

IN THE SUPREME COURT OF OHIO

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

**MOTION OF PROPOSED INTERVENORS STANLEY M. CHESLEY AND THE LAW
FIRM OF WAITE, SCHNEIDER, BAYLESS & CHESLEY CO., L.P.A., FOR LEAVE
INSTANTER TO FILE A MEMORANDUM IN OPPOSITION TO RELATOR'S
"NOTICE OF RESPONDENT'S LATEST ORDER"**

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**MOTION OF PROPOSED INTERVENORS FOR
LEAVE INSTANTER TO FILE A MEMORANDUM IN OPPOSITION**

Pursuant to S.Ct.Prac.R. 4.01(A), Stanley M. Chesley (“Mr. Chesley”) and Waite, Schneider, Bayless & Chesley Co., L.P.A. (the “Waite Firm”) (collectively, the “Proposed Intervenor”), move for leave *instanter* to file a Memorandum in Opposition Relator Angela M. Ford’s “Notice of Respondent’s Latest Order.” Grounds for this Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,

/s/ Marion H. Little, Jr.

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MEMORANDUM IN SUPPORT

Although not styled as a motion, Relator’s “Notice of Respondent’s Latest Order” (“Notice”) is a *de facto* supplemental brief in support of Relator’s Motion to Join Linda Brumley as a Co-Relator and/or a motion requesting that the Court grant the relief sought in her Petition. Relator tries to mix together two separate actions, then argues that Judge Ruehlman’s ruling in a wholly separate action – which is not before this Court on Relator’s Petition and to which Relator is not even a party – “grossly exceeded his jurisdiction” and “acted in defiance” of the stay order affecting the action that was placed at issue in Relator’s Petition, *Stanley M. Chesley, et al. v. Angela M. Ford, Esq., et al.*, Hamilton County Court of Common Pleas Case No. A1500067. Relator’s Notice advances arguments that are misleading and misplaced.

Although the Court has not yet ruled on the Proposed Intervenors’ Motion to Intervene as Respondents in the instant original action, given their direct interest in the issues raised by Relator’s Petition, as set forth in the Motion to Intervene, the Proposed Intervenors request leave *instanter* to file a Memorandum in Opposition to Relator’s Notice of Respondent’s Latest Order. As Exhibit A to this Motion, the Proposed Intervenors are tendering their proposed Memorandum in Opposition.

Respectfully submitted,

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CERTIFICATE FOR SERVICE

The undersigned certifies that on this 7th day of December, 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:

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MEMORANDUM IN OPPOSITION OF PROPOSED INTERVENORS STANLEY M. CHESLEY AND THE LAW FIRM OF WAITE, SCHNEIDER, BAYLESS & CHESLEY CO., L.P.A., TO RELATOR’S “NOTICE OF RESPONDENT’S LATEST ORDER”

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**EXHIBIT
A**

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**PROPOSED INTERVENORS' MEMORANDUM IN OPPOSITION TO RELATOR'S
"NOTICE OF RESPONDENT'S LATEST ORDER"**

LAW AND ARGUMENT

A. Relator's False Innuendo And Suggestions Regarding Judge Ruehlman's Ruling In A Wholly Separate Case Cannot Revive Her Moot Petition.

In a misguided effort to resurrect her petition for extraordinary relief, which should be deemed moot and dismissed, Relator Angela M. Ford has filed a "Notice of Respondent's Latest Order" ("Notice") that is laden with false innuendo. Relator tries to suggest to this Court that Respondent, Judge Robert P. Ruehlman of the Hamilton County Court of Common Pleas, has violated this Court's stay order in the instant action as part of continued "efforts" to interfere with a Kentucky court for the purpose of thwarting her collection activities against Proposed Intervenor Stanley M. Chesley ("Mr. Chesley"). Relator is wrong.

1. Judge Ruehlman Has Complied With This Court's Order Staying Any Further Proceedings In The Hamilton County Action.

Respondent in fact has complied with the Court's stay order. Relator's petition for a writ of mandamus and writ of prohibition arises from the underlying matter of *Stanley M. Chesley, et al. v. Angela M. Ford, Esq., et al.*, Case No. A1500067 (the "Hamilton County Action"). On September 17, 2015, after Relator filed her Petition, the Court ordered a stay of enforcement of Respondent's orders in the Hamilton County Action. Respondent has fully complied with the Court's stay order and continues to abide by it – he has taken no further action and issued no further orders.

