. 28, 2005) (holding that applying the forum state's statute of limitations does not violate the full faith and credit clause of the Constitution of the United States of America).

DISMISSAL CANNOT BE GRANTED NOW

If the Court is still inclined to consider dismissing this matter, the following applicable rules require that the Court not yet take that action.

Chesley's Assertions Are Unrefuted. Chesley asserted in the Verified Petition that Ford is subject to personal jurisdiction in Ohio and that there exists a true case and controversy. In fact, those factual assertions are verified by Chesley.

Conversely, the Motion is not verified and is not supported by an affidavit or any other evidence. As a result, the burden to prove jurisdiction at this early stage does not require Chesley to do more than generally plead that jurisdiction exists. See Wilkerson Shoe Co. v. Natl. Super Markets, Inc., 10th Dist. Franklin No. 94APE01-116, 1994 WL 386097, *2 (July 26, 1994). The Court should accept Chesley's Verified Petition as true and deny the Motion.

Discovery Should Be Taken, if Needed. If the Court is inclined to consider granting the Motion, that decision should be delayed and Petitioner should be granted time to take discovery to determine the relevant facts, including Ford's contacts with Ohio. Heritage Plastics Inc. v. Rohm & Haas Co., C.P. No. 03 CV 0113, 2004 WL 1725784, *1 (July 27, 2004).

If needed, the Court should consider permitting Chesley to take the limited deposition of Ford to investigate Ford's (i) contacts with Ohio, (ii) the threats Ford has made to subpoena, depose and attempt to seize assets from Ohioans, and (iii) plans to seize property located in Ohio.

CONCLUSION

Ford's motion seeking dismissal of the Verified Petition should be denied.

Respectfully submitted,

/s/ Vincent E. Mauer
Vincent E. Mauer (0038997)
FROST BROWN TODD LLC
Suite 3300 Great American Tower
301 E. Fourth Street
Cincinnati, Ohio 45202
513-651-6785
Fax 513-651-6981
vmauer@fbtlaw.com

CERTIFICATE OF SERVICE

The undersigned certifies that on May 7, 2015 a copy of the foregoing was served by first class United States mail, postage prepaid on Christen Steimle, Esq. Dinsmore & Shohl, 255 East Fifth Street, Suite 1900, Cincinnati, Ohio 45202.

/s/ Vincent E. Mauer

C:\Users\maz\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\GS7QXN2\SMC opp to Ford mtn to dismiss in fed court - 4828-6951-4274 3.docx



**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
May 12, 2015 03:30 PM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 410765**

STANLEY M CHESLEY

vs.

ANGELA M FORD

A 1500067

**JUDGE
JODY M LUEBBERS**

FILING TYPE: NOTICE

PAGES FILED: 22

EFR200

EXHIBIT

7

exhibitsticker.com

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

Mr. Stanley M. Chesley	:	Case No. A1500067
	:	
Petitioner	:	Judge Ruehlman
	:	
v.	:	NOTICE OF FILING
	:	DOCUMENTS
Angela M. Ford, Esq, et al.	:	
	:	
Respondents.	:	

The undersigned, Vincent E. Mauer, who is over 18 years of age and has personal knowledge of the facts herein swears or affirms that attached hereto are true and correct copies of the following documents. The copies were taken from the stated sources.

1. A true and correct copy of the Second Set Of Asset Discovery Interrogatories And Requests For Production Of Documents To Stanley Chesley, dated May 1, 2015. These interrogatories and requests for production of documents related to several nonparties who are Ohioans;

2. A true and correct copy of a subpoena that respondent Angela Ford served on the Custodian of Records for Fifth Third Bank on May 4, 2015. Fifth Third Bank and First Financial Bank are both headquartered in Ohio. The subpoena seeks documents generated in Ohio concerning the Banks and Petitioner, an Ohioan;

3. A true and correct copy of a subpoena that respondent Angela Ford served on the Custodian of Records for U. S. Bank Investment Accounts, on May 6, 2015. That subpoena seeks documents generated in Ohio concerning the Bank and Petitioner, an Ohioan; and

4. A true and correct copy of a subpoena that respondent Angela Ford served on the Custodian of Records for U. S. Bank Mortgage Loans, on May 7, 2015. That subpoena seeks documents generated in Ohio concerning the Bank and Petitioner, an Ohioan; and

Vincent E. Mauer
Vincent E. Mauer

Sworn and subscribed by Vincent E. Mauer who is known to me in my presence on this 12th day of May, 2015.



Mary S. Fleming
Notary Public, State of Ohio
My Commission Expires 08-16-2019

Mary S. Fleming
Notary Public, State of Ohio
My commission expires on 8-16-2019

Sheryl G. Snyder, Esq.
FROST BROWN TODD LLC
400 West Market Street
Suite 3200
Louisville, KY 40202
ssnyder@fbtlaw.com

Respectfully submitted,

/s/ Vincent E. Mauer
Vincent E. Mauer (0038997)
FROST BROWN TODD LLC
3300 Great American Tower
301 E. Fourth Street
Cincinnati, Ohio 45202
513-651-6785
Fax 513-651-6981
vmauer@fbtlaw.com

CERTIFICATE OF SERVICE

I hereby certify that a on this 12th day of May, 2015, a copy of the foregoing was served by ordinary U.S. Mail upon:

Christen M. Steimle, Esq.
Dinsmore & Shohl LLP
255 East Fifth Street, Suite 1900
Cincinnati, Ohio 45202

/s/ Vincent E. Mauer

0118087.0619701 4835-8187-2931v1

EXHIBIT 1

**BOONE CIRCUIT COURT
54TH JUDICIAL DISTRICT
Case No. 05-CI-436**

MILDRED ABBOTT, *et al.*,

PLAINTIFFS

v.

**SECOND SET OF ASSET DISCOVERY INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO STANLEY CHESLEY**

STANLEY M. CHESLEY, *et al.*,

DEFENDANTS

*** **

Pursuant to CR 33 and 34 of the Kentucky Rules of Civil Procedure, Plaintiffs propound the following Interrogatories and Requests for Production of Documents ("Discovery") to Defendant Stanley Chesley to be answered under oath and otherwise in accordance with the Kentucky Rules of Civil Procedure. You are to serve your answers and all responsive documents to these Discovery requests electronically and by U.S. Mail within 30 days from the date of service upon your counsel herein.

These Interrogatories and Requests for Production are to be considered continuing in nature and are to be supplemented, as necessary, in according with the Kentucky Rules of Civil Procedure if further information is obtained by you or your counsel subsequent to the service of your Responses.

DEFINITIONS

1. For the purposes of this Discovery the following definitions shall apply:
2. "Person" or "Individual" or "Entity" shall mean any individual, association, firm, corporation, member, shareholder, partner or partnership, sole proprietorship, joint venture, trust or trustee, association, and any other legal, business, regulatory or governmental entity.

3. "You" or "your" or "Defendant" shall refer to Stanley Chesley and his principals, agents, attorneys, employees, and any other person, acting or purporting to act on his behalf including those persons and individuals set forth in Definition Number 1.
4. "Document" means any written, or other graphic, and is used in the broadest possible sense, including but not limited to: (1) every writing of every type or description that was or has been under your control, including agreements, contracts, correspondence, emails, notes, summaries, charts, invoices, checks, statements, reports, records, worksheets, or any other writing that exists or has been transmitted or stored, photographed, including any such matter maintained or stored on computer hard drives and /or servers, and any audio or video recordings in your possession, custody or control at any time or known by you to exist or to have existed. All copies that contain any alterations or annotations or that differ in any other way from the originals or copies referred to in the preceding sentence are deemed separate documents from the originals or copies.

INSTRUCTIONS

1. "Identify" used in reference to an individual person means to state (a) the person's full name and present or last known address; (b) the person's present or last known position and business affiliation, and (c) the person's position and business affiliation at the time in question. "Identify" used in reference to any other person means to state (a) the person's full name and present or last known address, (b) type of entity, and (c) the names of the individual persons who are or were principals, agents, or employees and who have knowledge of relevant facts.
2. "Identify" used in reference to a document shall mean to state (a) the date, (b) the author or addressor, (c) the addressee and recipients of all copies, (d) type of document (e.g., letter, memorandum, telegram, chart, photograph or brochure), or some other means of identifying it, and (e) its present location or custodian. If any document was,

but no longer is in your possession or subject to your control, state what disposition was made of it and the identity of the person you reasonably believe to be the present custodian. Instead of the identification, you may furnish the documents for inspection and copying at the time you serve answers to these Interrogatories.

3. If you rely on specific documents as a response to Interrogatories, identify the documents by bates stamp number.
4. With respect to any document or communication for which you claim a privilege, identify the document or communication as required above, including the general subject matter, but not the substance, state the privilege involved, and state, in as much detail as possible, the factual and legal basis of the privilege.
5. If any documents have been lost or destroyed, provide in lieu of a true and correct copy thereof, a list of the documents lost or destroyed together with the following information:
 - (a) The date the document left your possession or control;
 - (b) A brief description of the document and its contents;
 - (c) The author of the document;
 - (d) The date upon which the document was lost or destroyed; and
 - (e) A statement of the manner in which the document was lost or destroyed.
6. If you do object to a part of any request respond to all parts for which you do not have an appropriate objection.

INTERROGATORIES

Interrogatory No. 1: Provide a list of all assets and funds transferred between WSBC and Stanley Chesley and/or any entity at his direction since 2009.

Interrogatory No. 2: State whether you or any entity in which you hold or have held an interest has received any income from any source from the use of any airplane in the last 6 years.

Interrogatory No. 3: Provide the name and physical address of the current owner of Milford One, LLC, Agra Enterprises, LLC, Chesley Family Partners, LLC, and WSBC and the physical address and telephone number for any Trustee. Provide a list of all the assets owned by these entities in each of the last 7 years.

Interrogatory No. 4: Provide the physical address, mailing address and telephone number for Lucky Paws, the entity to which numerous monthly payments were sent.

REQUESTS FOR PRODUCTION OF DOCUMENTS

Request No. 1: Provide all documents related to the Chesley Family Partners, LLC.

Request No. 2: On your personal financial statement for 2013 prepared by your accountant from documents you supplied, the Note on the last page states: "Additional amounts of \$32 million have been advanced to the firm to complete cases outstanding as the company winds down, which are not collectible unless certain cases and fees are successfully completed." "Case revenues of the company are pledged to the Fifth Third debt and as such are not available for reimbursement to Stan if collected, until that debt is settled." In addition, other Note payables are listed in the financial statements. In connection with that financial statement:

- Provide the fee agreements for the cases referred to.
- Provide all loan documents, security and other related documents not previously produced.
- Produce the list of personal property that comprises the \$2million valuation of personal property on your December 2013 financial statement.

Request No. 3: On your personal financial statement for 2009, 2010, 2011 and 2012 personal property is listed and valued at \$5million.

- Provide a list of all personal property that comprises the \$5 million;
- Provide all documents related to the transfer of the personal property to individuals or entities since 2008.
- Provide all documents related to the current ownership of that property and all

insurance policies that insured the property since 2008, including all riders, amendments, assignments or other related documents.

Request No. 4: Produce the loan and all documents related to the \$12 million loan to Chesley Family Partners, LLC.

Request No. 5: Produce the loan documents and all related documents associated with loans between you and Susan Dlott or any entity in which you have held an interest since 2005, including the \$2.7 million loan to Agra in 2011.

Request No. 6: Provide copies of all insurance and/or annuity policies that you or any entity you have held an interest in since 2005 contributed money or assets to, including funds for premium payments.

- Your response shall include all riders and changes or additions to the policies including a complete list of what was insured for the list of insurance payments appearing as SMC . **Attachment A.**
- Your response shall include but not be limited to policies for which payments were made related to documents SMC 03102-03118 and SMC 04994-05007.
- Your response shall also include all documents related to policies transferred, assigned, gifted or changed in any way to benefit any person or entity since 2005.

Request No. 7: Produce the books and records related to all WSBC financial statements since 2009.

Request No. 8: Produce all personal financial statements for 2005-2013 and 2014.

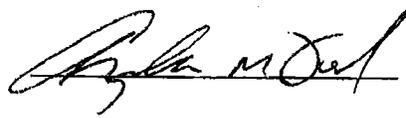
Request No. 9: Produce copies of all checks corresponding with the list of payments over \$5,000 listed on SMC 03102-03118 and SMC 04994-05007

Request No. 10: Produce all organizational documents, operating agreements and other corporate records for Milford One, LLC and Aventura Properties, LLC, Agra Enterprises, LLC, SMC South Beach Enterprises, LLC and Chesley Family Partnership, LLC including all documents conveying or transferring ownership interests in the entity or the assets owned by the

Notary Public

My Commission Expires:

Respectfully submitted,



Angela M. Ford, Esq.
Chevy Chase Plaza
836 Euclid Avenue, Suite 311
Lexington, Kentucky 40502
(859)268 2923

COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing has been served on May 1, 2015 electronically for counsel for Defendant Chesley and by U.S. Mail, postage prepaid, to:

Frank Benton, IV, Esq.
P.O. Box 72218
Newport, KY 41072

Mary E. Meade-McKenzie, Esq.
105 Seahawk Drive
Midway, KY 40347

Mitzy L. Evans
Evans Law Office
177 South Main Street
P.O. Box 608
Versailles, KY 40383

Luther C. Conner, Jr., Esq.
103 Cross Street
Albany, KY 42602

Sheryl G. Snyder, Esq.

Griffin Terry Sumner, Esq.
Frost Brown Todd LLC
400 West Market St., 32nd Floor
Louisville, KY 40202

Michael R. Dowling, Esq.
P.O. Box 1689
Ashland, KY 41105-1689


Counsel for Plaintiffs

Extracted from SMC 03106-03118 & SMC04994-05007

Stanley M. Chesley Bill Payments for all Vendors and Transactions

2014	CIC Agency, Inc.	25036	10/9/2014	\$ 13,653.00
	Progressive Specialty Ins.	15584	1/13/2014	\$ 6,197.00
				\$ 19,850.00

2013	CIC Agency, Inc.	15442	11/12/2013	\$ 9,810.00
	CIC Agency, Inc.	15399	10/9/2013	\$ 14,242.00
				\$ 24,052.00

2012	CIC Agency, Inc.	14800	11/19/2012	\$ 16,848.25
	CIC Agency, Inc.	14714	10/9/2012	\$ 16,849.00
	CIC Agency, Inc.	14505	7/5/2012	\$ 7,578.00
				\$ 41,275.25

2011	CIC Agency, Inc.	13717	8/31/2011	\$ 68,302.00
	CIC Agency, Inc.	13492	6/24/2011	\$ 5,816.00
	CIC Agency, Inc.	13175	3/28/2011	\$ 5,399.00
	CIC Agency, Inc.	13113	3/8/2011	\$ 36,003.00
				\$ 115,520.00

2010	CIC Agency, Inc.	12572	9/8/2010	\$ 70,754.00
	CIC Agency, Inc.	12471	8/3/2010	\$ 7,799.00
	CIC Agency, Inc.	12276	6/8/2010	\$ 5,324.00
	CIC Agency, Inc.	12044	3/31/2010	\$ 5,028.69
	CIC Agency, Inc.	11874	2/3/2010	\$ 35,915.00
				\$ 124,820.69

2009	CIC Agency, Inc.	11330	9/2/2009	\$ 74,219.00
	CIC Agency, Inc.	11196	7/29/2009	\$ 8,327.00
	CIC Agency, Inc.	10980	6/1/2009	\$ 5,229.00
	CIC Agency, Inc.	10585	1/29/2009	\$ 33,976.00
	Dietrich Equine Ins. Srv.	10524	1/2/2009	\$ 37,766.00
	Dietrich Equine Ins. Srv.	10524	1/2/2009	\$ 63,810.00
				\$ 223,327.00

2008	CIC Agency, Inc.	10058	8/21/2008	\$ 79,098.00
-------------	------------------	-------	-----------	--------------

Attachment A

EXHIBIT 2

AOC-025.1 Doc. Code: RS
Rev. 3-09
Page 1 of 1
Commonwealth of Kentucky
Court of Justice www.courts.ky.gov
CR 45; RCr 7.02



SUBPOENA
 SUBPOENA DUCES TECUM

Case No. 05-CI-0436
Court CIRCUIT
County Boone
Date MAY 4, 2015

MILDRED ABBOTT, et al.

PLAINTIFF

VS

STANLEY M.. CHESLEY, et al.

DEFENDANT

The Commonwealth of Kentucky to:

Name Custodian of the Records - Fifth Third Bank
Address 250 West Main Street, #100
Lexington, KY 40507

You are commanded to appear before: (select one of three choices)

_____ Court The Grand Jury of _____ County
 Other Angela M. Ford & Court Reporter

You are to appear at: Office of Angela M. Ford, PSC, Chevy Chase Plaza, 836 Euclid Ave., Ste. 311, Lexington, KY 40502, OR ALTERNATIVELY - PROVIDE PRIOR TO MAY 19, 2015, documents requested in Exhibit "A"

on the 19 day of May, 2015 at 11:00 a.m. OR p.m. Eastern Central Time

To testify in behalf of _____
 To produce Documents described in Exhibit "A" attached

To give depositions

You are commanded to produce and permit inspection and copying of the following documents or objects (or to permit inspection of premises): See attached Exhibit "A"

on the 19 day of May, 2015 at 10:00 a.m. OR p.m. Eastern Central Time
at the following address: 836 Euclid Ave., Suite 311, Lexington, KY 40502

[Signature]
Issuing Officer/Attorney Licensed in Kentucky
By: _____

Angela M. Ford
Name of Requesting Attorney
Phone# (859) 582-8118

PROOF OF SERVICE

This subpoena was served by delivery of a true copy to: _____
This _____ day of _____, 20____ By: _____
_____ Title

EXHIBIT "A"

1. All loan documents including Pledge Agreement between Stanley M. Chesley and Fifth Third Bank for Loan #0905806212 including historical record of all amounts due and owing and all amounts paid.
2. For Stanley M. Chesley's Fifth Third Bank Investment Account # 01-01-000-9390154 – provide the following documents:
 - a. Wire transfer dated 4/27/11 from First Financial Bank to Fifth Third Bank for \$102,048.46.
 - b. Wire transfer dated 4/27/11 from First Financial Bank to Fifth Third Bank for \$1,000,581.41.
 - c. Pledge/control agreement dated 4/29/11 for promissory note dated 3/31/11.
 - d. Wire transfer dated 7/18/11 from Wells Fargo to Fifth Third Bank in the amount of \$648,958.84.
 - e. The Fifth Third Bank Investment Agreement dated 3/17/11.
 - f. Wire transfer dated 10/17/11 from Wells Fargo to Fifth Third Bank in the amount of \$648,175.18.
 - g. Wire transfer dated 1/3/12 from Wells Fargo Bank to Fifth Third Bank in the amount of \$646,205.38.

EXHIBIT 3

AOC-025.1 Doc. Code: RS
Rev. 3-09
Page 1 of 1
Commonwealth of Kentucky
Court of Justice www.courts.ky.gov
CR 45; RCr 7.02



SUBPOENA
 SUBPOENA DUCES TECUM

Case No. 05-CI-0436
Court CIRCUIT
County Boone
Date May 6, 2015

MILDRED ABBOTT, et al.

PLAINTIFF

VS

STANLEY M. CHESLEY, et al.

DEFENDANT

The Commonwealth of Kentucky to:

Name Custodian of Records - U.S. Bank
Address 2563 Richmond Road
Lexington, KY 40509

You are commanded to appear before: (select one of three choices)

_____ Court The Grand Jury of _____ County
 Other Angela M. Ford & Court Reporter

You are to appear at: Office of Angela M. Ford, PSC, Chevy Chase Plaza, 836 Euclid Avenue, Suite 311, Lexington, KY 40502 - OR ALTERNATIVELY - provide prior to May 21, 2015, documents requested in Exhibit "A"

on the 21 day of May, 2015 at 10:00 a.m. OR p.m. Eastern Central Time

To testify in behalf of _____
 To produce Documents described in Exhibit "A" attached

To give depositions

You are commanded to produce and permit inspection and copying of the following documents or objects (or to permit inspection of premises): See attached Exhibit "A"

on the 21 day of May, 2015 at 10:00 a.m. OR p.m. Eastern Central Time
at the following address: 836 Euclid Ave., Suite 311, Lexington, KY 40502

[Signature]
Issuing Officer/Attorney Licensed in Kentucky
By: _____

Angela M. Ford
Name of Requesting Attorney
Phone# (859) 268-2923

PROOF OF SERVICE

This subpoena was served by delivery of a true copy to: _____
This _____ day of _____, 2____ By: _____
_____ Title

EXHIBIT "A"

Any and all documents related to any and all investment accounts administered, overseen, or facilitated on behalf of Stanley M. Chesley, SSN #270-30-3041 from January 1, 2005 to present.

EXHIBIT 4

AOC-025.1 Doc. Code: RS
Rev. 3-09
Page 1 of 1
Commonwealth of Kentucky
Court of Justice www.courts.ky.gov
CR 45; RCr 7.02



SUBPOENA
 SUBPOENA DUCES TECUM

Case No. 05-CI-0436
Court CIRCUIT
County Boone
Date May 7, 2015

MILDRED ABBOTT, et al.

PLAINTIFF

VS

STANLEY M. CHESLEY, et al.

DEFENDANT

The Commonwealth of Kentucky to:

Name Custodian of Records - U.S. Bank
Address 2563 Richmond Road
Lexington, KY 40509

You are commanded to appear before: (select one of three choices)

_____ Court The Grand Jury of _____ County
 Other Angela M. Ford & Court Reporter

You are to appear at: Office of Angela M. Ford, PSC, Chevy Chase Plaza, 836 Euclid Avenue, Suite 311, Lexington, KY 40502 - OR ALTERNATIVELY - provide prior to May 21, 2015, documents requested in Exhibit "A"

on the 22 day of May, 2015 at 10:00 a.m. OR p.m. Eastern Central Time

To testify in behalf of _____
 To produce Documents described in Exhibit "A" attached

To give depositions

You are commanded to produce and permit inspection and copying of the following documents or objects (or to permit inspection of premises): See attached Exhibit "A"

on the 22 day of May, 2015 at 10:00 a.m. OR p.m. Eastern Central Time
at the following address: 836 Euclid Ave., Suite 311, Lexington, KY 40502

[Signature]
Issuing Officer/Attorney Licensed in Kentucky
By: _____

Angela M. Ford
Name of Requesting Attorney
Phone# (859) 268-2923

PROOF OF SERVICE

This subpoena was served by delivery of a true copy to: _____
This _____ day of _____, 2____ By: _____
_____ Title

EXHIBIT "A"

Any and all documents related to any and all mortgage loans and/or lines of credit from US Bank to Stanley M. Chesley, SSN #270-30-3041 on the property located at 9005 Camargo Road, Cincinnati, Ohio 45243.



**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
May 14, 2015 09:33 AM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 411288**

STANLEY M CHESLEY

vs.

ANGELA M FORD

A 1500067

**JUDGE
JODY M LUEBBERS**

FILING TYPE: MOTION

PAGES FILED: 6

EFR200

EXHIBIT

8

exhibitsticker.com

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

Mr. Stanley M. Chesley	:	Case No. A1500067
	:	
Petitioner	:	Judge Ruchlman
	:	
v.	:	MOTION FOR LEAVE TO
	:	FILE SURREPLY
Angela M. Ford, Esq, et al.	:	
	:	A proposed order is attached
Respondents.	:	
	:	The proposed surreply is attached

Petitioner Stanley M. Chesley (“Chesley”) moves this Court for permission to file the attached Surreply In Opposition To Ford’s Motion To Dismiss because Ford’s Reply memo contains certain factual misstatements that cry out for correction.

A proposed order granting the motion is attached.

Respectfully submitted,

/s/ Vincent E. Mauer
Vincent E. Mauer (0038997)
FROST BROWN TODD LLC
3300 Great American Tower
301 E. Fourth Street
Cincinnati, Ohio 45202
513-651-6785
Fax 513-651-6981
vmauer@fbtlaw.com

Sheryl G. Snyder, Esq.
FROST BROWN TODD LLC
400 West Market Street, Suite 3200
Louisville, KY 40202
ssnyder@fbtlaw.com

CERTIFICATE OF SERVICE

I hereby certify that a on this 14th day of May, 2015, a copy of the foregoing was served by ordinary U.S. Mail upon:

Christen M. Steimle, Esq.
Dinsmore & Shohl LLP
255 East Fifth Street, Suite 1900
Cincinnati, Ohio 45202

/s/ Vincent E. Mauer

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

Mr. Stanley M. Chesley	:	Case No. A1500067
	:	
Petitioner	:	Judge Ruehlman
	:	
v.	:	ORDER GRANTING
	:	MOTION FOR LEAVE TO
	:	FILE SURREPLY
Angela M. Ford, Esq, et al.	:	
	:	
Respondents.	:	

On May 14, 2015 Petitioner Stanley M. Chesley (“Chesley”) moved this Court for permission to file the Surreply In Opposition To Ford’s Motion To Dismiss. That Motion is GRANTED. The Surreply attached to Chesley’s May 14, 2015 motion is deemed filed at this time.

Judge Ruehlman
Hamilton County Court of Common Pleas

Copies to:

Vincent E. Mauer, Esq., Frost Brown Todd, LLC, 3300 Great American Tower, 301 E. Fourth Street, Cincinnati, Ohio 45202

Christen M. Steimle, Esq., Dinsmore & Shohl LLP, 255 East Fifth Street, Suite 1900, Cincinnati, Ohio 45202

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

Mr. Stanley M. Chesley	:	Case No. A1500067
	:	
Petitioner	:	Judge Ruchlman
	:	
v.	:	SURREPY IN OPPOSITION TO
	:	FORD'S MOTION TO DISMISS
Angela M. Ford, Esq, et al.	:	
	:	
Respondents.	:	

The Reply In Support of Defendant Angela M. Ford's Motion To Dismiss The Complaint (the "Reply") filed by Ford on May 13, 2014 contains certain errors so egregious that a response is mandated. In brief, Chesley notes:

1. Ford states in the Reply that "some day, someone might want" to domesticate the Chesley Judgment.¹ The evidence is (i) all of Chesley's assets are in Ohio; (ii) Ford has told the Boone Circuit Court that she intends to file fraudulent conveyance actions and (iii) Ford has sent e-mails threatening action against Chesley's spouse, children and other Ohioans. The someone is Ford and the time is now;

2. Chesley has not asked this Court to "interfere with proceedings in Kentucky" as asserted in the Reply.² Chesley asked this Court to enforce Ohio's procedural requirements to protect Ohioans and property in Ohio. The Kentucky Court was never asked to consider or apply Ohio law in this matter;

3. There is a controversy between Ford and Chesley because it is Ford who (i) wrote threatening e-mails, (ii) served discovery that seeks the private information of at least ten Ohioans, and (iii) asserted in Kentucky that she is not required to do the very things Ohio law

¹ See page 1 of the Reply.

² See page 1 of the Reply.

requires – disclose to Chesley the current name, address and amount owed to each judgment creditor. It is also Ford who refuses to disclose the amounts she has collected against the Chesley Judgment thereby hiding the current amount of the Chesley Judgment;

4. Ford admits that she has several Ohio clients who are among Chesley’s judgment creditors. The Reply admits that Chesley’s petition asserts facts that “arise from her [Ford’s] representation of clients, . . . , and a judgment from a Kentucky Court”, the Chesley Judgment.³ Chesley agrees that the assertions in his petition arise from Ford’s acts representing her clients who hold the Chesley Judgment and those clients include several Ohioans. Ford does not deny that she has communications and contracts with those clients and that she has sent money into Ohio the collection of which reduces the Chesley Judgment. Specific personal jurisdiction over Ford is appropriate in this case;

5. The Reply states that Chesley was informed “long ago” of who are his judgment creditors.⁴ The list used by Ford was created before 2004 and not updated when the Chesley Judgment was entered in 2014. Ford has never asserted through evidence or just by counsel that her old list is accurate. Ford knows people have moved, died or filed bankruptcy but she pretends those things have not happened to her list about 400 clients; and

6. Ford provides no evidence that she does not have minimum contacts with Ohio. As demonstrated in Chesley’s earlier filing, Chesley does not have to prove Ford’s minimum contacts because those minimum contacts were alleged and Ford has not provided any contrary evidence. Ford cites no law contrary to this argument in opposition to Chesley’s opposition to Ford’s motion to dismiss.

³ See page 3 of the Reply.

⁴ See page 3 of the Reply.

Ford's motion to dismiss should be denied.

Respectfully submitted,

/s/ Vincent E. Mauer

Vincent E. Mauer (0038997)
FROST BROWN TODD LLC
3300 Great American Tower
301 E. Fourth Street
Cincinnati, Ohio 45202
513-651-6785
Fax 513-651-6981
vmauer@fbtlaw.com

Sheryl G. Snyder, Esq.
FROST BROWN TODD LLC
400 West Market Street, Suite 3200
Louisville, KY 40202
ssnyder@fbtlaw.com

0118087.0619701 4850-0618-0131v1



**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
May 14, 2015 09:35 AM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 411289**

STANLEY M CHESLEY

vs.

ANGELA M FORD

A 1500067

**JUDGE
JODY M LUEBBERS**

FILING TYPE: MEMORANDUM

PAGES FILED: 10

EFR200

EXHIBIT

9

exhibitsicker.com

**COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

STANLEY M. CHESLEY	:	Case No. A1500067
	:	
Petitioner,	:	Judge Ruehlman
	:	
v.	:	
	:	
ANGELA M. FORD, ESQ., et al.	:	
	:	
Respondent.	:	

**PETITIONER’S AMENDED MEMORANDUM IN OPPOSITION TO RESPONDENT’S
MOTION TO DECLARE THE RESTRAINING ORDER DISSOLVED OR TO
DISSOLVE THEM**

Petitioner Stanley M. Chesley (“Chesley”) respectfully submits this Amended Memorandum in Opposition to Respondent Angela M. Ford’s Motion to Declare the Restraining Order Dissolved or To Dissolve Them (the “Motion”).

PURPOSE OF THE AMENDMENT

This Amended Memorandum in Opposition to Respondent’s Motion to Declare the Restraining Order Dissolved or to Dissolve Them makes one significant change to the version previously filed in the Federal court. It presents to this Court some of Ford’s recent conduct that negatively impacts several Ohio individuals and entities. Specifically, Ford has recently issued several subpoenas that demonstrate her ongoing collection efforts in Ohio, and she has served discovery on Chesley regarding entities that are not parties to the action nor owned by Petitioner. The actions undermine Ford’s argument that the injunction is premised on a speculative future action and highlight her ongoing and calculated collection efforts.¹

¹ For the Court’s convenience, the additional information appears primarily on pp. 9-10.

BACKGROUND FACTS

There are two sets of facts relevant to this motion: facts in Kentucky that led to the “Chesley Judgment”²; and facts in Ohio. A complete description of the relevant facts is available in Chesley’s Filings (defined below). Chesley’s discussion of the facts herein will be limited to providing important facts that demonstrate why the Motion must be denied.

Ohio Facts. Chesley filed his: (a) Amended and Restated Verified Petition For Declaratory Judgment And Injunctive Relief (“Verified Petition”); (b) Petitioner’s Motion For Order Restraining Registration and Enforcement of Kentucky Judgment and Document Destruction (“Petitioner’s Motion”); (c) Petitioner’s Verified Memorandum in Support of Motion for Injunctive Relief (the “Verified Supporting Memo”); and (d) Combined (1) Verified Motion and (2) Supporting Memorandum Seeking Amplification of Restraining Order (“Amplification Motion”)³ because Ford threatened several actions in Ohio against Ohio citizens, residents, domiciliaries and property.

Chesley’s Filings include a thorough discussion of Ford’s threats to subpoena, depose and attempt to seize assets in Ohio from Ohio citizens. Ford is also trying to seize assets from Chesley and Chesley has admitted that all of his assets are located in Ohio.

On January 7, 2015, this Court entered an Ex Parte TRO, and set hearing to rule on a preliminary injunction on January 14, 2015. At the preliminary injunction hearing, the Court entered an order prohibiting Ford from taking certain actions in Ohio without complying with Ohio procedural rules (the “Injunction”). Although Ford received actual notice of the January 14th preliminary injunction hearing, she chose not to attend. On February 5, 2015 Ford removed

² Capitalized terms not defined herein have the same meaning as in Chesley’s Filings.

³ Collectively, those four filings are “Chesley’s Filings.” Three of the filings are verified so that the facts stated therein and the documents attached thereto are evidence that this Court may consider. Also available as evidence is the Affidavit of Frank V. Benton, IV filed with this Court on February 16, 2015 (“Benton Aff.”).

this action to Federal Court on diversity grounds. Ford then sought to dissolve the Injunction issued in this Court.

Kentucky Facts. After nearly ten years and two Kentucky Supreme Court decisions, Ford obtained for her about 400 clients in the Abbott Case (the “Ohio Respondents” and “Unknown Respondents” herein) summary judgment holding Chesley jointly liable for a seven year old \$42,000,000 judgment entered against two criminals and a third accused but not convicted former lawyer, what all parties label the “Chesley Judgment.”

As demonstrated in the Affidavit of Frank Benton (Doc. 11, Attachment 1), several of Chesley’s judgment creditors were and remain Ohio citizens.

ARGUMENT

A. The January 14, 2015 Order was not a Temporary Restraining Order

Ford’s initial argument seems to be that because the Injunction is in fact just a temporary restraining order masquerading as a preliminary injunction, the order has expired by virtue of Federal Rule of Civil Procedure 65(b)(2). Yet, the Court’s *Ex Parte* Order provides, “This matter will come on for a hearing on the Motion’s request for a **preliminary injunction** and consideration of the status of the Unknown Respondents on January 14, 2015 at 9 a.m. o’clock.” (See Notice of Filing Doc. 1-1, Exhibit A p. 97.) Thus, as the Court made clear, a temporary restraining order had already been entered and the January 14th hearing was set to consider whether the court should grant a *preliminary injunction*, and the order issued pursuant to that hearing was, accordingly, not a temporary restraining order.

Fed. R. Civ. P. 65(b)(2) is inapplicable to the matter at hand. By its own terms, that section applies only to temporary restraining orders granted “without notice,” and Ford cites to no mandatory authority that contradicts the express language of the statute. Here, Ford had

notice that a preliminary injunction hearing was to take place on January 14, 2015. In fact, Petitioner's counsel submitted an affidavit stating that he not only mailed the notifying documents to Ms. Ford on the very day that the Ex Parte TRO was granted, he also emailed her a copy of the Court's Ex Parte Order. Petitioner's counsel further testified that Ms. Ford responded to that e-mail, which demonstrates that she had actual knowledge of the proceedings. Thus, even if the Injunction was in fact a temporary restraining order as Ford claims, the 14 day deadline imposed by Fed. R. Civ. P. 65(b)(2) would not apply.

B. Ohio Courts have Personal Jurisdiction over Ford

Using NO evidence, Ford next argues that both the Federal Court and the Ohio Court of Common Pleas lack jurisdiction over her. However this fails to mesh with the facts. A court can only exercise personal jurisdiction if jurisdiction is (1) authorized under the applicable state law; and (2) consistent with due process. *Youn v. Track, Inc.*, 324 F.3d 409, 417 (6th Cir. 2003). As the Ohio long-arm statute, O.R.C. 2307.382, is not coextensive with an 14th Amendment analysis, both prongs must be separately considered. *Kauffman Racing Equip., L.L.C. v. Roberts*, 930 N.E.3d, 784, 792 (2010).

The long arm statute enumerates nine different ways an out of state defendant may be subject to the jurisdiction of an Ohio state court. O.R.C. 2307.382(A)(1)-(9). Meanwhile, the due process analysis hinges on whether Ford has "certain minimum contacts with [the forum] such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'" *Int'l Shoe co. v. Washington*, 326 U.S. 310, 316, (quoting *Milliken v. Meyer*, 311 U.S. 457, 463 (1940)). Minimum contacts are present when the Defendant's conduct and connection with the state are strong enough that he can "reasonably anticipate being haled into court there." *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980). It is also

necessary that the Defendant purposefully avail himself of the forum state, its benefits, and the protection of its laws. *Youn*, 324 F.3d at 417.

As part of this analysis, the Supreme Court distinguishes between general jurisdiction and specific jurisdiction. *Id.* at 417-18. If a defendant has substantial contacts with the forum state that are “continuous and systematic,” the court may exercise personal jurisdiction even when the defendant’s actions were not directly related to the defendant’s contacts with the state. *Id.* Otherwise the forum state may only exercise jurisdiction in those cases where the suit arises out of the defendant’s contacts with the state. *Id.*

As argued in the Motion for Leave to File the Amended Verified Petition, Chesley’s judgment creditors are Ford’s clients and several of them are Ohioans. Furthermore, Ford herself asserts that she has a contract with each of her clients. Pursuant to those contracts, Ford has collected money owed to those Ohioans and withheld from their distributions several amounts that Ford herself calculated and controlled.

Money aside, it must be true that Ford directed many communications to her Ohio clients over the 10 years that the Abbott Case has been pending. Those communications meet the requirements of Ohio’s long arm statute and the constitution’s due process requirements. *Schneider v. Hardesty*, 669 F.3d 693 (Sixth App. 2012).⁴ In *Schneider*, a defendant wrote two “to whom it may concern” letters that he knew would be forwarded to persons possibly including Ohioans. Applying the lessons of *Schneider* to our facts, Ford’s many communications to multiple Ohioans and contracts with each of several Ohioans meet Ohio’s long arm statute because she is conducting business in this state and contracting to supply services to Ohioans. See O.R.C. sub-sections 2307.382(A)(1) and (2).

⁴ Brian Sullivan, Esq., Ford’s counsel, was involved in this case. He knows that Ohio has jurisdiction over Ford.

Applying the lessons of *Schneider* to our facts, Ford “purposefully availed” herself of the opportunity to do business in Ohio when she made contracts with Ohioans.⁵ Moreover, Ford’s known many contacts with multiple Ohioans (contracts, communications and the sending of money) arise specifically from the Abbott Case and have a substantial connection with this case. The requirements of due process are met. Jurisdiction over Ford can be exercised in Ohio.

C. **Chesley is Not Challenging the Full Faith and Credit**

Petitioner’s next argument asserts that in granting the Injunction, the Court failed to afford the Kentucky judgment full faith and credit. This argument is misplaced and fails to acknowledge that Chesley does not seek redetermination of the merits of the Kentucky judgment; rather, he seeks only a determination that the judgment is procedurally proper for execution under Ohio law.

There are two means of domesticating a foreign judgment in Ohio: through the procedures set forth in the *Uniform Enforcement of Foreign Judgments Act* (“UEFJA”), Ohio Rev. Code Section 2329.022, or through the commencement of a new lawsuit in Ohio in which the plaintiff asks the court to domesticate the foreign judgment in Ohio. In both instances, the relief sought by Chesley is entirely appropriate.

Ohio’s version of the UEFJA provides, in relevant part, as follows:

. . . . The clerk shall treat the foreign judgment in the same manner as a judgment of a court of common pleas. **A foreign judgment filed pursuant to this section has the same effect and is subject to the same procedures**, defenses, and proceedings for reopening, vacating, or staying as a judgment of a court of common pleas and may be enforced or satisfied in same manner as a judgment of a court of common pleas. (emphasis added).

