

IN THE SUPREME COURT OF OHIO

STATE EX REL. ANGELA M. FORD, :  
ESQ., : Case No.: 2015-1470  
Relator, :  
v. : ORIGINAL ACTION IN PROHIBITION AND  
HONORABLE ROBERT P. : MANDAMUS  
RUEHLMAN, :  
Respondent. :

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RELATOR ANGELA FORD, ESQ.'S NOTICE OF FILING IN THE HAMILTON  
COUNTY ACTION MADE BY PROPOSED INTERVENORS STANLEY M. CHESLEY  
AND WAITE SCHNEIDER BAYLESS & CHESLEY CO., L.P.A.

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**RELATOR ANGELA M. FORD, ESQ.'S NOTICE OF FILING IN THE HAMILTON COUNTY ACTION MADE BY PROPOSED INTERVENORS STANLEY M. CHESLEY AND WAITE SCHNEIDER BAYLESS & CHESLEY CO., L.P.A.**

**I. Introduction**

Just sixteen days after filing more than 1,000 pages with this Court and after ten months of obtaining and defending the unlawful restraint obtained against Relator Angela Ford, Esq. (“Ms. Ford”) that also restrains hundreds of judgment creditors and all Ohio lawyers, Proposed Intervenor Stanley M. Chesley and Waite Schneider Bayless & Chesley Co., L.P.A. (collectively “Proposed Intervenor”) quietly filed a Rule 41 dismissal, without prejudice, in the Hamilton County Court of Common Pleas, case no. A1500067 (the “Hamilton County Action”), without notifying this Court of its filing—even though this filing moots their pending motion to intervene in this action. (*See* Notice of Voluntary Dismissal, attached hereto as Exhibit A). No doubt, Proposed Intervenor ought to be embarrassed by the filing, but their legal maneuvering does not change the legal issues present in Ms. Ford’s Petition for Writs of Mandamus and Prohibition (the “Petition”).

As long as Respondent’s orders are still in effect, Ms. Ford remains restrained from taking discovery in Ohio pursuant to Kentucky commissions and subpoenas pursuant to Respondent’s orders. Her clients, 382 judgment creditors, and all Ohio lawyers remain restrained from domesticating, conducting discovery and executing on the Kentucky judgment. Therefore, this Court still has the authority to decide the Petition on its merits. The Petition is not moot based upon Chesley’s dismissal of his claims against Ms. Ford. However, to the extent this Court considers the Petition moot because of the Rule 41 dismissal, Ms. Ford is concurrently filing a motion to join one of Chesley’s judgment creditors, who is a real party in interest and

who has been enjoined by Respondent's orders and Proposed Intervenors' manipulation, so that the Petition can be heard on the merits.

## **II. Argument**

### **A. This Court Should Consider the Petition Because the Issues Raised Therein are Still Ripe for Adjudication.**

Although a court has the power to hear only justiciable cases and controversies, courts are permitted to rule on an otherwise moot case "where the issues raised are 'capable of repetition, yet evading review.'" *The State, ex rel. Beacon Journal Publishing Co. v. Donaldson, Judge*, 63 Ohio St.3d 173, 175, 586 N.E.2d 101 (1992) (internal citations omitted). A case is capable of repetition when a reasonable expectation exists that the party seeking review will be subjected to the same action again. *See id.* The burden to demonstrate that there is no reasonable expectation that the wrong will be repeated is a heavy burden, and it belongs to the party claiming mootness. *See The Ohio Academy of Nursing Homes, Inc. v. Barry*, 10th Dist. Franklin No. 92AP-1266, 1993 Ohio App. LEXIS 2708, at \*7 (May 25, 1993). Furthermore, an action is moot only when the "relief or events have completely and irrevocably eradicated the effects of the alleged violation." *Cnty. of Los Angeles v. Davis*, 440 U.S. 625, 631, 99 S. Ct. 1379, 59 L. Ed.2d 642 (1979).

The case of *Red River Corporation v. United States of America*, 793 F. Supp. 942 (D. Idaho 1992), although not controlling precedent, is instructive. In that case, the defendant revoked plaintiffs' special use permit for a facility in a national forest. *Id.* at 943. The plaintiffs filed a lawsuit seeking judicial review of the revocation after exhausting their administrative remedies. *Id.* During the pendency of the action, the defendant withdrew and rescinded the revocation decision, and then moved to dismiss, arguing that the action was moot. *Id.* at 944.

That court rejected this argument, instead concluding that the issues presented were “capable of repetition, yet evading review,” an exception to the mootness doctrine. *Id.* at 946-47. That court recognized the danger of a party mooting an issue through its own voluntary cessation of the identified conduct, noting that “it has long been recognized that the likelihood of recurrence of challenged activity is more substantial when the cessation is not based upon a recognition of the initial illegality of that conduct.” *Id.* at 946 (internal quotation and citation omitted). That court concluded that the defendant failed to carry its burden of proof, in large part because the defendant failed to recognize any wrong in its conduct, and nothing prevented the defendant from revoking the permit at a later date, especially when the defendant provided assurances regarding only some, not all, of its identified reasons for revoking the permit. *Id.* at 947. That court found it had jurisdiction and decided the case on the merits.