Relator's Petition has now become moot owing to the Proposed Intervenor's dismissal of Relator as a party to the Hamilton County Action under Ohio Civil Rule 41(A)(1)(a), and we note that Judge Ruehlman had no involvement in that event, either. A notice of voluntary dismissal terminates the possibility of further action against Relator in the underlying action and

required no intervention by Judge Ruehlman to either approve or accept it. *See, e.g., State ex rel. Fifth Third Mortgage Co. v. Russo*, 129 Ohio St. 3d 250, 2011-Ohio-3177, 951 N.E.2d 414, ¶ 17 (2011). *See Proposed Intervenors' Memorandum in Opposition to Relator's Motion to Join Linda Brumley as a Co-Relator.*

In short, Judge Ruehlman has fully complied with the stay order. Relator's false contention that he violated the stay rests on an attempt to confuse the Hamilton County Action with a new matter recently filed in the Hamilton County Court of Common Pleas in which Relator is not even a party.¹

2. The Action Relator Complains Of Was Taken In A Separate Case That Was Assigned To Judge Ruehlman Pursuant To The Hamilton County Local Rules.

With regard to the new matter, Relator inappropriately tries to imply that Judge Ruehlman connived to have *Stanley M. Chesley v. Hamilton County Sheriff, Jim Neil*, Case No. A1506294, filed in the Hamilton County Court of Common Pleas on November 19, 2015 (the "Sheriff Action"), assigned to his court so he could "interfere" with Kentucky courts in "the form of a new case" in which "Relator and Proposed Relator would not have the opportunity to appear and object."

Relator's accusations fall apart when confronted by the facts. The timing of the Sheriff Action, and, thus, its assignment to Judge Ruehlman's court, was a product of the timing of

¹ Neither Relator nor any other attorney acting on behalf of any of the purported Kentucky judgment creditors has sought to domesticate the Kentucky judgment (the subject of the Hamilton County Action) in Ohio. No attempt has been made despite the fact that this Court's September 17 order stayed the injunctive relief that was in place in the Hamilton County Action so long as Relator's Petition remains pending in this Court. Thus, the door was opened wide for a domestication action to proceed without regard to Judge Ruehlman's prior orders. Yet no one has tried to enter. Relator's ire at Judge Ruehlman's purported "efforts to interfere" by his ruling in the Sheriff Action is a sideshow.

Such action proves the point, of course. The judgment is incapable of enforcement under Ohio law for the reasons set forth in prior briefing before this Court – among them that the actual number of judgment creditors is unknown and appears to be a moving target, the specific judgment amount owed to any individual creditor is unknown, and even the outstanding balance of the aggregate judgment is unknown.

Relator's own actions to circumvent Ohio law. We have previously detailed Relator's improper attempts to circumvent the requirements of Ohio law and attack assets in Ohio by obtaining orders from the Kentucky court in the "Abbott Case" – *Mildred Abbott, et al. v. Stanley M. Chesley, et al.* (Boone County, Ky., Circuit Court Case No. 05-CI-00436), including an order requiring Mr. Chesley to direct that his beneficial interest in the shares of Proposed Intervenor Waite, Schneider, Bayless & Chesley Co., L.P.A. (the "Waite Firm") – an Ohio entity never subject to any process in Kentucky – be transferred to the Kentucky judgment creditors. *See* Proposed Intervenors' Motion for an Order Expediting Consideration of the Motion to Intervene and for Judgment on the Pleadings, and to Vacate the September 17, 2015, Order Staying the Hamilton County Action, which was filed on October 6, 2015.

In an escalation of that campaign, on October 29, 2015, Relator procured from the Kentucky court a bench warrant for the arrest of Mr. Chesley, who is a resident of Hamilton County. Issuance of an arrest warrant in a civil case from another state with the intention of arresting an individual in Ohio is a rare occurrence, as detailed in Mr. Chesley's Verified Petition for Declaratory Judgment and Injunctive Relief in the Sheriff Action ("Verified Petition"), a copy of which is attached as Exhibit A to Relator's Notice. Moreover, the warrant is improper under Ohio law for multiple reasons, which are explained in the Verified Petition.²

The Sheriff Action was assigned to Judge Ruehlman's court because of a simple coincidence of timing. Relator obtained the arrest warrant at the end of October, prompting Mr. Chesley's response of filing an action seeking temporary injunctive relief to ensure that any

² A copy of Mr. Chesley's Petition in the Sheriff Action is contained in Exhibit A to Relator's Notice, and a copy of the temporary restraining order granted by Judge Ruehlman is contained in Exhibit B to the Notice.

execution of such warrant in Ohio would be in compliance with Ohio law.³ That action was filed in November. Judge Ruehlman was the designated equity judge in the Hamilton County Court of Common Pleas for the month of November, and Hamilton County Local Rule 7(A) provides that a case seeking injunctive relief “shall be permanently assigned to the judge serving in equity at the time a motion for temporary restraining order is filed.” Thus, per the Local Rules, the matter was assigned to Judge Ruehlman.