⁵ In *Youn v. Track, Inc.*, 324 F.3d 409, 419 (6th Cir.2003), the court said that a single act can satisfy the purposeful availment prong of the due process analysis. *Id.*

Ohio Revised Code Section 2329.022. This provision is implemented in cases that give full faith and credit to the foreign judgment but apply Ohio law to the use or collection of the foreign judgment. See *Salyer v. Eplion*, No. 08CA18, 2009 WL 891797 (Ohio Ct. App. Mar. 31, 2009) (discussing the use of a Kentucky judgment in Ohio the court said “Rather, Appellee would have been required to obtain an Ohio certificate of judgment pursuant to his domesticated foreign judgment before his judgment would constitute a valid judgment lien capable of being foreclosed upon.”). Accord, *First Am. Bank of Ashland v. Stonehenge Computer*, No. 1905, 1990 WL 71918 (Ohio Ct. App. May 25, 1990). (When a Kentucky judgment was brought to Ohio using a new lawsuit instead of the UEFJA, Ford would have to list her clients as plaintiffs – same result as use of the UEFJA.)

The decision in *Rion v. Mom and Dad's Equipment Sales and Rentals*, 116 Ohio App 3d. 161 (Ohio Ct. App. 1996) provides a clear example of how Ohio courts implement Ohio procedural rules and insist on compliance with those rules in the context of enforcing foreign judgments. In *Rion*, the Ohio court allowed the domestication in Ohio of a 19 year old Florida judgment that was still enforceable in Florida but then denied execution against any Ohio property because Ohio's 15 year statute of limitations applied. Addressing the very issues raised in Ford's Filings, the court said:

The “full faith and credit” language has also been codified in Section 1738, Title 28, U.S.Code. In essence, this constitutional provision requires the courts of this state to honor judgments from other states without re-examining the merits of their claims However, as stated by the Ohio Supreme Court “Full faith and credit does *not* mean that a judgment of a court in one state is automatically entitled to *enforcement* in another state.” . . . (emphasis original)

In this case, the validity of the **foreign judgment** is not questioned, only its enforceability. Thus, defendant has raised a defense under Ohio law, applicable to UEFJA proceedings by way of R.C. 2329.022. This defense is also valid. . . . Since plaintiffs brought their judgment to Ohio beyond the statutorily stated time period, enforcement is barred. (citations omitted)

The *Rion* case supports exactly what the Chesley's Filings seek: assurance that the Chesley Judgment will comply with applicable Ohio law before it is enforced in Ohio and the requirement that Ohio judgment enforcement procedures be followed.⁶

Though Ford later again argues that "The Restraining Orders interfere with Kentucky Law and Procedure," the above argument again applies. The Injunction only requires that Ford follow the correct procedure before domesticating the Kentucky judgment or acting in furtherance of that judgment. (*Motion to Dissolve* pp. 12-13.)

D. **The Injunction was Properly Granted under Ohio Law**

Ford's remaining arguments, that the "Restraining Orders are Contrary to Ohio Law," and that "Chesley Cannot Establish the Prerequisites for Injunctive Relief," seek to re-argue the merits of the Temporary Restraining Order and the Injunctions themselves. The merits of each of these filings have already been argued, heard, and considered. As a result of this process, the Court saw fit to grant the Injunction at issue. (*See* Doc. 1-1, Exhibit A p. 89).

Ford knew of the January 14th hearing on the Injunction and *chose* not to attend. She cannot now use this Court as a makeshift court of appeals to voice untimely opposition to a motion to which she had every opportunity to respond. Rather than repeat verbatim the analysis which was set forth in the Motion for Injunctive Relief, Chesley incorporates the arguments of his Verified Memorandum in Support of Motion for Injunctive Relief as if fully restated herein.

In addition, though Plaintiff devotes a fair portion of final argument to the notion that Chesley cannot prove irreparable harm, Chesley does not allege mere monetary damages.

⁶ Other states (e.g. Arizona, Kansas, and Maryland) have the same rule: foreign judgments can be domesticated (some states say "registered" or "enrolled"), but local law applies to determining when, if and how that judgment can be enforced. *Bank v. Yoo*, 2005 WL 3817602 (Md. Circuit Court, Dec. 28, 2005) (holding that applying the forum state's statute of limitations does not violate the full faith and credit clause of the Constitution of the United States of America).

Instead, as the Verified Memorandum sets forth in detail, without the needed information, Chesley is denied any chance to make a rational settlement offer to any of the individual Unknown Respondents because he does not know how much money is owed or even *who* is owed. The Unknown Respondents, in turn, will be deprived of their right to determine if they want to settle with Chesley. This not only demonstrates the harm Chesley faces, but also undermines established public policy in favor of settlement. *See Krischbaum v. Dillon*, 567 N.E.2d 1291 (1991).

Finally, it is worth noting that Ford has moved this Court for an order dissolving the Injunction—a clear indication that Ford seeks to enforce the Kentucky judgment in Ohio. This runs directly counter to her argument, also presented in her Motion to Dismiss, which was incorporated into this Motion by reference, that this matter “is premised on speculative future events regarding the collection of a judgment awarded against him.” (Motion p. 16.) In short, she argues both that she is not seeking to domesticate the Kentucky judgment in Ohio while simultaneously arguing that this Injunction impermissibly inhibits her from domesticating the Kentucky judgment in Ohio. Neither argument can bear the weight of this contradiction.

Furthermore, Ford’s collection efforts are more than speculative—they are ongoing. Not only has she filed the instant Motion, she has also issued Kentucky subpoenas to (a) Clark, Schaeffer Hackett & Co., Chesley’s accountant, seeking a broad swath of confidential financial information relating to Ohio citizens, (b) two banks and seven insurance companies, seeking information regarding Ohio transactions. Ford has also issued a second set of interrogatories in the Kentucky action that specifically target nonparty Ohio entities. These actions undermine any argument Ford had that her collection efforts were merely “speculative,” and instead demonstrate the immediacy of the present litigation.

CONCLUSION

Accordingly, Petitioner Stanley M. Chesley respectfully requests that this Court deny Respondent Angela Ford's Motion to Declare the Restraining Order Dissolved or To Dissolve Them.

Respectfully submitted,

/s/ Vincent E. Mauer
Vincent E. Mauer (0038997)
Kevin T. Shook (0073718)
FROST BROWN TODD LLC
3300 Great American Tower
301 East Fourth Street
Cincinnati, Ohio 45202
513-651-6785
Fax 513-651-6981
vmauer@fbtlaw.com
kshook@fbtlaw.com

*Trial Attorneys for Petitioner Stanley M.
Chesley*

CERTIFICATE OF SERVICE

I hereby certify that a on this 14th day of May, 2015, a copy of the foregoing was served by ordinary U.S. Mail upon:

Christen M. Steimle, Esq.
Dinsmore & Shohl LLP
255 East Fifth Street, Suite 1900
Cincinnati, Ohio 45202

/s/ Vincent E. Mauer

0118087.0619701 4820-4073-9619v1



**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
June 26, 2015 03:28 PM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 421397**

STANLEY M CHESLEY

vs.

ANGELA M FORD

A 1500067

**JUDGE
JODY M LUEBBERS**

FILING TYPE: MOTION

PAGES FILED: 19

EFR200

EXHIBIT

10

exhibitsticker.com

**COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

Mr. Stanley M. Chesley	:	Case No. A1500067
	:	
Petitioner,	:	Judge Ruehlman
	:	
v.	:	MOTION OF INTERVENOR
	:	WAITE SCHNEIDER BAYLESS &
Angela M. Ford, Esq, <i>et al.</i>	:	CHESLEY CO., L.P.A. FOR
	:	DECLARATORY AND INJUNCTIVE
Respondents.	:	RELIEF
	:	
	:	

NOW COMES Intervenor Waite Schneider Bayless & Chesley Co., L.P.A. (“WSBC”) and hereby moves this Court:

1. For an Order permitting WSBC to intervene as a party in interest/plaintiff in this action.

2. For an Order determining WSBC’s rights and responsibilities with respect to certain actions being taken or contemplated by Respondents in the Boone County Kentucky Circuit Court (Case No. 05-CI-436) (the “Kentucky Case”) that directly and adversely affect WSBC and Thomas F. Rehme, Trustee (“Rehme”), the owner of all of the stock of WSBC.

a. As outlined in more detail below, Respondent has filed a motion in the Kentucky Case seeking an Order from the Kentucky court directing Mr. Chesley to transfer and assign to Respondent Angela Ford (“Ford”) all of Mr. Chesley’s “beneficial interest in” the stock of WSBC and to deliver to Mr. Rehme a copy of such order to ensure that Rehme pays any funds that would otherwise be directed to Mr. Chesley to Ford.

b. Respondents have also subpoenaed WSBC’s accounting firm, Clark Schaefer & Hackett (“CSH”), another Ohio entity, in an effort to obtain WSBC’s confidential and proprietary financial information. Such information includes, but is not limited to, the wages, earnings, and other personal, private data or confidential information of WSBC’s past and current employees, vendors, and other parties with whom WSBC has transacted business over the past 10

years. Respondents also have taken the position that Mr. Chesley, the former owner of WSBC, can be compelled to deliver WSBC's financial records to Respondents as part of discovery directed to him in Kentucky. Because Respondents do not have a judgment against WSBC, they should be compelled to obtain any information from WSBC through this Court which has the proper jurisdiction and authority to protect the interests of WSBC and all other interested parties.

3. For an Order directing CSH to withhold from production to Respondents any financial information pertaining to WSBC.

4. For an Order directing Mr. Rehme to decline any request from Mr. Chesley for WSBC's financial records to the extent such request emanates from a discovery request directed to Mr. Chesley in Kentucky or an Order in the Kentucky Case.

5. For an Order determining WSBC and/or Rehme's duties and responsibilities, if any, under any Kentucky Order directing Mr. Chesley to transfer and assign to Respondent Ford all of his "beneficial interest in" the stock of WSBC delivered to Rehme in an attempt to ensure that Rehme pays any funds that would otherwise be directed to Mr. Chesley to Ford because, among other things, any such request violates Ohio law, grants Ford (and the other Respondents) greater relief than they would otherwise be entitled to receive as judgment creditors in Ohio, and conflicts with the overwhelming majority of legal precedents across the country.

The following Memorandum is offered in support of this Motion.

Respectfully submitted

//s/ Donald J. Rafferty
Donald J. Rafferty (0042614)
Cohen, Todd, Kite & Stanford, LLC
250 E Fifth St, Suite 2350
Cincinnati, OH 45202-5136
Phone: (513) 333-5243
Fax: (513) 241-4495
Email: drafferty@ctks.com

Attorney for Intervenor Waite, Schneider,
Bayless & Chesley, L.P.A.

MEMORANDUM

A. WSBC Is Entitled To Intervene In This Action As Its Interests Will Be Directly Affected By The Outcome Of This Case And Are Not Adequately Represented By Existing Parties.

Rule 24 of the Ohio Rules of Civil Procedure, which governs intervention, should be construed liberally in favor of intervention. *State ex rel. Polo v. Cuyahoga County Bd. Of Elections*, 73 Ohio St.3d 143, 1995-Ohio-269, 656 N.E.2d 1277; *State ex rel. Strategic Capital Investors, Ltd. v. McCarthy* (1998), 126 Ohio App.3d 237, 248, 710 N.E.2d 290. Intervention can be as a matter of right or permissive. See Ohio R. Civ. P. 24(A) and (B). WSBC avers that it is permitted to intervene in this action as a matter of right as well as a permissive basis.

1. Intervention Under Rule 24(A)(2) Is Warranted Because WSBC's Unique Interests Are Not Adequately Represented By The Existing Parties.

Rule 24(A) of the Ohio Rules of Civil Procedure provides that:

(A) Intervention of right. Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute of this state confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction that is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

WSBC as intervenor, has such an interest as a matter of right because the subject of the instant action is so situated that the disposition of the action will impair and/or impede WSBC's ability to protect its interests as same are not being adequately represented by existing parties.

Key to the intervention is the legal fact that Mr. Chesley is not an owner or shareholder of WSBC pursuant to the terms of that certain Wind-Up Agreement dated

April 15, 2013 (the “Wind-Up Agreement”) and therefore, cannot represent WSBC’s interests. In particular, Section 1 of the Wind-Up Agreement provides that: “Transferor [Mr. Chesley] hereby transfers and assigns his 225 shares in the Corporation (the “Shares”) to Transferee [Rehme] to be held in trust for the exclusive purposes of winding up the Corporation [WSBC] for the benefit of its employees, creditors and transferor.” Furthermore, section 4.1(g) of the Wind-Up Agreement provides that Rehme, as Trustee of the Trust, is to: “Liquidate corporate assets and distribute proceeds to creditors as required and the remainder to Transferor. . . .” (emphasis added). Hence, at best, Mr. Chesley only has a contingent remainder interest in the Trust holding the WSBC shares. Simply stated, WSBC is not Mr. Chesley and is not represented by proxy through him in this action or in the Kentucky Case.

Further, enumerated paragraph 3 of this Court’s January 14, 2015 Restraining Order (the “Restraining Order”) provides:

Ford, the Unknown Respondents, and any other person acting on behalf of the Unknown Respondents *are enjoined from taking any action to collect the Chesley Judgment in the State of Ohio, from any Ohio resident, Ohio citizen or Ohio domiciled entity.* (emphasis added).

Thus, WSBC is a direct, intended third-party beneficiary of the Restraining Order, and is entitled to the protections afforded thereby, which in WSBC’s view, simply require Ford to comply with Ohio law to domesticate the judgment – nothing more and nothing less. However, despite the issuance for the Restraining Order and their knowledge of same, Respondents have fragrantly failed to comply with the Order forcing WSBC to now seek intervention in the instant case to ensure its rights and the rights of Rehme as its trustee, are fully protected.

2. In the Alternative, WSBC Should Be Permitted To Intervene Under Rule 24(B)(2).

Alternatively, Rule 24(B) provides:

Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute of this state confers a conditional right to intervene; or (2) when the applicant's claim or defense and the main action have a question of law or fact in common.

Ohio R. Civ. Pro. 24(B) [in pertinent part]. Permissive intervention under Rule 24(B) is to be liberally granted, so as to promote the convenient and prompt disposition of all claims in one litigation. See *City of Cleveland v. Cities Serv. Oil Co.* (N.D. Ohio 1969), 20 Ohio Misc. 179, 47 F.R.D. 543.

Even if this Court did not agree that WSBC has a *right* to intervene, this is a quintessential case for permissive intervention under Rule 24(B)(2). Obviously, the actions of Respondents are nothing more than a back-door attempt (i) to avoid compliance with this Court's Restraining Order and applicable Ohio law, (ii) to obtain through Mr. Chesley WSBC's information despite the fact that WSBC is not even a party to Respondents' Kentucky Case, and (iii) to seize assets and confidential information of WSBC and other Ohio entities or residents without first perfecting the Judgment in Ohio.

B. Respondents' Actions In The Kentucky Case Are In Direct Violation Of This Court's Restraining Order.

As noted, this Court's Restraining Order expressly provides in paragraph 3 that:

Ford, the Unknown Respondents, and any other person acting on behalf of the Unknown Respondents *are enjoined from taking any action to collect the Chesley Judgment in the State of Ohio, from any Ohio resident, Ohio citizen or Ohio domiciled entity.* (emphasis added).

In utter disregard of the Restraining Order, on May 21, 2015 the Respondents filed a Motion (the "Transfer Motion") in the Kentucky Case, asking the Kentucky Court

to enter an order, in direct contravention of the Restraining Order, that requires “Defendant Chesley’s [an Ohio resident and citizen] beneficial interest in the shares of his former law firm, Waite, Schneider, Bayless & Chesley Co., L.P.A. (“WSBC”) [an Ohio domiciled entity] be transferred to Plaintiffs, with all distributions pursuant to that interest to be made to Plaintiffs through their counsel.”

The Transfer Motion also requested that the Court order “Defendant Chesley [an Ohio citizen] and his counsel to provide a copy of the Order Thomas F. Rehme, who holds those shares [of an Ohio domiciled entity] in trust [established under Ohio law] for Defendant Chesley’s benefit, and order Defendant Chesley [an Ohio citizen] to direct Mr. Rehme to make payments as ordered.” *Id.* Put simply, Respondents filed the Motion in an effort to obtain indirectly from the Kentucky Court that which they are unable to obtain in Ohio under Ohio law despite the clear and direct language in the Restraining Order prohibiting them from taking such actions.

Likewise, on April 20, 2015, Respondents subpoenaed WSBC’s accounting firm, CSH, another Ohio entity, in an effort to obtain WSBC’s confidential and proprietary financial information. Such requested information includes, but is not limited to, the wages, earnings, and other confidential information of WSBC’s employees, vendors, and other parties with whom WSBC has transacted business over the past 10 years. Respondents even filed in the Kentucky Case a Motion to Compel CSH to comply with their contemptuous subpoena *duces tecum* and order production of the requested information (the “CSH Compel Motion”).

Also on May 21, 2015, Respondents filed a motion for contempt against Mr. Chesley and his counsel to compel discovery responses (the “Chesley Compel

Motion”). In particular, the Chesley Compel Motion chides Mr. Chesley for having among other things:

- a. “[N]ot provided any account information for his former law firm, Wait, Schneider, Bayless & Chesley Co., L.P.A.” Chesley Compel Motion pg. 2.
- b. Not proving requested names and financial account information for all entities Mr. Chesley had an interest and noted that “WSBC is clearly responsive to these interrogatories, but no responsive documents have been produced.” *Id.* at pg. 5.
- c. Not providing information in regards to all trusts noting that the “trust created by the WSBC Wind-Up Agreement is clearly covered by this interrogatory...” *Id.* at pg. 6.
- d. Not providing year-end financial statements since 2005 for Chesley and any business, trust or entity held since 2005 noting “Chesley has provided no such statement for WSBC. . . .” *Id.* at pg. 7.

As a direct, intended third-party beneficiary of the Court’s Restraining Order, WSBC is entitled to the protections afforded by that order. WSBC should not be burdened by having to respond to the Transfer Motion, or to otherwise seek clarification of its impact on, or import to, WSBC, by filing this motion seeking guidance from this Court. Likewise, WSBC should be protected from Respondents duplicitous efforts to obtain WSBC’s confidential and proprietary financial information through third parties. Indeed, there is no justification for placing Mr. Rehme and WSBC in the potential cross-hairs of former employees, vendors, creditors or other counter-parties of WSBC whose private and confidential data would be disclosed to Ford without appropriate protections being in place in a Court of competent jurisdiction like this one.

Accordingly, this Court should enter an order (i) directing Ford to show cause why she should not be held in contempt of the Restraining Order for filing the Transfer Motion and seeking via a back-door attempt to obtain information regarding WSBC via

the CSH subpoena, the CSH Compel Motion, and the Chesley Compel Motion; (ii) ordering Ford to pay WSBC's attorney's fees and costs incurred in filing this Motion and any related papers or proceedings; and (iii) declaring that any Order that emanates from the Transfer Motion, CSH Compel Motion or the Chesley Compel Motion is null and void as to WSBC (and Mr. Rehme) unless and until Ford complies with Ohio law regarding domestication of the judgment and any execution thereon.

C. Respondents Have Not Properly Domesticated The Judgment In Ohio; Thus, The Transfer Motion Is Nothing More Than A Back-Door Attempt To Do Indirectly What They Have Failed To Accomplish Directly.

For reasons known only to Ford, Respondents have not attempted domesticate their Judgment in Ohio. They haven't even tried. Whether that failure is due to Ford's unwillingness to use the proper procedural channels, or to her inability to satisfy the statutory requirements for the domestication of the Judgment in Ohio is not relevant here. What is relevant is that Ford's continued use of Kentucky courts to circumvent applicable Ohio laws and procedures, and her service of Kentucky subpoenas directed at Ohio parties, and the private information of those Ohio parties against whom she has no judgment or rights, is both improper under applicable law and a violation of this Court's Restraining Order.¹ Ford's Motion becomes even more troubling when one considers the way in which her conduct has the effect of depriving Ohio parties, such as WSBC and its former employees, creditors, vendors and the like, of the rights and protections afforded to them under Ohio law by effectively seeking relief against them in

¹ In that regard, it is worth noting that through her "Kentucky" subpoenas, Ford has sought to obtain voluminous records of WSBC and other **Ohio** parties containing highly confidential and/or proprietary information of countless **Ohio** individuals and parties. Her hubris is compounded by the fact that (a) she utterly failed and refused to service notice of the subpoenas on WSBC or the other third-parties whose information she was seeking; and (b) she simultaneously filed a motion asking the Kentucky court to eviscerate the agreed protective order in Kentucky so she can be free to publicize the information she obtains in Kentucky.

a Kentucky court that has no jurisdiction over them in a case in which they are not parties and in a forum that is not their own.

The proper procedural steps for domestication of a foreign judgment have been clearly set out in various papers filed by Mr. Chesley in this case. See O.R.C. 2329 *et seq.* Despite having filed voluminous responses and motions in this Court and in the Kentucky Case, Ford has never disputed Mr. Chesley's description of the applicable law nor has she ever taken any steps to complete the domestication process. As a result, Ford (and the Respondents) have absolutely no legal basis for any attempt to interfere with the operations of WSBC or to obtain the private financial information of WSBC, its creditors, and its employees. And it is wholly unreasonable and unjust to expose Mr. Rehme to claims by third parties (such as persons whose information would be disclosed in WSBC documents) solely because Ford and the other Respondents have chosen to ignore this Court's Restraining Order and to ignore Ohio law. Neither WSBC nor Mr. Rehme should be put in the position of having to elect whether to produce WSBC information (pursuant to Kentucky discovery in the Kentucky Case in which WSBC is not a party and from a court that has no jurisdiction over WSBC) or to stand on the substance of this Court's orders.

It is no coincidence that Respondents filed the Transfer Motion immediately after the Ohio Court entered an order denying Respondents' motion to void the Restraining Order despite having been well aware of the Wind-Up Agreement and the interests thereunder for quite some time. The ruse is obvious: Ford filed the Motion in hopes of convincing the Kentucky court to unknowingly participate in her scheme to treat the Restraining Order as though it does not exist. Respondents tacitly acknowledge this fact

in the Transfer Motion and Memorandum when they also request that this Court “should also order Defendant Chesley and his counsel to provide a copy of the Order to Thomas F. Rehme, who holds those shares in trust for Defendant Chesley’s benefit, and order Defendant Chesley to direct Mr. Rehme to make the payments as ordered.” Transfer Motion at pg. 1, Memorandum thereto at pg. 3. In doing so, Ford seeks to utilize the Kentucky court as the vehicle to “go around” the Restraining Order and to effectively order WSBC, an entity against whom Respondents do not have a judgment and who is not a party to the Kentucky action to be somehow bound by a Kentucky order that is appears to contradict the plain language of this Court’s Restraining Order.

The Respondents’ actions in filing the Transfer Motion are similar to those of parties who wish to skirt the strict requirements of pre-judgment attachment by seeking a temporary injunction/restraining order instead. For example, in Kentucky, like Ohio, in order to obtain a prejudgment attachment, the plaintiff must comply with the stringent requirements of KRS § 425.301 *et seq.* to justify attachment. Under KRS § 425.301(3), before an order of attachment shall issue prior to judgment, the plaintiff must first make a demand in writing, delivered or mailed (registered or certified) to the debtor, along with a copy of the complaint, motion and summons, to his last known place of residence, at least seven (7) and not more than sixty (60) days before such order is sought. The demand shall contain a statement that the debtor has seven (7) days in which to petition the court for a hearing or in which to pay the claim in full, and that unless a hearing is set or the claim paid, an order will be sought to subject his property to payment of the claim. An affidavit of the plaintiff or his attorney evidencing compliance with this section must be filed before an order of attachment can be issued by the clerk. *Id.* Further, KRS

§ 425.309(1) provides as follows: “An order of attachment shall not be issued [before final judgment] until a bond has been executed by one (1) or more sufficient sureties of the plaintiff in an amount not less than double the amount of the plaintiffs claim.” Thus, the plaintiff must secure a bond of at least double the amount of the total claim against the defendant.

Instead of navigating through the prejudgment attachment process, it is often the case that plaintiffs will attempt to impermissibly circumvent such requirements by seeking a temporary injunction or restraining order despite provisions such as KRS § 425.301 *et seq.* (*pre-judgment attachment*) being an adequate remedy. *Cf. USACO Coal Co. v. Carbomin Energy, Inc.*, 689 F.2d 94, 99 (6th Cir. Ky. 1982) (internal citations omitted) (“An “adequate remedy at law” is a remedy that is plain and complete and as practical and efficient to the ends of justice as the remedy in equity by injunction.”); *Taggart Global Operations, LLC v. Elk Horn Coal Co., LLC*, 415 S.W.3d 665, 669 (Ky. Ct. App. 2013) (provisions of the attachment statute require strict compliance) *citing* *McLean v. McLean*, 73 Ky. 167, 168 (Ky. 1873); *accord State on Relation of Gaines, Stern, Schwarzwald & Robiner Co. v. Fuerst*, 1980 Ohio App. LEXIS 13813, 5-6 (Ohio Ct. App., Cuyahoga County Feb. 7, 1980) (“The legislature has enacted a detailed scheme that is specifically designed to deal with the prejudgment attachment of a defendant's assets . . . and [it] provides the exclusive method of obtaining a prejudgment attachment.”). Courts routinely reject these attempts to avoid specific statutory requirements by seeking more general, equitable relief.

Here, Ohio law provides a very clear path for Respondents to domesticate their Judgment and execute on it if they wish to do so. See O.R.C. 2329 *et seq.* They simply

need to comply with that statute and then they would be free to use the **Ohio** courts to pursue **Ohio** assets and parties, including Mr. Chesley's contingent, beneficial interest in WSBC. Respondents have failed to comply with the Ohio statutory provisions for domesticating the Judgment. Respondents must not be permitted to simply ignore, or refuse to pursue, plain legal remedies available to them – such as domestication of the Judgment in Ohio followed by use of Ohio's execution statutes – and ask instead for equitable relief like that which is sought in the Transfer Motion.

Like the plaintiffs who wish to “get around” the strict attachment requirements by seeking a temporary injunction, Respondents now ask the Kentucky court to contravene this Court's Restraining Order and to grant them back-door access to WSBC, an Ohio entity that is not a party to the Kentucky Case. This Court should act promptly to protect WSBC (and its former and current employees, creditors, and other interested parties whose confidential information Ford seeks to publish) and should block Ford's attempt to escape the consequences of her own failure to simply comply with Ohio domestication and execution law. The mere fact that Respondents apparently find themselves unable to correctly domesticate their Judgment in Ohio is not an excuse for them to simply disregard Ohio law and to violate the rights on third party Ohio residents, like WSBC, against whom they have no Judgment.

Respondents failed to cite in the Transfer Motion a single Kentucky Case that holds that KRS 426.384 authorizes a Kentucky court to order an Ohio resident to transfer Ohio real or personal property to Kentucky plaintiffs – because there is no such Kentucky Case.

For the same legal reasons that a Kentucky court does not have jurisdiction to foreclose on Ohio real estate or garnish Ohio bank accounts, a Kentucky court may not accomplish the same objective by enjoining a defendant to transfer such property to Kentucky plaintiffs. A persuasive precedent is *Elkhart Coop. Equity Exch. v. Hicks*, 823 P.2d 223 (Kan. App. 1991). In that case, a Kansas court ordered a judgment debtor to “surrender to Kansas officials certain nonexempt property (or documents of title to said property) located in Oklahoma.” 823 P.2d at 224. The Kansas Court of Appeals held “that a state has no power to reach property beyond its borders, and that he [defendant] cannot be required to bring property located out-of-state before the Kansas court to surrender to the sheriff for satisfaction of the judgment. . . . Recent case law in other jurisdictions limits judgment creditors to obtaining property located in the *situs* jurisdiction.” *Id.* at 226, citing *Chadwin v. Krouse*, 254 Pa. Super., 445, 386 A.2d 33 (1978). *Accord*, *Baxter State Bank v. Bernhardt*, 185 F.R.D. 621, 624 (D. Kan. 1999) (“According to a recent decision from the Kansas Court of Appeals, Kansas courts have no jurisdictional authority to order a non-resident judgment debtor to bring out-of-state property into Kansas to satisfy a judgment.”) citing *Elkhart Coop. Equity Exch. v. Hicks*, *supra*.

Another persuasive precedent is *Sargeant v. Al-Saleh*, 137 So.3d 423 (Fla. App. 2014). The Florida Court of Appeals held that “the [trial] court lacked jurisdiction to compel the turnover of property located outside the State of Florida.” 137 So.3d at 433.

The Florida court further reasoned that permitting such a transfer would evade the legal protections in the *situs* state for other creditors, as well as statutory protections for the debtor:

From a policy standpoint, we agree with the *Koehler* dissent. . . . [W]e are concerned about the practical implications of permitting Florida trial courts to order judgment debtors to turn over assets located outside the state. First, there may be competing claims to the foreign asset and we believe “that claims against a single asset should be decided in a single forum – and . . . that the forum should be, as it traditionally has been, a court of the jurisdiction in which the asset is located.”

137 So. 3d at 435, quoting *Koehler v. Bank of Bermuda Ltd.*, 911 N.E.2d 825, 831 (N.Y. 2009) (Smith, J., dissenting). The relief sought by Respondents would simply sweep away rights of Mr. Chesley, WSBS and Rehme as Trustee, under Ohio law, such as statutory exemptions for judgment debtors. As the Florida court recognized in *Sargeant*, the only proper venue for the adjudication of those rights and issues is the situs state – Ohio.

The proper procedure is for the Respondents to domesticate the Kentucky judgment in Ohio pursuant to the Uniform Enforcement of Foreign Judgments Act and proceed in an Ohio court pursuant to governing Ohio law. As the Kansas Court of Appeals said in *Elkhart*:

We have not left the plaintiff without a remedy. Kansas has adopted the Uniform Enforcement of Foreign Judgments Act, K.S.A. 60-300 at *et seq.* The State of Oklahoma has adopted the Uniform Foreign Money Judgments Recognition Act, Okla. Stat. tit. 12, §§ 710 at *et seq.* (1981), and it has adopted the Uniform Enforcement of Foreign Judgments Act, Okla. Stat. tit. 12, §§ 720 at *et seq.* (1981). The plaintiff can file the Kansas judgment in the state of Oklahoma and utilize the postjudgment collection procedures available in that state.

823 P.2d at 341. *Accord Sargeant*, 137 So.3d at 435 (“Second, we emphasize that allowing trial courts to compel judgment debtors to bring out-of-state assets into Florida would effectively eviscerate the domestication of foreign judgment statutes.”).

Until such time as Respondents actually follows Ohio law and properly domesticate the Judgment, this Court should issue an Order prohibiting WSBC and Rehme from having to comply with any order issued by the Kentucky Case. Likewise, Respondents should be estopped from seeking any WSBC information from WSBC's accountants CHS until such time as they properly domesticate their Judgment in Ohio and then seek that information under the auspices of this Court.

D. Pursuant To The Wind-Up Agreement, Mr. Chesley Only Has A Contingent Remainder Interest In The Trust And Is Not In "Control" Of The Information Sought In the Transfer Motion, CHS Compel Motion And The Chesley Compel Motion.

Civ R. 34 states that documents subject to discovery must be "in the possession, custody, or control of the party upon whom the request is served." *Maiben v. Waver*, 2013 Ohio Misc. LEXIS 6 (Ohio C.P. Feb. 7, 2013). It is axiomatic under Ohio law that in order to obtain discovery of an alleged affiliated party, the party seeking discovery must show that the party from whom the discovery is sought has control over the alleged affiliate. See *Owens-Corning Fiberglas Corp. v. Allstate Ins. Co.*, 74 Ohio Misc. 2d 174, 179 (Ohio C.P. 1993) citing *Sedgwick v. Kawasaki Cycleworks, Inc.* (1985), 24 Ohio App. 3d 109, 24 Ohio B. Rep. 179, 493 N.E.2d 308; *Gerling Internatl. Ins. Co. v. Commr. of Internal Revenue* (C.A.3, 1988), 839 F.2d 131, 141-142. Likewise, speculation that one party has control over the documents of another entity simply because they are somehow related is insufficient to establish control and compel discovery. See *In re Porsche Cars N. Am., Inc.*, 2012 U.S. Dist. LEXIS 136954 (S.D. Ohio Sept. 25, 2012) (internal citations omitted).

WSBC is a law firm. Under Ohio law, only licensed lawyers can be owners of law firms like WSBC. Mr. Chesley no longer holds a law license in Ohio. Indeed, it was

when Mr. Chesley permanently retired from the Ohio bar that he was compelled to transfer ownership of WSBC to another Ohio attorney, Mr. Rehme. As evidenced by the Wind-Up Agreement, Mr. Chesley has only contingent remainder interest in the assets of the Trust holding the shares of WSBC after all the claims of all WSBC creditors holding allowed claims are paid. See Wind-Up Agreement, Sections 1 and 4.1(g). Further, WSBC was not a party in the Kentucky Case nor found to have any liability relating to the Judgment; hence, discovery on WSBC at this point would be unreasonable. See *Suttle v. DeCesare*, 8th Dist. No. 77753, 2001 Ohio App. LEXIS 3030, 2001 WL 777016 (July 5, 2001) (finding denial of discovery request upon individual shareholder was not unreasonable, arbitrary for unconscionable where liability was found only against corporation and not shareholder).

As Mr. Chesley does not own the shares of WSBC and is not in charge of winding down and liquidating WSBC; of course, then, he is not a person in “possession, custody or control” of the financial and other information of WSBC sought by Respondents. However, Respondents’ requested information concerning WSBC could be obtained from WSBC directly through a subpoena if they simply domesticated the Judgment in Ohio.

WHEREFORE, WSBC respectfully request that the Court enter an Order:

1. Permitting WSBC to intervene as a party in interest/plaintiff in this action;
2. Enjoining Respondents from obtaining any confidential, financial, propitiatory or other information regarding WSBC from Mr. Chesley, CHS, Rehme or any other party;

3. Directing CSH to withhold from production to Respondents any confidential, financial, propitiatory or other information pertaining to WSBC;
4. Directing Rehme to decline and reject any request from Mr. Chesley for WSBC's financial records to the extent such request emanates from a discovery request directed to Mr. Chesley in Kentucky;
5. Directing and determining WSBC and/or Rehme's duties and responsibilities, if any, under any Kentucky Order directing Mr. Chesley to transfer and assign to Respondent Ford all of his "beneficial interest in" the stock of WSBC delivered to Rehme in an attempt to ensure that Rehme pays any funds that would otherwise be directed to Mr. Chesley to Ford; and
6. Granting such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/ Donald J. Rafferty
Donald J. Rafferty (0042614)
Cohen, Todd, Kite & Stanford, LLC
250 E Fifth St, Suite 2350
Cincinnati, OH 45202-5136
Phone: (513) 333-5243
Fax: (513) 241-4495
Email: drafferty@ctks.com

Attorney For Intervener, Waite
Schneider Bayless & Chesley Co.,
L.P.A..

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the **MOTION OF INTERVENOR WAITE SCHNEIDER BAYLESS & CHESLEY CO., L.P.A. FOR DECLARATORY AND INJUNCTIVE RELIEF** was served this 26th day of June, 2015, via regular U.S. Mail upon the following:

Vincent E. Mauer
Frost Brown Todd LLC
3300 Great American Tower
301 E. Fourth Street
Cincinnati, OH 45202

Brian Sullivan
Christen M. Steimle
Dinsmore & Shohl, LLP
255 East Fifth Street, Suite 1900
Cincinnati, OH 45202

/s/ Donald J. Rafferty
Donald J. Rafferty



**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
July 22, 2015 10:59 AM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 426669**

STANLEY M CHESLEY

vs.

ANGELA M FORD

A 1500067

**JUDGE
JODY M LUEBBERS**

FILING TYPE: MOTION

PAGES FILED: 28

EFR200

EXHIBIT

11

exhibitsicker.com

**COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

Stanley M. Chesley,	:	Case No. A1500067
	:	Judge Ruehlman
Petitioner,	:	
	:	
v.	:	PETITIONER'S MOTION FOR LEAVE
	:	TO FILE SECOND AMENDED
	:	VERIFIED PETITION
Angela M. Ford, Esq., <i>et al.</i>	:	
	:	The proposed amended filing is attached.
Respondents.	:	A proposed order is attached.

Pursuant to Civ.R. 15(A) and 20, Petitioner Stanley M. Chesley (“Chesley”) moves this Court for leave to file his Second Amended Verified Petition to specifically identify certain current “Unknown Respondents” who Respondent Angela Ford (“Ford”) recently revealed are Ohioans. The amendment would transition certain Ohio residents who Ford recently listed as her clients and Chesley’s judgment creditors from “Unknown Respondents” into “Ohio Respondents.” These persons were identified by Ford in a Louisiana filing in June, 2015.

Counsel for Chesley sought consent from Ford’s counsel and counsel for Waite Schneider & Chesley to file a Second Amended Verified Petition: counsel for WSBC consented to the request but counsel for Ford did not consent.

The grounds for this motion are more fully set forth in the following memorandum.

Respectfully submitted,

/s/ Vincent E. Mauer

Vincent E. Mauer (0038997)
FROST BROWN TODD LLC
3300 Great American Tower
301 East Fourth Street
Cincinnati, Ohio 45202
513-651-6785
Fax 513-651-6981
vmauer@fbtlaw.com

Attorney for Petitioner, Stanley M. Chesley

MEMORANDUM IN SUPPORT

I. INTRODUCTION

On January 6, 2015 Chesley filed his Verified Petition for Declaratory Judgment and Injunctive Relief (the “First Verified Petition”) in this Court. At that time, Chesley had no current information regarding Ford’s clients or their states of residence. Instead, Chesley could only rely on information from a grid of Ford’s clients from over ten years ago.

Ford removed the case to Federal court. There, after much time and effort was spent identifying and locating Ohio residents from Ford’s grid, the Petition was amended to include the identified individuals (the “Ohio Respondents”). The case was then remanded to this Court.

Recently, Ford and her clients have initiated an action to enforce their judgments in Louisiana. Ford identified additional Ohioans whose names and/or addresses were not present on the outdated grid of judgment creditors. Those individuals (or estates) are: Ruby Adams (c/o Gloria Little); Glenna Brock-Powell-Renner Estate; Ruby Godbey; Louisa Moss Howard; Rebecca Lovell Estate; and Mary White-Lynch (collectively, the “New Ohio Respondents”).

Due to Ford’s repeated refusal to update Chesley’s information regarding who he owes and what he owes them, neither Chesley nor Chesley’s counsel was aware of the New Ohio Respondents prior to Ford’s Louisiana filing. In light of this new information, Chesley now seeks to amend the Amended Verified Petition to include the New Ohio Respondents as “Ohio Respondents” instead of “Unknown Respondents.”

II. ARGUMENT

Civ.R.15(A) provides that “[l]eave of court [to amend] shall be freely given when justice so requires.” The primary purpose of the rule is to permit liberal amendments to pleadings and to ensure the efficient and expeditious resolution of cases on the merits. *Hoover v. Sumlin*

(1984), 12 Ohio St.3d 1, 5-6, 465 N.E.2d 377. Consequently, Ohio courts have interpreted Rule 15(A) “liberally to mean that a motion for leave to amend should be granted absent a finding of bad faith, undue delay or undue prejudice to the opposing party.” *Reinhart v. Fostoria Plumbing, Heating & Elec. Supply, Inc.*, 3d Dist. No. 13-10-08, 2010-Ohio-4825, at ¶10.