Here, Proposed Intervenors dismissed Ms. Ford as a defendant in the Hamilton County Action without prejudice. Therefore, Proposed Intervenors can refile their lawsuit against Ms. Ford. The dismissal did not provide that the Proposed Intervenors will not sue Ms. Ford again. Indeed, their actions in pursuing Ms. Ford for more than ten months and filing repeated motions to enforce and further restrain Ms. Ford in the Hamilton County Action, not to mention seeking to intervene in the matter pending before this Court, suggest quite the opposite. Proposed Intervenors cannot show that they are not reasonably likely to sue Ms. Ford again.

Additionally, Proposed Intervenors’ dismissal of Ms. Ford does not “completely and irrevocably [eradicate] the effects of the alleged violation.” *See Davis*, 440 U.S. at 631. The issues raised in Ms. Ford’s Petition focus on Respondent’s jurisdiction over the entire matter, as well as his orders, which apply to and improperly restrain Chesley’s judgment creditors and all Ohio attorneys. The fact remains that Chesley’s complaint does not identify any tort, breach of

contract, or statutory claim against either Ms. Ford or the judgment creditors. Because the complaint fails to assert a legal cause of action against any of the defendants, Respondent has no jurisdiction to hear this matter. This remains true despite Proposed Intervenors' purported dismissal of Ms. Ford.

The Petition similarly challenged Respondent's jurisdiction to issue his orders, which also apply to the judgment creditors. These are the real parties in interest, as their rights are affected by this litigation. Indeed, it is the judgment creditors who have the right to domesticate the judgment they obtained against Chesley in Kentucky—per Ohio statutory law. It is their statutory remedy with which Respondent's orders wrongfully interfere. *See State, ex rel. Celeste, Governor v. Smith, Judge*, 17 Ohio St.3d 163, 478 N.E.2d 763 (1985) (granting a writ when a temporary restraining order precluded relators from pursuing exclusive statutorily prescribed remedies). And it is their judgment, obtained in a Kentucky court, that is entitled to Full Faith and Credit pursuant to the Constitution. *See Milliken v. Meyer*, 311 U.S. 457, 462, 61 S. Ct. 339, 85 L. Ed. 278 (1940). Respondent's orders disregard this provision and affect their rights.

Therefore, because the Hamilton County Action continues against the judgment creditors, and Respondent's orders remain in effect as to all other defendants, the harm identified in the Petition continues. Proposed Intervenors' dismissal of Ms. Ford from the Hamilton County Action does not moot this matter, and this Court should decide the Petition on the merits.

**2. Proposed Intervenors' Dismissal was Ineffective Because of This Court's Order Staying the Hamilton County Action.**

On September 17, 2015, this Court granted Ms. Ford's request for emergency relief, and issued a stay of the Hamilton County Action and further stayed enforcement of Respondent's orders. The purpose of the stay is to preserve the existing status of the proceeding. *Cf. State of*

*Ohio, ex rel Head of Claims v. Honorable Daniel Gaul*, 131 Ohio App.3d 419, 436, 722 N.E.2d 616 (8th Dist. 1999) (recognizing that the purpose of issuing an alternative writ is to preserve the status of the proceeding, which should prevent the parties from acting within that proceeding). Because the matter was stayed pending this Court's resolution of the Petition, Proposed Intervenor could not dismiss Ms. Ford in an obvious attempt to moot this matter. Therefore, Ms. Ford remains a defendant in the Hamilton County Action, and this Court can decide the Petition on the merits.

### **III. Conclusion**

For these reasons, the issues raised in the Petition remain ripe for adjudication by this Court. To rule otherwise would permit the Proposed Intervenor to avoid a decision by this Court through procedural gamesmanship and permit Respondent's orders, for which he lacks jurisdiction to issue, to remain standing. However, to the extent this Court concludes that this matter is moot, Ms. Ford is concurrently moving to join one of Chesley's judgment creditors as a co-relator in this action. For these reasons, this Court should continue to consider the pending Petition and ultimately issue the requested Writs and dismiss the Hamilton County Action in its entirety.

Respectfully submitted,

*s/ Brian S. Sullivan*

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing was served on the following individuals via U.S. regular mail on this 29th day of October, 2015:

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COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO

STANLEY M. CHESLEY, : Case No. A1500067  
 :  
 :  
 Petitioner, : Judge Ruehlman  
 :  
 v. :  
 :  
 : **PARTIAL**  
 ANGELA M. FORD, ESQ. *et al.* : **VOLUNTARY DISMISSAL**  
 : **WITHOUT PREJUDICE**  
 :  
 Respondents. :

Pursuant to Ohio Rule of Civil Procedure 41(A)(1)(a), Petitioners Stanley M. Chesley and Waite Schneider Bayless & Chesley, Co. voluntarily dismiss without prejudice all claims in this matter pending against Respondent Angela M. Ford, only.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a on this 21<sup>st</sup> day of October, 2015, a copy of the foregoing was served by ordinary U.S. Mail, postage prepaid, on Brian S. Sullivan, Esq. and Christen M. Steimle, Esq. at Dinsmore & Shohl LLP, 255 East Fifth Street, Suite 1900, Cincinnati, Ohio 45202.

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