Mr. Chesley did not choose Judge Ruehlman to preside over the Sheriff Action, nor could he have chosen the judge. Rather, the Hamilton County Court of Common Pleas has fifteen judges who are in the rotation for monthly assignments as equity judge, and the assignments are made under a completely random and open process specified in Local Rule 7(A):

In the assignment of the Equity and Presiding Criminal Judges of the General Division, each judge is assigned a dice (pill) with a number from 1 through 16 corresponding to their court room number. The Judge of Drug Court (14) shall not be included in the roll. To commence the assignment process, the 15 dies (pills) are placed in a leather bottle. The bottle shall be shaken and one number shall be rolled out. The judge assigned to that number will be assigned the first month of the new rotation. The process will be repeated until all 15 die (pills) have been rolled and the bottle is empty. Once all remaining dies (pills) have been removed, all dies (pills) will be returned to the bottle to complete the next roll of 15 months. There shall be two rolls for the assignment process setting forth 30 months of assignment for Equity and Presiding Criminal Judges. This process will be performed by the Court Administrator in the presence of the Presiding Judge and any other interested person. ...

So, by operation of the Local Rules, Judge Ruehlman was the Hamilton County equity judge in the month that the Sheriff Action was filed.

³ The Verified Petition, at paragraph 2, explains that the Hamilton County Sheriff Jim Neil is named as the Respondent, in his official capacity only, because the sheriff is the chief law enforcement officer for Hamilton County and is responsible, in part, for enforcement of arrest warrants in Hamilton County. We note that the transcript of the TRO hearing attached as Exhibit C to Relator’s Notice reflects that Sheriff Neil was represented at the hearing by a Hamilton County assistant prosecutor, who stated that the sheriff had no objection to the proposed order. [See Transcript, at 5-8.]

3. Relator’s Criticisms Of Judge Ruehlman Based On Cherry-Picking Quotations From The TRO Hearing Transcript Are Inappropriate And Belied By The Record.

As another point, Relator’s Notice mounts an *ad hominem* attack on Judge Ruehlman because he granted a TRO in the Sheriff Action, which, again, is a separate matter and is outside the scope of the issues raised in Relator’s Petition filed with this Court. Undaunted, Relator piles in a load of false innuendo to the effect that Judge Ruehlman “interfered” with the Kentucky court because he supposedly kept himself deliberately ignorant of the issues before him and/or was driven by some improper motive to personally favor Mr. Chesley. [See Notice, at 2-3.] Such allegations, contained in a brief filed in the state’s highest court, frankly, do a disservice to the judiciary as a whole, not merely to Judge Ruehlman. See, e.g., Rule 3.6(a)(6) of the Ohio Rules of Professional Conduct (“A lawyer shall not ... engage in undignified or discourteous conduct that is degrading to a tribunal.”).

Equally baseless are Relator’s allegations that Mr. Chesley’s counsel tried to mislead Judge Ruehlman at the TRO hearing by failing to “correct” supposed misconceptions and tell Judge Ruehlman what “actually happened.” Relator’s false innuendo is belied by the record. As the transcript of the hearing [Relator’s Notice, Exh. C] reflects, before the hearing began, Judge Ruehlman had reviewed the Verified Petition, which contains forty-eight paragraphs, totaling ten pages, that detail the factual and legal basis for the relief sought. The facts contained therein were verified by, among others, Frank V. Benton, Esq., who is Kentucky counsel representing Mr. Chesley in the Boone County action. Relator’s attempts to make it appear Judge Ruehlman acted out of ignorance or favoritism fall flat when considered in the context of the facts. The following summary is offered:

- **Relator’s Innuendo.** Relator complains that: “Respondent opined, that ‘they (the Kentucky Court) didn’t give him (Chesley) his day in court at all.’ (Exhibit C,

Transcript, at 2),” and “Chesley’s counsel, contrary to what actually happened in Kentucky agreed and said ‘[n]o, sir, they did not.’ (*Id.* at 3).”

The Facts. Regarding Judge Ruehlman’s comment that it appeared Mr. Chesley did not have “his day in court,” the Verified Petition details how the Kentucky court, among other things: (1) entered a \$42 million judgment in a civil action against Mr. Chesley by giving collateral estoppel effect to certain findings against Mr. Chesley on issues in the Kentucky Bar disciplinary action that were different from those in the civil action, without permitting Mr. Chesley to conduct discovery and without holding a trial or evidentiary hearing; (2) issued an order that directed Mr. Chesley to “transfer” his beneficial interest in the Waite Firm, even though the order directed him to perform actions that were illegal or impossible under Ohio law; and (3) issued an arrest warrant during a “show cause” hearing at which Mr. Chesley’s Kentucky counsel was not permitted to present the reasons compliance with the transfer order was legally impossible under Ohio law. [See Verified Petition ¶¶ 10-30.] Accordingly, the Judge’s observation was a fair one, and Relator fails to identify anything that “actually happened” which contradicts the facts set forth in the Verified Petition.