Likewise, Rule 20(A) allows for permissive joinder of parties in the interest of judicial economy, and joinder is preferable and strongly encouraged, even though parties could have been sued separately. *Dice v. White Family Cos.*, 2d District Montgomery No. 20491, 2005-Ohio-2861.

Chesley has brought this motion quickly after learning of the existence and location of the New Ohio Respondents. These individuals are already “Unknown Respondents.”

The allegations and relief sought in the proposed Second Amended Verified Petition remain exactly the same as in Chesley’s First Amended Verified Petition. Because the proposed Second Amended Verified Petition is entirely consistent with the First Amended Verified Petition, Ford will not be forced to expend time or resources in preparing additional defenses to this litigation; nor will she be unduly prejudiced by the Court’s granting this Motion.

III. CONCLUSION

Based on the foregoing, Chesley respectfully requests that the Court grant his Motion for Leave to File his Second Amended Verified Petition in order to add the New Ohio Residents. Chesley further requests that the proposed Second Amended Verified Petition, attached hereto as Exhibit A, be accepted and deemed filed as of the date of the Court’s granting of this motion.

Respectfully submitted,

/s/ Vincent E. Mauer
Vincent E. Mauer (0038997)
FROST BROWN TODD LLC
3300 Great American Tower
301 East Fourth Street
Cincinnati, Ohio 45202
513-651-6785
Fax 513-651-6981
vmauer@fbtlaw.com

*Attorney for Petitioner,
Stanley M. Chesley*

CERTIFICATE OF SERVICE

The undersigned certifies that on July 21, 2015 a copy of the foregoing was served by first class United States mail, postage prepaid, on:

Brian Sullivan, Esq.
Christen Steimle, Esq.
Dinsmore & Shohl LLP
255 East Fifth Street, Suite 1900
Cincinnati, Ohio 45202

Donald J. Rafferty, Esq.
Cohen Todd Kite & Stanford
250 East Fifth Street, Suite 2350
Cincinnati, Ohio 45202

/s/ Vincent E. Mauer

0118087.0619701 4819-3653-4565v1

EXHIBIT A

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

Mr. Stanley M. Chesley
9005 Camargo Road
Cincinnati, Ohio 45243
Petitioner

v.

Angela M. Ford, Esq.
Chevy Chase Plaza
836 Euclid Avenue, Suite 311
Lexington, KY 40502

Unknown Respondents,
possibly over 400 John Doe or Jane
Doe or their successors
Located at unknown addresses,

Ms. Judith Peck (n/k/a Wageman)
2166 Eastern Ave.
Cincinnati, Ohio 45202

Ms. Jayne Adams
1077 Theatre Street
Chillicothe, Ohio 45601

Ms. Carol Boggs
3415 at County Road
Ironton, Ohio 45638

Ms. Linda Brumley
415 W. Mulberry Street
West Union, Ohio 45693

Ms. Patricia Kennedy
7594 Shawnee Lane
West Chester, Ohio 45069

Ms. Betty Kelly, deceased
117 W. Parkwood
Fairborn, Ohio 45324

Ruby Adams c/o Gloria Little
2322 Highland Ave, Apt 2
Norwood, Ohio 45212-2350

Case No. A1500067

Judge Ruehlman

**SECOND AMENDED AND
SUPPLEMENTAL
VERIFIED PETITION FOR
DECLARATORY JUDGMENT AND
INJUNCTIVE RELIEF**

Ruby Godbey
1134 Terrington Way
Miamisburg, Ohio 45342-4265

Louisa Moss Howard
3880 Mack Rd. Apt 85
Fairfield, Ohio 45014-7541

-and-

Rebecca Lovell Estate
4591 Miles Dr.
Port Orange, FL 32127-9243

Respondents.

PURPOSE OF THE AMENDMENT

This Second Amended And Supplemental Verified Petition For Declaratory Judgment And Injunctive Relief (this “Second Amended Petition”) makes only one change to the previously filed First Amended and Supplemental Verified Petition For Declaratory Judgment And Injunctive Relief (the “Amended Petition”). The Second Amended Petition identifies as additional individually named Respondents four more of Respondent Angela Ford’s (“Ford”) clients who she has described as Chesley’s judgment creditors¹ who reside in Ohio (together with the previously specifically identified putative judgment creditors, the “Ohio Respondents” or individually an “Ohio Respondent”).² These four respondents were previously parties as members of the group known as “Unknown Respondents.”

SUMMARY OF PROCEEDING

Chesley finds himself in an untenable and unprecedented situation – subject to a judgment issued by a Kentucky court the current total amount of which is unknown and which is

¹ Two additional judgment creditors who reside in Ohio, Glenna Brock-Powell Renner Estate and Mary White-Lynch, have also been identified, however, Petitioner does not yet know their precise residence address.

² The remainder of Ford’s clients who she has described as Chesley’s judgment creditors continue, at least for now, to be identified as the “Unknown Respondents.”

owed to a list of approximately 400 persons that has not been updated in over 13 years.³ Given the virtual certainty that at least one of those persons died or was the subject of a bankruptcy petition, it is true that the judgment against Chesley is currently in an unknown amount owed to unknown judgment creditors.

Despite those very serious flaws, Respondent Angela M. Ford (“Ford”), on behalf of the judgment creditors (collectively the Ohio Respondents and the “Unknown Respondents”), has commenced collection efforts including “post-judgment” discovery directed at Chesley and at least ten third parties who are not judgment debtors. Because Chesley’s *res* that Ford targets, Chesley’s assets, are in Ohio, the only way Ford can recover from Chesley is by coming to Ohio and invoking this Court’s jurisdiction and assistance.

In the same manner, Ford’s best means of obtaining information from third parties with whom Chesley has some affiliation is to come to Ohio and invoke this Court’s jurisdiction and assistance. Instead, Ford has (a) subpoenaed information from accountants and refused to notify those third parties that she wants their financial information as required by law (see the documents filed on April 28, 2015) and (b) served discovery on Chesley seeking the information of several nonparties.

Hence, the filing of this case by Chesley to assure that a modicum of fairness and protection prevails in respect to Ford’s collection efforts so that the rights and interests of Chesley and third parties who Ford has targeted may be properly protected.⁴ Absent the relief requested in this action, the rights of Chesley and others will be irreparably harmed.

³ It is beyond ironic that Ford’s damages chart or “grid” was created by the Criminals, defined below and used by them to perpetrate a fraud in Kentucky.

⁴ Ford’s first two acts targeting nonparty Ohioans: (A) the post-judgment discovery that Ford served on Chesley in Kentucky seeks to obtain from Chesley information concerning and belonging to third parties (almost all of whom are Ohio domiciles) in an attempt to circumvent the applicable rules and deprive those third parties of the protections to which they are afforded by Ohio law; and (B) in Kentucky, Ford has served a subpoena on Clark Schaeffer & Hackett, Chesley’s accounting firm, which is an Ohio entity with an office in Kentucky, seeking

Accordingly, Chesley seeks a declaration that Ford and any other counsel acting on behalf of the Ohio Respondents or the Unknown Respondents cannot register or domesticate into the State of Ohio and then enforce using Ohio courts, subpoenas, sheriffs and laws a Kentucky judgment against Chesley without first disclosing to this Court and Chesley (i) the actual total amount now owed on that judgment, (ii) exactly what persons or entities are currently entitled to collect that judgment and (iii) the amount owed to each specific judgment creditor after credit for the amounts distributed by Ford and amounts retained by Ford as her fee. Ford's refusal to provide this information to this Court and Chesley (a) violates Ohio law, (b) impedes implementation of Ohio public policy imperatives, (c) deprives Chesley of valuable rights, (d) deprives the judgment creditors of their rights, (e) impairs the rights of other third parties from whom, or about whom, Ford seeks information, (f) aids Ford's avoidance of her obligations to her clients who are the judgment creditors, and (g) could prevent courts in Ohio and Kentucky from making informed decisions on certain issues that may arise.

PROCEDURAL STATUS

Respondent Ford removed this case to the United States District Court for the Southern District of Ohio on February 5, 2015. That removal was premised on Ford's purposeful misrepresentation that there was complete diversity between Chesley and the respondents.⁵

This case was remanded to this Court by United States District Court Judge Peter J. Economus on April 6, 2015. Simultaneously with that remand, Judge Economus granted Petitioner's motion for leave to file this Amended Petition. This Court affirmed that permission at a status conference on April 28, 2015.

information concerning and belonging to several third parties (at least ten of whom are Ohio domiciles). That subpoena violates this Court's January 14, 2015 Order and with Ford's other sharp practices seeks to circumvent applicable rules and deprive third parties of the protections to which they are afforded by Ohio law.

⁵ Ford asserted that complete diversity existed despite what Judge Economus called the "undisputed" fact that the Unknown Respondents included several Ohio residents.

Also on April 6, 2015, Judge Economus “terminated” two motions Ford had filed in the federal court: Ford’s Motion For Order to Declare the Restraining Orders Dissolved or to Dissolve Them; and Ford’s Motion to Dismiss for Lack of Jurisdiction. See the certified copy of the federal court’s docket sheet filed in this matter.

COMES NOW Petitioner Mr. Stanley M. Chesley (“Chesley”), through the undersigned counsel, who states as follows:

INTRODUCTION

1. Chesley is a resident of Hamilton County, Ohio as are certain other persons and entities against which Ford has threatened to issue subpoenas and from whom Ford has threatened to seize assets. Also Ohio residents and domiciliaries are eight to ten entities whose private financial information Ford seeks via both of Ford’s first two acts against nonparties—(a) discovery issued to Chesley on May 1, 2015 and (b) a subpoena that Ford issued to Clark Schaeffer & Hackett (“CSH”), an Ohio based accounting firm. Venue of this matter is appropriate in this Court.

2. Respondent Ford is a resident of the Commonwealth of Kentucky and a practicing lawyer in the Commonwealth of Kentucky who represents the plaintiffs in litigation styled *Mildred Abbott et al. v. Stanley M. Chesley, et al.* Boone County, Kentucky Circuit Court Case No. 05-CI-00436 (the “Abbott Case”). Some or all of the Abbott Case plaintiffs are Chesley’s alleged judgment creditors and are the “Ohio Respondents” and the remaining Ford clients are “Unknown Respondents” herein.

3. Each of the Ohio Respondents is a resident of Ohio and, upon information and belief, is a judgment creditor of Petitioner and is represented by Ford. The amount Petitioner owes to each of the Ohio Respondents is unknown because Ford has refused to disclose that

information. Ford has minimum contacts with Ohio consistent with this Court's appropriate exercise of personal jurisdiction over Ford.

4. On August 1, 2014 the Boone County, Kentucky Circuit Court ("Boone Circuit Court") entered an Order against Chesley in the Abbott Case (the "Chesley Judgment"); that Order awarded what is described herein as the "Chesley Judgment." That judgment was amended twice, most recently on October 22, 2014 when the Boone Circuit Court entered a Second Amended Judgment against Chesley in the Abbott Case. The Chesley Judgment incorrectly purports to impose on Chesley joint and several liability with three other individuals who suffered a prior judgment in the Abbott Case. The Chesley Judgment is based solely on the principal of collateral estoppel and holds that the Kentucky Supreme Court decided all the factual issues necessary to establish Chesley's liability to the Abbott Case plaintiffs when the Kentucky Supreme Court considered disciplinary action against Chesley. See Exhibit A attached. Chesley disagrees with this conclusion.

5. Chesley has exercised his right to appeal the Chesley Judgment to the Kentucky Court of Appeals and expects the Chesley Judgment to be reversed. Chesley's confidence is based in part on the fact that in 2014 Judge Schrand of the Boone Circuit Court crocheted together Chesley and the Criminal Defendants (defined below) but (i) Judge Wehr of that same court previously said, "[t]he rationale of the previously entered partial summary judgment [against the Criminal Defendants] does not apply to" Chesley, (ii) the Kentucky Court of Appeals refused to equate Chesley with the Criminal Defendants in 2011 saying that material issues and needed discovery prevented the awarding of a judgment against Chesley⁶ and (iii) the 2013 Kentucky Supreme Court's *Abbott v. Chesley* decision agreed saying:

⁶ Despite this statement from the Kentucky Court of Appeals, Judge Schrand entered summary judgment against Chesley without any additional discovery to resolve the open material issues of fact.

Appellants also contend that the joint and several liability of CGM [Cunningham, Gallion and Mills the “Criminal Defendants” discussed below] should extend to Chesley because he acted in concert with CGM. We decline the invitation to do so. . . . Chesley's role in the enterprise clearly differed from that of Cunningham, Gallion, or Mills. The agreement itself seems to treat him differently.

Judge Schrand’s decision against Chesley is an anomaly that is contrary to the conclusions of Judge Weir, the Kentucky Court of Appeals and the Kentucky Supreme Court.

6. Nothing in this Amended Petition or any other document filed herein admits that Chesley agrees with any particular finding of fact and conclusion of law that led to the Chesley Judgment. *Inter alia*, Chesley disputes the Chesley Judgment’s holding that he is jointly and severally liable with the Criminal Defendants because the Chesley Judgment arose out a procedural morass wherein Ford and the Boone Circuit Court conflated the issues in a disciplinary matter and those in the Abbott Case, a civil lawsuit where parties are entitled to complete discovery (which was not done in the Abbott Case) and a reasoned decision based on the merits which also did not occur in the Abbott Case. Instead, Judge Schrand summarily applied collateral estoppel in the Abbott Case depriving Chesley of the due process to which he is entitled as a matter of law.

7. Unlike Chesley, the three other jointly liable judgment debtors (hereinafter the “Criminal Defendants”) were accused of federal crimes for their actions that form the basis of the Abbott Case. For that reason, the August 2007 judgment against those three persons in the Abbott Case is referred to herein as the “Criminal Defendants Judgment.” The Criminal Defendants created the settlement chart used by Ford in the Abbott Case as the basis of the 2007 Criminal Defendants Judgment. The Criminal Defendants used that chart as part of their fraud and yet, Ford chose to use that chart as the basis of the damages calculation for the Criminal Defendants Judgment.

THE JUDGMENT, COLLECTION ACTIVITY AND MONEY DISSIPATED

8. After entry of the 2007 Criminal Defendants Judgment, but prior to the entry of the 2014 Chesley Judgment, Ford and her co-counsel collected many millions of dollars from the Criminal Defendants and possibly others. As a matter of law, the gross amount of those collections must be credited against the Criminal Defendants Judgment, thus reducing the amount of that judgment. Reducing the Criminal Defendants Judgment will simultaneously reduce the amount of the Chesley Judgment since the Boone Circuit Court held Chesley jointly and severally liable for the same \$42,000,000 in damages owed by the Criminal Defendants to the Abbott Case plaintiffs; that damages amount which arose from a chart created by the Criminal Defendants, cannot be explained and Ford has refused to provide the calculation of that amount. Ford repurposed and now clings to a damages calculation that is purposefully vague and ambiguous. There is not now and never has been any accurate accounting of the damages owed to the Ohio Respondents and the Unknown Respondents.

9. The stated amount of the 2007 Criminal Defendants Judgment is \$42,000,000 plus 8% prejudgment interest and 12% post judgment interest.⁷ Although entered more than seven years after entry of the Criminal Defendants Judgment, the stated amount of the 2014 Chesley Judgment is also \$42,000,000 plus 8% prejudgment interest and 12% post judgment interest.⁸ In another purposeful misleading of a court, Ford failed to fully disclose to the Boone Circuit Court the amount to be credited against the Criminal Defendants Judgment; so the Boone Circuit Court made no adjustment when it entered the stated amount of the Chesley Judgment.

⁷ Chesley's counsel was not involved in the determination of the \$42,000,000 amount because it was first determined in a summary judgment motion against the Criminal Defendants not Chesley. Chesley was never provided an opportunity to challenge this amount.

⁸ The \$42,000,000 amount (i) is a calculation relating to the Criminal Defendants and not Chesley, (ii) is wholly disconnected from any funds Chesley received, and (iii) fails to reconcile the fact that the Kentucky Supreme Court suggested that the maximum judgment to which Chesley would be \$6,465,621.87, the "worst case" amount by which Chesley was overpaid in the Settled Case.

Ford's assertion to the Boone Circuit Court in 2014 that Chesley owes precisely \$42,000,000 is so far from accurate that it might possibly constitute a fraud on that court in which event the Chesley Judgment is unenforceable in Ohio as a matter of law.

10. Two of the Criminal Defendants, Cunningham and Gallion, were defendants in a criminal case heard by the United States District Court of the Eastern District of Kentucky as Criminal Case No. 07-39-WOB (the "Criminal Case"). Ford accepted appointment as the Victims Advocate in the Criminal Case but never produced an accounting of her work in that court despite the request of United States District Court Judge Reeves.

11. Ford squandered some of the funds collected from the Criminal Defendants and others. As a result, said funds were not prudently disbursed, properly accounted for or applied to the Criminal Defendants Judgment. Examples include:

(i) Ford permitted some of the seized assets to be operated by a state court receiver rather than immediately selling those assets and applying the proceeds to the Criminal Defendants Judgment. The receivership operated at a cash flow deficit requiring that other cash payable to the Abbott Case plaintiffs be used to support the receivership. The receivership's use of saleable assets caused those assets to lose value;

(ii) Ford selected a Kentucky lawyer as her co-counsel for collection work on the Criminal Defendants Judgment. Ford now claims that Kentucky lawyer improperly transferred over \$2,000,000 to persons that were not Ford, Ford's designees, or the Abbott Case plaintiffs; and

(iii) The Criminal Case victims included 14 known persons who were not Abbott Case plaintiffs. As the Victims Advocate, Ford accepted duties to those 14 persons. To meet her duties to those 14 persons, Ford diverted funds from the Abbott Case plaintiffs into an escrow account for the potential benefit of those 14 persons. Funds that should have been distributed to the Abbott Case plaintiffs but which Ford diverted to others should still be credited against the Criminal Defendants Judgment. Chesley does not believe that those 14 persons are among the 463 different names that Ford has at various times listed as her clients as discussed elsewhere.

12. The Criminal Defendants Judgment must be reduced by the total gross value of all assets seized from the Criminal Defendants or otherwise acquired or paid on account of the Criminal Defendants Judgment at the time those assets were seized by Ford or her co-counsel regardless of (i) any operating losses suffered by the receivership, (ii) the reduced amount for which those assets were sold after the receivership was terminated or the assets otherwise liquidated, (iii) the alleged loss of any funds caused by Ford's co-counsel, (iv) the diversion of funds from the Abbott Case plaintiffs to persons who were Criminal Case victims but not Abbott Case plaintiffs, or (v) the retention of funds by Ford or her co-counsel.⁹ Even if \$42,000,000 was the correct damages number in 2007 when the Criminal Defendants Judgment was entered, as applied to Chesley, in 2014 the \$42,000,000 judgment amount is at best a guess.

13. Two of the three Criminal Defendants, Gallion and Cunningham (the "Criminals"), were convicted by the United States District Court for the Eastern District of Kentucky, and ordered to pay restitution to their victims, all but 14 of whom are Abbott Case plaintiffs. Forfeiture of certain assets was also ordered in the Criminal Case. Credit against the Criminal Defendants Judgment and therefore the Chesley Judgment must to be given for all amounts paid to the Abbott Case plaintiffs as restitution or from forfeited assets.

14. Despite numerous requests in Kentucky and including work in this Court that started on January 7, 2015, Ford has refused to provide to Chesley an accurate accounting of all funds paid to the Abbott Case plaintiffs on account of her collection efforts or distributions made in the Criminal Case – who is owed, how much is owed and how much has already been collected? For many months in two states, Chesley has sought information from Ford and received nothing. Over the same period, Chesley has produced over 5,000 to pages.

⁹ Neither the Criminal Defendants Judgment nor the Chesley Judgment include an award of attorney fees or expenses. So, any funds collected by Ford but not disbursed to the Abbott Case plaintiffs reduce the amount owed on the judgments.

15. Despite numerous requests, Ford has refused to provide to Chesley an accurate accounting of all funds that are legally to be credited against the Chesley Judgment, including but not limited to those amounts described above that were not paid to the Abbott Case plaintiffs. Chesley suspects that Ford's continuing refusal to provide an accurate accounting of the amount owed on the Chesley Judgment arises from the fact that Ford knows a complete and accurate accounting of her clients' damages will not result in a calculation that yields an initial gross amount approximating \$42,000,000. That is why Ford prefers a vague and ambiguous damages calculation.

16. Despite numerous requests, Ford has failed or otherwise refused to provide to Chesley an accurate accounting of the pre-judgment and post-judgment interest that Ford alleges has accrued and is accruing under the Chesley Judgment. The amount of accrued and/or accruing interest must be adjusted downward each time Ford made assets seizures that reduce the \$42,000,000 principal balance of the Criminal Defendants Judgment. The amount of accrued and/or accruing interest must also be adjusted downward to recognize the forfeiture of assets in the Criminal Case and restitution distributions in the Criminal Case.

17. The pre-judgment interest rate is one-third lower than the post judgment interest rate (8% versus 12%). The Criminal Defendants Judgment was entered in 2007 and the Chesley Judgment was entered in 2014; hence, there is a seven year period when interest accrued on the Criminal Defendants Judgment at the higher post-judgment rate of 12% while, as to Chesley, the pre-judgment 8% interest rate applies. Ford must account for that inconsistency and all the other misleading activities described herein.

FORD AVOIDS HER OBLIGATIONS

18. Various filings in the Abbott Case and certain filings in the Criminal Case disagree with respect to the number and identity of the Abbott Case plaintiffs. The Abbott Case “Plaintiffs” are the stated beneficiaries of the Chesley Judgment and are real parties in interest in this proceeding – the Ohio Respondents and the Unknown Respondents. See Exhibit A. Maintaining the vagueness and ambiguity she created, despite Chesley’s requests, Ford has refused to provide to Chesley (i) an exact number of Abbott Case plaintiffs who are Chesley’s creditors, (ii) the name of each current judgment creditor, (iii) a current address for each current judgment creditor, and (iv) the amount owed to each current judgment creditor after the distributions of millions dollars to those persons in the Abbott Case and the Criminal Case.¹⁰

19. For purposes of this Amended Petition, Chesley has listed as respondents herein an unknown number of Jane Doe and John Doe persons or entities (e.g. bankruptcy estates or estates of deceased Abbott Case plaintiffs). Chesley requests that this Court order Ford to disclose the names and addresses of each current judgment creditor so that those persons or entities can be made parties to this action.

20. Public policy in Ohio and Kentucky both favor and actively promote the settlement of litigation. Ford is obligated to communicate with and advise her clients individually¹¹ concerning the progress of this matter and, for example, any settlement offer made by Chesley so that any particular client can knowingly decide how to proceed in this matter.

¹⁰ Identifying the current judgment creditors and the amount now owed each after all proper credits is the most fundamental element of a valid judgment. The danger of allowing Ford to proceed in Ohio to collect on the Chesley Judgment without first providing this basic information is readily apparent: for example, if Chesley were inclined to consider making any reasonable settlement offers and if some of the Ohio Respondents or Unknown Respondents wanted to accept, to whom would Chesley make the settlement check payable and from whom would he obtain a release or satisfaction of judgment?

¹¹ The Abbott Case is a “mass action” and not a class action proceeding. Ford chose to bring a “mass action” and must now live with that choice and communicate with and advise each client individually.

21. Ford's refusal to disclose to Chesley the current identity of the Unknown Respondents and the current amount owed to each of them permits Ford to treat Chesley's judgment creditors as a group thus protecting Ford from the work of communicating with specific individual clients and advising each of them individually on this matter. Ford's refusal to disclose to Chesley the current identity of the Ohio Respondents and the current amount owed to each of them protects Ford from the work of communicating with specific individual clients and advising each of them individually on this matter.

22. Ford made several filings in the Criminal Case and in the Sixth Circuit Court of Appeals seeking to keep from Chesley and the federal court (i) the total value of assets seized on account of the Criminal Defendants Judgment, (ii) the current names and addresses of her clients, (iii) the amounts distributed to those clients, and (iv) the amount of money she collected that was not distributed to her clients. Ford's relationship with her clients and the fees she retained while collecting the Criminal Defendants Judgment has had no more oversight than the activities of the Criminal Defendants in the Settled Case that permitted the fraud that resulted in the Criminal Case.

23. Ford's refusal to provide requested information to Chesley (i) impairs Ohio and Kentucky's public policy that favors settlements, (ii) deprives Ford's individual clients of the potential opportunity to receive individualized communications and advice, (iii) deprives Chesley of valuable rights and (iv) deprives courts in Kentucky and Ohio of information they may need to handle certain issues that may arise in connection with this matter.

24. Ford's actions threaten the rights of third parties in Ohio who Ford has stated she intends to depose and whose rights Ford has attempted to violate by seeking their private financial documents and information in Kentucky rather than by pursuing the proper procedural

mechanism for obtaining the information directly from these third parties – a process that would require Ford to come to Ohio invoke the jurisdiction of the Ohio courts in order to issue subpoenas, and at the same time, afford those third parties the opportunity to protect themselves and their information under the auspices of the Ohio courts. Ford's actions in Kentucky seeking information from and concerning Ohio third parties are being done in violation of the rights of those parties.¹²

25. Since Chesley was not a judgment debtor until August 1, 2014, Chesley had no significant opportunity to participate in any of the above-described actions in the Abbott Case or the Criminal Case that (i) determined the \$42,000,000 judgment amount in 2007 or (ii) created all the necessary adjustments to the amount owed on the Criminal Defendants Judgment and, consequently, the Chesley Judgment.

FORD THREATENS ACTION THAT WILL CAUSE HARM

26. The “*res*” in this matter, Chesley's assets, if any, are in Ohio not in Kentucky. Chesley does not have any assets in the Commonwealth of Kentucky that are subject to seizure for collection on the Chesley Judgment. Ford intends to domesticate the Chesley Judgment in the State of Ohio and take collection action on assets located in the State of Ohio.

27. Ford has threatened to issue subpoenas and take depositions of numerous persons, entities and institutions. Ford's targets will not voluntarily provide information to Ford thereby requiring Ford to issue subpoenas to those targets, many of whom have no presence in Kentucky and are not subject to a subpoena issued by the Boone Circuit Court. Some of the targets of Ford's scattergun discovery efforts are not parties to, or currently aware of, the Abbott Case and some of the assets Ford might attempt to seize are used by, held by or owned by entities who are

¹² See the letter of Thomas Pyper, Esq., counsel for Clark Schaeffer & Hackett, an entity on whom Ford served a subpoena in Kentucky. A copy of this letter was filed with the Court on April 28, 2015.

not parties to, or currently aware of, the Abbott Case. Many of these third parties are Ohio residents, citizens or domiciles who deserve the procedural protections offered by Ohio law.

28. Ford served a subpoena (in Kentucky) on Chesley's accounting firm demanding that CSH produce to Ford the financial records and information of at least 10 Ohio entities or citizens. Ford did not comply with applicable Kentucky law in relation to service of that subpoena because she did not serve a copy of it on those eight to ten Ohio entities or citizens prior to serving it on CSH. That subpoena (a) removes any doubt about Ford's intention of getting information from Ohio citizens or domiciliaries, or access to Ohio assets, without being required to comply with Ohio law or to otherwise afford the Ohio targets of her efforts with the procedural and substantive protections to which they are legally entitled; and (b) violates this Court's January 14, 2015 Order. See the Kentucky subpoena and related correspondence added to the record herein on April 28, 2015.

29. Acting in the Abbott Case on May 1, 2015 Ford served on Chesley discovery that seeks private financial information of certain Ohio entities, including several not owned by Chesley. That discovery evidences the same intent to harm Ohio entities and the same disregard for the Court that Ford demonstrated with the subpoena served on CSH.

30. As of this writing, there is a protective order in the Abbott Case that limits how Ford may disseminate confidential financial information. In a motion filed in the Abbott Case on April 21, 2015, Ford seeks to eliminate those limitations.¹³ In that motion, Ford stated that she plans to file fraudulent conveyance actions; given her discovery targets, Ford is clearly targeting Ohioans. Ford seeks to avoid the need to file those actions under seal despite the confidential financial information she will disclose concerning many Ohio residents. Ford intends to publicly

¹³ A copy of this motion was filed with the Court on April 28, 2015.

disclose the private financial information of Ohio residents including Chesley and others who are not parties to the Abbott Case.

31. Chesley does not have the ability to secure a supersedeas bond in the amount of \$42,000,000, plus millions in accrued interest. If any money is owed by Chesley to the Abbott Case plaintiffs, Chesley believes that an accurate calculation of the amount owed on the Chesley Judgment may substantially reduce the Chesley Judgment for the reasons described above. Chesley does not know and cannot estimate the amount that remains owed on account of the Chesley Judgment. Knowing the current amount owed on the Chesley Judgment is important because, *inter alia*, that amount is relevant (a) to any consideration by a Kentucky court of requirements that might be imposed if Chesley seeks a stay of enforcement of the Chesley Judgment while his Kentucky appeal is pending and (b) to limitations this Court might impose on Ford to insure that her collection efforts do not attach assets in excess of the amount truly owed on the Chesley Judgment.¹⁴ Ford's refusal to disclose the current total amount of the Chesley Judgment may impair judicial decision making in Kentucky and this Court.

32. Chesley is confident his Kentucky appeal of the Chesley Judgment will be successful. Thereafter, any collection activity by Ford against Chesley will have to be reversed including the return of assets to innocent third parties from whom Ford may seize assets. The temporary loss of seized assets may cause significant harm to the innocent third-parties who are the subject of Ford's collection activity.

33. Ford asserted in the Criminal Case that any money she seized and kept as her fee did not have to be returned if the judgment being enforced was later reversed.¹⁵ Ford is anxious

¹⁴ Query: how will any court properly control the dollar value of assets about which Ford seeks information and then seeks to seize if Ford refuses to state the total current amount of the Chesley Judgment?

¹⁵ See Ford's July 7, 2011 Objection To The United States' Motion For An Order Of Accounting And Motion To Alter, Amend, Or Vacate The Court's June 29, 2011 Order Granting The United States Motion filed in the Criminal

to collect the Chesley Judgment despite the pendency of a likely successful appeal because she plans to retain her 40% of what she collects even after Chesley's Kentucky appeal is successful.

FORD IS ACTIVE IN OHIO

34. As noted above, Ford has threatened several severe and significant actions in Ohio intended to enforce the Chesley Judgment. Those acts will not be Ford's first activity in Ohio related to the Abbott Case. Respondents Judith Peck (n/k/a Wageman), Jayne Adams, Carol Boggs, Linda Brimley, Patricia Kennedy, Ruby Adams, Ruby Godbey, Louisa Moss Howard, Rebecca Lovell Estate,¹⁶ and Betty Kelly, deceased (collectively the "Ohio Respondents") are Ohio residents. The Ohio Respondents are among Ford's clients who Ford has described as Chesley's judgment creditors and are in the same position as the above-described Unknown Respondents except that Chesley believes he has discovered their current addresses.

35. Chesley's counsel made extraordinary efforts to determine the current addresses of the Ohio Respondents. Chesley is choosing to specifically identify these persons at this time because their Ohio residency impacts certain legal issues that the Court may face.

36. Ford contends that her clients are specifically identified on the "settlement grid" created about 12 years ago by the Criminal Defendants in the Settled Case.¹⁷ Ford made that assertion in open court and in multiple filings in the Abbott Case. Ford chose to rely on the

Case in which Ford responded to concerns that reversal of the Criminal Defendants Judgment might require the return of the funds she collected by stating ". . . an attorney cannot be required to repay an attorney's fee paid to her by a client out of funds collected by the attorney to satisfy a judgment which is later reversed."

¹⁶ The current address located for Rebecca Lovell, presumably the address of her estate, is located in Port Orange, FL. However, upon information and belief, this individual was located in Ohio until 2012.

¹⁷ *Jonetta M. Moore, et al. v. A. H. Robbins Company, et al.* Boone County, Kentucky Circuit Case No. 98-CI-00795 is the "Settled Case." A copy of the settlement grid is attached to and verified by the Affidavit of Mr. Frank Benton (the "Benton Affidavit") initially filed in the federal court and re-filed herein for the Court's convenience. Mr. Benton also describes the origin of the settlement grid – it was created by the Criminal Defendants and was used as part of the fraud that sent the Criminals to jail. Given this history, the Court can understand Ford's need to hide information concerning damages. A thorough investigation of Ford's damage calculation could possibly reveal that use of the settlement grid in 2007 to determine the amount of the Criminal Defendants Judgment effectuated a fraud on the Kentucky court.

settlement grid created by the Criminal Defendants and tell the Boone Circuit Court it lists her clients. Ford is estopped from now asserting that the persons on the settlement grid (including the Ohio Respondents) are not her clients. Ford cannot now assert that the Ohioans listed on the settlement grid are not her clients and Chesley's judgment creditors.

37. A review of the settlement grid relied on by Ford lists the names and addresses of Ford's clients and shows that Ford's clients include (or at least included) the Ohio Respondents. The settlement grid shows Ohio addresses for the Ohio Respondents. Those persons continue to reside in Ohio, specifically at the addresses shown in the caption to this pleading.

38. In 2007 when Ford filed her Eighth Amended Complaint in the Abbott Case, five of the Ohio Respondents [as identified on the Ford used settlement grid] were still listed by Ford as her clients.

39. Except for the fact that Chesley is now informed of their current addresses, the Ohio Respondents are in the same circumstance as the above-described Unknown Respondents.

40. On information and belief, Chesley asserts that as counsel for the Unknown Respondents and the Ohio Respondents, Ford has communicated with her clients during the 10 years the Abbott Case has been pending. In actions directly related to the Abbott Case, Ford has directed communications into Ohio which were specifically intended for the Ohio Respondents.

41. In 2011 Ford made a filing in the Criminal Case. In that filing, Ford stated that she has collected over \$40,000,000 in the Abbott Case. Ford also asserted that significant portions of those funds were distributed by Ford to her clients, including the Ohio Respondents.¹⁸ In actions directly related to the Abbott Case, Ford has sent money into Ohio.

42. In that same 2011 Criminal Case filing, Ford stated that she retained for the payment of attorney fees over \$13,000,000 from the funds she collected in the Abbott Case.

¹⁸ See Angela M. Ford's Pre-Hearing Memorandum filed on September 6, 2011 in the Criminal Case.

Ford has asserted that she retained those fees pursuant to contracts she has with each of her clients, including the Ohio Respondents. In actions directly related to the Abbott Case, Ford has entered into contracts with multiple Ohio residents for the provision of legal services for the benefit of those Ohioans.

43. Ford has sufficient personal and professional contacts with Ohio (including the above-described contacts related to the Abbott Case) that courts in Ohio have general personal jurisdiction over Ford for all purposes including this case. This Court also has specific personal jurisdiction over Ford such that Ford is subject to the jurisdiction of this Court for purposes of this case.

44. On September 8, 2012, Betty L. Kelly died. At that time, Betty Kelly resided in Ohio and any probate estate arising from that death was or will be opened in Ohio. Chesley does not know what person or entity that succeeded to Ms. Kelly's rights against Chesley. Hence, Chesley named Ms. Kelly as one of the Ohio Respondents in an effort to cause proper notice to reach the person or entity that succeeded to Ms. Kelly's rights against Chesley.

45. Even using the old settlement chart, it is impossible for Chesley to identify each of Ford's current clients who Ford contends hold a judgment against Chesley because Ford has (a) listed some 463 different names in various filings in the Abbott Case while (b) simultaneously claiming that her clients who hold judgments against Chesley number approximately 382. A complete discussion of this topic can be found in Chesley's Verified Memorandum In Support Of Motion For Injunctive Relief filed herein on January 6, 2015.

CONCLUSION

WHEREFORE, Petitioner Stanley M. Chesley prays that the Court:

A. Declare that before Respondents take any action in the State of Ohio to enforce the Chesley Judgment, Petitioner Stanley M. Chesley is entitled, at a minimum, (i) the name, address and amount owed to each of Chesley's current judgment creditors and (ii) the exact current amount owed on the Chesley Judgment in the unexpected event the Chesley Judgment is affirmed;

B. Declare that Petitioner Stanley M. Chesley is entitled to know and that Respondent Ford must immediately disclose to Chesley (i) how much money and the value of assets seized under the authority of the Criminal Defendants Judgment, any assets forfeited in the Criminal Case and any restitution paid in the Criminal Case, (ii) when any assets were seized or forfeited and any restitution payments were made so that Chesley can check the accuracy of Ford's pre-judgment and post-judgment interest calculations, (iii) the amount collected by Ford and not distributed to her clients, and (iv) the total amount distributed to each of the Ohio Respondents and the Unknown Respondents in both the Settled Case and the Abbott Case, after reduction for Ford's 40% fees and Ford's expenses;

C. Enjoin Respondent Angela M. Ford, the Unknown Respondents, the Ohio Respondents and any other person acting on behalf of the Unknown Respondents or the Ohio Respondents from taking any action to collect the Chesley Judgment in the State of Ohio until 90 days after Chesley has received all of the information that this Court declares Chesley is entitled to receive;

D. Enjoin Respondent Angela M. Ford, the Unknown Respondents, the Ohio Respondents and any other person acting on behalf of the Unknown Respondents or the Ohio Respondents from registering or domesticating the Chesley Judgment in Ohio and attempting to issue subpoenas or any other discovery to non-parties in Ohio, except Chesley, until 90 days

after Chesley has received all of the information that this Court declares Chesley is entitled to receive;

E. Enjoin Respondent Angela M. Ford, the Unknown Respondents, the Ohio Respondents and any other person acting on behalf of the Unknown Respondents or the Ohio Respondents from registering or domesticating the Chesley Judgment in Ohio and attempting to issue subpoenas or any other discovery seeking information from or concerning Ohio residents, Ohio domiciliaries or Ohio citizens, except for Chesley, until 90 days after Chesley has received all of the information that this Court declares Chesley is entitled to receive; and

F. Enjoin Respondent Angela M. Ford, the Unknown Respondents, the Ohio Respondents and any other person acting on behalf of the Unknown Respondents or the Ohio Respondents, from destroying any documents relevant to any of the issues described in this Petition or Chesley's other filings made simultaneously herewith. Chesley submits that this relief is required due to Ford's demonstrated efforts to hide the information sought by Chesley.

VERIFICATION

Petitioner Stanley M. Chesley swears or affirms as follows: (1) I am over eighteen years old and have never been declared mentally incompetent; (2) I have personal knowledge of the facts set forth in the above-written Second Amended and Supplemental Restated Verified Petition For Declaratory Judgment And Injunctive Relief (the "Second Amended Petition"); (3) I am the judgment debtor who is the target of the Chesley Judgment described in the Second Amended Petition, (4) to the best of my knowledge and belief, the facts set out in the Second Amended Petition are true and correct.

Stanley M. Chesley

Sworn to, and subscribed, in my presence on _____, 2015 by Stanley M. Chesley who is known to me.

Notary public, State of Ohio
My commission expires on _____

SIGNATURE AND APPEARANCE OF PETITIONER'S COUNSEL

Respectfully submitted,

/s/ Vincent E. Mauer
Vincent E. Mauer (0038997)
FROST BROWN TODD LLC
3300 Great American Tower
301 E. Fourth Street
Cincinnati, Ohio 45202
513-651-6785
Fax 513-651-6981
vmauer@fbtlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2015, a copy of the foregoing was served on Christen M. Steimle, Esq., Dinsmore & Shohl LLP, 255 East Fifth Street, Suite 1900, Cincinnati, Ohio 45202 by first class United States mail, postage prepaid.

/s/ Vincent E. Mauer

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

Stanley M. Chesley,	:	Case No. A1500067
	:	
Petitioner,	:	Judge Ruehlman
	:	
v.	:	ORDER GRANTING PETITIONER'S
	:	MOTION FOR LEAVE TO FILE
Angela M. Ford, Esq., <i>et al.</i>	:	SECOND AMENDED VERIFIED
	:	PETITION
Respondents.	:	

This matter comes before the Court upon the Motion of Petitioner Stanley M. Chesley ("Chesley") for leave to file a Second Amended Verified Petition in order to add new defendants to the First Amended Verified Petition. For reasons stated in Chesley's Motion, and for other good cause shown, the Court finds that said Motion is well-taken and is hereby GRANTED.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Chesley is hereby granted leave to amend, and that the proposed Second Amended Verified Petition attached as Exhibit A to Chesley's Motion is deemed filed as of the date of this Order.

Petitioner's counsel shall arrange for service of the Second Amended Petition.

IT IS SO ORDERED.

Judge Ruehlman

0118087.0619701 4845-3228-4709v1



**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
July 30, 2015 09:00 AM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 428601**

STANLEY M CHESLEY

vs.

ANGELA M FORD

A 1500067

**JUDGE
J. PATRICK FOLEY III**

FILING TYPE: REPLY

PAGES FILED: 15

EFR200

EXHIBIT

12

exhibitsticker.com

**COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

Mr. Stanley M. Chesley	:	Case No. A1500067
	:	
Petitioner,	:	Judge Ruehlman
	:	
	:	
	:	REPLY TO DEFENDANT ANGELA M.
	:	FORD'S RESPONSE IN OPPOSITION
	:	TO THE MOTION OF INTERVENOR
v.	:	WAITE SCHNEIDER BAYLESS &
	:	CHESLEY CO., L.P.A. FOR
Angela M. Ford, Esq., <i>et al.</i>	:	DECLARATORY AND INJUNCTIVE
	:	RELIEF
Respondents.	:	
	:	

NOW COMES Intervenor Waite Schneider Bayless & Chesley Co., L.P.A. ("WSBC") and hereby files its reply (the "Reply") to Defendant Angela M. Ford's ("Ford") Opposition (the "Objection") to the Motion of Intervenor WSBC for Declaratory and Injunctive Relief (the "Motion"). In support of its Reply, WSBC respectfully submits as follows:¹

A. WSBC Has The Absolute Legal Right To Intervene In This Action.

1. The Interests of WSBC Are Not Represented In This Action.

As noted in the Motion, Rule 24 of the Ohio Rules of Civil Procedure, which governs intervention, should be *construed liberally in favor of intervention. State ex rel. Polo v. Cuyahoga County Bd. Of Elections*, 73 Ohio St.3d 143, 1995-Ohio-269, 656 N.E.2d 1277; *State ex rel. Strategic Capital Investors, Ltd. v. McCarthy* (1998), 126 Ohio App.3d 237, 248, 710 N.E.2d 290. Ford's Objection entirely ignores this basic rule of interpretation and law. Indeed, the Objection is noticeably devoid of any explanation

¹ Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

of why the liberal rule for intervention should not apply in this case and permit WSBC to intervene particularly given the undisputable fact that Ford's actions directly impact WSBC.

Nonetheless, Ford avers that as "Rheme is the sole shareholder of WSBC, he control the actions of WSBC" and by proxy, represents WSBC. Reply at pg. 6. In doing so, Ford fails to recognize the legal distinction between shareholder and corporation. Although Rehme is trustee of all of the WSBC shares, "[i]t is well settled that a corporation is a separate legal entity from its shareholders, even when the corporation only has one shareholder." *My Father's House #1, Inc. v. McCardle*, 2013-Ohio-420, P27 (Ohio Ct. App., Marion County 2013) *citing LeRoux's Billyllye Supper Club v. MA*, 77 Ohio App.3d 417, 421, 602 N.E.2d 685 (6th Dist. 1991), *citing First Natl. Bank of Chicago v. Trebein Co.*, 59 Ohio St. 316, 52 N.E. 834 (1898). "A corporation, being an artificial person, can act only through agents." *Lamar Advantage Gp Co. v. Patel*, 2012-Ohio-3319, P18 (Ohio Ct. App., Warren County July 23, 2012) *citing James G. Smith & Assoc, Inc. v. Everett*, 1 Ohio App.3d 118, 120, 1 Ohio B. 424, 439 N.E.2d 932 (10th Dist.1981).

It is a rudimentary legal principal that a corporation, such as WSBC, cannot represent itself through one of its officers. *Seitz Builders, Inc. v. Kaplan Mech. Corp.*, 2006 Ohio 3965, P2 (Ohio Ct. App., Cuyahoga County Aug. 3, 2006) (internal citations omitted). Thus, notwithstanding that the shares of WSBC stock are held in trust by Rehme, WSBC is still an active legal corporate entity. Consequently, WSBC is entitled to have its interests represented in this action and must do so through its own counsel.

Key to the intervention analysis is the legal fact that Mr. Chesley is not an owner or shareholder of WSBC and, therefore, cannot represent WSBC's interests in this or any other case. See Section 1 of the Wind-Up Agreement. Likewise, Rehme as trustee of the trust holding the WSBS shares, cannot represent the separate legal interests of WSBC as a *de facto* sole shareholder. Because WSBC is not Mr. Chesley (or Rehme for that matter), it is not represented by proxy in this action and is entitled to intervene.²

2. WSBC Interests Are Directly Impacted By This Action.

This Court's Restraining Order expressly provides in paragraph 3 that:

Ford, the Unknown Respondents, and any other person acting on behalf of the Unknown Respondents *are enjoined from taking any action to collect the Chesley Judgment in the State of Ohio, from any Ohio resident, Ohio citizen or Ohio domiciled entity.* (emphasis added).

For reasons outlined in the Motion, WSBC is entitled to the protections afforded by that order and to intervene in this case to ensure its interests are protected. This need is evidenced by the fact that in utter disregard of the Restraining Order, Ford's Transfer Motion, the CSH Compel Motion and the Chesley Compel Motion and the orders ensuing thereon all seek to obtain the confidential and proprietary financial information of WSBC, to apparently alter or interfere with its payment obligations to creditors, and to otherwise interfere with WSBC's interests in an effort to collect the Chesley Judgment.

WSBC must be permitted to intervene in this action to ensure that its own legal obligations as to the windup and payments to its creditors are protected. Ford falsely argues that she is essentially the sole beneficiary of the trust and that everything done

² The same is true with respect to the Kentucky Case, in which WSBC is not a party – namely, that Mr. Chesley does not, and cannot, represent WSBC in the Kentucky Case

with respect to WSBC should be done only for her benefit. “The Trustee is now acting contrary to the benefit of the judgment creditors who are the sole beneficiaries of the Chesley’s interest in WSBC.” Objection at pg. 2. This is utterly false. In fact, even assuming for the sake of argument that Mr. Chelsey’s interest in the trust was assigned to her per the Kentucky Court, the most Ford could have is Mr. Chesley’s contingent reminder interest in the trust after payment of all of WSBC’s employees, creditors (including federal, state, and local taxing authorities) and costs of winding up the business. See section 4.1(g) of the Wind-Up Agreement.

As trustee, Rehme has an obligation to ALL beneficiaries with his first priority being to ensure that all creditors of WSBC are paid first. In particular, O.R.C. § 1701.882(B) mandates that:

(B) A corporation shall pay in full any claims and liabilities or provide for those payments in full by insurance or otherwise if the corporation has sufficient assets. If the corporation does not have sufficient assets, a corporation shall pay claims and liabilities or provide for those payments by insurance or otherwise in order of their priority. Among claims of equal priority, the corporation shall apportion those payments to the extent of funds legally available for the payment of those claims. Any remaining assets shall be distributed to the shareholders of the corporation according to their respective rights and preferences.

O.R.C. § 1701.882(B) made applicable pursuant to O.R.C. § 1785.08.

Ford is not a creditor of WSBC. Period.

Ford implicitly recognizes this fact but treats Rehme’s duties under the trust as though they are strictly limited to her alleged contingent interest. “Per this Agreement, after WSBC’s creditors are paid, the remainder of WSBC;s procedis (sic) to be distribute to Chesley.” Objection at pg. 3. She compounds here error by arguing that

“WSBC’s motion to intervene in this action ... is not in the judgment creditors’ best interest.” Objection at pg. 6. Ford is simply wrong. WSBC must do what is in the best interest of the entity and its creditors (which Ford is not) and not what’s in the best interest of Mr. Chesley’s and his creditors. Ford’s allegation that “WSBC seeks to prevent the judgment creditors from successfully enforcing and collecting a valid judgment against Chesley” (Objection at pg. 6) is as illogical as it is simplistic. She essentially wants to grab WSBC assets to satisfy the Chesley Judgment and completely ignore the claims and interests of the employees and creditors of WSBC who have priority over any alleged claim of Ford.³ Even if Ford does have some interest by virtue of the Transfer Order, it is subordinate to the claims and interests of WSBC’s own creditors. Without intervention and protection from this Court, WSBC would find itself in a position where Ford – a creditor of Chesley, whose interest is behind that of the WSBC employees and creditors – would be paid before WSBC’s creditors.

Likewise, Ford’s statement that: “WSBC is incurring fees to file this motion, which is also not in the best interest of the judgment creditors” (*Id.*) suffers from the same failed premise. WSBC simply has no duty to Ford as a judgment creditor of Mr. Chesley that is superior to its duty to its own creditors. The filing of this Motion plainly protects the interests of WSBC’s creditors, whose money Ford (at most a junior creditor, three times removed) is trying to grab. It is these errors in logic and law that cry out for WSBC to intervene in this case.

WSBC must concern itself with its own creditors first and not those of Mr. Chesley as it goes through the windup process. Its interests as a legal entity with legal

³ There is very real doubt as to whether the Transfer Order even grants Ford any rights relative to WSBC.

obligations must be protected from challenges from any party that would disrupt or damage the company to the detriment of its own creditors before the completion of the wind down. Thus, WSBC has not only a right, but a necessity to intervene in this case.

B. WSBC's Motion Does Not Ask This Court To Act In Defiance Of The Full Faith And Credit Clause Of The Constitution.

1. The Transfer Order Is Unenforceable As This Court Has Already Exercised Jurisdiction Over The Matters Set Forth Therein Prior To The Issuance Of Such Order.

Ford's conflated and confusing Full Faith and Credit Clause argument is without merit. In fact, it is Ford who has run afoul of the Full Faith and Credit principles by attempting to usurp this Court's jurisdiction over matters upon which it has already ruled.

The Restraining Order was entered after a hearing of which Ford had actual knowledge. The Restraining Order remained in place while this case was removed to Federal Court by Ford. Despite Ford's efforts to have the Federal Court (which she argued did not have jurisdiction over the case) terminate the Restraining Order, it remained in place when this case was ultimately remanded to this Court.⁴ After the case returned to this Court, on May 14, 2015, this Court held a hearing on Ford's motions to dismiss this case and to terminate the Restraining Order. Ford's motions were fully briefed and counsel for Ford and Chesley offered arguments to the Court. The Court ultimately declined Ford's request to dismiss the case and to terminate the Restraining Order. Thus, it is folly for Ford to suggest that she has been subjected to a

⁴ That Ford had the temerity to ask a Court that she contended lacked jurisdiction over the case to terminate the Restraining Order and then dismiss the case for lack of jurisdiction is remarkable. Ultimately, the Federal Court found in favor of Chesley on the jurisdictional issues and remanded the case to this Court leaving the Restraining Order in place.

Restraining Order and denied a hearing. Indeed, there is no question regarding the following facts:

(a) that Ford was actually aware of the Restraining Order;

(b) that this Court's Restraining Order was the first judicial decision addressing the subject matter of that Order; and

(c) that Ford was actually litigating the substantive issues in the Restraining Order in this Court **long before she asked the Kentucky Court to enter the Transfer Order.**

There is no doubt, therefore, that this Court presently has valid jurisdiction over Ford, that she has actively litigated the Restraining Order issues, and that she was well aware of the Restraining Order.

In direct contravention of the clear language of the Restraining Order, Ford filed the Transfer Motion, the CSH Compel Motion and the Chesley Compel Motion seeking information regarding WSBC and trying to force WSBC (an Ohio entity domiciled in Ohio) and Rehme (an Ohio citizen) to pay to her money (Ohio property) otherwise payable to Mr. Chesley. In other words, Ford went to the Kentucky Court to obtain an order that directly contradicts, undermines, and/or vitiates the previously entered Restraining Order.

Despite the fact that WSBC and its trustee owner are Ohioans and not parties to the Kentucky litigation, on June 23, 2014 the Kentucky Court entered an order apparently to force the Trustee who owns WSBC pay to Ford any funds that would otherwise be directed to Mr. Chesley (the "Transfer Order") (copy attached as Exhibit A to the Objection). "On June 23, 2015, the Kentucky court entered an order granting this

motion and *required Chesley to direct* that his beneficial interest in the shares of WSBC be transferred to his judgment creditors. . . .” Objection at pg. 3. (emphasis added).⁵

The Transfer Motion and Transfer Order were filed to allow Ford to do an end-run around this Court’s Restraining Order.⁶ Such improper action must be stopped.

This Court first established jurisdiction over issues pertaining to assets in Ohio that might be seized and/or procedures that Ford may utilize in Ohio to pay the Chesley Judgment. Applicable law clearly gives this Court priority and exclusive jurisdiction over those matters because the Restraining Order predates the Transfer Order. “As between courts of concurrent jurisdiction, the tribunal whose power is first invoked by the institution of proper proceedings acquires jurisdiction, to the exclusion of all other tribunals, to adjudicate upon the whole issue and to settle the rights of the parties. (*John Weenink & Sons Co. v. Court of Common Pleas* [1948], 150 Ohio St. 349, approved and followed.)” *Quoted in Knowlton Properties v. Knowlton*, (1992) 63 Ohio St. 3d 671, 681. (emphasis added). Despite this, Ford states that: “[t]here is nothing for an Ohio court to do on this matter; other than respect the valid and enforceable orders of the Kentucky courts.” Objection at pg. 8. In fact, the opposite is true; this Court has an obligation to ensure that its own rulings, which predate any Kentucky orders, are respected and enforced, and that the interests of the affected Ohio parties (including WSBC) are protected.

⁵ Ford then went a step even farther in her misguided and unlawful efforts to interfere with WSBC by garnishing (or attempting to garnish) WSBC funds in Nevada.

⁶ The Transfer Order is technically inconsequential as to WSBC since the relief granted purports to compel Mr. Chesley to transfer his beneficial interest in the Shares of WSBC, of which he has none.

WSBC has not argued that the Kentucky Court has no jurisdiction over Mr. Chesley as Ford infers in the Objection. Objection at pg. 8. WSBC does argue that it is not a party to the Kentucky case, and that no judgment has been entered against it such that the Kentucky Court has no authority to interfere with WSBC's operations or otherwise attach its assets.

This Court's Restraining Order enforcing Ohio law takes precedence over the Transfer Order because this Court first obtained and exercised jurisdiction over the property that is the subject of both orders. WSBC simply seeks to enforce the Restraining Order over matters to which this Court has already established jurisdiction prior to the entry of the Transfer Order upon which Ford premises her argument. Had Ford been unhappy with the Restraining Order decision, her remedy was to appeal the decision in Ohio which already had personal jurisdiction over her - not run back to Kentucky and obtain a conflicting order. As such, the Transfer Order should not be enforced.

2. The Full Faith And Credit Does Not Mean That A Judgment Of A Court In One State Is Automatically Entitled To Enforcement In Another State.

The United States Constitution, through the Full Faith and Credit Clause, requires Ohio courts to give full faith and credit to judgments from foreign jurisdictions.

Section 1, Article IV, United States Constitution. This provision reads as follows:

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records, and Proceedings shall be proved, and the Effect thereof.

The "full faith and credit" language has also been codified in Section 1738, Title 28, U.S. Code. *Rion v. Mom & Dad's Equip. Sales & Rentals*, 116 Ohio App. 3d 161, 164-167 (Ohio Ct. App., Mercer County 1996). In essence, this Constitutional provision requires the courts of this state to honor judgments from other states without re-examining the merits of their claims. *Durfee v. Duke* (1963), 375 U.S. 106, 110-111, 11 L. Ed. 2d 186, 84 S. Ct. 242; *Dressler v. Bowling* (1986), 24 Ohio St. 3d 14, 16, 492 N.E.2d 446.

“Full faith and credit does not mean that a judgment of a court in one state is *automatically* entitled to enforcement in another state. States may require a new lawsuit to enforce a foreign judgment.” *Rion v. Mom & Dad's Equip. Sales & Rentals*, 116 Ohio App. 3d 161, 165 (Ohio Ct. App., Mercer County 1996) (emphasis added) *citing Dressler v. Bowling* (1986), 24 Ohio St. 3d 14, 16-17, 492 N.E.2d 446.

The Uniform Enforcement of Foreign Judgments Act as adopted and codified in Ohio at O.R.C §§ 2329.021 through 2329.027 (“UEFJA”) is intended to be a speedy and economical method of recognizing judgments consistent with the United States Constitution. *Goetz v. First Benefits Agency*, 1997 Ohio App. LEXIS 4632, 16-20 (Ohio Ct. App., Summit County Oct. 15, 1997). The UEFJA provides two options for a judgment creditor to enforce the judgment: (i) by the registering provisions of the UEFJA, O.R.C. section 2329.022 or (ii) by the creditor choosing to bring a direct action to enforce the judgment, O.R.C. sections 2329.26, 3115.01 to .34. These UEFJA statutes are to be strictly construed. “The failure of the party seeking enforcement of the foreign judgment to comply with the requirements listed in the statutes precludes it from obtaining full faith and credit of the foreign judgment in an Ohio common pleas court,

and the subsequently desired Ohio judgment and execution.” See *Vyn-All Corp. v. Window I*, 105 Ohio App. 3d 451, 453 (Ohio Ct. App., Lake County 1995); *Grimm v. Grimm*, 2008-Ohio-324, P14 (Ohio Ct. App., Cuyahoga County Jan. 31, 2008); *Freeman v. Freeman*, 2008-Ohio-6073, P19 (Ohio Ct. App., Seneca County Nov. 24, 2008). Ford has never even attempted to comply with this applicable Ohio law regarding domestication and execution in Ohio.

As a result, Ford’s assertion that WSBC is somehow asking this Court to “act in defiance of the Full Faith and Credit Claus of the Constitution” Objection at pg. 7 completely misses the point. Instead, it is Ford who is attempting to obtain Kentucky orders affecting a non-party Ohio corporation, an Ohio trustee of an Ohio trust in violation of this Court’s validly entered Restraining Order and without even attempting to domesticate the Chesley Judgment.

C. Ford’s Actions in Kentucky Violate the Restraining Order.

This Court’s Restraining Order expressly provides, among other things, that:

Ford, the Unknown Respondents, and any other person acting on behalf of the Unknown Respondents are enjoined from taking any action to collect the Chesley Judgment in the State of Ohio, from any *Ohio resident, Ohio citizen or Ohio domiciled entity*; Restraining Order, paragraph 3. (emphasis added).

Ford, the Unknown Respondents, and any other person acting on behalf of the Unknown Respondents are enjoined from issuing any subpoena seeking documents or testimony to any *Ohio resident, Ohio citizen or Ohio domiciled entity* (other than Chesley) if the purpose of the requested documents or testimony would be to obtain information related to any effort to enforce the Chesley Judgment; Restraining Order, paragraph 4. (emphasis added).

Key to the language of the Restraining Order is that Ford is prohibited from taking “any action” to collect the judgment in the State of Ohio; obviously, this would

include both direct and indirect actions. Ford states that the Restraining Order “did not, nor could it, limit her ability to collect against Chesley through the Kentucky or other Courts.” Objection at pg. 8. Ford is again mistaken. The Kentucky Court has no authority or power to interfere with WSBC’s operations, its payments to creditors, or its assets. None. Yet, the Transfer Order attempts to do precisely that and in a manner that utterly disregards the prior interests of WSBC’s creditors including taxing authorities. Any question about Ford’s “interpretation” of the Transfer Order as being carte blanche for her to seize WSBC’s assets were conclusively answered when she attempted to garnish WSBC’s assets (not Chesley’s assets) in Nevada. Moreover, as noted above, this Court already had personal jurisdiction over Ford with respect to her actions upon persons, entities and property in Ohio including WSBC.

The existence of the conflict between the first issued Restraining Order and Ford’s other efforts in Kentucky is plain. The information sought by Ford in the CSH Compel Motion with reference to WSBC was an act aimed at an Ohio domiciled entity with the purpose of gaining documents to obtain information to enforce the Chesley Judgment. Likewise, the Chesley Compel Motion sought to force Mr. Chesley, as a non-shareholder of WSBC, to provide financial and proprietary information of WSBC was an act aimed at an Ohio domiciled entity with the purpose of gaining documents to obtain information to enforce the Chesley Judgment. The end result of Ford’s improper actions was the entry of the conflicting Transfer Order and the entry of two Kentucky orders granting the CHS Motion and the Chesley Compel Motion. See Exhibits E and F to the Objection.

Since WSBC, the trust and its assets (the Shares of WSBC), and Rehme as trustee are all located in Ohio, and the fact that the trust itself and WSBC are governed by Ohio law, how then is this Ford's actions not an "act" to collect the judgment in Ohio? Ford's "smoke and mirror" attempt to take actions to collect the judgment via the Kentucky orders in violation of this Court's preexisting Restraining Order must be stopped.

D. Conclusion.

The interests of WSBC are clearly at stake and could be compromised in this action. As such, intervention by WSBC is both appropriate and necessary. Ford's backdoor attempts to circumvent the Restraining Order by running to Kentucky to obtain competing orders over matters upon which this Court has already ruled buttress this position.

Until such time as Ford actually follow Ohio law and properly domesticates the judgment, this Court should issue an Order protecting WSBC from any Kentucky Order seeking, directly or indirectly, to impermissibly obtain financial and other information pertaining to WSBC in violation of the Restraining Order.

Respectfully submitted

//s/ Donald J. Rafferty
Donald J. Rafferty (0042614)
Cohen, Todd, Kite & Stanford, LLC
250 E Fifth St, Suite 2350
Cincinnati, OH 45202-5136
Phone: (513) 333-5243
Fax: (513) 241-4495
Email: drafferty@ctks.com

Attorney for Intervenor Waite, Schneider,
Bayless & Chesley Co., L.P.A.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the **REPLY TO DEFENDANT ANGELA M. FORD'S RESPONSE IN OPPOSITION TO THE MOTION OF INTERVENOR WAITE SCHNEIDER BAYLESS & CHESLEY CO., L.P.A. FOR DECLARATORY AND INJUNCTIVE RELIEF** was served this 30th day of July, 2015, via regular U.S. Mail upon the following:

Vincent E. Mauer
Frost Brown Todd LLC
3300 Great American Tower
301 E. Fourth Street
Cincinnati, OH 45202

Brian Sullivan
Christen M. Steimle
Dinsmore & Shohl, LLP
255 East Fifth Street, Suite 1900
Cincinnati, OH 45202

/s/ Donald J. Rafferty
Donald J. Rafferty



**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
August 18, 2015 12:36 PM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 432952**

STANLEY M CHESLEY

vs.

ANGELA M FORD

A 1500067

**JUDGE
J. PATRICK FOLEY III**

FILING TYPE: NOTICE

PAGES FILED: 84

EFR200

EXHIBIT

13

exhibitsticker.com

**COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

STANLEY M. CHESLEY	:	Case No. A1500067
	:	
Petitioner,	:	Judge Ruehlman
	:	
v.	:	NOTICE OF FILING
	:	CERTIFIED COPIES
ANGELA M. FORD, ESQ., et al.	:	
	:	
Respondents.	:	

Petitioner Stanley M. Chesley (“Chesley”) hereby files with the Court certified copies of the following documents from the Boone County, Kentucky Circuit Court. These documents can now be considered as evidence in this matter.

1. Plaintiffs’ Motion to File Fourth Amended Complaint, 12/7/2006
2. Order re: Plaintiffs’ Motion for Ruling on Compensatory Damages, 8/1/2007
3. Plaintiffs’ Response to Interim Receiver’s Report and Request for Distribution of Funds to Plaintiffs, 2/27/2008
4. Order re: payment to Garretson Law Firm, 10/10/2008
5. Tenth Interim Receiver’s Report, 9/14/2009
6. Order re: Plaintiffs’ Motion for Partial Summary Judgment, 8/1/2014
7. Plaintiffs’ Motion for Order Compelling Chesley to Withdraw All Efforts to Stay Judgment, 1/15/2015
8. Plaintiffs’ Reply in Support of Their Motion for Order Compelling Chesley to Withdraw All Efforts to Stay Judgment, 1/29/2015
9. Plaintiffs’ Motion to Amend Agreed Protective Order, 4/23/2015
10. Memorandum of Law in Support of Plaintiffs’ Motion to Amend Agreed Protective Order, 4/23/2015
11. Plaintiffs’ Motion to Transfer Beneficial Interest in Property Held in Trust, 5/21/2015

12. Memorandum of Law in Support of Plaintiffs' Motion to Transfer Beneficial Interest in Property Held in Trust, 5/21/2015
13. Plaintiffs' Reply in Support of Plaintiffs' Motion to Transfer Beneficial Interest in Property Held in Trust, 6/8/2015
14. Order re: Plaintiffs' Motion to Transfer Beneficial Interest in Property Held in Trust, 6/23/2015

Respectfully submitted,

/s/ Vincent E. Mauer
Vincent E. Mauer (0038997)
FROST BROWN TODD LLC
3300 Great American Tower
301 East Fourth Street
Cincinnati, Ohio 45202
513-651-6785
Fax 513-651-6981
vmauer@fbtlaw.com

CERTIFICATE OF SERVICE

I hereby certify that a on this 15th day of August, 2015, a copy of the foregoing was served by first class U.S. Mail, postage prepaid, upon:

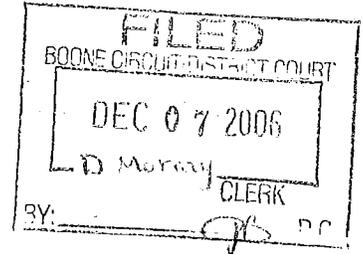
Brian Sullivan, Esq.
Christen M. Steimle, Esq.
Dinsmore & Shohl, LLP
255 East Fifth Street, Suite 1900
Cincinnati, Ohio 45202

Donald J. Rafferty, Esq.
Cohen Todd Kite & Sanford, LLC
250 E. Fifth Street, Suite 2350
Cincinnati, Ohio 45202

/s/ Vincent E. Mauer

0118087.0619701 4839-2386-0007v1

**BOONE CIRCUIT COURT
54th JUDICIAL DISTRICT
Case No. 05-CI- 436**



MILDRED ABBOTT et al.

PLAINTIFFS

v.

**PLAINTIFFS' MOTION TO FILE
FOURTH AMENDED COMPLAINT**

STANLEY M. CHESLEY, et al.

DEFENDANTS

* * * * *

Plaintiffs, through counsel, request leave of the Court to file a Fourth Amended Complaint pursuant to CR 15.01. The Amended Complaint names an additional 19 Plaintiffs bringing the total number to 456 Plaintiffs, including the 44 Plaintiffs who were represented by J. Brent Austin. The proposed Fourth Amended Complaint is attached hereto.

Respectfully submitted,

Angela M. Ford
KBA No. 81510
Chevy Chase Plaza
836 Euclid Avenue, Suite 311
Lexington, Kentucky 40502
(859) 268-2923
Email: amford@alltel.net

William T. Ramsey
NEAL & HARWELL, PLC
TBA No. 9248
150 Fourth Avenue North
Suite 2000
Nashville, TN 37219
(615) 244-1713

COUNSEL FOR PLAINTIFFS

NOTICE

The parties will hereby take notice that the foregoing Motion shall be heard on December 11, 2006 at 9:30 a.m. or at a time scheduled by the Court.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing has been served on December 1, 2006 by U. S. mail to:

William E. Johnson, Esq.
Johnson, True & Guarnieri, LLP
326 W. Main Street
Frankfort, KY 40601

Frank Benton, IV, Esq.
P.O. Box 72218
Newport, KY 41072

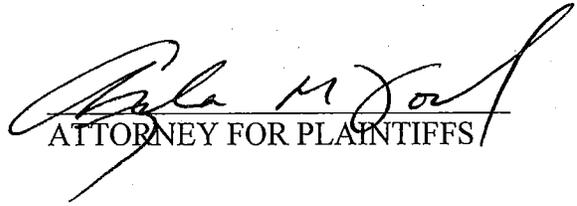
Elizabeth R. Seif, Esq.
Barrister Hall
163 East Main Street
Suite 401
Lexington, KY 40507

Mary E. Meade-Mckenzie, Esq.
2901 Richmond Road
Suite 130-161
Lexington, KY 40507

James E. Shuffett, Esq.
271 West Short Street
Suite 400
Lexington, KY 40507

Calvin R. Fulkerson, Esq.
Lynn, Fulkerson, Nichols & Kinkel
267 West Short Street
Lexington, KY 40507

Alex C. Rose, Esq.
400 West Market Street
Louisville, KY 40202


ATTORNEY FOR PLAINTIFFS

STATE OF KENTUCKY
COUNTY OF BOONE
I, DIANNE MURRAY, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

This 13 day of August, 2015
DIANNE MURRAY

By: Paula M. Jones D.C.

20070801
FILED
BOONE CIRCUIT DISTRICT COURT
AUG 01 2007
DIANNE MURRAY, CLERK
BY: DSG DC

**BOONE CIRCUIT COURT
54TH JUDICIAL DISTRICT**

Case No. 05-CI-436

MILDRED ABBOTT, et al.

PLAINTIFFS

ORDER

V.

STANLEY M. CHESLEY, et al.,

DEFENDANTS

* * * * *

This matter came on before the Court for a hearing on July 23, 2007 on Plaintiffs' Motion for Ruling on compensatory damages and Defendants Mills, Cunningham and Gallions' Motions for a Stay of the trial of this action pending the outcome of the criminal case currently scheduled for trial in the United States District Court on October 15, 2007. The trial of this case is scheduled for September 20, 2007. Defendant Chesley filed a Motion for a Stay and Separate Trial, but not in sufficient time to be considered for a ruling at this hearing. The Plaintiffs were represented by Hon. Angela M. Ford and William T. Ramsey; Defendants Cunningham and Gallion were represented by Hon. Mary Meade Mckenzie, Hon. Jeff Harmon and Hon. Michael Gay. Defendant Chesley was represented by Hon. Frank V. Benton, IV and Hon. Alex Rose.

This Court previously ruled in its March 8, 2006 Order that Defendants Cunningham, Gallion and Mills breached their fiduciary duties to the Plaintiffs when they paid themselves fees over and above the amount to which they were entitled to under their fee contracts with their clients. Under the fee-splitting agreement entered into by the Attorneys, Defendants Cunningham, Mills and Gallion were entitled to 74%,

WBS

collectively, of the total fees from the settlement of \$200,000,000. The total fees are limited to these Defendants fee contracts with their former clients; the Court has previously reviewed and ruled on that issue. Plaintiffs most recent Summary of the Misappropriated Settlement Funds and Attorneys Fees (Exhibit A) reflects that these contracts limited the fees to which Defendants were entitled to \$60,798,783.14. (\$60,770,266.03 under Sixth Amended Complaint) According to Defendants own documents however, they paid themselves and others a total of \$126,793,551.22, including the amount transferred to the corporation they established, The Kentucky Fund for Healthy Living, Inc. The difference between what these Defendants were entitled to and what they paid themselves and others from client funds is \$64,280,497 pursuant to Plaintiffs uncontested Summary. (Under Sixth Amended Complaint, 64,241,586.10) The Court has reserved a ruling on Plaintiffs claim for Disgorgement of these fees based upon the egregiousness of the Defendants conduct.

Despite numerous opportunities, Defendant Gallion and Cunningham tendered no proof of expenses. Expenses were tendered by Defendant Mills, including salaries, expenses for daily office operation and maintenance, advertising, rent, utilities, phones, supplies, a legal publication and postage. Defendant Mills also claims a lump sum of \$1,303,831.81 for services from Business Securities Solutions/Litigation Consultant but no invoice or detailed explanation for these services was produced nor is there any indication that these expenses are related exclusively to the clients represented in the Boone Circuit Court as opposed to the MDL action or other class actions. As previously stated in the Court's March 8, 2006 Order, there can be no allowance for contingency

fees with non-lawyers and without explanation about how such a large sum of money was charged for services, none may be allowed.

It is therefore **ORDERED** that Plaintiffs are awarded \$ 42 million dollars as a baseline compensatory damage award. Prejudgment interest is awarded at the legal rate of interest of 8%. This amount was arrived at by rounding down to 64 million the overpaid amounts claimed by plaintiffs, and then deducting a rounded up figure of 20.5 million used to fund the Kentucky Fund for Healthy Living, Inc. and another 1.5 million as rounded up for expenses claimed by Defendant Mills.

The Defendants Cunningham, Gallion and Mills operated in concert with one another as co-counsel for the plaintiffs and are jointly and severally liable for all compensatory damages, notwithstanding K.R.S. 411.182 (See *Steelvest, Inc. v Scansteel Service Center, Inc.*, 807 S.W. 2d 476(Ky. 1991)).

Pending the settlement conference scheduled for August 6, 2007, the Court submits on Plaintiffs' request to make this order final and appealable pursuant to CR 54.02, and on Defendant Mill's request to reconsider the apportionment issue. Furthermore, counsel for Defendant Chesley and Plaintiffs are advised to be prepared for a bifurcated trial on September 20, 2007, on the liability phase in the likely event that the pending motion for a stay as to Chesley is overruled.

In the Courts' Order of March 8, 2006, Plaintiffs Motion for Summary Judgment on Count I of their Complaint (Breach of Fiduciary Duty) against Defendants Gallion, Cunningham and Mills was granted. The Court also granted Plaintiffs Motion for Summary Judgment on Count Three (Declaratory Judgment) and Count Six (Constructive

Trust) as to all Defendants, including The Kentucky Fund for Healthy Living, Inc. The Court has reserved for trial Plaintiffs Count II (Negligent and/or Fraudulent Misrepresentation) and punitive damages.

Defendant Mills, Cunningham and Gallions' Motions for a Stay of these proceedings were granted by previous order.

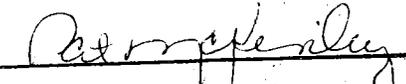


JUDGE WILLIAM J. WEHR

cc: Hon. Angela M. Ford
Hon. William T. Ramsey
Hon. Luther C. Conner, Jr.
Hon. Frank B. Benton, IV
Hon. Elizabeth R. Seif
The Kentucky Fund for Healthy Living
Hon. James E. Shuffett
Hon. Mary E. Meade-McKenzie
Hon. Calvin Fulkerson
Hon. C. Alex Rose
Hon. Byron E. Leet
Hon. Michael L. Gay
Hon. Jeffrey Harmon
Hon. William J. Wehr, Special Judge

STATE OF KENTUCKY
COUNTY OF BOONE
I, DIANNE MURRAY, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

This 13 day of August, 2015
DIANNE MURRAY

By:  D.C.

4

**BOONE CIRCUIT COURT
54TH JUDICIAL DISTRICT**

Case No. 05-CI-436

FILED BOONE CIRCUIT/DISTRICT COURT FEB 27 2008 DIANNE MURRAY, CLERK BY <u>JD</u> DC

MILDRED ABBOTT, et al.,

PLAINTIFFS

v.

**PLAINTIFFS' RESPONSE TO INTERIM
RECEIVER'S REPORT AND REQUEST
FOR DISTRIBUTION OF FUNDS TO PLAINTIFFS**

STANLEY M. CHESLEY, et al.,

DEFENDANTS

Plaintiffs are again opposed to the use of funds entrusted to the Interim Receiver for any purpose other than for a distribution to the Plaintiffs on the same grounds set forth in the Plaintiffs Response to Interim Receivers Report of February 1, 2008 which Plaintiffs incorporate as if fully set forth herein. Additionally, Plaintiffs rely on the garnishment served upon counsel for Tandy and Plaintiffs' Petition to Attach Judgment Debtors' Assets in Possession of Attorneys.

Plaintiffs note that while the Interim Receiver is now fulfilling the service of bill review, there are a myriad of questions related to the management of assets that are unanswered, including whether or not Curlin is properly licensed to be raced by Tandy d/b/a Midnight Cry in the upcoming races in Dubai or whether Tandy is even required to obtain such a license in order to share in any purse winnings.

Respectfully submitted,



ANGELA M. FORD
(KBA No. 81510)
Chevy Chase Plaza
836 Euclid Avenue, Ste. 311
Lexington, Kentucky 40502
859-268-2923
amford@alltel.net

COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served by U.S. Mail this the 25th day of February, 2008, to the following:

Matthew Garretson, Esq.
Sylvius von Saucken, Esq.
The Garretson Law Firm, LLC
7775 Cooper Road
Cincinnati, OH 45242

Mary E. Meade-Mckenzie, Esq.
3290 Blazer Parkway, Suite 150
Lexington, Kentucky 40509

Michael L. Gay, Esq.
Jeffrey J. Harmon, Esq.
Cors & Bassett, LLC
537 East Pete Rose Way, Suite 400
Cincinnati, OH 45202-3578

Elizabeth R. Seif, Esq.
Seif & Austin, PLLC
163 East Main Street, Suite 130
Lexington, Kentucky 40507

Calvin R. Fulkerson, Esq.
Lynn, Fulkerson, Nichols & Kinkel
267 West Short Street
Lexington, Kentucky 40507

James A. Shuffett, Esq.
271 West Short Street, Suite 400
Lexington, Kentucky 40507

C. Alex Rose, Esq.
471 West Main Street
Suite 400
Louisville, KY 40202

Frank Benton, IV, Esq.
P.O. Box 72218
Newport, KY 41072

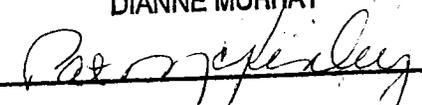
Byron E. Leet, Esq.
Wyatt, Tarrant & Combs, LLP
500 West Jefferson Street
Suite 2800
Louisville, Kentucky 40202

J. Stephen Smith
Graydon Head & Ritchey, LLP
2400 Chamber Center Drive
Suite 300
Ft. Mitchell, KY41017


COUNSEL FOR PLAINTIFFS

STATE OF KENTUCKY
COUNTY OF BOONE
I, DIANNE MURRAY, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

This 13 day of August, 2015
DIANNE MURRAY

By:  D.C.

COMMONWEALTH OF KENTUCKY
BOONE COUNTY CIRCUIT COURT
CASE NO. 05-CI-00436

ENTERED
BOONE CIRCUIT/DISTRICT COURT
OCT 10 2008
DIANNE MURRAY, CLERK
BY RS DC

MILDRED ABBOTT, ET AL.

PLAINTIFF

V.

STAN M. CHESLEY, ET AL.

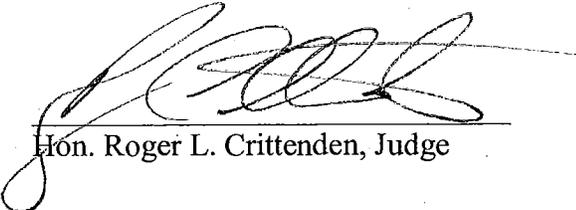
DEFENDANT

ORDER

Pursuant to good cause shown, the Court hereby **Orders** as follows:

1. Matthew L. Garretson of The Garretson Law Firm withdraw \$32,762.30 from the Kentucky Fen Phen Qualified Settlement Fund to pay The Garretson Law Firm's outstanding fees for settlement/disbursement administrations incurred through August, 2008, for services rendered in this matter as more particularly described in the attached invoice.

Signed this 9th day of October, 2008.


Hon. Roger L. Crittenden, Judge

CERTIFICATE
I, DIANNE MURRAY, clerk of the Boone District/Circuit Court, hereby certify that I have mailed a copy of the foregoing order and notice to all parties hereto at their last known addresses or their counsel of record.
This 10th day of October, 2008

DIANNE MURRAY
BOONE DISTRICT/CIRCUIT COURT

Bridgette Beach D.C.

STATE OF KENTUCKY
COUNTY OF BOONE

I, DIANNE MURRAY, Clerk of the Circuit/District Courts, do hereby certify that the foregoing is a true and correct copy of the original as recorded in my office.

This 13 day of August, 2015
DIANNE MURRAY

By: Priscilla Murray D.C.

1384

**COMMONWEALTH OF KENTUCKY
BOONE COUNTY CIRCUIT COURT
54th JUDICIAL DISTRICT
CASE NO. 05-CI-00436**

FILED
BOONE CIRCUIT DISTRICT COURT
SEP 14 2009
DIANNE MURRAY, CLERK
BY: *MS* DC

MILDRED ABBOT, et al

PLAINTIFF

v.

STANLEY M. CHESLEY, et al

DEFENDANT

TENTH INTERIM RECEIVER'S REPORT

Interim Receiver ("IR") of the KYFP Receivership, Matthew L. Garretson, and Sylvius H. von Saucken, received this Court's Order entered on April 13, 2009, asking IR to oversee all future payments made and income received by Tandy, LLC ("Tandy"). IR has received the following deposits listed in Chart 1 below.

Chart 1

Name	Amount	Date Notice Filed	Reason
Ellis Park Race Course	\$5,121.10	8/11/2009	Race earnings from Golden Thief and Others
Horsemen's Bookkeeper	\$6,848.71	7/15/2009	Race earnings from Glit Out A Baghdad and Others
Louisiana Horsemen's	\$2,000.00	7/15/2009	Race earnings from English Teacher
Horseman's Guarantee	\$29,100.00	9/3/2009	Race earnings from Einstein and Golden Thief
Ellis Park Race Course	\$555.00	9/3/2009	Race earnings from Golden Thief and Others
Total	\$43,624.81		

Since the filing of the Ninth Interim Receiver's Report, and its Supplement, this Court's August 7, 2009 Order, instructed its IR to directly pay for any subsequent

invoices relating to Tandy's horses identified by IR as ordinary and necessary to maintain, protect and preserve Tandy's assets without further order from this Court, thereby precluding the necessity for Tandy's Operations Manager, Patricia Cunningham, to make any such payments from Tandy accounts and permitting prompt payment by IR. Following that Order, IR prepared letters to each such vendor, identifying a list of horses known by IR to be Tandy horses and requesting each vendor to directly bill IR for services authorized by Tandy horse trainers and/or stable manager, Mr. Terrazas. Accordingly, IR has reviewed invoices sent to IR by the vendors. IR used an objective ordinary and necessary business expense test; duly taking into account this Court's restriction of use of funds held by IR to preclude reimbursement for expenses that would personally benefit Tandy's owners or their family members, and to preclude application of receivership funds to pay for private aircraft use. Accordingly, IR reports as follows with respect to the modified ninth set of expenses, per the August 7, 2009, Order (Chart 2) and the tenth set of expenses received by IR (Chart 3), copies of which are attached to this Report.

FUND BALANCE

As of September 11, 2009, the KYFP Receivership's fund balance is \$400,667.79, including accrued interest (since the filing of IR's Ninth Report) of \$4.12. This balance includes all of the approved expenses paid in charts 2, 3 and 4.

APPROVED EXPENSES PAID

IR approved the wire transfer of funds from the KYFP Receivership to the Tandy, LLC account to pay the following expenses listed in Chart 2 below totaling \$14,957.66. These expenses are related to corporate assets shown to be owned by Tandy through documents submitted to IR and are necessary to preserve and protect Tandy's assets, including but not limited to its interests in the stallion Curlin, the thoroughbred Einstein, and Tandy's twenty-six other horses.

Chart 2

Expenses	Amount	Purpose
Trainer Total	\$7,200.00	Reimbursement of Ackerman Invoice to P. Cunningham
Employee Expense	\$7,757.66	Salary for employees
Grand Total:	\$14,957.66	

APPROVED EXPENSES PAID (Modified Ninth)

IR approved and directly paid the expenses listed in Chart 3 below totaling \$161,218.68, a breakdown for and copies of which are attached as Exhibit A. These expenses are related to corporate assets shown to be owned by Tandy through documents submitted to IR.

Chart 3

Expense Description	Amount	Reason for Payment
Trainer Total	\$116,705.19	Equine training
Veterinarian Total	\$19,175.70	Equine vets
Transportation Total	\$5,414.07	Transportation of horses and jockeys
Receiver's Fee Total	\$11,402.50	Payment per Court order for services rendered (from 12-1-08 to 5-31-09)
Hillcrest Farm	\$1,792.72	Feed for horses

Miscellaneous Expense	\$6,728.50	Accountant expense and Horse consulting expense
Total	\$161,218.68	

APPROVED EXPENSES PAID (Tenth Report)

IR has also approved and directly paid the expenses listed in Chart 4 below totaling \$95,163.91, a breakdown for and copies of which are attached as Exhibit B. These expenses are related to corporate assets shown to be owned by Tandy through documents submitted to IR.

Chart 4

Expense Description	Amount	Reason for Payment
Trainer Total	\$18,965.50	Equine training
Transportation Total	\$12,386.50	Transportation of horses and jockeys
Veterinarian Total	\$7,225.23	Equine vets
Breeding Total	\$15,520.00	Horse breeding
Farrier Service	\$660.00	Farrier service to horses
Receiver Fees	\$10,510.00	Court Approved Receiver fees (June and July, 2009)
Attorney Fees	\$15,284.90	Approved Attorney Fees, A. Regard, per 8-7-2009 Court Order
Stallion Expense	\$10,959.07	Stallion expenses
Horse Sales Expenses	\$1,800.00	Mare/foal entry fees for Oct. and Nov. breed stock sales
Real Estate	\$757.87	Expense for 1332 Strawberry Lane property
Racing Fees	\$100.00	Entry Fees (Churchill Downs)
Hillcrest Farm	\$994.84	Feed for the horses
Total	\$95,163.91	

Under this Court's April 13th and August 7th (2009) Orders, IR has developed a streamlined process with which to pay third party vendors. IR has also sold three horses, per this Court's orders, creating a sub-account held in the KYFP Receivership to hold sale proceeds. In subsequent Reports, IR will report the account balances for the general and newly created "Equine Sales" account. IR intends to use the Equine Sales sub-account to pay for applicable sales and income taxes, but otherwise, to treat this account as a payment account of last resort.

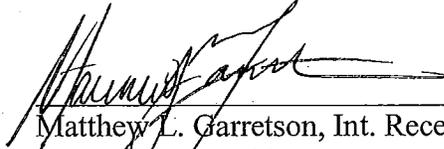
IR has also entered Tandy's broodmares, along with their foals and any 2008 or 2009 foals in either the Fasig-Tipton Select sale, or the Keeneland Breedstock sale, to take place in October and November, 2009, respectively. To the extent Tandy's Tier III horses remain who have shown any ability to race, IR is actively seeking private purchasers, including having its expert contact the trainers to identify options to sell. To the extent IR cannot sell a Tier III horse before year's end, and with the knowledge and consent of counsel, this Court and following its expert's recommendations, IR may be left with little choice but to give those horses away if suitable homes can be found for those horses.

Given the current proceedings in this Court, and in the United States District Court, E.D. Kentucky, N. Division, Covington (Criminal Case No. 07-39-DCR)(the "Federal Court"), IR has also been working with counsel, as well as the United States Attorneys and United States Marshals Service to ensure that an integrated approach to protecting and preserving assets under the supervision of IR is developed, and subject to further Court order, IR continues to proceed in an orderly fashion to sell off Tandy assets in a manner which best protects Tandy beneficiaries, taking into account the Forfeiture Order issued by the Federal Court .

To that end, IR continues to address matters relating to the forfeiture of the private aircraft that this Court identified as lacking any valid business purpose, and as such, rejected payment by IR of expenses associated with that airplane (2003 Cirrus). On August 13, 2009, the Fayette County Circuit Court issued a Default Judgment against Tandy based on a failure to file an Answer to a Complaint filed by First National Bank Midwest ("First National") in an action to recover funds which IR understands arises from Tandy's failure to pay an outstanding balance due on the airplane based on a mortgage note executed and personally guaranteed by the Defendants Mr. Gallion and Mr. Cunningham. As this Court is well aware, IR was precluded from paying the monthly mortgage amount due for the airplane based on this Court's finding that no business purpose existed. Accordingly, the mortgage became in default, the Defendants did not make further payments, and the Default Judgment ensued. On August 17, 2009, the Fayette County Circuit Court issued an Order of Garnishment, received by IR on August 19, 2009. On September 8, 2009, IR filed an Answer with that Court and counsel for First National Bank Midwest. Following its Answer, IR also discussed this matter with such counsel. IR understands efforts will be taken to sell the airplane, at which point in time, counsel will communicate with IR about the next steps to take.

In addition to the airplane issue, IR continues to communicate with counsel and the United States Attorneys office concerning the Kenneth McPeck matter, which may be removed to the Federal Court.

Respectfully submitted,



Matthew L. Garretson, Int. Receiver
KYFP Receivership
7775 Cooper Road
Cincinnati, OH 45242
(513) 794-0400
mlg@garretsonfirm.com

Submitted:

Hon. Sylvius H. von Saucken
The Garretson Firm LLC
7775 Cooper Road, Suite 139
Cincinnati, OH 45242
ph 513.794.0400 x 106
fx 513.936.5186
Email: svs@garretsonfirm.com

STATE OF KENTUCKY
COUNTY OF BOONE
I, DIANNE MURRAY, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

This 13 day of August, 2015
DIANNE MURRAY

By: *[Signature]* D.C.

CERTIFICATE OF SERVICE

A copy of the foregoing Report was e-mailed and/or mailed, postage prepaid, on this the 11 day of Sept. 2009, to the following:

Hon. Seth J. Johnston
Miller & Wells, PLLC
300 E. Main Street, Suite 360
Lexington, KY 40507
sjohnston@millierwells.com

Hon. Angela M. Ford
Chevy Chase Plaza
836 Euclid Avenue, Suite 311
Lexington, Kentucky 40502
amford@alltel.net

Hon. William T. Ramsey
Neal & Harwell, PLC
150 Fourth Avenue North, Suite 2000
Nashville, Tennessee 37219
ramseywt@nealharwell.com

Hon. Jeffrey J. Harmon
Cors & Bassett, LLC
537 East Pete Rose Way, Suite 400
Cincinnati, Ohio 45202-3578
jjh@corsbassett.com

Hon. Mary E. Meade-McKenzie
3290 Blazer Parkway, Suite 150
Lexington, Kentucky 40509
mary.meade-mckenzie@hotmail.com

Hon. Frank Benton, IV
PO Box 72218
Newport, Kentucky 41072

Hon. C. Alex Rose
471 West Main Street
Suite 400
Louisville, Kentucky 40202

Hon. James A. Shuffett
271 West Short Street, Suite 400
Lexington, Kentucky 40507
shuffettlaw@aol.com

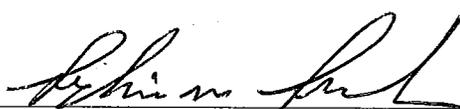
Hon. Calvin R. Fulkerson
Lynn, Fulkerson, Nichols & Kinkel
267 West Short Street
Lexington, Kentucky 40507
cfulkerson@lfnk.com

Hon. Andre F. Regard
269 West Main Street
Lexington, KY 40507
aregard@aol.com

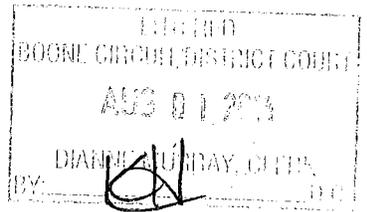
Hon. John D. Cox
Lynch Cox Gilman & Mahan PSC
500 West Jefferson Street, Suite 2100
Louisville, KY 40202

James A. Zerhusen
United States Attorney
c/o Asst U.S. Atty. Wade Thomas Napier
260 W. Vine Street, Suite 300
Lexington, KY 40507
Wade.Napier@usdoj.gov

Hon. Danny C. Reeves
U.S. District Court for E.D. Kentucky
330 W. Broadway, Suite 354
Frankfort, KY 40601


Hon. Sylvius H. von Saucken
for Matthew L. Garretson,
Int. Receiver, KYFP Receivership

COMMONWEALTH OF KENTUCKY
BOONE CIRCUIT COURT
DIVISION III
CASE NO. 05-CI-00436



MILDRED ABBOTT, et al.

PLAINTIFFS

V.

STANLEY M. CHESLEY, et al.

DEFENDANTS

ORDER

This Court conducted a hearing in this matter on July 15, 2014 on Plaintiffs' Motion for Partial Summary Judgment as to Defendant Stanley M. Chesley ("Chesley"). The Plaintiffs were represented by Hon. Angela Ford. The Defendants were represented by Hon. Sheryl G. Snyder and Hon. Frank V. Benton, IV. The Court having reviewed Plaintiffs' Motion, Chesley's Response, Plaintiffs' Reply, having heard argument from counsel, and being in all ways sufficiently advised, finds as follows:

This Court, by the March 8, 2006 Order of Senior Status Judge William Wehr, previously granted summary judgment against Defendants William J. Gallion, Shirley Allen Cunningham, Jr. and Melbourne Mills, Jr. on Plaintiffs' breach of fiduciary duty claims in their representation of Plaintiffs in the *Darla Guard, et al. v. A.H. Robbins Company, et al.* lawsuit which involved injuries Plaintiffs suffered as a result of ingesting the "fen-phen" diet drug. The Court awarded damages in the amount of \$42 million (by Order of August 1, 2007) and ruled the Defendants were jointly and severally liable to the Plaintiffs. The Supreme Court of Kentucky affirmed the partial summary judgment against Gallion, Cunningham and Mills, including that each was jointly and severally liable for the amounts owed. Plaintiffs now ask this Court to order summary judgment on their breach of fiduciary claims against Chesley, that Chesley be jointly and

severally liable with Gallion, Cunningham and Mills for the amounts owed to Plaintiffs, and that Chesley disgorge all fees he collected in the *Guard* matter.

The Kentucky Bar Association instituted disciplinary proceedings relating to Chesley's actions in the *Guard* matter in *Kentucky Bar Association v. Chesley*, KBA File 13785. The Trial Commissioner conducted a hearing and found that Chesley had violated eight (8) different ethics rules. The Trial Commissioner recommended that Chesley be permanently disbarred from the practice of law in Kentucky, and that he pay \$7,555,000.00 in restitution to the *Guard* case clients. The Board of Governors of Kentucky adopted the Trial Commissioner's Report. The Supreme Court of Kentucky found Chesley guilty of violations of eight provisions of SCR 3.130 and followed the Board's recommendation that Chesley be permanently disbarred. The Supreme Court did not order that Chesley pay restitution. *Kentucky Bar Ass'n v. Chesley*, 393 S.W.3d 584 (Ky. 2013).

Plaintiffs argue that summary judgment is appropriate as to their breach of fiduciary duty claims through the doctrine of issue preclusion or collateral estoppel. Issue preclusion would bind Chesley to the factual and legal determinations made in the disciplinary proceedings before the Trial Commissioner, the Board of Governors, and the Supreme Court of Kentucky regarding the settlement of the *Guard* matter that resulted in his disbarment. Chesley disagrees.

The Trial Commissioner found, and the Supreme Court ratified, that Chesley violated the following specific provisions of SCR 3.130:

SCR 3.130-1.5(a) by accepting over \$20 million in attorney's fees, which exceeded the amount established by client contracts and contracts with co-counsel, and which were otherwise unreasonable.

SCR 3.130-1.5(c) by failing to provide clients with a written statement of the outcome of the matter, as well as the remittance to the client and the method of its determination. The contractual contingency fee contracts for the clients were either for 30% or 33 1/3% plus expenses of up to 3%. A 49% contingency fee was actually charged to the clients. Chesley's contractual agreement with class counsel was for 21% of fees upon successful settlement of the case, which should have been \$12,941,638.46 and not the \$20 million plus he received. He was paid \$7,555,000 in excess of his proper fee.

SCR 3.130-1.5(e)(2) by dividing fees without consent of clients.

SCR 3.130-5.1(c)(1) by knowingly ratifying specific misconduct of other lawyers.

SCR 3.130-1.8(g) by representing two or more clients in making an aggregate settlement of the claims without consent of the clients or disclosure to them of the existence and nature of all claims. Chesley was class counsel pursuant to his agreement with Gallion, Cunningham and Mills and therefore had the same duties as them with regarding the requirements of SCR 3.130-1.8(g).

SCR 3.130-3.3(a) by making a false statement of material fact to the tribunal.

SCR 3.130-8.1(a) by making a false statement of material fact in connection with a disciplinary matter.

SCR 3.130-8.3(c) (now SCR 3.130-8.4(c)) by engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

Issue preclusion, also known as collateral estoppel, "allows the use of an earlier judgment by one not a party to the original action to preclude relitigation of matters litigated in the earlier action." *Miller v. Admin. Office of Courts*, 361 S.W.3d 867 (Ky. 2011). A non-party in the former action may assert *res judicata*, a close cousin to issue preclusion, against a party to the former

action as long as the party against whom res judicata is pleaded had a realistically full and fair opportunity to present his case. *Id.* (quoting *Moore v. Commonwealth*, 94 S.W.2d 317 (Ky. 1997)). Additionally, the Supreme Court has addressed whether administrative agencies acting in a judicial capacity are entitled to the same res judicata effect as judgments of a court, finding that they do. *Ky. Bar Ass'n v. Harris*, 269 S.W.3d 414 (Ky. 2008).

Chesley's hearing before the Trial Commissioner was held November 5-6 and 12-13, 2009 before Judge Rod Messer and continued to September 13-15 and 20-24, 2010 before Judge William L. Graham. Chesley was represented at various times by Kent Westberry, Esq., James Gary, Esq., Frank Benton, IV, Esq., Scott Cox, Esq., Mark Miller, Esq., Sheryl Snyder, Esq. and Hon. Susan Dlott. Prior to the hearing, the testimony of five out of state witnesses was provided by video depositions, including 44 exhibits. During the several days the hearing was held, a total of 43 witnesses gave testimony either in person or by deposition, with the Trial Commissioner considering 124 exhibits. Additionally, the Trial Commissioner allowed time for the parties to submit briefs at the conclusion of the Hearing. The Court finds Chesley had a realistically full and fair opportunity to present his case before the Trial Commissioner.

Certain elements must be met for issue preclusion to operate as a bar to further litigation: "(1) at least one party to be bound in the second case must have been a party in the first case; (2) the issue in the second case must be the same issue as the first case; (3) the issue must have been actually litigated; (4) the issue was actually decided in that action; and (5) the decision on the issue in the prior action must have been necessary to the court's judgment and adverse to the party to be bound." *Id.* quoting *Yeoman v. Commonwealth Health Policy Bd.* 983 S.W.2d 459 (Ky. 1998).

The Court finds these elements have been met with regard to Plaintiffs' Motion in this matter and the findings in *KBA v. Chesley*. Chesley was a party bound by the KBA matter. The facts and circumstances at issue in the instant Motion were those at issue in the KBA matter. The facts and circumstances were litigated in the KBA matter before the Trial Commissioner at a hearing held November 5-6 and 12-13, 2009 and September 13-15 and 20-24, 2010, and reviewed by the Board of Governors and the Supreme Court of Kentucky. The Trial Commissioner made factual findings and legal conclusions, which were adverse to Chesley, and which were affirmed by the Board of Governors and the Supreme Court of Kentucky, said facts being those at issue in the instant Motion. The factual findings and legal conclusions by the Trial Commissioner, the Board of Governors and the Supreme Court of Kentucky were necessary for the outcome of the KBA matter.

This Court finds Chesley is bound by the factual findings and legal conclusions in the KBA matter. The Supreme Court found that by entering into an agreement with Gallion, Cunningham and Mills, Chesley signed on as co-counsel and was one of the attorneys representing the Plaintiffs in the *Guard* matter. He, therefore, assumed the same ethical responsibilities as Gallion, Cunningham and Mills, and the same responsibilities he would have with any other client. *Kentucky Bar Ass'n v. Chesley*. Chesley had the duty to know his fee responsibilities to his clients, specifically that he was to receive no more than 21% of one-third of the \$200,450,000.00 settlement, \$14,031,500.00. *Id.* Chesley received \$20,497,121.81. *Id.* The Supreme Court found that Chesley knowingly participated in a scheme to skim millions of dollars in excess attorney's fees from unknowing clients, and that he received and retained fees that he knew were improperly taken. *Id.* The Supreme Court further found that he purposefully attempted to avoid conversation and correspondence that would expose his knowledge of the

nefarious schemes of his co-counsel. *Id.* This Court finds that no genuine issues of material fact exist, and summary judgment is appropriate on Plaintiffs' Breach of Fiduciary claims. Chesley entered into an attorney-client relationship with the Plaintiffs in *Guard*. He breached his duty by accepting excess fees in the amount of \$6,465,621.81. Chesley's conduct caused Plaintiffs to receive only a portion of the settlement monies they were entitled to.

Plaintiffs also asks the Court to order that Chesley is jointly and severally liable with Gallion, Cunningham and Mills for the monies owed to Plaintiffs. The Supreme Court of Kentucky affirmed Judge Wehr's finding in this matter that Gallion, Cunningham and Mills were jointly and severally liable to Plaintiffs. The Supreme Court found that Gallion, Cunningham and Mills breached attorney-client contracts and therefore joint and several liability is not precluded by KRS 411.182. The Supreme also found that by the manner in which Gallion, Cunningham and Mills combined their efforts in the Fen-Phen litigation, they engaged in a joint enterprise, or joint adventure, an informal partnership existing for a limited purpose and duration, for which joint and several liability is properly assessed under KRS 362.220. *Abbott v. Chesley*, 413 S.W.3d 589 (Ky. 2013).

The Supreme Court enumerated the essential elements of a joint enterprise: (1) an agreement, express or implied, among the members of the group; (2) a common purpose to be carried out by the group; (3) a community of pecuniary interest in that purpose among the members; and (4) an equal right to a voice in the direction of the enterprise. *Id.* citing *Huff v. Rosenberg*, Ky., 496 S.W.2d 352 (1973). The Supreme Court adopted the findings of the Trial Commissioner in *KBA v. Chesley*, and this Court found above that issue preclusion bars the further litigation of Plaintiffs' breach of fiduciary duty claims against Chesley.

This Court now finds that no genuine issues of material fact exists, and as a matter of law Chesley is jointly and severally liable with Gallion, Cunningham and Mills for the \$42 million in damages awarded the Plaintiffs against Gallion, Cunningham and Mills by this Court's Order of August 7, 2007. Chesley signed on as co-counsel representing the Plaintiffs in the *Guard* matter when he entered into his fee-division contract with Gallion, Cunningham and Mills. Chesley shared the common purpose to be carried with Gallion, Cunningham and Mills. They agreed on how they would share the work and how they would share the profits. Chesley maintained a voice in the managerial control of the enterprise. The Court therefore finds that pursuant to KRS 362.220, Chesley is jointly and severally with Gallion, Cunningham and Mills for the damages the Plaintiffs suffered.

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that Plaintiffs' Motion for Partial Summary Judgment is **GRANTED** as to Plaintiffs' Breach of Fiduciary claims against Stanley M. Chesley.

IT IS FURTHER HEREBY ORDERED AND ADJUDGED that Stanley M. Chesley is jointly and severally liable with Defendants William J. Gallion, Shirley Allen Cunningham, Jr. and Melbourne Mills, Jr. for the existing judgment amount of \$42 million owed to Plaintiffs.

IT IS HEREBY ORDERED AND ADJUDGED that Plaintiffs' Motion for Partial Summary Judgment as to disgorgement is **DENIED**.

DATED this 29th day of JULY, 2014.



JAMES R. SCHRAND, JUDGE
BOONE CIRCUIT COURT

COPIES TO:

ALL ATTORNEYS OF RECORD

I, DIANNE MURRAY, Clerk of the Court, hereby certify that I have mailed the foregoing order and notice to all parties at their last known addresses or their counsel of record.
This 1 day of AUGUST, 2014
DIANNE MURRAY
BOONE DISTRICT/CIRCUIT COURT
[Signature] D.C.

STATE OF KENTUCKY
COUNTY OF BOONE
I, DIANNE MURRAY, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

8

This 13 day of August 2015
DIANNE MURRAY
By: [Signature] D.C.

1-20-2015

BOONE CIRCUIT COURT
54TH JUDICIAL DISTRICT
Case No. 05-CI-436

FILED
BOONE CIRCUIT/DISTRICT COURT
JAN 15 2015
DIANNE MURRAY, CLERK
BY: DM D.C.

MILDRED ABBOTT, *et al.*,

PLAINTIFFS

v.

STANLEY M. CHESLEY, *et al.*,

DEFENDANTS

PLAINTIFFS' MOTION FOR ORDER COMPELLING DEFENDANT CHESLEY AND HIS COUNSEL TO WITHDRAW ALL EFFORTS TO STAY THE JUDGMENT AGAINST DEFENDANT CHESLEY THAT DOES NOT COMPLY WITH CR 62, 73.04 AND 73.06

Plaintiffs, pursuant to CR 62, 73.04 and 73.06 and the inherent powers of this Court to administer justice in this case, respectfully request that this Court enter an Order compelling Defendant Chesley and his counsel ("Defendants") to withdraw all efforts to stay this Court's judgment against Defendant Chesley that do not comply with CR 62, 73.04 and 73.06. As grounds for this Motion, Plaintiffs would show that Defendant Chesley, an Ohio resident, filed a Verified Petition for Declaratory Judgment and Injunctive Relief in the Court of Common Pleas for Hamilton County, Ohio and a Motion for an Order Restraining Registration and Enforcement of this Court's Judgment against him ("the Ohio Action"). Defendants obtained an Ex Parte Temporary Restraining Order in the Ohio Action, which the Ohio Court then extended until a hearing set for March 4, 2015. Defendant Chesley's purported grounds for that Petition and Motion are that he disagrees with this Court's rulings and believes this Court will be reversed on appeal. Defendants conduct is nothing more than a collateral attack on this Court's judgment in violation of the Full Faith and Credit Clause of the Constitution of the United States, Art. IV § 1, and an effort to stay execution of this Court's judgment without giving a supersedeas bond as required under CR 62 and 73.04 to stay enforcement of the judgment on appeal.

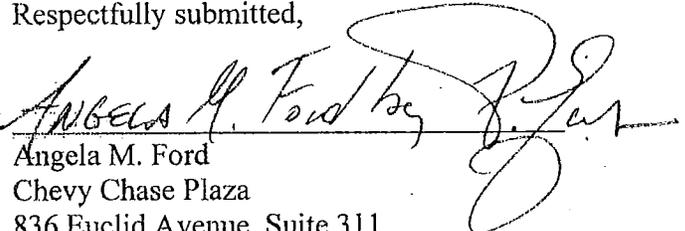
Plaintiffs therefore respectfully request that this Court enter an Order compelling Defendants to withdraw their Motion requesting a restraining order and dismiss the Ohio Action within five (5) days of this Court's entry of such an Order or show cause why they should not be held in contempt of this Court if they do not comply. A Memorandum of Law in support of this Motion is filed herewith, along with a Supplemental Index containing the pleadings filed in the Ohio Action.

WHEREFORE, Plaintiffs respectfully request that this Court enter an Order compelling Defendants to withdraw their Motion requesting a restraining order and dismiss the Ohio Action within five (5) days of this Court's entry of such an Order or show cause why they should not be held in contempt of this Court if they do not comply.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT THIS MATTER SHALL COME ON FOR HEARING ON JANUARY 20, 2015 AT 9:00 A.M. IN THE BOONE CIRCUIT COURT, OR AS SOON THEREAFTER AS COUNSEL MAY BE HEARD.

Respectfully submitted,


Angela M. Ford
Chevy Chase Plaza
836 Euclid Avenue, Suite 311
Lexington, Kentucky 40502
(859) 268-2923
Email: amford@windstream.net

BOONE CIRCUIT COURT
54TH JUDICIAL DISTRICT
Case No. 05-CI-436

MILDRED ABBOTT, *et al.*,

PLAINTIFFS

v.

STANLEY M. CHESLEY, *et al.*,

DEFENDANTS

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION
FOR ORDER COMPELLING DEFENDANT CHESLEY AND HIS COUNSEL TO
WITHDRAW ALL EFFORTS TO STAY THE JUDGMENT AGAINST DEFENDANT
CHESLEY THAT DOES NOT COMPLY WITH CR 62, 73.04 AND 73.06**

Plaintiffs, in support of their Motion for Order Compelling Defendant Chesley and his counsel to Withdraw all Efforts to Stay the Judgment Against Defendant Chesley that Do Not Comply with CR 62, 73.04 and 73.06, state as follows:

STATEMENT OF THE CASE

This Court entered judgment against Defendant Chesley on August 1, 2014 on Plaintiffs' breach of fiduciary duty claims, holding him jointly and severally liable as a matter of law for the \$42 million in damages previously awarded to Plaintiffs against Defendants Gallion, Cunningham and Mills. See Order (Aug. 1, 2014). This Court then ruled on multiple post-judgment motions which resulted in this Court making the Judgment final pursuant to CR 54.02 and awarding prejudgment and post-judgment interest against Defendant Chesley. See Order (Sept. 19, 2014); Amended Order (Sept. 19, 2014); Order (Oct. 22, 2014); Second Amended Judgment (Oct. 22, 2014).

After entry of the Second Amended Judgment on October 22, 2014, the Court heard Defendant Chesley's Motion to Clarify Judgment with Respect to Identification of Plaintiffs and Amount Awarded to Each Plaintiff and his Motion to Vacate Judgment Pursuant to CR 60.02.

As part of those Motions, Defendant Chesley argued that this Court's Judgment against him was void because it does not specifically name each individual Plaintiff and the amount he or she is owed. See Mot. Clarify Judgment (filed by Def. Chesley) and Motion to Vacate Judgment Pursuant to CR 60.02. This Court considered those arguments and denied both motions. See Order (Nov. 24, 2014).

Defendant Chesley appealed this Court's rulings to the Court of Appeals and those appeals remain pending. See Court of Appeals of Kentucky, Case Nos. 2014-CA-001725, 2014-CA-001900 and 2014-CA-001984. Defendant Chesley did not stay enforcement of the Judgment by giving a supersedeas bond pursuant to CR 62.03 and 73.04.

Rather than staying enforcement of the Judgment in accordance with the Kentucky Rules of Civil Procedure, on January 6, 2015, Defendant Chesley filed a Verified Petition for Declaratory Judgment and Injunctive Relief in the Court of Common Pleas for Hamilton County, Ohio against the undersigned counsel for Plaintiffs and Unknown Respondents, *i.e.*, Plaintiffs who are his judgment creditors in this Court (hereinafter referred to as "the Ohio Action"). A copy of Defendant Chesley's Petition is included in the Supplemental Index filed with this Motion and Memorandum. At the same time, Defendant Chesley and his counsel filed a Motion for an Order Restraining Registration and Enforcement of Kentucky Judgment and Document Destruction in the Ohio Action. Copies of that Motion and its supporting Memorandum are included in the Supplemental Index.

As a result of his motion in the Ohio Action, Defendant Chesley and his counsel obtained an *ex parte* Temporary Restraining Order on January 7, 2015 (the day after he filed the Ohio Action) that purports to prohibit Plaintiffs' undersigned counsel from taking any action to enforce this Court's Judgment in Ohio. A copy of the *Ex Parte* Temporary Restraining Order is

included in the Supplemental Index. It is clear from a review of Defendants filings in the Ohio Action that Defendant Chesley is trying to relitigate this Court's Judgment and its Orders in the Ohio Action despite the fact that this Court, which has personal jurisdiction over Defendant Chesley and subject matter jurisdiction over this action, is entitled to have its Judgment given full faith and credit in Ohio and all other states pursuant to the Full Faith and Credit Clause of the Constitution of the United States, Art. IV § 1.

Defendants actions in filing the Ohio Action are in complete defiance of this Court, its Judgment and its Orders regarding its Judgment. They are merely making a collateral attack on this Court's judgment and its Orders, which the Full Faith and Credit Clause prohibits.

Additionally, Defendants are attempting to get a stay of enforcement of the Judgment without having to comply with Kentucky law, which requires a supersedeas bond so as to stay enforcement of the Judgment on appeal. Defendant Chesley has not given a supersedeas bond and claims that he is unable to do so. See Verified Petition at ¶ 27. He is trying to obtain a stay through the Ohio Action without complying with Kentucky's requirements to obtain a stay on appeal.¹

Plaintiffs request that the Court prohibit Defendants blatant circumvention of this Court's Judgment against Defendant Chesley, its Orders and the requirements of Kentucky law by issuing an Order compelling Defendant Chesley and his counsel to withdraw their efforts to stay this Court's Judgment against Defendant Chesley and to dismiss the Ohio Action.

¹ Defendant Chesley is likewise trying to avoid Ohio law, which requires security for satisfaction of the foreign judgment to stay execution while the appeal is taken from the foreign judgment. See O.R.C. § 2329.024.

ARGUMENT

I. THIS COURT HAS THE AUTHORITY TO COMPEL DEFENDANT CHESLEY TO REFRAIN FROM INTERFERING WITH THE ENFORCEMENT OF THE JUDGMENT AGAINST HIM.

Once the Judgment against Defendant Chesley became final and the statutory period provided in KRS 426.030 passed, Plaintiffs were free to begin execution on the judgment. Defendant Chesley's appeal of the Judgment does not stay its enforcement unless he gives a supersedeas bond to secure the Judgment. See CR 62.03, 73.04. This Court retains jurisdiction during the appeal for purposes of determining all matters related to the right to file a supersedeas bond, its amount and sufficiency and the surety upon it. CR 73.06.

In addition to this Court's powers under the Rules of Civil Procedure, once this Court obtains jurisdiction of a cause of action, it also has the "inherent power to do all things reasonably necessary to the administration of justice in the case before it." Smothers v. Lewis, 672 S.W.2d 62, 64 (Ky. 1984); see also Beshear v. Haydon Bridge Co., 416 S.W.3d 280, 297 (Ky. 2013).

II. In this case, rather than following Kentucky law and procedure by staying enforcement of the Judgment by giving a supersedeas bond, Defendant Chesley and his counsel blatantly circumvented this Court's jurisdiction over enforcement of its Judgment and is attempting to obtain a stay of the Judgment pending appeal without complying with the Kentucky Rules of Civil Procedure. This Court has the authority to make orders reasonably necessary to the administration of justice in this case. That authority includes the authority to order Defendant Chesley, who is properly before this Court and over whom this Court has personal jurisdiction, to cease his attempts to circumvent this Court's authority over its valid judgment against him by dismissing the Ohio Action. That authority also includes the authority to order Defendant Chesley's counsel to respect and honor the judgment of this Court. The administration of justice in this case dictates that this Court should exercise its inherent authority to prevent Defendant Chesley and his counsel's improper attempts to interfere with Plaintiffs' enforcement of the Judgment against him. **THE OHIO ACTION IS AN IMPROPER COLLATERAL ATTACK ON THIS COURT'S JUDGMENT.**

The Full Faith and Credit Clause of the Constitution of the United States provides that each State must give full faith and credit to the judicial proceedings of every other State. U.S. Const., Art. IV § 1. If the state rendering a judgment has jurisdiction over the defendant and the subject matter of the controversy, then the Full Faith and Credit Clause “precludes an inquiry into the merits of the cause of action, the logic or consistency of the decision, or the validity of the legal principles on which the judgment is based.” Milliken v. Meyer, 311 U.S. 457, 462 (1940).

In this case, this Court unquestionably has personal jurisdiction over Defendant Chesley and the subject matter of this case and Defendant Chesley has not claimed otherwise. Accordingly, the Ohio state court in the Ohio Action is without authority to consider the merits of the Judgment or the validity of the legal principles on which it is based, as Defendant Chesley has asked it to do. This Court’s Judgment is entitled to full faith and credit in the State of Ohio. Defendant Chesley’s purported basis for the Ohio Action is nothing more than an attempt to relitigate the merits of the judgment and obtain a stay of enforcement of the judgment without complying with CR 62.03 and 73.04. His complaints in the Ohio Action about the form of the Judgment were already addressed by this Court in his Motion to Clarify Judgment with Respect to Identification of Plaintiffs and Amount Awarded to Each Plaintiff. As this Court ruled when it denied that Motion, the Judgment complies with Kentucky law in this regard. See Bell v. Twyford, 284 Ky. 481, 145 S.W.2d 55, 55 (1940); Oglesby v. Prudential Ins. Co. of Am., 259 Ky. 620, 82 S.W.2d 824, 826 (1935). The Full Faith and Credit Clause prohibits Defendant Chesley from relitigating that issue in the Ohio Action.

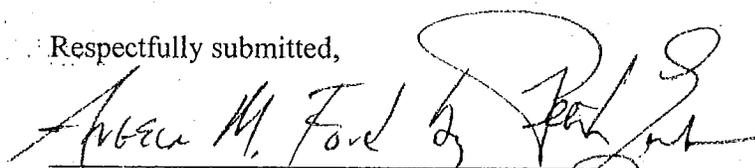
Given Defendant Chesley and his counsel’s improper attempt to circumvent this Court’s Judgment and Kentucky law regarding obtaining a stay of enforcement of the Judgment, this

Court should enter an Order compelling Defendants to withdraw their efforts to interfere with enforcement of this Court's Judgment and to dismiss the Ohio Action within five days of the entry of such an Order. Such an Order is reasonably necessary for the administration of justice in this case given Defendants attempts to circumvent this Court's authority and to interfere with a judgment that is entitled to full faith and credit in every other state in the country. If Defendants do not comply with such an Order, then this Court should find them in civil contempt. See Meyers v. Petrie, 233 S.W.3d 212, 215-16 (Ky. Ct. App. 2007) (holding that an individual who refused to abide by a court's order has committed civil contempt).²

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court enter an Order compelling Defendant Chesley and his counsel to refrain from interfering with enforcement of this Court's Judgment against him and to dismiss the Ohio Action within five days of the entry of such an Order. If they fail to comply with such an Order, Plaintiffs request that this Court sanction them by holding them in contempt.

Respectfully submitted,



Angela M. Ford
Chevy Chase Plaza
836 Euclid Avenue, Suite 311
Lexington, Kentucky 40502
(859) 268-2923
Email: amford@windstream.net

² Defendant Chesley's conduct arguably constitutes criminal contempt by demonstrating disrespect for this Court and degrading its authority. Meyers, 233 S.W.3d at 216.

William T. Ramsey
NEAL & HARWELL, PLC
150 Fourth Avenue North
Suite 2000
Nashville, TN 37219
(615) 244-1713
bramsey@nealharwell.com

COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served via electronic and U.S. Mail this the 15th day of January, 2015, to the following:

Frank Benton, IV, Esq.
P.O. Box 72218
Newport, KY 41072

Mary E. Meade-McKenzie, Esq.
105 Seahawk Drive
Midway, KY 40347

Mitzy L. Evans
Evans Law Office
177 South Main Street
P.O. Box 608
Versailles, KY 40383

Luther C. Conner, Jr., Esq.
103 Cross Street
Albany, KY 42602

Sheryl G. Snyder, Esq.
Griffin Terry Sumner, Esq.
Frost Brown Todd LLC
400 West Market St., 32nd Floor
Louisville, KY 40202

Michael R. Dowling, Esq.
P.O. Box 1689
Ashland, KY 41105-1689

STATE OF KENTUCKY
COUNTY OF BOONE
I, DIANNE MURRAY, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

This 13 day of August, 2015
DIANNE MURRAY

By: Patricia Kinley D.C.

Andrew M. Ford
COUNSEL FOR PLAINTIFFS

**BOONE CIRCUIT COURT
54TH JUDICIAL DISTRICT
Case No. 05-CI-436**

MILDRED ABBOTT, *et al.*,

PLAINTIFFS

v.

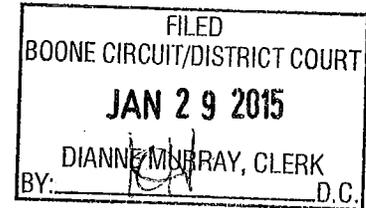
STANLEY M. CHESLEY, *et al.*,

DEFENDANTS

**SUPPLEMENTAL INDEX TO PLAINTIFFS MOTION
AND MEMORANDUM OF LAW COMPELLING
DEFENDANT CHESLEY AND HIS COUNSEL TO WITHDRAW
ALL EFFORTS TO STAY JUDGMENT AGAINST HIM
THAT DOES NOT COMPLY WITH CR 62, 73.04 AND 73.06**

1. Verified Petition for Declaratory Judgment and Injunctive Relief;
2. Motion for an Order Restraining Registration and Enforcement of Kentucky Judgment and Document Destruction;
3. Verified Memorandum in Support of Motion for Injunctive Relief;
4. *Ex Parte* Temporary Restraining Order Against Certain Actions by Respondents and Order Setting Hearing; and,
5. Email regarding extension of TRO (Order has not yet been received).

BOONE CIRCUIT COURT
54TH JUDICIAL DISTRICT
Case No. 05-CI-436



MILDRED ABBOTT, *et al.*,

PLAINTIFFS

v.

STANLEY M. CHESLEY, *et al.*,

DEFENDANTS

**PLAINTIFFS' REPLY IN SUPPORT OF THEIR MOTION FOR
ORDER COMPELLING DEFENDANT CHESLEY AND HIS COUNSEL
TO WITHDRAW ALL EFFORTS TO STAY THE JUDGMENT AGAINST
DEFENDANT CHESLEY THAT DO NOT COMPLY WITH CR 62, 73.04 AND 73.06**

While Plaintiffs would certainly agree that there is a distinction between re-examining the merits of a foreign judgment and applying a state's procedures for execution of a foreign judgment upon property in that state, that distinction is clearly lost upon Defendant Chesley despite his lip service to it. Ohio courts are obligated pursuant to the Full Faith and Credit Clause to enforce this Court's Judgment. Ohio does not get to determine whether the Judgment is enforceable; rather, it only gets to determine how it is enforced as to property in Ohio. Defendant Chesley's entire briefing in the Ohio Action consists of nothing but a rehash of the arguments he made to this Court in his motions after this Court entered judgment against him. See Verified Mem. in Ohio Action (attached to previously filed Supplemental Index at Tab 3). Defendant Chesley is trying to block execution of this Court's Judgment in Ohio by collaterally attacking the Judgment. It is clear that he is doing so to obtain a stay of enforcement of the Judgment without providing for the security required both by Kentucky law and by Ohio law. See CR 62, 73.04; O.R.C. § 2329.024.

As Plaintiffs noted in their initial supporting Memorandum and at the hearing on this Motion, time is of the essence, as Defendant Chesley obtained an *ex parte* restraining order that

purports to prohibit Plaintiffs, their undersigned counsel and any other attorney from even filing to domesticate this Court's Judgment in Ohio. The court in Ohio has set a hearing on March 4, 2015. See Restraining Order Against Certain Actions by Respondents and Setting Hearing (Jan. 14, 2015) at ¶ 1 (copy attached).¹

I. This Court has the authority to take action to protect its Judgment.

Defendant Chesley's suggestion that this Court has no power to take action to protect and enforce its Judgment against him is without merit. He bases his argument on the fact that the cases cited by Plaintiffs are not factually identical to this case. That, of course, is not the way the application of precedent works and the legal principles set forth in those cases remain: this Court has the "inherent power to do all things reasonably necessary to the administration of justice in the case before it." Smothers v. Lewis, 672 S.W.2d 62, 64 (Ky. 1984).

The Ohio Action is not, as Defendant Chesley terms it, merely a "parallel proceeding." It is a direct affront to this Court's Judgment and its authority and a collateral attack on the Judgment. Defendant Chesley's argument in the Ohio Action is completely premised on his expressed belief that the Judgment will be reversed. See Mem. in Ohio Action (Supplemental Index at Tab 3). He boldly states that his "appeal in Kentucky will be successful," that "imposition of liability on Chesley via the Chesley judgment will be reversed" and that the judgment amount is "incorrect as to Chesley." Id. at 11-13. None of those issues is for an Ohio court to decide. This Court has personal jurisdiction over Defendant Chesley, which both makes the Judgment subject to full faith and credit in Ohio and gives this Court the authority to compel Defendant Chesley to act so as to protect its Judgment.

¹ When Plaintiffs filed this Motion, their undersigned counsel had received an electronic mail about the Ohio court's subsequent restraining order, but had not yet obtained a copy of the order. See Email regarding extension of TRO (attached to previously filed Supplemental Index at Tab 5). Counsel for Plaintiffs subsequently received the order extending the TRO and attach it to this Reply.

II. Defendant Chesley is the one ignoring the distinction between the Judgment's validity and its enforcement.

Defendant Chesley really makes Plaintiffs' point for them by citing the distinction between re-examining the merits of a judgment (which the Full Faith and Credit Clause prohibits) and proscribing the procedure for executing on that judgment. However, Defendant Chesley ignores the fact that all he does in the Ohio Action is to ask that court to re-examine the merits of this Court's Judgment. He is not attacking the procedure by which Plaintiffs executed on the Judgment in Ohio. Plaintiffs did not file too late in Ohio, as in Rion v. Mom and Dad's Equipment Sales and Rentals, Inc., 687 N.E.2d 311 (Ohio Ct. App. 1996), cited by Defendant Chesley. They did not fail to comply with an applicable Ohio statute to create a lien on real property, as in Dressler v. Bowling, 492 N.E. 2d 446 (Ohio 1986). Indeed, Plaintiffs had not done anything in Ohio to execute on the Judgment when Defendant Chesley filed the Ohio Action. Any suggestion that Plaintiffs or their attorneys would act in violation of Ohio procedural law regarding enforcement of foreign judgments is pure speculation.

Defendant Chesley's complaints about the form of the Judgment were addressed by this Court when it denied his Motion to Clarify Judgment with Respect to Identification of Plaintiffs and Amount Awarded to Each Plaintiff. Order (Nov. 24, 2014). All he is trying to do in the Ohio Action is to get an Ohio court to tell this Court it is wrong about the application of Kentucky law on an issue it unequivocally decided. There is no indication that Defendant Chesley even told the Ohio court that this Court already decided that issue against him. See Mem. in Ohio Action (Supplemental Index at Tab 3) at 14-19. In any event, the Full Faith and Credit Clause bars an Ohio court from re-examining this Court's decisions regarding the validity of its Judgment. See Milliken v. Meyer, 311 U.S. 457, 462 (1940).

III. Defendant Chesley's claim that the Ohio TRO only "preserves the status quo" is false.

Defendant Chesley's claim that the temporary restraining order in the Ohio Action has no impact on this Court and that it merely "preserve[s] the status quo ante" is false. The TRO in the Ohio Action purports to prohibit Plaintiffs from taking any action to enforce the Judgment against Defendant Chesley in Ohio, even if that action is otherwise permitted under Ohio procedural law. That most decidedly changes the status quo, under which Plaintiffs would have every right to take appropriate action to enforce their judgment. Prohibiting a party from doing something that he or she would normally have a legal right to do is not "preserving the status quo."

Moreover, Defendant Chesley is not required to maintain the status quo, as the TRO does not prohibit him from doing anything at all. During this time when Plaintiffs are purportedly prohibited from taking any action, he is free to dissipate and conceal assets that would otherwise be available to satisfy the Judgment. Even assuming that an Ohio court will at some point give appropriate full faith and credit to this Court's Judgment, Defendant Chesley will have had additional time to make assets unreachable or at least much harder to locate and obtain.

IV. No rule of comity prevents this Court from acting to protect its Judgment.

Defendant Chesley's claim that Plaintiffs are requesting an improper "anti-suit injunction" actually supports this Court taking the action requested by Plaintiffs. It is difficult to imagine a more "extreme and extraordinary" circumstance than the one presented here -- where a judgment debtor files a complaint for declaratory judgment and injunctive relief seeking to invalidate a judgment from another state where that state had personal jurisdiction over the defendant and subject matter jurisdiction over the case. As the Court recognized in Keisker v. Bush, 210 Ky. 718, 276 S.W. 815, 816 (1925), such action is warranted when the other

proceeding “was instituted for the purpose of securing to the plaintiff therein some unfair or unconscionable advantage.”

That is exactly what Defendant Chesley is trying to do. This Court’s Judgment is entitled to full faith and credit in all other states, including Ohio, and its validity cannot be questioned by those courts. As part of the post-Judgment motions filed by Defendant Chesley, this Court ruled on his claim that the Judgment was somehow deficient under Kentucky law because it did not specifically list the exact amount due to each individual Plaintiff. That ruling is correct under Kentucky law. See Bell v. Twyford, 284, Ky. 481, 145 S.W.2d 55, 55 (1940); Oglesby v. Prudential Ins. Co. of Am., 259 Ky. 620, 82 S.W.2d 824, 826 (1935).

Even if that ruling were wrong, the Full Faith and Credit Clause prohibits Defendant Chesley from relitigating the question in Ohio. But, that is exactly what he is attempting to do. Moreover, in the process of doing so, he has obtained a stay on enforcement of the Judgment without providing the security required under both Kentucky and Ohio law. CR 62.03, 73.04; O.R.C. § 2329.024. He is seeking an unconscionable advantage by doing so and Kentucky law permits this Court to compel him to dismiss the Ohio Action.

V. Plaintiffs have not requested a temporary injunction.

Contrary to Defendant Chesley’s claims, Plaintiffs have not requested a temporary injunction. They have merely requested that this Court act within its inherent powers as is reasonably necessary to the administration of justice in this case. A temporary injunction is granted pending a final judgment. Plaintiffs already have a final judgment.

However, even if this request were properly considered a request for a temporary injunction, the request clearly meets the requirements of CR 65.04. Plaintiffs’ right to enforce a judgment in their favor is unquestionably violated by Defendant Chesley filing the Ohio Action

and obtaining a temporary restraining order and an extension of that order until at least March 4, 2015. Moreover, they have already suffered and will continue to suffer irreparable injury by being prohibited from enforcing their judgment in the state in which Defendant Chesley admits his assets are located for months if the Ohio trial court enters an injunction. Meanwhile, Defendant Chesley is not restraining from dissipating or concealing assets and making them unreachable or considerably more difficult to reach by Plaintiffs to satisfy the Judgment. The irreparable harm to Plaintiffs is evident.

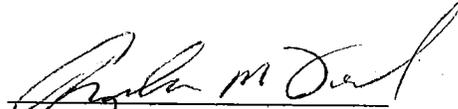
If Defendant Chesley is unwilling or unable to give a supersedeas bond to secure the Judgment, then Plaintiffs are entitled to take action to enforce the Judgment. Defendant Chesley's filing of the Ohio Action unquestionably interferes with that right and deprives Plaintiffs of assets to satisfy the Judgment.²

CONCLUSION

For the foregoing reasons and the reasons set forth in Plaintiffs' initial memorandum of law and at the hearing on this Motion, Plaintiffs respectfully request that this Court enter an Order compelling Defendant Chesley and his counsel to refrain from interfering with enforcement of this Court's Judgment against him and to dismiss the Ohio Action within five days of the entry of such an Order. If they fail to comply with such an Order, Plaintiffs request that this Court sanction them by holding them in contempt.

² Plaintiffs recognize that if this Court were to treat their request as one for a temporary injunction, the Court would be required to set forth findings of fact and conclusions of law constituting the grounds for the injunction. CR 65.04(5). The facts and law necessary for such findings are contained in Plaintiffs' filings on this Motion and the filings from the Ohio Action filed with this Motion. The filings from the Ohio Action also constitute "other evidence" clearly showing the violation of Plaintiffs' rights. CR 65.04(1).

Respectfully submitted,



Angela M. Ford
KBA No. 81510
Chevy Chase Plaza
836 Euclid Avenue, Suite 311
Lexington, Kentucky 40502
(859) 268-2923
Email: amford@windstream.net

William T. Ramsey
NEAL & HARWELL, PLC
TBA No. 9248
150 Fourth Avenue North
Suite 2000
Nashville, TN 37219
(615) 244-1713
bramsey@nealharwell.com

COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served via electronic, if known, and U.S. Mail this the 29 day of January, 2015, to the following:

Frank Benton, IV, Esq.
P.O. Box 72218
Newport, KY 41072

Mary E. Meade-McKenzie, Esq.
105 Seahawk Drive
Midway, KY 40347

Mitzy L. Evans
Evans Law Office
177 South Main Street
P.O. Box 608
Versailles, KY 40383

Luther C. Conner, Jr., Esq.
103 Cross Street

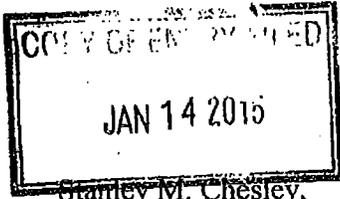
Albany, KY 42602

Sheryl G. Snyder, Esq.
Griffin Terry Sumner, Esq.
Frost Brown Todd LLC
400 West Market St., 32nd Floor
Louisville, KY 40202

Michael R. Dowling, Esq.
P.O. Box 1689
Ashland, KY 41105-1689



COUNSEL FOR PLAINTIFFS



COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

JUDGE ROBERT R. RUEHLMAN
Court of Common Pleas
Hamilton County, Ohio

Stanley M. Chesley,

Case No. A1500067

Petitioner

Judge Ruehlman

v.

Angela M. Ford, Esq. *et al.*

Respondents.

**RESTRAINING ORDER AGAINST
CERTAIN ACTIONS BY
RESPONDENTS AND
SETTING HEARING**

This matter first came before the Court on January 7, 2015 at an *ex parte* conference. Thereafter, the Court entered its *EX PARTE* TEMPORARY RESTRAINING ORDER AGAINST CERTAIN ACTIONS BY RESPONDENTS AND ORDER SETTING HEARING (the "Temporary Restraining Order"). The Temporary Restraining Order set a January 14, 2015 hearing on the pending Petitioner's Motion for Order Restraining Registration and Enforcement of Kentucky Judgment and Document Destruction (the "Motion").¹

Respondent Angela M. Ford was given actual notice of the hearing on January 14, 2015, see Affidavit of Vincent E. Mauer filed in this matter. Respondent Angela M. Ford ("Ford") did not present any evidence on or before January 14, 2015. The Court's preliminary Findings of Fact and Conclusions of Law set forth in the Temporary Restraining Order continue to be the Court's preliminary findings and conclusions and are incorporated herein by reference.

Until further Court order to the contrary or agreement of the Parties approved by the Court:

1. Respondent Ford, any co-counsel acting with her and any other Ohio lawyer representing any of the Unknown Respondents are enjoined from (i) taking any action in the

¹ Capitalized terms in this Order that are not defined herein have the meaning set forth in the Verified Petition For Declaratory Judgment And Injunctive Relief (the "Petition") and Petitioner's Motion For Order Restraining Registration and Enforcement of Kentucky Judgment and Document Destruction (the "Motion"). The Motion was supported by Petitioner's Verified Memorandum in Support of Motion for Injunctive Relief (the "Supporting Memo").

State of Ohio to enforce the Chesley Judgment or (ii) serving any Chesley asset related discovery on any Ohio resident, citizen or domiciliary, except that discovery may be served on Chesley in any non-Ohio jurisdiction if permitted by the rules applicable to that jurisdiction;

2. Respondent Ford, any co-counsel acting with her and any other Ohio lawyer representing any of the Unknown Respondents are enjoined from making any filing in any Ohio court that would be or could be part of an effort to domesticate or register the Chesley Judgment in Ohio;

3. Ford, the Unknown Respondents and any other person acting on behalf of the Unknown Respondents are enjoined from taking any action to collect the Chesley Judgment in the State of Ohio from any Ohio resident, Ohio citizen or Ohio domiciled entity;

4. Ford, the Unknown Respondents and any other person acting on behalf of Ford and the Unknown Respondents are enjoined from issuing any subpoena seeking documents or testimony to any Ohio resident, Ohio citizen or Ohio domiciled entity (other than Chesley) if the purpose of the requested documents or testimony would be to obtain information related to any effort to enforce the Chesley Judgment; and

5. Ford, the Unknown Respondents and any other person acting on behalf of Ford or the Unknown Respondents are enjoined and prohibited from destroying, damaging or secreting any documents or electronically stored information relevant to any of the issues described in this Petition, the Motion or the Supporting Memo including but not limited to any document or electronic information that reflects any (i) collection of funds collected and/or credited against the Criminal Defendants Judgment, (ii) restitution obligations of the Criminals, (iii) forfeiture of any assets in the Criminal Case, (iv) funds Ford or any affiliated entity transferred to or from Johnston, (v) funds transferred to or for the benefit of any Criminal Case victims who are not

Abbott Case plaintiffs; (vi) amounts distributed to the Abbott Case plaintiffs; (vi) operation of the Tandy LLC receivership; (vii) funds transferred to or subsequently by the United States Marshall's Service related to the Criminal Case or the Abbott Case, and (viii) the legal fees and expenses of Ford and her co-counsel in the Abbott Case.

This matter will come on for a hearing on the Motion's request for a preliminary injunction on ~~February~~ ^{March 4} ____, 2015 at ^{9:00 AM} o'clock. At that hearing, the Court may consider, any or all of the issues discussed in the Petition, the Temporary Restraining Order or this Order including, but not limited to:

- (a) All evidence, testimony, and exhibits to be offered by Petitioner and Respondents at this preliminary stage of this matter relevant to any continuation of the prohibitions set forth in the Temporary Restraining Order or this Order;
- (b) Whether to convert the existing Temporary Restraining Order and this Order into a Preliminary Injunction;
- (c) At the next hearing, the Court expects specifically to address whether the Court should grant the relief outlined on pages 7-9 of its Temporary Restraining Order, including without limitation, whether the Unknown Respondents should be made parties to this proceeding and whether or not the Court should order Respondent Ford to identify by name and address each of the current Unknown Respondents; and
- (d) Ordering Respondent to disclose the amount alleged to be owed to each of the Unknown Respondents, and directing Respondent to provide a complete accounting of all funds received by the Unknown Respondents in the Abbott Case, all funds received by the Unknown Respondents from Respondent Ford, all fees and expenses received by Respondent Ford or paid by Respondent Ford to third parties on account

of the Abbott Case matter, and all accounting records Respondent Ford has prepared for the Unknown Respondents all as may be needed to permit Chesley to confirm any calculation of the current total amount of the Chesley Judgment that the Court may order be provided to Chesley.

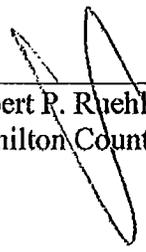
Petitioner did not request and the Court does not currently intend to combine this hearing with the hearing on the merits of the Motion as permitted by Ohio Civ. R. 65(C).

After considering Petitioner's request for continuation of the relief granted in the Temporary Restraining Order and this Order, the Court will address the status of the Unknown Respondents as that issue is described in the Temporary Restraining Order.

Chesley is not required to post any security for this Order to be effective.

Chesley's counsel will transmit a courtesy copy of this Order to Respondent Ford both electronically and by first class United States mail, postage prepaid.

Entered this 14th day of January, 2015


JUDGE ROBERT P. RUEHLMAN
Court of Common Pleas
Hamilton County, Ohio
Robert P. Ruehlman, Judge
Hamilton County Court of Common Pleas

Copies to:

Vincent E. Mauer, Esq.
FROST BROWN TODD LLC
3300 Great American Tower
301 E. Fourth Street
Cincinnati, Ohio

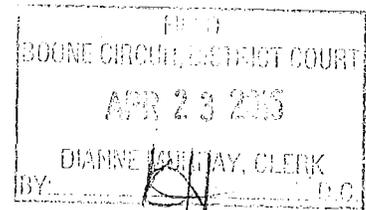
Angela M. Ford, Esq.
Chevy Chase Plaza
836 Euclid Avenue, Suite 311
Suite 311
Lexington, KY 40502

STATE OF KENTUCKY
COUNTY OF BOONE
I, DIANNE MURRAY, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

This 13 day of August, 2015
DIANNE MURRAY

By: Patricia A. [Signature] D.C.

**BOONE CIRCUIT COURT
54TH JUDICIAL DISTRICT
Case No. 05-CI-436**



MILDRED ABBOTT, et al.,

PLAINTIFFS

v.

STANLEY M. CHESLEY, et al.,

DEFENDANTS

PLAINTIFFS' MOTION TO AMEND AGREED PROTECTIVE ORDER

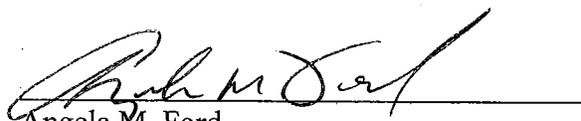
Plaintiffs, by and through counsel, respectfully request that the Court amend the Agreed Protective Order (Jan. 30. 2015) in this case to reflect that only the information contained in CR 7.03(1) shall be redacted from documents produced prior to them being filed, with no other information or documents being confidential or filed under seal without further agreement of the parties or Order of the Court. As grounds for this Motion, Plaintiffs would show that since Defendant Chesley is the party seeking to designate documents as confidential and to have them filed under seal, he bears the burden of showing at a hearing that there is good cause for the designation and to have the documents sealed. There is a strong presumption of public access to court records and Defendant Chesley has not shown an interest that outweighs that presumption of disclosure. A Memorandum of Law in support of this Motion is filed herewith.

WHEREFORE, Plaintiffs respectfully request that the Court amend the Agreed Protective Order (Jan. 30. 2015) in this case to reflect that only the information contained in CR 7.03(1) shall be redacted from documents produced prior to them being filed, with no other information or documents being confidential or filed under seal without further agreement of the parties or Order of the Court.

NOTICE OF HEARING

THIS MATTER SHALL COME ON FOR HEARING ON APRIL 28, 2015 AT 9:00 A.M. IN THE BOONE CIRCUIT COURT, OR AS SOON THEREAFTER AS COUNSEL MAY BE HEARD.

Respectfully submitted,



Angela M. Ford
KBA No. 81510
Chevy Chase Plaza
836 Euclid Avenue, Suite 311
Lexington, Kentucky 40502
(859) 268-2923
Email: amford@windstream.net

William T. Ramsey
NEAL & HARWELL, PLC
TBA No. 9248
150 Fourth Avenue North
Suite 2000
Nashville, TN 37219
(615) 244-1713
Email: bramsey@nealharwell.com

COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served via electronic and U.S. Mail this the 21 day of April, 2015, to the following:

Frank Benton, IV, Esq.
P.O. Box 72218
Newport, KY 41072

Mary E. Meade-McKenzie, Esq.
105 Seahawk Drive
Midway, KY 40347

Mitzy L. Evans
Evans Law Office
177 South Main Street
P.O. Box 608
Versailles, KY 40383

Luther C. Conner, Jr., Esq.
103 Cross Street
Albany, KY 42602

Sheryl G. Snyder, Esq.
Griffin Terry Sumner, Esq.
Frost Brown Todd LLC
400 West Market St., 32nd Floor
Louisville, KY 40202

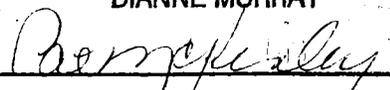
Michael R. Dowling, Esq.
P.O. Box 1689
Ashland, KY 41105-1689

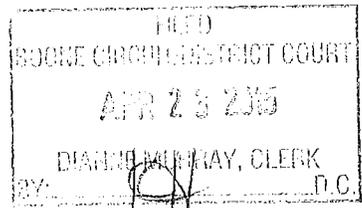


COUNSEL FOR PLAINTIFFS

STATE OF KENTUCKY
COUNTY OF BOONE
I, DIANNE MURRAY, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

This 13 day of August, 2015
DIANNE MURRAY

By:  D.C.



**BOONE CIRCUIT COURT
54TH JUDICIAL DISTRICT
Case No. 05-CI-436**

MILDRED ABBOTT, et al.,

PLAINTIFFS

v.

STANLEY M. CHESLEY, et al.,

DEFENDANTS

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS'
MOTION TO AMEND AGREED PROTECTIVE ORDER**

Plaintiffs, in support of their Motion to Amend Agreed Protective Order, state as follows:

STATEMENT OF THE CASE

This Court entered judgment against Defendant Chesley on August 1, 2014. See Order (Aug. 1, 2014). Subsequent Orders of this Court made the Judgment final and awarded pre-judgment and post-judgment interest against him. See Order (Sept. 19, 2014); Amended Order (Sept. 19, 2014); Order (Oct. 22, 2014); Second Amended Judgment (Oct. 22, 2014). Defendant Chesley has appealed this Court's rulings to the Court of Appeals. See Court of Appeals of Kentucky, Case Nos. 2014-CA-001725, 2014-CA-001900 and 2014-CA-001984. Defendant Chesley did not stay enforcement of the Judgment by giving a supersedeas bond pursuant to CR 62.03 and 73.04.

Plaintiffs served interrogatories and requests for production of documents regarding Defendant Chesley's assets that may be available for satisfaction of the Judgment. Prior to producing any asset information or documents, counsel for Defendant Chesley insisted on a protective order maintaining the confidentiality of documents the producing party designated as "confidential" and requiring any pleadings with confidential information or attaching confidential documents to be filed under seal. Counsel for Plaintiffs agreed to a protective order

in good faith, as discussed in a hearing before this Court, to avoid further delay on the production of documents and to avoid a hearing on a protective order for documents not yet produced and confidentiality claims not yet made. Plaintiffs specifically reserved the right to request the modification of the order. This Court entered the Agreed Protective Order on January 30, 2015. See Agreed Protective Order (Jan. 30, 2015).

As this Court is aware, Defendant Chesley's discovery responses and production of documents have already been the subject of a motion to compel and a motion for contempt. See Order (Feb. 13, 2015); Order (Mar. 27, 2015). As Defendant Chesley has begun to trickle out document production over the last few months, his confidentiality designations have not been made in good faith. He has designated **all** discovery documents as "Confidential," without regard as to whether redaction of a portion of a document would be more appropriate than the wholesale designation of documents as "confidential."

This Court has already seen the procedural difficulty in allowing Defendant Chesley to unilaterally designate any document he wishes as "Confidential." In filings before this Court on the motions to compel and for contempt, it was necessary to file items under seal, which creates an additional administrative burden upon the Court, the Clerk's office and Plaintiffs. If Defendant Chesley and other witnesses are deposed, under the existing Protective Order, Defendant Chesley will designate some or all of the depositions as "Confidential," creating another procedural burden based upon the many anticipated exhibits to the depositions.

Moreover, Plaintiffs' initial tracking of Defendant Chesley's disposition and transfer of his assets since this action was filed has already established the likely need to file fraudulent conveyance actions to recover assets. Once again, documents remaining confidential and required to be filed under seal in courts in other states in actions against third parties will present

procedural burdens and obvious problems. The other court may view the alleged confidential nature of the documents differently and may conflict with the existing protective order. The defendant or defendants in the fraudulent conveyance actions would obviously have to receive the documents and those persons may not be subject to this Court's Orders.

If the all-encompassing protective order that is currently in place remains in place, Plaintiffs will be forced to bring a motion before this Court every time they have a document that needs to have its confidential designation removed. Each such motion will be contested, as shown by Defendant Chesley's steadfast failure to pay the judgment against him and his affirmative conduct in attempting to block enforcement of the judgment by filing a declaratory judgment action in Ohio seeking a declaration that this Court's Judgment does not comply with Ohio law.

CR 7.03 Sets Forth the Information Generally Considered To Be Confidential

Without a specific showing that a document or portion of a document contains confidential information, CR 7.03 already provides appropriate privacy protection for filings made with the Court. That rule requires that in this case, any party filing a document with the Court must redact portions of social security and taxpayer identification numbers, the month and date of a person's birth and financial account numbers. CR 7.03(1). Any additional redaction or limitation on access requires a showing of good cause. CR 7.03(4).¹

Counsel for Plaintiffs has already redacted the items listed in CR 7.03(1). Defendant Chesley bears the burden of showing a right to confidentiality that exceeds CR 7.03(1) and the

¹ The Supreme Court of Kentucky enacted CR 7.03 in 2009. See Supreme Court of Kentucky Order 2009-01 (entered Feb. 11, 2009, effective Apr. 1, 2009). There have been minor amendments to the rule that are not relevant to this matter. See Order 2010-09 (amending rule to exempt domestic violence matters from subsection (1)); Order 2013-12 (amending rule to redact all but last four digits of social security and taxpayer identification numbers instead of the entire number).

public's presumptive right of access. No other portion of the documents he has produced or may produce in the future should be considered confidential or be required to be filed under seal.

Chesley's designation of all asset discovery documents and many of his written discovery answers as confidential is nothing more than an attempt to shield from public view the actions he took to shield his assets from his creditors and avoid payment of the judgment entered by this Court. Chesley's refusal to pay the judgment of this Court is his decision, his desire to circumvent the Kentucky Rules of Civil Procedure, delay these proceedings and his creditors' execution efforts are not.

ARGUMENT

I. This Court May Amend the Agreed Protective Order.

This Court, of course, has the authority to revise or reconsider an interlocutory order. JPMorgan Chase Bank, N.A. v. Bluegrass Powerboats, 424 S.W.3d 902, 909 (Ky. 2014). In this case, the need to revise the existing order was discussed prior to the entry of the order. Indeed, the Agreed Protective Order itself recognizes this Court's ability to modify its terms, the only provision of the Order insisted upon by Plaintiffs' counsel. See Agreed Protective Order (Jan. 30, 2015) at ¶ 15. Plaintiff's counsel agreed to the order in good faith to avoid the need to litigate the language in the order prior to documents being produced and claims of confidentiality asserted. Chesley did not demonstrate good faith in his claims of confidentiality. The Agreed Protective Order is an interlocutory order because, although there is a final judgment against Defendant Chesley, this Court has authority to enter orders to enforce its judgment. Akers v. Stephenson, 469 S.W.2d 704, 706 (Ky. 1970).

II. Defendant Chesley Cannot Show an Interest in Non-Disclosure that Outweighs the Presumptive Right of Access to Court Records.

Although a trial court has a right to control access to its own records and files, that right “is constrained by a general, common-law right to ‘inspect and copy public records and documents, including judicial records and documents.’” Roman Catholic Diocese of Lexington v. Noble, 92 S.W.3d 724, 730, 731 (Ky. 2002) (quoting Nixon v. Warner Communications, Inc., 435 U.S. 589, 597 (1978)). Indeed, judicial documents are presumptively available to the public. Id. at 731; see also Maclean v. Middleton, 419 S.W.3d 755, 761 (Ky. Ct. App. 2014) (stating that “there is a strong presumption in favor of public access to court records”). As the Court of Appeals stated in Maclean, “court records should not be sealed as a matter of routine practice simply at the request of the parties.” 419 S.W.3d at 761. That directive is encompassed in CR 7.03(4)’s requirement of good cause for redaction or sealing beyond the privacy information delineated in subsection (1). The party seeking to seal any part of a trial court record bears the burden of proving that sealing the record is necessary at a hearing before the trial court. Cline v. Spectrum Care Academy, Inc., 316 S.W.3d 320, 325 (Ky. Ct. App. 2010); see also Courier-Journal and Louisville Times Co. v. Peers, 747 S.W.2d 125, 129 (Ky. 1988) (holding that a hearing must be held prior to ordering a hearing closed or the record sealed); Lexington Herald-Leader Co. v. Meigs, 660 S.W.2d 658, 663 (Ky. 1983) (same). The trial court must also consider less restrictive alternatives to sealing the record. See Meigs, 660 S.W.2d at 663. The party seeking to seal the record must identify less onerous alternatives and show that the interest he seeks to protect cannot be protected by less restrictive means. Id. at 664; Cline, 316 S.W.3d at 325.

The Supreme Court of Kentucky holds that trial courts must apply a balancing test between the court’s right to control access and the public’s presumptive right of access. Noble, 92 S.W.3d at 731. That balancing test adopted by the Court utilizes a “sliding scale,” which

gives great weight to records “that play an important role in determining the litigants’ substantive rights.” Id. at 732. Such records can only be sealed for “the most compelling reasons.” Id. (quoting United States v. Beckham, 789 F.2d 401, 413 (6th Cir. 1986)). Conversely, “documents and records that play only a minor or negligible role in adjudicating the rights of the litigants are afforded little weight.” Id. For records that fall between these two extremes, the trial court is to exercise its judgment and discretion in determining which documents, if any, should be sealed. Id.

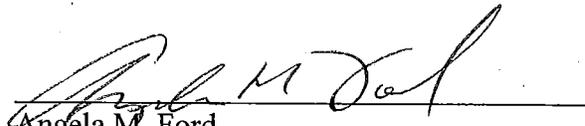
In this case, to the extent asset discovery materials are filed with this Court (or other courts in fraudulent conveyance actions or other actions to enforce this Court’s Judgment), they are relevant to and play a role in determining Plaintiffs’ ability to collect on their judgment against Defendant Chesley. These are important substantive rights and Defendant Chesley must provide compelling reasons to justify excluding from public review the documents and testimony that will decide them. It is not enough that he wants to keep the information private and his transactions secret. He bears the burden of showing that particular documents should be sealed. Moreover, the Court should consider whether some less onerous alternatives, such as redaction, would satisfy whatever interest Defendant Chesley can show in the privacy of documents he wishes to keep confidential. Cline, 316 S.W.3d at 325. Aside from the information required to be redacted under CR 7.03(1), Defendant Chesley has made no such showing.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court amend the Agreed Protective Order (Jan. 30, 2015) to provide that the information set forth in CR 7.03(1) shall be redacted from documents produced prior to them being filed, with no other information

or documents being confidential or filed under seal without further agreement of the parties or order of the Court.

Respectfully submitted,



Angela M. Ford
KBA No. 81510
Chevy Chase Plaza
836 Euclid Avenue, Suite 311
Lexington, Kentucky 40502
(859) 268-2923
Email: amford@windstream.net

William T. Ramsey
NEAL & HARWELL, PLC
TBA No. 9248
150 Fourth Avenue North
Suite 2000
Nashville, TN 37219
(615) 244-1713
Email: bramsey@nealharwell.com

COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served via electronic and U.S. Mail this the 21 day of April, 2015, to the following:

Frank Benton, IV, Esq.
P.O. Box 72218
Newport, KY 41072

Mary E. Meade-McKenzie, Esq.
105 Seahawk Drive
Midway, KY 40347

Mitzy L. Evans
Evans Law Office
177 South Main Street
P.O. Box 608
Versailles, KY 40383

Luther C. Conner, Jr., Esq.
103 Cross Street
Albany, KY 42602

Sheryl G. Snyder, Esq.
Griffin Terry Sumner, Esq.
Frost Brown Todd LLC
400 West Market St., 32nd Floor
Louisville, KY 40202

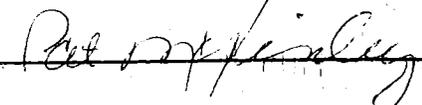
Michael R. Dowling, Esq.
P.O. Box 1689
Ashland, KY 41105-1689



COUNSEL FOR PLAINTIFFS

STATE OF KENTUCKY
COUNTY OF BOONE
I, DIANNE MURRAY, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

This 13 day of August, 2015
DIANNE MURRAY

By:  D.C.

3/26/2015

**BOONE CIRCUIT COURT
54TH JUDICIAL DISTRICT
Case No. 05-CI-436**

FILED
BOONE CIRCUIT/DISTRICT COURT
MAY 21 2015
DIANNE MURRAY, CLERK
D.C.

MILDRED ABBOTT, et al.,

PLAINTIFFS

v.

STANLEY M. CHESLEY, et al.,

DEFENDANTS

**PLAINTIFFS' MOTION TO TRANSFER
BENEFICIAL INTEREST IN PROPERTY HELD IN TRUST**

Plaintiffs, pursuant to KRS 426.384 and in enforcement of their Judgment against Defendant Chesley, respectfully request that this Court order that [REDACTED]

[REDACTED]

*REDACTED PURSUANT TO PROTECTIVE ORDER
ORIGINAL FILED UNDER SEAL*

[REDACTED] As grounds for this Motion, Plaintiffs state that Defendant Chesley is before this Court and this Court has the authority to enforce its judgments, including the authority to compel the surrender of the property of Defendant Chesley. A Memorandum of Law in support of this Motion is filed herewith.

WHEREFORE, Plaintiffs respectfully request that this Court order that [REDACTED]

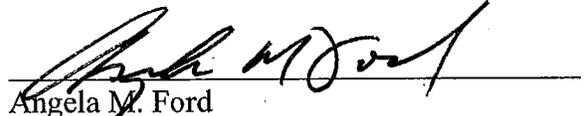
[REDACTED]

*REDACTED PURSUANT TO PROTECTIVE ORDER
ORIGINAL FILED UNDER SEAL*

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT THIS MATTER SHALL COME ON FOR HEARING ON MAY 26, 2015 AT 9:00 A.M. IN THE BOONE CIRCUIT COURT, OR AS SOON THEREAFTER AS COUNSEL MAY BE HEARD.

Respectfully submitted,



Angela M. Ford
KBA No. 81510
Chevy Chase Plaza
836 Euclid Avenue, Suite 311
Lexington, Kentucky 40502
(859) 268-2923
Email: amford@windstream.net

William T. Ramsey
NEAL & HARWELL, PLC
TBA No. 9248
150 Fourth Avenue North
Suite 2000
Nashville, TN 37219
(615) 244-1713
Email: bramsey@nealharwell.com

COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served via electronic and U.S. Mail this the 21 day of May, 2015, to the following:

Frank Benton, IV, Esq.
P.O. Box 72218
Newport, KY 41072

Mary E. Meade-McKenzie, Esq.
105 Seahawk Drive
Midway, KY 40347

Mitzy L. Evans
Evans Law Office
177 South Main Street
P.O. Box 608
Versailles, KY 40383

Luther C. Conner, Jr., Esq.
103 Cross Street
Albany, KY 42602

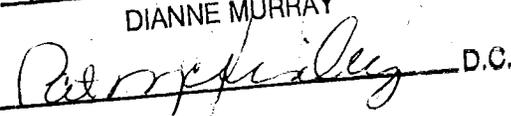
Sheryl G. Snyder, Esq.
Griffin Terry Sumner, Esq.
Frost Brown Todd LLC
400 West Market St., 32nd Floor
Louisville, KY 40202

Michael R. Dowling, Esq.
P.O. Box 1689
Ashland, KY 41105-1689


COUNSEL FOR PLAINTIFFS

STATE OF KENTUCKY
COUNTY OF BOONE
I, DIANNE MURRAY, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

This 13 day of August, 2015
DIANNE MURRAY

By:  D.C.

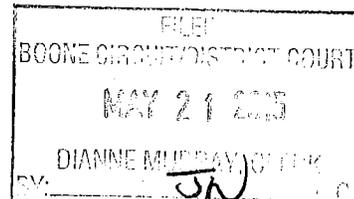
ANGELA M. FORD, PSC

Chevy Chase Plaza
836 Euclid Avenue, Suite 311
Lexington, Kentucky 40502

AS
6/24/13

Filed Under Seal

*Exhibit A
to Mr's Memorandum in Support of
Motion to Transfer Beneficial
Interest...*



BOONE CIRCUIT COURT
54TH JUDICIAL DISTRICT
Case No. 05-CI-436

MILDRED ABBOTT, *et al.*,

PLAINTIFFS

v.

STANLEY M. CHESLEY, *et al.*,

DEFENDANTS

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION
TO TRANSFER BENEFICIAL INTEREST IN PROPERTY HELD IN TRUST**

Plaintiffs, pursuant to KRS 426.384 and in support of their Motion to Transfer Beneficial Interest in Property Held in Trust, state as follows:

STATEMENT OF THE FACTS

This Court entered judgment against Defendant Chesley on August 1, 2014 on Plaintiffs' breach of fiduciary duty claims, holding him jointly and severally liable as a matter of law for the \$42 million in damages previously awarded to Plaintiffs against Defendants Gallion, Cunningham and Mills. See Order (Aug. 1, 2014). This Court then ruled on multiple post-judgment motions which resulted in this Court making the Judgment final pursuant to CR 54.02 and awarding prejudgment and post-judgment interest against Defendant Chesley. See Order (Sept. 19, 2014); Amended Order (Sept. 19, 2014); Order (Oct. 22, 2014); Second Amended Judgment (Oct. 22, 2014). Defendant Chesley did not post a supersedeas bond to secure a stay of enforcement of the Judgment and Plaintiffs are free to execute on his assets.

During post-judgment asset discovery, Defendant Chesley produced [REDACTED] [REDACTED] for his former law firm, Waite, Schneider, Bayless & Chesley Co., L.P.A. ("WSBC"). See [REDACTED] (copy attached hereto as Exhibit A, filed under seal). The Supreme Court of Kentucky permanently disbarred Defendant Chesley on March 21, 2013 for

his conduct that forms the basis for this lawsuit. Kentucky Bar Ass'n v. Chesley, 393 S.W.3d 584 (Ky. 2013). Shortly thereafter, Defendant Chesley retired from the practice of law in Ohio to avoid also being disbarred in Ohio. Prior to his disbarment and retirement, Defendant Chesley was the sole shareholder of WSBC. See Ex. A at 1; S. Chesley Dep. Vol. I at 15:1-10 (part of this Court's record). Since Defendant Chesley was no longer going to have a valid license to practice law, he obviously could not continue to own a law firm. See Ex. A at 1. Consequently, he entered [REDACTED]

*REDACTED PURSUANT TO PROTECTIVE ORDER
ORIGINAL FILED UNDER SEAL*

Both prior to and after Defendant Chesley's Kentucky disbarment and his retirement of his Ohio bar license, [REDACTED]

[REDACTED] See [REDACTED] (copy attached as Exhibit B, filed under seal). [REDACTED]

[REDACTED] Id.

Even though Defendant Chesley can no longer own a law firm, [REDACTED]

[REDACTED] That [REDACTED]

[REDACTED] are subject to execution to satisfy Plaintiffs' judgment.

Accordingly, this Court should order that [REDACTED]

[REDACTED]
[REDACTED] As part of that Order, this Court should also order
Defendant Chesley and his counsel [REDACTED]
[REDACTED]

ARGUMENT

This Court “has the authority ‘to enforce its own judgments and to remove any obstructions to such judgment.’” Shelby Petroleum Corp. v. Croucher, 814 S.W.2d 930, 933 (Ky. Ct. App. 1991) (quoting Akers v. Stephenson, 469 S.W.2d 704, 706 (Ky. 1970)). This Court may also compel the surrender of property in the execution of a judgment pursuant to KRS 426.384, which provides as follows:

The court shall enforce the surrender of the money or securities therefor, or of any other property of the defendant in the execution, which may be discovered in the action; and the court may use its contempt power in enforcing surrender of the property.

KRS 426.384.

Defendant Chesley is unquestionably before this Court and is the [REDACTED]

[REDACTED] This Court has the authority to enforce its Judgment against him and to compel surrender of Defendant Chesley’s property. Accordingly, Plaintiffs request that this Court order that [REDACTED]

***REDACTED PURSUANT TO PROTECTIVE ORDER
ORIGINAL FILED UNDER SEAL***

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court order that

***REDACTED PURSUANT TO PROTECTIVE ORDER
ORIGINAL FILED UNDER SEAL***

Respectfully submitted,



Angela M. Ford
KBA No. 81510
Chevy Chase Plaza
836 Euclid Avenue, Suite 311
Lexington, Kentucky 40502
(859) 268-2923
Email: amford@windstream.net

William T. Ramsey
NEAL & HARWELL, PLC
TBA No. 9248
150 Fourth Avenue North
Suite 2000
Nashville, TN 37219
(615) 244-1713
Email: bramsey@nealharwell.com

COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served via electronic and U.S. Mail this the 21 day of May, 2015, to the following:

Frank Benton, IV, Esq.
P.O. Box 72218
Newport, KY 41072

Mary E. Meade-McKenzie, Esq.
105 Seahawk Drive
Midway, KY 40347

Mitzy L. Evans
Evans Law Office
177 South Main Street
P.O. Box 608
Versailles, KY 40383

Luther C. Conner, Jr., Esq.
103 Cross Street
Albany, KY 42602

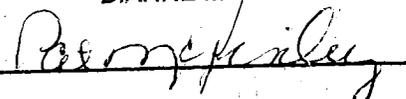
Sheryl G. Snyder, Esq.
Griffin Terry Sumner, Esq.
Frost Brown Todd LLC
400 West Market St., 32nd Floor
Louisville, KY 40202

Michael R. Dowling, Esq.
P.O. Box 1689
Ashland, KY 41105-1689


COUNSEL FOR PLAINTIFFS

STATE OF KENTUCKY
COUNTY OF BOONE
I, DIANNE MURRAY, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

This 13 day of August, 2015
DIANNE MURRAY

By:  D.C.

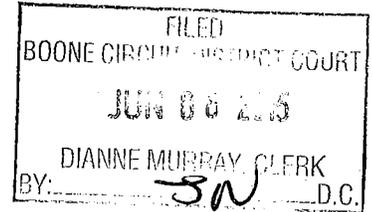
Filed Under
Seal

Exhibit A

Filed Under
Seal

Exhibit B

**BOONE CIRCUIT COURT
54TH JUDICIAL DISTRICT
Case No. 05-CI-436**



MILDRED ABBOTT, *et al.*,

PLAINTIFFS

v.

STANLEY M. CHESLEY, *et al.*,

DEFENDANTS

**PLAINTIFFS' REPLY IN SUPPORT OF PLAINTIFFS' MOTION
TO TRANSFER BENEFICIAL INTEREST IN PROPERTY HELD IN TRUST**

Plaintiffs, in reply to Defendant Chesley's response and in further support of their Motion to Transfer Beneficial Interest in Property Held in Trust, state as follows:

INTRODUCTION

Defendant Chesley's reliance upon WSBC's formation and location in Ohio does not prevent this Court from acting upon Defendant Chesley himself. Contrary to the cases cited by Defendant Chesley, significant authority and the more persuasive analysis relies upon the ordering court's personal jurisdiction over the judgment debtor to whom the order pertains. There is no question that this Court has personal jurisdiction over Defendant Chesley and that he is subject to this Court's Orders in this action. The fact that an Order directing him to do something may have an effect upon property connected to or even located in another state does not matter.

Moreover, Defendant Chesley brought this motion upon himself by seeking to block Plaintiffs from taking completely legal and proper enforcement actions in Ohio. As this Court is aware, Defendant Chesley filed an action against Plaintiffs' counsel in Ohio and obtained a restraining order that purports to prohibit her from taking any action to enforce, domesticate or register this Court's Judgment against Defendant Chesley. The Ohio order even prohibits her

from conducting any discovery of any Ohio resident except for Chesley, even if she first obtains a commission from this Court and follows Ohio procedure to issue a subpoena in Ohio. For Defendant Chesley to suggest in response to this Motion that Plaintiffs should proceed in Ohio when he has deliberately and completely blocked Plaintiffs from taking otherwise legal action is extremely disingenuous. As this Court stated in its February 13, 2015 Order, Defendant Chesley is “attempting to impede the plaintiffs from executing on the Judgment.” See Order (Feb. 13, 2015). The need for this Motion and Defendant Chesley’s response to it is a prime example of why Plaintiffs brought their motion requesting that this Court compel Defendant Chesley to withdraw the Ohio action in January 2015. Now, it is five months later and Defendant Chesley continues to claim that Plaintiffs must come to Ohio while simultaneously getting an Ohio court to prohibit them from taking any action in Ohio.

ARGUMENT

I. THIS COURT HAS AUTHORITY TO ORDER DEFENDANT CHESLEY TO TAKE ACTION.

While Defendant Chesley cites a couple of cases that focus on the location of property outside the state, the greater and more persuasive weight of authority holds that when the Judgment state has personal jurisdiction over the judgment debtor, that state may exercise that jurisdiction to take action. See Koehler v. Bank of Bermuda Ltd., 544 F.3d 78, 85 (2nd Cir. 2008); Estates of Ungar ex rel. Strachman v. Palestinian Authority, 715 F. Supp. 2d 253, 262-64 (D.R.I. 2010); Dalton v. Meister, 239 N.W.2d 9, 14 (Wis. 1976). The Restatement provides that “[a] state has power to exercise judicial jurisdiction to order a person, who is subject to its judicial jurisdiction, to do, or not to do, an act in the state, although the carrying out of the decree may affect a thing in another state.” Restatement (Second) of Conflict of Laws § 55 (1971).

Ohio action to effectively obtain a stay of execution on this Court's Judgment while it is on appeal without following Kentucky or Ohio law providing security for Plaintiffs for collection of the Judgment. See CR 62, 73.04, 73.06; O.R.C. § 2329.024.

The Ohio court has said that the restraining order it entered on January 14, 2015 remains in effect, even though Ohio law limits the time period for temporary restraining orders. Ohio R. Civ. P. 65(A). Even though the Ohio court said in its restraining order (previously filed as an exhibit with this Court) that it was going to hold a hearing to determine whether to enter a preliminary injunction, no hearing has been held and the earliest any hearing will occur is July (if then).¹

To the extent that KRS 426.384 requires Plaintiffs to "exhaust" other remedies such as execution and garnishment, CR 69.03 allows this Court to direct enforcement of a judgment other than by writ of execution. Moreover, Defendant Chesley himself has engineered to make any remedies in Ohio unreachable for Plaintiffs. See Ex Parte Temporary Restraining (Jan. 7, 2015); Restraining Order (Jan. 14, 2015) (both previously filed with this Court). The Ohio court's order prohibits Plaintiffs' counsel from doing any of the following on behalf of Plaintiffs, even though each activity is provided by Ohio law and even if she complies with Ohio law:

(1) Taking any action in Ohio to enforce this Court's Judgment against Defendant Chesley. Restraining Order (Jan. 14, 2015) at ¶ 1. Ohio provides for enforcement of foreign judgments, see O.R.C. §§ 2329.01 to 2329.027, but the Restraining Order prohibits undersigned

¹ Defendant Chesley will no doubt try to lay blame on undersigned counsel for there not being a hearing yet because she removed the Ohio case on diversity grounds. First, the case was properly removable and only remanded because the U.S. District Court permitted Defendant Chesley to add as defendants several persons he alleged were Plaintiffs in this case residing in Ohio, individuals who were added for the purpose of destroying diversity jurisdiction. See Chesley v. Ford, Case No. 1:15-cv-00083, United States District Court for the Southern District of Ohio at D.E. 30. The case was remanded on April 6, 2015 (more than two months ago) and there is still no preliminary injunction and no hearing.

counsel from utilizing that enforcement mechanism, even if she complies with every procedural requirement in the statute.

(2) Serving any discovery regarding Defendant Chesley's assets on any Ohio resident, citizen or domiciliary, except Defendant Chesley. Restraining Order (Jan. 14, 2015) ¶

1. Ohio law provides for depositions to be taken upon commission issued out of courts from other states. See O.R.C. § 2319.09. However, according to the terms of the Restraining Order, a valid commission from this Court cannot be used in Ohio to compel a witness with relevant evidence regarding Defendant Chesley's assets to testify or produce relevant documents.

(3) Making any filing that would be or could be part of an effort to domesticate or register this Court's Judgment in Ohio. Restraining Order (Jan. 14, 2105) at ¶ 2. Ohio law provides for Plaintiffs to file this Court's Judgment in Ohio, but the Restraining Order prohibits it. See O.R.C. §§ 2329.021 to 2329.027.

(4) Taking any action to collect this Court's Judgment in Ohio. Restraining Order (Jan. 14, 2105) at ¶ 3. Ohio law provides that Plaintiff may file this Court's Judgment in Ohio and it then may be enforced or satisfied in the same manner as an Ohio judgment. See O.R.C. § 2329.022.

(5) Issuing any subpoena to an Ohio resident, citizen or domiciled entity other than Chesley to obtain information related to enforcement of this Court's Judgment. Restraining Order (Jan. 14, 2105) at ¶ 4. Again, Ohio law provides the mechanism for Plaintiffs to obtain discovery from Ohio residents upon obtaining a commission from this Court. See O.R.C. § 2319.09.

It is evident that Defendant Chesley is using the Ohio court to block any discovery of any person or entity other than himself² and to block any enforcement of this Court's Judgment against him, even if that enforcement action is taken in complete compliance with Ohio law. This Court should not credit Defendant Chesley's suggestion that Plaintiffs are required to go to an Ohio court when he has effectively obtained a bar to all Ohio legal procedures. Defendant Chesley's conduct has left Plaintiffs without a remedy. They have a substantial judgment they cannot otherwise enforce because Defendant Chesley is "attempting to impede the plaintiffs from executing on the Judgment."

CONCLUSION

For the foregoing reasons and the reasons set forth in Plaintiffs' Memorandum of Law, Plaintiffs respectfully request that this Court order that [REDACTED]

[REDACTED]

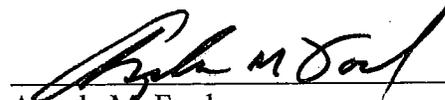
[REDACTED]

[REDACTED]

[REDACTED]

² No doubt the only reason Defendant Chesley excepted himself from the discovery ban is the fact that Plaintiffs do not need to go through Ohio courts to obtain discovery from him.

Respectfully submitted,



Angela M. Ford
KBA No. 81510
Chevy Chase Plaza
836 Euclid Avenue, Suite 311
Lexington, Kentucky 40502
(859) 268-2923
Email: amford@windstream.net

William T. Ramsey
NEAL & HARWELL, PLC
TBA No. 9248
150 Fourth Avenue North
Suite 2000
Nashville, TN 37219
(615) 244-1713
Email: bramsey@nealharwell.com

COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served via electronic and U.S. Mail this the 8 day of June, 2015, to the following:

Frank Benton, IV, Esq.
P.O. Box 72218
Newport, KY 41072

Mary E. Meade-McKenzie, Esq.
105 Seahawk Drive
Midway, KY 40347

Mitzy L. Evans
Evans Law Office
177 South Main Street
P.O. Box 608
Versailles, KY 40383

Luther C. Conner, Jr., Esq.
103 Cross Street
Albany, KY 42602

Sheryl G. Snyder, Esq.
Griffin Terry Sumner, Esq.
Frost Brown Todd LLC
400 West Market St., 32nd Floor
Louisville, KY 40202

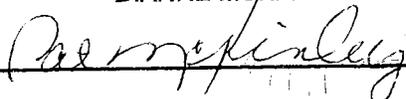
Michael R. Dowling, Esq.
P.O. Box 1689
Ashland, KY 41105-1689



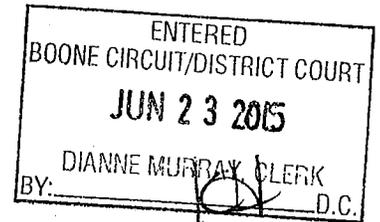
COUNSEL FOR PLAINTIFFS

STATE OF KENTUCKY
COUNTY OF BOONE
I, DIANNE MURRAY, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

This 13 day of August, 2015
DIANNE MURRAY

By:  D.C.

COMMONWEALTH OF KENTUCKY
BOONE CIRCUIT COURT
DIVISION III
CASE NO. 05-CI-00436



MILDRED ABBOTT, et al.

PLAINTIFFS

V.

STANLEY M. CHESLEY, et al.

DEFENDANTS

ORDER

This matter comes before the Court on the Plaintiff's Motion to Transfer Beneficial Interest in Property Held in Trust. The Court having read the memorandums filed by the parties, reviewed the file, and being in all ways sufficiently advised, hereby finds as follows:

This Court entered judgment against Defendant Chesley on August 1, 2014, finding him jointly and severally liable as a matter of law for the \$42 million in damages previously awarded to Plaintiffs against Defendant's Gallion, Cunningham, and Mills. Said Judgment was made final pursuant to CR 54.02 and Defendant Chesley did not post a supersedeas bond to secure a stay of enforcement pending appeal.

As part of post-judgment discovery, Defendant Chesley disclosed the Wind-Up Agreement for his former law firm, Waite, Schneider, Bayless & Chesley, Co., L.P.A. ("WSBC"). The Wind-Up Agreement provides that Defendant Chesley would transfer his shares in WSBC to Thomas F. Rehme to hold in trust for the exclusive purposes of winding up WSBC for the benefit of its employees, creditors, and Chesley. Per the Agreement, Mr. Rehme is authorized to liquidate corporate assets and distribute proceeds to creditors as required and the pay out the remainder to Defendant Chesley as long as Defendant Chesley does not receive any legal fees other than for services performed prior to the effective date of his retirement.

Both prior to and after Defendant Chesley was disbarred in Kentucky and his retirement of his Ohio bar license, he transferred more than \$59 million dollars from his personal accounts to WSBC. \$1,322,000 of that amount was transferred on or after the date of the Wind-Up Agreement.

Defendant Chesley still owns a beneficial interest in WSBC. Plaintiffs argue that this interest is subject to execution for the purpose of satisfying Plaintiff's Judgment against Defendant Chesley. To this end, Plaintiff requests that the Court order that Defendant Chesley's beneficial interest in WSBC be transferred to Plaintiffs and that any distributions that would be made to Defendant Chesley be made to the Plaintiffs through their counsel.

Defendant Chesley objects, arguing that WSBC is an Ohio legal professional association formed and maintained under Chapter 1785 of the Ohio Revised Code and, therefore, an Order such as the Plaintiff is requesting exceeds this Court's jurisdiction. The Court disagrees.

There is no dispute that this Court has personal jurisdiction over Defendant Chesley. He is a party to the case at hand and a valid judgment has been entered against him, a judgment which the Plaintiffs are within their rights to seek the Court's assistance to collect.

The law is clear that when the Judgment state has personal jurisdiction over the judgment debtor, that state may exercise that jurisdiction to take action on that judgment. *See Estates of Ungar ex rel. Strachman v. Palestinian Authority*, 715 F.Supp.2d 253, 262-64 (D.R.I. 2010). The Restatement (Second) Conflict of Laws § 55 (1971) states that, "a state has power to exercise judicial jurisdiction to order a person, who is subject to its judicial jurisdiction, to do, or not do, an act in the state, although the carrying out of the decree may affect a thing in another state." Furthermore, K.R.S. § 426.384 gives the Court the authority to enforce the surrender of money,

securities, or any other property of the defendant in the execution and enforcement of a judgment.

IT IS HEREBY ORDERED AND ADJUDGED as follows:

1. Defendant Chesley shall direct that his beneficial interest in the shares of WSBC be transferred to Plaintiffs within fourteen (14) days of the date of this Order and all distributions pursuant to said interest are to be made to Plaintiffs through their counsel;
2. Defendant Chesley is hereby Ordered to direct Thomas F. Rehme to make all payments derived from Chesley's interest in the shares of WSBC payable to the Plaintiffs through their counsel, Hon. Angela Ford;
3. If for any reason, including but not limited to any action by another court in any other jurisdiction, monetary payment(s) is/are made to Chesley from his interest in WSBC, Chesley and his attorney shall immediately turn over said payment(s) to Plaintiffs' counsel, Angela Ford;
4. Defendant Chesley and his counsel are to provide a copy of this Order to Thomas F. Rehme.

DATED this 23rd day of June, 2015.



JAMES R. SCHRAND, JUDGE
BOONE CIRCUIT COURT

COPIES TO: ALL ATTORNEYS OF RECORD

STATE OF KENTUCKY
COUNTY OF BOONE
I, DIANNE MURRAY, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

This 13 day of August, 2015
DIANNE MURRAY

By: Patricia M. Schrand D.C.

CERTIFICATE
I, DIANNE MURRAY, clerk of the Boone District/Circuit
Court, hereby certify that I have mailed a copy of the
foregoing order and notice to all parties hereto at
their last known addresses or their counsel of record
This 23 day of June, 2015
DIANNE MURRAY
BOONE DISTRICT/CIRCUIT COURT
Schrand D.C.



**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
August 21, 2015 11:40 AM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 433835**

STANLEY M CHESLEY

vs.

ANGELA M FORD

A 1500067

**JUDGE
ROBERT P RUEHLMAN**

FILING TYPE: MOTION

PAGES FILED: 112

EFR200

EXHIBIT

14

exhibitsticker.com

**COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

STANLEY M. CHESLEY	:	Case No. A1500067
	:	
Petitioner,	:	Judge Ruehlman
	:	
v.	:	MOTION FOR LEAVE TO FILE
	:	VERIFIED STATEMENT OF
ANGELA M. FORD, ESQ., et al.	:	SUPPLEMENTAL FACTS IN
	:	SUPPORT OF PETITION FOR
Respondents.	:	PERMANENT INJUNCTION

Pursuant to Ohio Rule of Civil Procedure 15(E), Petitioner Stanley M. Chesley ("Chesley") respectfully moves this Court for leave to file his Statement of Supplemental Facts in Support of Petition for Permanent Injunction (the "Supplement", attached hereto as Exhibit A) to address the facts and circumstances related to three pending enforcement actions recently filed by Respondent Angela M. Ford ("Ford") in Colorado, Nevada, and Louisiana. Chesley endeavors to alert this Court to Ford's continued disregard for the formalities required under the Uniform Enforcement of Foreign Judgments Act ("UEFJA"), and therefore demonstrate Chesley's continued need for a permanent injunction.

The reasons for this Motion are more fully set forth in the attached Memorandum in Support. For the Court's convenience, a proposed Order is attached as Exhibit B.

Respectfully submitted,

/s/ Vincent E. Mauer
Vincent E. Mauer (0038997)
FROST BROWN TODD LLC
3300 Great American Tower
301 East Fourth Street
Cincinnati, Ohio 45202
513-651-6785
Fax 513-651-6981
vmauer@fbtlaw.com

MEMORANDUM IN SUPPORT

This action commenced upon Chesley's Verified Petition for an injunction, which sought to enjoin Ford from enforcing a judgment against Chesley (the "Chesley Judgment") without providing Chesley with certain information required under Ohio law. *See* RC 2329.023. Pursuant to Chesley's petition, on January 14, 2015, this court entered a preliminary injunction.

Months after the initial pleadings were filed in this case, Ford embarked on a crusade across the country, seeking to execute the Chesley Judgment in Colorado, Nevada, and Louisiana. Each of those states has enacted a version of the UEFJA, and Ford has purported to file each of the Chesley Judgments in the various state courts in accordance with the UEFJA. Yet, despite the relative uniformity of the applicable law in each state, each of Ford's filings has varied. The Supplement outlines these variations, identifies the relevant subsections of each state's law, and provides examples of how Ford's filings continue to disregard the express language of the statute.

The Rules of Civil Procedure permit "a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented" when notice is "reasonable" and when the terms of such are "just." Civ.R. 15(E). Leave to file a Supplemental Complaint "shall be freely given." *Westfield Ins. Co. v. O.K.L. Can Line*, 155 Ohio App.3d 747, 762 (2003). While the Supplement is styled as a "Statement of Supplemental Facts," rather than a "Supplemental Petition," it serves exactly the same purpose—apprising the Court of certain events that have arisen since the initial filing.

To start, allowing the proposed Supplement advances several goals, including highlighting Ford's continued efforts to enforce the judgment against Chesley without following the procedures outlined in the UEFJA, and, most importantly, illustrating the ongoing need for a

permanent injunction. Simply put, the facts included in the Supplement confirm that there is a concrete, imminent risk that Ford will domesticate the Chesley judgment in Ohio without heed to the provisions of RC 2329.021, *et seq.*

Further, there is no reason not to allow Chesley to supplement the original Petition. While the action has been pending for some time, the permanent injunction hearing has not yet been held, and Ford, of course, already knows what she did in Louisiana, Nevada and Colorado.

Accordingly, Petitioner Stanley M. Chesley requests that this Court grant him leave to file his Statement of Supplemental Facts in Support of Petition for Permanent Injunction.

Respectfully submitted,

/s/ Vincent E. Mauer
Vincent E. Mauer (0038997)
FROST BROWN TODD LLC
3300 Great American Tower
301 East Fourth Street
Cincinnati, Ohio 45202
513-651-6785
Fax 513-651-6981
vmauer@fbtlaw.com

CERTIFICATE OF SERVICE

I hereby certify that a on this 21st day of August, 2015, a copy of the foregoing was served by first class U.S. Mail, postage prepaid, upon:

Brian Sullivan, Esq.
Christen M. Steimle, Esq.
Dinsmore & Shohl, LLP
255 East Fifth Street, Suite 1900
Cincinnati, Ohio 45202

Donald J. Rafferty, Esq.
Cohen Todd Kite & Sanford, LLC
250 E. Fifth Street, Suite 2350
Cincinnati, Ohio 45202

/s/ Vincent E. Mauer

EXHIBIT A

**COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

STANLEY M. CHESLEY	:	Case No. A1500067
	:	
Petitioner,	:	Judge Ruehlman
	:	
v.	:	STATEMENT OF
	:	SUPPLEMENTAL FACTS IN
ANGELA M. FORD, ESQ., et al.	:	SUPPORT OF PETITION FOR
	:	PERMANENT INJUNCTION
Respondents.	:	

Petitioner Stanley M. Chesley (“Chesley”) files with the Court this Statement of Supplemental Facts In Support of Petition For Permanent Injunction. This document does not add additional parties or change the nature of the relief sought by Chesley. The following facts all occurred after Chesley filed his initial petition in this matter:

FACTS RELATED TO NEVADA

1. Nevada has enacted a version of the Uniform Enforcement of Foreign Judgment Act, Nevada Revised Statutes 17.330 to 17.400 (“UEFJA”). For all relevant purposes, the Nevada version of the UEFJA is the same as Ohio’s version of that statute, Ohio Rev. Code Section 2329.021, *et seq.* The UEFJA requires that when domesticating a foreign judgment, the filing include (a) the name of each judgment creditor; (b) the address of each judgment creditor; (c) the amount owed to each; and (d) the total amount owed must also be disclosed.

2. Acting through Nevada counsel and allegedly on behalf of Chesley’s Judgment Creditors, on May 26, 2015 Ford filed a Notice of Filing Application of Foreign Judgment and Affidavit of Judgment Creditor’s Attorney (Ford’s “Nevada Filing”). A copy of the Nevada Filing is attached hereto as Exhibit A.

3. Ford’s Nevada filing under the UEFJA has the exact same deficiencies that Chesley identified to this Court. Among those deficiencies are the following:

A. Ford attached the Boone Circuit Court's September 19, 2014 Amended Order (the "Kentucky Amended Order") that purports to award a judgment against Chesley to the "Plaintiffs." Ford is representing to the Nevada court that the Kentucky Amended Order is the operative judgment that she seeks to enforce.

B. The Nevada Filing has a list of 382 names that Ford alleges are Chesley's "judgment creditors." Despite the fact that the Kentucky Amended Order states that the "Plaintiffs" are the judgment creditors, Ford's list includes names that have never been identified as "plaintiffs" in the Boone Circuit Court case and omits other entities that are named "plaintiffs" in that case. It is impossible for the court in Nevada to determine that persons entitled to collect the Chesley Judgment are the parties who in fact are enforcing the judgment in Nevada.

C. Ford's Nevada Filing asserts that the "last known address [in the singular, sic] for the Judgment Creditors" is "PF Judgment Creditors c/o Angela M. Ford, PSC." Ford has never asserted that "PF Judgment Creditors" is anything other than a pseudonym for Ford and, in fact, there is no entity named "PF Judgment Creditors" that actually exists and holds a judgment against Chesley. It is untrue that any of the Judgment Creditors reside in Ford's law office.

D. The Kentucky Amended Order purports to award a judgment against Chesley to the "Plaintiffs" in the amount of \$42,000,000. Ford does not state the amount owed to any particular judgment creditor. Ford's Nevada filing does not assert the total amount now owed either to any particular judgment creditor or in total. Ford admits that she has collected \$17,868,298¹ against the \$42,000,000 judgment amount. Ford's Nevada filing contends that interest has been accruing, but she does not state the interest start date. The total owed on the Chesley Judgment cannot be known without an accurate calculation of the amount of interest owed. Therefore, the Nevada court cannot act to insure that Ford does not collect more than is owed on the Chesley Judgment.

4. Despite these deficiencies, Ford was able to take collection action using the Nevada judgment created by her flawed domestication. Ford issued four legally inappropriate

¹ Ignoring Chesley's multiple requests, Ford has refused to demonstrate the accuracy of this figure or disclose the dates when collections occurred despite the fact that the accrual of interest must be adjusted downward as collections occur and the outstanding balance owed is reduced. Chesley has reason to believe that Ford's collections in this matter are, in fact, more than double the admitted amount.

writs of garnishment and sets of collection related interrogatories. Each of (i) the Castano Directed Distribution Trust (“Castano Trust”) and (ii) the Castano Trust’s bank, Wells Fargo, were targeted by one of Ford’s Nevada writ of garnishment. A copy of the Writ of Execution issued in Nevada is attached as Exhibit B. Those two writs were illegal in many respects including the following:

- A. Ford tried to garnish money that might be Chesley’s share of money owed to the “Waite Schneider Bayless & Chesley Deferred Compensation Trust” (the “Compensation Trust”). Amounts owed to Chesley under the Compensation Trust, if any, are likely exempt under Ohio Rev. Code 2329.66(10).²
- B. The Compensation Trust is not a judgment debtor and so cannot be garnished.
- C. The Compensation Trust has no presence in Nevada and no connection to the Castagno Trust.
- D. The Compensation Trust is an Ohio entity and protected from Ford’s attack by the Court’s January 14, 2015 Restraining Order.
- E. Ford provided no way for a judge in Nevada or the Nevada garnishees to determine what portion, if any, of monies subject to garnishment in Nevada and payable to the Compensation Trust are distributable to Chesley.
- F. Ford sought to seize all amounts in the bank account of the Castano Trust at Wells Fargo. Ford took this action despite her actual knowledge that (i) the Castano Trust is not a judgment debtor under the Chesley Judgment, (ii) the Castano Trust has over 100 separate beneficiaries, (iii) one of which is WSBC³ and (iv) the judgment debtor in this matter, Chesley, is not a beneficiary of the Castano Trust. Of course, Ford did not disclose any of this information to the Nevada court.

² Section 2329.66(10)(b) exempts from collection, in part, Chesley’s “rights to receive or interests in receiving a payment or other benefits under any pension, annuity, or similar plan or contract, not including a payment or benefit from a stock bonus or profit-sharing plan or a payment included in division (A)(6)(b) or (10)(a) of this section, on account of illness, disability, death, age, or length of service . . .”

³ WSBC is also not a judgment debtor and amounts owed to it cannot be garnished by Ford.

G. Ford's garnishment to Wells Fargo prevented the timely distribution of over \$10,000,000 to over 130 beneficiaries of the Castano Trust. None of these persons are judgment debtors.

5. Ford also used the illegally obtained Nevada judgment to issue writs of garnishment and collection related interrogatories to Chesley's Kentucky counsel, Frost Brown Todd LLC and Benton Benton & Luedeke. Neither of those firms have offices in Nevada. The writs of garnishment were not served in Nevada or as required by Nevada law. A copy of the Writ of Garnishment served on Frost Brown Todd is attached hereto as Exhibit C.

6. Ford's four garnishment writs included poorly constructed nonsensical interrogatories addressed to the garnishees. *Inter alia*, Ford referred to "Abbott" as the "defendant" and she caused the Las Vegas Township Constable to direct Chesley's two Kentucky counsel to "under oath" violate Chesley's attorney client privilege and disclose information to Ford.

FACTS RELATED TO LOUISIANA

7. Louisiana has enacted a version of the Uniform Enforcement of Foreign Judgment Act, Louisiana Revised Statute 13:4241. *et seq.* ("UEFJA"). For all relevant purposes, the Louisiana version of the UEFJA is the same as Ohio's version of that statute, Ohio Rev. Code Section 2329.021, *et seq.* The UEFJA requires that when domesticating a foreign judgment, the filing include (a) the name of each judgment creditor, (b) the address of each judgment creditor and (c) the amount owed to each; also, (d) the total amount owed must also be disclosed.

8. Acting through Louisiana counsel and allegedly on behalf of Chesley's Judgment Creditors, on June 1, 2015 Ford filed her Ex Parte Petition To Make Foreign Judgment Executory (Ford's "Louisiana Filing"). A copy of the Louisiana Filing is attached hereto as Exhibit D.

9. Ford's Louisiana Filing included as an attachment the Boone Circuit Court's October 22, 2014 Second Amended Judgment. Ford is representing to the Louisiana court that the "Second Amended Judgment" is the operative judgment that Ford seeks to enforce.

10. The document Ford asserts is operative in Nevada (the Kentucky Amended Order) is not the document she says is operative and is enforcing in Louisiana, the Second Amended Order. Ford is lying to the court in Nevada or Louisiana or both.

11. Ford's filing under the UEFJA in Louisiana is better than her filing in Nevada, but it still has errors and omissions:

A. The Second Amended Judgment purports to award a judgment against Chesley to the "Plaintiffs." The Louisiana Filing has a list of 382 names that Ford alleges are Chesley's "judgment creditors." That list includes names that have never been identified as "plaintiffs" in the Boone Circuit Court and omits other entities that are named "plaintiffs" in that case. It is impossible for the court in Louisiana to determine that persons entitled to collect the Chesley Judgment are the parties in Louisiana.

B. Ford's Louisiana Filing asserts that the "last known address [in the singular, sic] for the Judgment Creditors" is "PF Judgment Creditors c/o Angela M. Ford, PSC." Ford has never asserted that PF Judgment Creditors is anything other than a pseudonym for Ford and, in fact, there is no entity named "PF Judgment Creditors" that actually exists and holds a judgment against Chesley. It is actually untrue that any of the Judgment Creditors reside in Ford's law office.⁴

C. Ford's Louisiana Filing does not assert either (i) the total amount now owed or (ii) the debt owed to each particular judgment creditor. Ford admits that she has collected \$17,868,298⁵ against the \$42,000,000 judgment amount. Ford's Louisiana Filing contends that interest has been accruing, but she does not state

⁴ Ford's Nevada filing provides no further indication of the actual address of the judgment creditors. Ford's Louisiana and Colorado filings, however, provides the town/city and state where each of the 382 putative judgment creditors resides but does not disclose a street address or zip code.

⁵ Despite Chesley's requests, Ford has refused to demonstrate the accuracy of this figure or disclose the dates when collections occurred despite the fact that the accrual of interest must be adjusted downward as collections occur and the outstanding balance owed is reduced.

the interest accrued to date. The total owed on the Chesley Judgment cannot be known without an accurate calculation of the amount of interest owed. Therefore, the Louisiana court cannot act to insure that Ford does not collect more than is owed on the Chesley Judgment.

D. Effectively admitting one of her mistakes in Nevada, the Louisiana Filing tries to describe “PF Judgment Creditors” by including a footnote that states “PF Judgment Creditors are a group of 382 judgment creditors, a list of those creditors is attached in Exhibit B-1. ‘Their respective domiciles are listed in Exhibit C.’” In fact, of course, the actual “domiciles” are not listed since only the city/state is provided. Apparently PF Judgment Creditors is an unincorporated association controlled by Ford since not all of its members are “plaintiffs” and not all “plaintiffs” in the Kentucky case are members of PF Judgment Creditors.

12. On June 2, 2015, one day after Ford filed her deficient domestication papers, Ford was issued a “Judgment” in Louisiana against Chesley in favor of the “PF Judgment Creditors.” (the “Louisiana Judgment”). This “one day” judgment⁶ that Ford received *ex-parte* is exactly the irreparable harm that Chesley feared and the Court foresaw when the Restraining Order was issued. Ford ignored requirements of the UEFJA and Ford got a judgment in one day. The same might have happened in Ohio but for the Restraining Order.

13. There are several problems with the “one day” *ex parte* Louisiana Judgment:

A. There is no entity or formal group of persons known as “PF Judgment Creditors” that holds a judgment against Chesley;

B. Since it was granted *ex parte*, there was no opportunity for Chesley to challenge the finding that Ford “satisfied” the above-described requirements of Louisiana’s UEFJA; and

C. The Louisiana Judgment was made “EXECUTORY” (emphasis original) on that date, thus denying Chesley the opportunity to assert his belief that Ford has overstated the amount owed.

⁶ A copy of Ford’s “one day” judgment is attached as Exhibit E.

FACTS RELEVANT TO COLORADO

14. Colorado has enacted a version of the Uniform Enforcement of Foreign Judgment Act, Section 13-53-101, *et seq.* Colorado Revised Statutes (“UEFJA”). For all relevant purposes, the Colorado version of the UEFJA is the same as Ohio’s version of that statute, Ohio Rev. Code Section 2329.021, *et seq.* The UEFJA requires that when domesticating a foreign judgment, the filing include (a) the name of each judgment creditor, (b) the address of each judgment creditor and (c) the amount owed to each; also, (d) the total amount owed must also be disclosed.

15. Acting through Colorado counsel and allegedly on behalf of Chesley’s Judgment Creditors, on July 31, 2015 Ford filed in Colorado a Notice of Filing Application of Foreign Judgment (the “Colorado Filing”). A copy of the Colorado Filing is attached as Exhibit F.

16. Ford’s Colorado Filing included as an attachment the Boone Circuit Court’s October 22, 2014 “Second Amended Judgment.” Ford is representing to the Colorado court that the “Second Amended Judgment” is the operative judgment that Ford seeks to enforce. This is not the same document that Ford’s Nevada filing asserts is operative.⁷

17. The Colorado Filing states “see attached Exhibit A for a list of each plaintiff / judgment creditor and their corresponding address.” In fact, the Colorado Filing mirrors the Louisiana Filing by providing names and cities / towns – but not actual addresses for any judgment creditor.

18. In the Colorado Filing, Ford abandons the pretense of “PF Judgment Creditors.” No reference to that phony organization can be found in the Colorado Filings. Instead, Ford reverts to use of “Mildred Abbott, et al. c/o Angela M. Ford, Esq.” Ironically, the list of putative “Plaintiffs / Judgment Creditors” shown on Exhibit A does not include Mildred Abbott, instead,

⁷ Given that Ford used the Second Amended Judgment in both Louisiana and Colorado, it seems clear that Ford misled the Nevada court when she used the Kentucky Amended Order.

the reference is to the "Abbott Estate." A probate or bankruptcy estate is, of course, a separate legal entity. No filing in the Kentucky case ever replaced Plaintiff Mildred Abbott with the separate legal entity, an estate.

WHEREFORE, Petitioner Chesley prays for the relief requested in the Second Amended Verified and Supplemental Petition for Declaratory Judgment and Injunctive Relief filed in this matter.

Respectfully submitted,

/s/ Vincent E. Mauer
Vincent E. Mauer (0038997)
FROST BROWN TODD LLC
3300 Great American Tower
301 East Fourth Street
Cincinnati, Ohio 45202
513-651-6785
Fax 513-651-6981
vmauer@fbtlaw.com

CERTIFICATE OF SERVICE

I hereby certify that a on this ___ day of August, 2015, a copy of the foregoing was served by first class U.S. Mail, postage prepaid, upon:

Brian Sullivan, Esq.
Christen M. Steimle, Esq.
Dinsmore & Shohl, LLP
255 East Fifth Street, Suite 1900
Cincinnati, Ohio 45202

Donald J. Rafferty, Esq.
Cohen Todd Kite & Sanford, LLC
250 E. Fifth Street, Suite 2350
Cincinnati, Ohio 45202

/s/ Vincent E. Mauer

0118087.0619701 4850-2907-3702v2

EXHIBIT A

1 NOFA
2 ELEISSA C. LAVELLE, ESQ.
3 Nevada State Bar No. 293
4 FABIAN & CLENDENIN, P.C.
5 601 South Tenth Street, Suite 204
6 Las Vegas, NV 89101
7 Telephone: (801) 323-2207
8 Facsimile: (877) 898-1168
9 E-Mail: elavelle@fabianlaw.com
10 Attorneys for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

11 MILDRED ABBOTT, et al.

12 Plaintiffs,

13 vs.

14 STANLEY M. CHESLEY, et al.

15 Defendants.

CASE NO. A-15-718827-F

DEPT. NO. XXX

NOTICE OF FILING APPLICATION OF
FOREIGN JUDGMENT AND AFFIDAVIT
OF JUDGMENT CREDITOR'S
ATTORNEY

16 TO: STANLEY M. CHESLEY, Defendant; and

17 TO: SHERYL G. SNYDER, ESQ. and FRANK BENTON, IV, ESQ., Attorneys for Defendant

18 PLEASE TAKE NOTICE that an Application for Filing of Foreign Judgment was filed in
19 the District Court, Clark County, Nevada on May 21, 2015, and is attached hereto, which
20 Application includes:
21

- 22
- 23 1. A copy of the Exemplified Copy of the of the Amended Order of the Boone Circuit Court,
24 Division III, Commonwealth of Kentucky, entered on September 19, 2014 in Case No. 05-
25 CI 436; and

- 26 2. A copy of the Affidavit of Judgment Creditor's Attorney Pursuant to NRS 17.360.

27 The post office address of the Judgment Creditors, all of whom are identified in the



NOTICE OF FILING OF FOREIGN JUDGMENT AND AFFIDAVIT - 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

attachment to the Affidavit of Judgment Creditor's Attorney Pursuant to NRS 17.360, is:

Mildred Abbot, et al
c/o Angela Ford, Esq.
836 Euclid Ave, Suite 311
Lexington, KY 40502

The name and post office address of the Judgment Creditors' attorney in Nevada are:

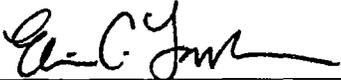
Eleissa C. Lavelle, Esq.
Fabian & Clendenin, P.C.
601 South Tenth Street, Suite 204
Las Vegas, NV 89101

The name and post office address of the Judgment Creditors' attorney in Kentucky are:

Angela Ford, Esq.
836 Euclid Ave, Suite 311
Lexington, KY 40502

Dated this 26th day of May, 2015.

FABIAN & CLENDENIN, P.C.



ELEISSA C. LAVELLE, ESQ.
Nevada State Bar No. 293
FABIAN & CLENDENIN, P.C.
601 South Tenth Street, Suite 204
Las Vegas, Nevada 89101
Attorneys for Plaintiffs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

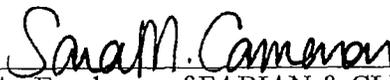
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 26th day of May, 2015, she served a copy of a Notice of Filing Application of Foreign Judgment and Affidavit of Judgment Creditor's Attorney by personally depositing a copy of the same in a mail box of the United States Post Office, enclosed in a sealed envelope, postage prepaid, certified mail, return receipt requested, addressed to the following at their last known addresses:

Stanley M. Chesley
9005 Carmargo Road
Cincinnati, Ohio 45243

Sheryl G. Snyder, Esq.
Griffin Terry Sumner, Esq.
Frost Brown Todd, LLC
400 West Market Street, 32nd Floor
Louisville, Kentucky 41072

Frank Benton IV, Esq.
P.O. Box 72218
Newport, Kentucky 41072


An Employee of FABIAN & CLENDENIN, P.C.

DISTRICT COURT CIVIL COVER SHEET A-15-718827-F

CLARK

County, Nevada

XXX

Case No. _____
(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Mildred Abbott, et al. c/o Angela Ford, PSC 836 Euclid Avenue, Suite 311 Lexington, KY 40502	Defendant(s) (name/address/phone): Stanley M. Chesley, et al. 9005 Camargo Road Cincinnati, OH 45243
Attorney (name/address/phone): Eleissa C. Lavelle - Fabian & Clendenin, P.C. 601 South Tenth Street, Suite 204 Las Vegas, NV 89101 Phone: (801) 323-2207 Email: elavelle@fabianlaw.com	Attorney (name/address/phone): Sheryl G. Snyder and Griffin Terry Sumner - Frost Brown Todd LLC 400 West Market St., 32nd Floor, Louisville, KY 40202 Frank Benton IV P.O. Box 72218, Newport, KY 41072

II. Nature of Controversy (please select the one most applicable filing type below)

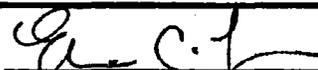
Civil Case Filing Types

<p align="center">Real Property</p> <p>Landlord/Tenant</p> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <p>Title to Property</p> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <p>Other Real Property</p> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<p align="center">Torts</p> <p>Other Torts</p> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort	
<p align="center">Probate</p> <p>Probate (select case type and estate value)</p> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <p>Estate Value</p> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<p align="center">Construction Defect & Contract</p> <p>Construction Defect</p> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <p>Contract Case</p> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<p align="center">Judicial Review/Appeal</p> <p>Judicial Review</p> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <p>Nevada State Agency Appeal</p> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <p>Appeal Other</p> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<p align="center">Civil Writ</p> <p>Civil Writ</p> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant	<p align="center">Other Civil Filing</p> <p>Other Civil Filing</p> <input type="checkbox"/> Compromise of Minor's Claim <input checked="" type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters	

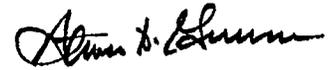
Business Court filings should be filed using the Business Court civil coversheet.

May 21, 2015

Date


Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

1 AFJ
2 ELEISSA C. LAVELLE, ESQ.
3 Nevada State Bar No. 293
4 FABIAN & CLENDENIN, P.C.
5 601 South Tenth Street, Suite 204
6 Las Vegas, NV 89101
7 Telephone: (801) 323-2207
8 Facsimile: (877) 898-1168
9 E-Mail: elavelle@fabianlaw.com
10 Attorneys for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

11 MILDRED ABBOTT, et al.

12 Plaintiffs,

13 vs.

14 STANLEY M. CHESLEY, et al.

15 Defendants.

CASE NO. A-15-718827-F

DEPT. NO. XXX

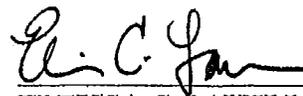
APPLICATION FOR FILING OF
FOREIGN JUDGMENT PURSUANT TO
NRS 17.330, et. seq.

16 COMES NOW, Eleissa C. Lavelle, Esq., of the law firm of Fabian & Clendenin, P.C. and
17 files herewith the following documents constituting an Application for Filing of Foreign Judgment
18 pursuant to NRS 17.330, et. seq.:

- 19 1. Exemplified Copy of the Amended Order of the Boone Circuit Court, Division III,
20 Commonwealth of Kentucky, entered on September 19, 2014 in Case No. 05-CI 436
(Attachment 1); and
- 21 2. Affidavit of Judgment Creditor's Attorney Pursuant to NRS 17.360 (Attachment 2).

22 Dated this 21st day of May, 2015.

FABIAN & CLENDENIN, P.C.



ELEISSA C. LAVELLE, ESQ.
Nevada State Bar No. 293
FABIAN & CLENDENIN, P.C.
601 South Tenth Street, Suite 204
Attorneys for Plaintiffs

ATTACHMENT 1

COMMONWEALTH OF KENTUCKY

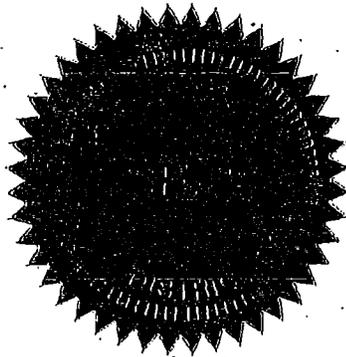
COUNTY OF BOONE

* * *

CERTIFICATION

ACT OF

CONGRESS



AOC-065
Rev. 12-04
Page 1 of 1
Commonwealth of Kentucky
Court of Justice www.kycourts.net
28 U.S.C. Sec.1738;
FRCP Rule 44



CERTIFICATION ACT
OF CONGRESS

(FOR OUT OF STATE USE)

County BOONE

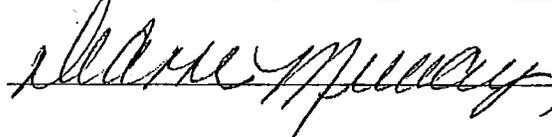
UNITED STATES OF AMERICA

STATE OF KENTUCKY,
BOONE County SS.

I, DIANNE MURRAY, Clerk of CIRCUIT Court, in and for the State and County aforesaid, do hereby certify that the foregoing is a full, true and correct copy of CASE # 05-CI-00436 AMENDED ORDER

In the above-styled case, as appears of record in my office,

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the Court aforesaid, at the city of BURLINGTON, this 21st day of APRIL, 2015.

 Clerk

STATE OF KENTUCKY,
BOONE County SS.

I, J.R. SCHRAND, Judge of the CIRCUIT Court in the state and county aforesaid, do certify that DIANNE MURRAY, who has signed the foregoing certificate, is, and was at the time of same, Clerk of said Court, duly elected and qualified; that all his/her official acts as such are entitled to full faith and credit, and that his/her foregoing attestation is in due form of law.

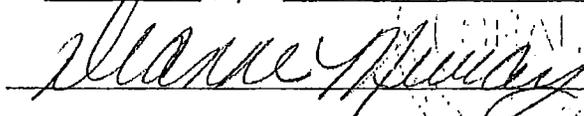
GIVEN UNDER MY HAND, at the City of BURLINGTON, this 21st day of APRIL, 2015.

 Judge

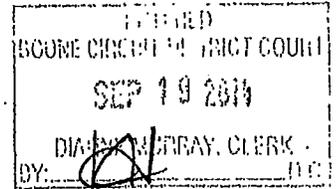
STATE OF KENTUCKY,
BOONE County SS.

I, DIANNE MURRAY, Clerk of the CIRCUIT Court in the State and county aforesaid, do certify that J.R. SCHRAND, who signed the foregoing certificate, is and was at the time of signing same, Judge of said Court, duly elected and qualified; that all of his/her official acts as such are entitled to full faith and credit, and that his/her foregoing attestation is in due form of law.

GIVEN UNDER MY HAND, at the City of BURLINGTON, this 21st day of APRIL, 2015.

 Clerk

COMMONWEALTH OF KENTUCKY
BOONE CIRCUIT COURT
DIVISION III
CASE NO. 05-CI-00436



MILDRED ABBOTT, et al.

PLAINTIFFS

V.

STANLEY M. CHESLEY, et al.

DEFENDANTS

AMENDED ORDER

This Court conducted a hearing in this matter on July 15, 2014 on Plaintiffs' Motion for Partial Summary Judgment as to Defendant Stanley M. Chesley ("Chesley"). The Plaintiffs were represented by Hon. Angela Ford. The Defendants were represented by Hon. Sheryl G. Snyder and Hon. Frank V. Benton, IV. The Court having reviewed Plaintiffs' Motion, Chesley's Response, Plaintiffs' Reply, having heard argument from counsel, and being in all ways sufficiently advised, finds as follows:

This Court, by the March 8, 2006 Order of Senior Status Judge William Wehr, previously granted summary judgment against Defendants William J. Gallion, Shirley Allen Cunningham, Jr. and Melbourne Mills, Jr. on Plaintiffs' breach of fiduciary duty claims in their representation of Plaintiffs in the *Darla Guard, et al. v. A.H. Robbins Company, et al.* lawsuit which involved injuries Plaintiffs suffered as a result of ingesting the "fen-phen" diet drug. The Court awarded damages in the amount of \$42 million (by Order of August 1, 2007) and ruled the Defendants were jointly and severally liable to the Plaintiffs. The Supreme Court of Kentucky affirmed the partial summary judgment against Gallion, Cunningham and Mills, including that each was jointly and severally liable for the amounts owed. Plaintiffs now ask this Court to order summary judgment on their breach of fiduciary claims against Chesley, that Chesley be jointly and

severally liable with Gallion, Cunningham and Mills for the amounts owed to Plaintiffs, and that Chesley disgorge all fees he collected in the *Guard* matter.

The Kentucky Bar Association instituted disciplinary proceedings relating to Chesley's actions in the *Guard* matter in *Kentucky Bar Association v. Chesley*, KBA File 13785. The Trial Commissioner conducted a hearing and found that Chesley had violated eight (8) different ethics rules. The Trial Commissioner recommended that Chesley be permanently disbarred from the practice of law in Kentucky, and that he pay \$7,555,000.00 in restitution to the *Guard* case clients. The Board of Governors of Kentucky adopted the Trial Commissioner's Report. The Supreme Court of Kentucky found Chesley guilty of violations of eight provisions of SCR 3.130 and followed the Board's recommendation that Chesley be permanently disbarred. The Supreme Court did not order that Chesley pay restitution. *Kentucky Bar Ass'n v. Chesley*, 393 S.W.3d 584 (Ky. 2013).

Plaintiffs argue that summary judgment is appropriate as to their breach of fiduciary duty claims through the doctrine of issue preclusion or collateral estoppel. Issue preclusion would bind Chesley to the factual and legal determinations made in the disciplinary proceedings before the Trial Commissioner, the Board of Governors, and the Supreme Court of Kentucky regarding the settlement of the *Guard* matter that resulted in his disbarment. Chesley disagrees.

The Trial Commissioner found, and the Supreme Court ratified, that Chesley violated the following specific provisions of SCR 3.130:

SCR 3.130-1.5(a) by accepting over \$20 million in attorney's fees, which exceeded the amount established by client contracts and contracts with co-counsel, and which were otherwise unreasonable.

SCR 3.130-1.5(c) by failing to provide clients with a written statement of the outcome of the matter, as well as the remittance to the client and the method of its determination. The contractual contingency fee contracts for the clients were either for 30% or 33 1/3% plus expenses of up to 3%. A 49% contingency fee was actually charged to the clients. Chesley's contractual agreement with class counsel was for 21% of fees upon successful settlement of the case, which should have been \$12,941,638.46 and not the \$20 million plus he received. He was paid \$7,555,000 in excess of his proper fee.

SCR 3.130-1.5(e)(2) by dividing fees without consent of clients.

SCR 3.130-5.1(c)(1) by knowingly ratifying specific misconduct of other lawyers.

SCR 3.130-1.8(g) by representing two or more clients in making an aggregate settlement of the claims without consent of the clients or disclosure to them of the existence and nature of all claims. Chesley was class counsel pursuant to his agreement with Gallion, Cunningham and Mills and therefore had the same duties as them with regarding the requirements of SCR 3.130-1.8(g).

SCR 3.130-3.3(a) by making a false statement of material fact to the tribunal.

SCR 3.130-8.1(a) by making a false statement of material fact in connection with a disciplinary matter.

SCR 3.130-8.3(c) (now SCR 3.130-8.4(c)) by engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

Issue preclusion, also known as collateral estoppel, "allows the use of an earlier judgment by one not a party to the original action to preclude relitigation of matters litigated in the earlier action." *Miller v. Admin. Office of Courts*, 361 S.W.3d 867 (Ky. 2011). A non-party in the former action may assert res judicata, a close cousin to issue preclusion, against a party to the former

action as long as the party against whom res judicata is pleaded had a realistically full and fair opportunity to present his case. *Id.* (quoting *Moore v. Commonwealth*, 94 S.W.2d 317 (Ky. 1997)). Additionally, the Supreme Court has addressed whether administrative agencies acting in a judicial capacity are entitled to the same res judicata effect as judgments of a court, finding that they do. *Ky. Bar Ass'n v. Harris*, 269 S.W.3d 414 (Ky. 2008).

Chesley's hearing before the Trial Commissioner was held November 5-6 and 12-13, 2009 before Judge Rod Messer and continued to September 13-15 and 20-24, 2010 before Judge William L. Graham. Chesley was represented at various times by Kent Westberry, Esq., James Gary, Esq., Frank Benton, IV, Esq., Scott Cox, Esq., Mark Miller, Esq., Sheryl Snyder, Esq. and Hon. Susan Dlott. Prior to the hearing, the testimony of five out of state witnesses was provided by video depositions, including 44 exhibits. During the several days the hearing was held, a total of 43 witnesses gave testimony either in person or by deposition, with the Trial Commissioner considering 124 exhibits. Additionally, the Trial Commissioner allowed time for the parties to submit briefs at the conclusion of the Hearing. The Court finds Chesley had a realistically full and fair opportunity to present his case before the Trial Commissioner.

Certain elements must be met for issue preclusion to operate as a bar to further litigation: "(1) at least one party to be bound in the second case must have been a party in the first case; (2) the issue in the second case must be the same issue as the first case; (3) the issue must have been actually litigated; (4) the issue was actually decided in that action; and (5) the decision on the issue in the prior action must have been necessary to the court's judgment and adverse to the party to be bound." *Id.* quoting *Yeoman v. Commonwealth Health Policy Bd.* 983 S.W.2d 459 (Ky. 1998).

The Court finds these elements have been met with regard to Plaintiffs' Motion in this matter and the findings in *KBA v. Chesley*. Chesley was a party bound by the KBA matter. The facts and circumstances at issue in the instant Motion were those at issue in the KBA matter. The facts and circumstances were litigated in the KBA matter before the Trial Commissioner at a hearing held November 5-6 and 12-13, 2009 and September 13-15 and 20-24, 2010, and reviewed by the Board of Governors and the Supreme Court of Kentucky. The Trial Commissioner made factual findings and legal conclusions, which were adverse to Chesley, and which were affirmed by the Board of Governors and the Supreme Court of Kentucky, said facts being those at issue in the instant Motion. The factual findings and legal conclusions by the Trial Commissioner, the Board of Governors and the Supreme Court of Kentucky were necessary for the outcome of the KBA matter.

This Court finds Chesley is bound by the factual findings and legal conclusions in the KBA matter. The Supreme Court found that by entering into an agreement with Gallion, Cunningham and Mills, Chesley signed on as co-counsel and was one of the attorneys representing the Plaintiffs in the *Guard* matter. He, therefore, assumed the same ethical responsibilities as Gallion, Cunningham and Mills, and the same responsibilities he would have with any other client. *Kentucky Bar Ass'n v. Chesley*. Chesley had the duty to know his fee responsibilities to his clients, specifically that he was to receive no more than 21% of one-third of the \$200,450,000.00 settlement, \$14,031,500.00. *Id.* Chesley received \$20,497,121.81. *Id.* The Supreme Court found that Chesley knowingly participated in a scheme to skim millions of dollars in excess attorney's fees from unknowing clients, and that he received and retained fees that he knew were improperly taken. *Id.* The Supreme Court further found that he purposefully attempted to avoid conversation and correspondence that would expose his knowledge of the

nefarious schemes of his co-counsel. *Id.* This Court finds that no genuine issues of material fact exist, and summary judgment is appropriate on Plaintiffs' Breach of Fiduciary claims. Chesley entered into an attorney-client relationship with the Plaintiffs in *Guard*. He breached his duty by accepting excess fees in the amount of \$6,465,621.81. Chesley's conduct caused Plaintiffs to receive only a portion of the settlement monies they were entitled to.

Plaintiffs also asks the Court to order that Chesley is jointly and severally liable with Gallion, Cunningham and Mills for the monies owed to Plaintiffs. The Supreme Court of Kentucky affirmed Judge Wehr's finding in this matter that Gallion, Cunningham and Mills were jointly and severally liable to Plaintiffs. The Supreme Court found that Gallion, Cunningham and Mills breached attorney-client contracts and therefore joint and several liability is not precluded by KRS 411.182. The Supreme also found that by the manner in which Gallion, Cunningham and Mills combined their efforts in the Fen-Phen litigation; they engaged in a joint enterprise, or joint adventure, an informal partnership existing for a limited purpose and duration, for which joint and several liability is properly assessed under KRS 362.220. *Abbott v. Chesley*, 413 S.W.3d 589 (Ky. 2013).

The Supreme Court enumerated the essential elements of a joint enterprise: (1) an agreement, express or implied, among the members of the group; (2) a common purpose to be carried out by the group; (3) a community of pecuniary interest in that purpose among the members; and (4) an equal right to a voice in the direction of the enterprise. *Id.* citing *Huff v. Rosenberg*, Ky., 496 S.W.2d 352 (1973). The Supreme Court adopted the findings of the Trial Commissioner in *KBA v. Chesley*, and this Court found above that issue preclusion bars the further litigation of Plaintiffs' breach of fiduciary duty claims against Chesley.

This Court now finds that no genuine issues of material fact exists, and as a matter of law Chesley is jointly and severally liable with Gallion, Cunningham and Mills for the \$42 million in damages awarded the Plaintiffs against Gallion, Cunningham and Mills by this Court's Order of August 7, 2007. Chesley signed on as co-counsel representing the Plaintiffs in the *Guard* matter when he entered into his fee-division contract with Gallion, Cunningham and Mills. Chesley shared the common purpose to be carried with Gallion, Cunningham and Mills. They agreed on how they would share the work and how they would share the profits. Chesley maintained a voice in the managerial control of the enterprise. The Court therefore finds that pursuant to KRS 362.220, Chesley is jointly and severally with Gallion, Cunningham and Mills for the damages the Plaintiffs suffered.

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that Plaintiffs' Motion for Partial Summary Judgment is **GRANTED** as to Plaintiffs' Breach of Fiduciary claims against Stanley M. Chesley.

IT IS FURTHER HEREBY ORDERED AND ADJUDGED that Stanley M. Chesley is jointly and severally liable with Defendants William J. Gallion, Shirley Allen Cunningham, Jr. and Melbourne Mills, Jr. for the existing judgment amount of \$42 million owed to Plaintiffs, along with pre-judgment interest at a rate of 8% per annum and post-judgment interest at the rate of 12% per annum thereon from the date of this Judgment.

IT IS HEREBY ORDERED AND ADJUDGED that Plaintiffs' Motion for Partial Summary Judgment as to disgorgement is **DENIED**.

This Order is Final and Appealable. There is no just cause for delay.

DATED this 17th day of September, 2014.



JAMES R. SCHRAND, JUDGE
BOONE CIRCUIT COURT

COPIES TO:

ALL ATTORNEYS OF RECORD

CERTIFICATE
I, DIANNE MURRAY, Clerk of the Boone District Circuit Court, hereby certify that I have mailed the foregoing order and notice to all parties at their last known addresses or their counsel of record.
This 19 day of September, 2014
DIANNE MURRAY
BOONE DISTRICT/CIRCUIT COURT
Kelton D.C.

STATE OF KENTUCKY
COUNTY OF BOONE
I, DIANNE MURRAY, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.
This 21 day of April, 2015
DIANNE MURRAY
By: Aminda Breeden D.C.

STATE OF KENTUCKY
COUNTY OF BOONE
I, DIANNE MURRAY, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.
This 30 day of December, 2014
DIANNE MURRAY
By: Kelton D.C.

ATTACHMENT 2

1 **AFFT**
2 **ELEISSA C. LAVELLE, ESQ.**
3 **Nevada State Bar No. 293**
4 **FABIAN & CLENDENIN, P.C.**
5 **601 South Tenth Street, Suite 204**
6 **Las Vegas, NV 89101**
7 **Telephone: (801) 323-2207**
8 **Facsimile: (877) 898-1168**
9 **E-Mail: elavelle@fabianlaw.com**

10 *Attorneys for Plaintiffs*

11 DISTRICT COURT
12 CLARK COUNTY, NEVADA

13 MILDRED ABBOTT, et al.

14 Plaintiffs,

15 vs.

16 STANLEY M. CHESLEY, et al.

17 Defendants.

AFFIDAVIT OF JUDGMENT
CREDITOR'S ATTORNEY PURSUANT
TO NRS 17.360

18 COMMONWEALTH OF KENTUCKY }
19 COUNTY OF FAYETTE } ss:

20 Angela M. Ford, being first duly sworn, deposes and says:

21 1. That I am counsel of record for Plaintiffs in the matter described in this Affidavit.

22 2. The name and last known address of the Judgment Debtor is:

23 Stanley M. Chesley
24 9005 Camargo Road
25 Cincinnati, OH 45243

26 The name and last known address for the Judgment Creditors is:

27 PF Judgment Creditors
28 c/o Angela M. Ford, PSC
836 Euclid Ave., Suite 311
Lexington, KY 40502

29 3. There are 382 judgment creditors in the matter of Abbott et al. and Chesley, et al.,
30 referenced herein. Attached is a list of those creditors.

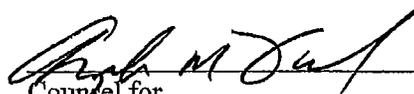
1 4. The Amended Order of the Boone Circuit Court, Division III, Commonwealth of
2 Kentucky, signed by the Honorable James R. Schrand, Boone Circuit Judge, on September 17,
3 2014 and filed with the Boone Circuit Court on September 19, 2014 in Case No. 05-CI-436 (the
4 "Judgment") is, upon information and belief, valid and enforceable.

5 5. As of March 31, 2015, \$17,868,298.00 of the Judgment has been satisfied and
6 \$24,131,702.00 remains due and owing together with pre-judgment interest at the statutory rate of
7 8% and post judgment from September 19, 2014 at the statutory rate of 12% per annum until paid.

8 I declare under penalty of perjury under the law of the State of Kentucky that the foregoing
9 is true and correct.

10

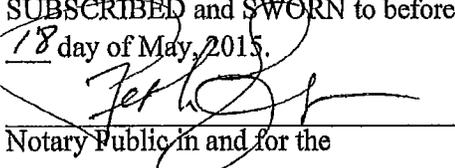
11 Dated this 18 day of May, 2015.


Counsel for
Judgment Creditors

12

13 SUBSCRIBED and SWORN to before me this
14 18 day of May, 2015.

15


Notary Public in and for the

16 County of Fayette, Commonwealth of Kentucky

17

... Peter L. Ecabert
Notary Public - State at Large
Kentucky - Notary ID # 475787
My Commission Expires: 10/17/2016

18

19

20

21

22

23

24

25

26

27

28

AFFIDAVIT OF JUDGMENT CREDITOR - 2

Mildred Abbott Estate, Danny Abney Estate, Lisa Abraham, Elizabeth Adams, Cathy (f/k/a Kathy) Adams, Phyliss Adams, Ruby Adams c/o Gloria Little, Ruby Adamson, Susan Adkins, Clantha Akers, Effie Elizabeth Alsip, Juanita Alton, JoAnn Alvey Estate, Phyliss Applegate Estate, Cindy Armstrong-Kemp, Susan Arvin, Clara Atkinson, Linda Back, Vickie Bailey, Mary Ann Bailey, Jamie Bailey, Charlotte Baker, Carla Baldwin, Marilyn Barnes, Lee Bartley, Jr., Teresa Baumgardner, Debra Bays-Plybon, Linda Beggs, Patricia Belcher, Leisa Belding, Eleanor Berry, Margie Berry, Margaret Bingham, Emma Black Estate, Sharon Blair, Janice Blair, Carol Boggs, Lori Boone, Joie Botkins, Kathy Bowling, Angie Lynn Bowman, Virginia Braden, LaDonna Brame, James Branham, Kathy Branham, Ruby Branham, Norma Brewer, Alma Brock Estate, Glenna Brock-Powell-Renner Estate, Joyce Brown, Barbara Brown, Sharon Brown, Edith Browning Estate, Wathalee Brumfield Estate, Linda Brumley, Billie Brumley-Bradford, Kimberly Brummett, Teresa Bruner, Patricia Bryant, Leslie Bullock-Pennington, Warren Burgess Estate, Janice Burton, Tina Bush, Sherrie Butler, Donna Campbell, Loretta Canada, Buel Cantrell, Debbie Carman-Staton, Tonya Carter, Wallace Carter, Charlotte Cason-Custard, Lisa Caudill-Trustly, Connie Centers, Tony Childress, Gloria Clark, William Clark, Rosemary Click, Pamela S. Clift, Allen Coker, Shirley Coleman, Tara Coleman, Debra Collier, Margaret Collier, Linda Colvin, Phyliss Combs, Ronnie Cook, Mark Cornn, Sanda Cotton-Giley, Nadine Couch, Joseph Cowley, Jo Ann Cox, Barbara Crain, Doris Creech, Deloris Criswell, Pamela Crowe, Tracy Curtis, Doris W. Dabney (now Christopherson), Mary Daughtery, Ginger Davidson-Gibson, Elizabeth Davis, Sandra Davis, Mae Biddle Dawson, Karen Dean, Jan Delaney, Regina DeSpain-Kliessendorff, Judy Dile, Al Doser, Belva Dotson, Teresa Duff, Linda Dunaway, Tami Edwards-Engle, Amanda Edwards-Wood, Martha Elliot, Saundra Erp, Charlotte Estep, Sarah Estates, Susan Ezell, Melissa Faye-Beamon, Janet Fentress, Sheila Fitch Estate c/o Penny L. Hines, Esq., Vickie D. Flannery, Benita Flynn, Tara Foster-Gifford-McCutchen, Rhoda Franklin, Timothy Franklin, Freda Frizzell, Beulah Fugate, Clark Fulks Estate, Patricia Gaunce, Barbara Gay, Ken Gayheart, Joni Gibson, Jessie Gibson Estate, Gladys Gilbert, Stephanie Gist, Ruby Godbey, Rosemary Godby, Joyce Goff-Wells, Debra Goode-Miranda Estate, Joyce Gordon, Tammie Grant, Amy Gray, Sherry Green, Donna Green, Norma Hall, Allie Hall, Geraldine Hall, Barbara Hampton, Rhonda Hancock, Leona Gail Handley, Joyce Hanley, Rebecca Harris, Debra Harrison, Joy Hassler-Miller, Yolanda Hayden, Barbara Heizer, Barbara Hellmueller, Wanda Helton, Gary Hendrickson, Vickie Henry, Marcus Highley, Charlene Hill, Karen Hillard, Janice Hilton, Linda Hinkle, Jacqueline Hocker, Myra Hood, Vicky Hood, Lora Hoover, Evelyn Hopkins, Charlene

Horn, Mary Horning, Lisa Hoskins, Cloyd Hoskins, Marilyn Howard, Louisa Moss Howard, Donna Howser-Nakagawa, Charlotte Hughes, Marcia Hughes-Harness, Marjorie Hulse Estate, Sheila Humphreys, Margaret Hunt (n/k/a Mesaris), Wanda Hunter, Brenda Hutchcraft, Lorene Hutcherson, Katherine Hutchison, Emma Ison, Della Jackson, Mary Ann Jackson, Katina Jackson, Evelyn Jackson Estate, Linda James, Debbie Jeffrey, Garnet Johnson-Coleman, Ernestine Johnstone, Kathy Jones, Beulah Jones, Judy Jones, Linda Jones, Troy Jones, Gerry Jones, Betty Jordan, Betty Kelly Estate, April-Keltner-Nuxoll, Patricia Kennedy-Stutz, Gerald King, Katherine King, Patti Kitts, Betty Kluck, Lucille Krey, Linda Larkins, Emily Lewis, Milton Lewis Estate, Angela Lewis-Mullinix, Sandra Dee Littleton, Sherry Long, Linda Long Estate, Kathy Lovan-Day, Rebecca Lovell Estate, Charlotte Lush, Linda Malone-McGowan, Paula Mann, Pamela Marlowe, Malanei Marro, Mary Martin, Bobbie Marton, Linda Martin, Connie Mason, Joni McClanahan, Lavonna McDaniel, Connie McGirr, Roberta McGuire, Tammy McGuire-Robinson, Jacqueline McMurtry, Sheila Lynn Meece, Wanda Metzger, Linda L. Miller, Delores Miller, Marie Miller, Michael Miller Estate, Nellie Miller, Linda F. Miller, Leslie Minton, Kathy Miracle Estate, Beverly Mitchell, Eudora Montgomery, Rhonda Moore, Margaret Moore, April Morris, Donna Muddiman-Cornish, Mary Napier, Wanda Faye Neace, Elizabeth Neal, Linda Nevels, Diana Newlin-Riddle, Wilma Noe, Kathy Nolan-Dinsmore, Glenora Pace, Louverna Parks, Myrtle Parrish, Judith Peck, Lisa Peek, Recie Pennington, Jeff Perkins, Helen Perkins, JoAnn (Perkins) Spencer, Stacy Perkins, Doris Phelps, Sonja Pickett, Norma Pickett Estate, Brian Powel, Mary P'Pool-Holland, Trena Preson, Suzanna Price, Rita Proffitt-Norman, Lynne Pursel, Sharon Rainwater, Billie Reese, Anthony Rentas Estate, Arlie Rhodes Estate, Evelyn Rhodes, Raymond Riley Estate, Levetta Rivera, Odena Roaden, Billie June Roberts, Patricia Roberts, Renee Roberts, Fetina Robinson, Patricia N. Robinson, Carol Rogers, Vina Rose, Cathy Rose, Larry Rosenberry Estate, Mary Sams, Kathy Sands, Thomas Sapp, Justus Scharold, Maxine Seals, Crystal Seals-Gibson, Lisa Sexton Estate, Monica Sexton-Napier, Margaret Sharon, Michelle Sharpe-Roberts, Janet Short-Roberts, Laureda Short Estate, Loretta Sidwell (now Dishman), Ada Sizemore Estate, April Slatten-Jones, Carole Slone, Elaine Smith, Barbara Smith, Freda Smith, Sharon Smith Estate, Darcy Snowden-Talbert, Peggy Spears, Cora Stapleton, Paul Stauffer Estate, Corina Stearns, Nancy Stephens, Connie Stephens Estate, Sharon Stevenson Estate, Marlene Stewart, Loretta Stidham Estate, Betty Stone, Lesta Irene Stout, Donna Stromowsky, Connie Sturgill, Marjorie Sudduth Estate, Lisa Swiger, Ella Tackett Estate, Priscilla Tafolla Estate, Charles Tapley, Ella Taylor, Linda Taylor, Mary Taylor, Jeanne Thomas, Nancy

Thompson, Karen Thompson-McClain, James G. Thurman, Roy Toler Estate, Linda Toler Estate, Elizabeth Trent, Jennifer Trimble, Joetta Tucker, Deborah Turner, Patricia Turner, Drucilla Turner, Valorie Turner, Linda Vance-Self, Linda Vannarsdall-Collins, Debbie Vogt-Schneider, Bobbie Walker, Lane Walker Estate, Loraine Wallen, Cindy Walters, Martin Ward Estate, Elizabeth Washburn, Wanda Watkins, Cheryl Watson, Judy Whitaker, Kim White, Patricia White, Mary White-Lynch, Catherine Whitlock, Joyce Whitt, Betty Jean Widner, Gloria Williams Estate, Bethany Willinger, Geneva Wilson, Melody Winer, Connie Wolfe, Bill Wombles, Artie Woods, Fern Wooten, Edwina Wright, Roger Dale Wright, Sandra Wright, Debora Wright-Mitsui, Tammy Wright, Sheila Yates, Karen Young-Coffield, Sandra Zeman Balentine.

Respectfully submitted,

/s/ Marion H. Little, Jr.

John W. Zeiger (0010707)
Marion H. Little, Jr. (0042679)
Zeiger, Tigges & Little LLP
41 S. High Street, Suite 3500
Columbus, OH 43215
Phone: (614) 365-4113
Fax: (614) 365-7900
Email: zeiger@litohio.com
little@litohio.com

*Attorneys for Proposed Intervenor
Waite, Schneider, Bayless & Chesley Co.,
L.P.A.*

/s/ Donald J. Rafferty

Donald J. Rafferty (0042614)
Cohen Todd Kite & Sanford, LLC
250 East Fifth Street, Suite 2350
Cincinnati, Ohio 45202
Phone: (513) 333-5243
Fax: (513) 241-4490
Email: DRafferty@ctks.com

*Attorneys for Proposed Intervenor
Waite, Schneider, Bayless & Chesley Co.,
L.P.A.*

/s/ Vincent E. Mauer

Vincent E. Mauer (0038997)
Frost Brown Todd LLP
301 E. Fourth Street, Suite 3300
Cincinnati, Ohio 45244
Phone: (513) 651-6785
Fax (513) 651-6981
Email: vmauer@fbtlaw.com

*Attorneys for Proposed Intervenor
Stanley M. Chesley*

CERTIFICATE OF SERVICE

The undersigned certifies that on this 5th day of October, 2015, a true and correct copy of the foregoing was served via U.S. Mail, first class postage prepaid, and electronic mail pursuant to Civil Rule 5(B)(2)(c) and (f) on:

Brian S. Sullivan, Esq.
Christen M. Steimle, Esq.
Dinsmore & Shohl, LLP
255 East Fifth Street, Suite 1900
Cincinnati, Ohio 45202

Attorneys for Relator Angela M. Ford

James W. Harper, Esq.
Hamilton County Prosecutor's Office
230 East Ninth Street, Suite 4000
Cincinnati, Ohio 45202

*Attorneys for Respondent
the Honorable Robert P. Ruehlman*

/s/ Marion H. Little, Jr.
Marion H. Little, Jr. (0042679)