- **Relator’s Innuendo.** Relator complains that: “Respondent went further and stated ‘so what happened, so they issued a judgment against him without – I mean, they didn’t give him due process at all,’ (*Id.*),” and “Chesley’s counsel chose to not correct Respondent but again chimed in, and said, ‘no, there was no work at all after the Supreme Court ruled in his favor in 2012, before the judgment went on in 2014, there was nothing else in the trial court.’ (*Id.*)”

The Facts. Again, as noted above, this refers to the Kentucky Court’s entry of a \$42 million civil judgment against Mr. Chesley based on granting collateral estoppel effect to certain findings in a disciplinary action and denying Mr. Chesley an opportunity to conduct discovery or present evidence at a hearing. Counsel’s comments accurately reflected the facts set forth in the record.

- **Relator’s Innuendo.** Relator complains that: “Respondent also questioned the Kentucky disciplinary process which culminated in the Kentucky Supreme Court’s order of disbarment of Chesley and suggested, ‘[o]ver there – I think Mississippi and Kentucky allow attorneys to discipline, so you have a lot of jealousy and stuff like that.’ (*Id.*),” and “Chesley’s counsel chose not to correct the judge and said, ‘[y]eah. It’s a different system that we have, yes, sir.’ (*Id.*)”

The Facts. Relator takes issue with an incidental comment by Judge Ruehlman about the nature of the Kentucky attorney disciplinary process. This was not at issue in the TRO hearing, which focused on the actions of the Kentucky court in the Abbott Case, and issues presented by the court’s arrest warrant in the event that warrant were to be enforced in Ohio.

- **Relator’s Innuendo.** Relator complains that: “For unknown reasons, Respondent then asked Chesley’s counsel whether Chesley was trying to settle the Kentucky case. (*Id.* at

8),” and “Respondent and Chesley’s counsel then engaged in a colloquy regarding settlement discussions, but because Relator was not aware of this hearing, she could not inform the Court that no settlement discussions have occurred since the judgment had been entered.”

The facts. Frankly, we are hard-pressed to understand Relator’s suggestion that Judge Ruehlman somehow “interfered” with the Kentucky court merely by asking a question that judges ask litigation counsel every day of the week – are you trying to settle? Relator purports that had she been present, she would have corrected Mr. Chesley’s counsel to tell the court that “no settlement discussions have occurred.” In fact, as page 8 of the transcript shows, Mr. Chesley’s counsel *did not* say that, and no one was misled. Rather, he stated that “we have started some papers” and “prepared some settlement communications,” and he expressed a hope that the matter could be globally resolved. That’s all.

- **Relator’s Innuendo.** Relator complains that: “Respondent returned to the notion that somehow the process in Kentucky involving Chesley was tainted. Respondent stated, ‘I think everybody needs a day to at least give their side of the story. He never got that chance.’ (*Id.* at 3-4),” and Relator remarks that “Respondent’s opinion on eleven years of litigation in the Kentucky trial and appellate courts was also not corrected by Chesley’s counsel.”

The Facts. Again, as noted above, the Verified Petition lays out in detail the factual basis for Mr. Chesley’s contention that he was denied due process in connection with the entry of the \$42 million judgment and the referenced enforcement measures. A reading of the transcript demonstrates that Judge Ruehlman’s comment about providing litigants their day in court was in reference to that subject, not to the vague “eleven years of litigation,” that Relator alludes to.

B. The Court Should Leave Relator To Her Adequate Remedies Under Ohio Law.

Relator’s Petition should be dismissed on mootness grounds for the reasons stated in the memoranda in opposition to Relator’s joinder motion offered by Judge Ruehlman and the Proposed Intervenors. The Court should likewise reject Relator’s strategy of trying to keep her Petition alive by attacking Judge Ruehlman for his ruling in a separate case involving different issues in which she is not even a party. Such separate action has no relevance to this Court’s mootness analysis.

CONCLUSION

As a final note, the only relief sought in either the Hamilton County Action or the Sheriff Action is to direct opposing parties – the Kentucky judgment creditors, whoever they may be – and their counsel to act in compliance with Ohio law when seeking to domesticate a foreign judgment and/or attempt to execute an arrest warrant for purported contempt issued by an out-of-state court in a civil case. Instead of casting aspersions and innuendo, Relator could resolve her problems by simply complying with Ohio law. Her unwillingness to do so speaks volumes and proves the necessity for Mr. Chesley seeking such relief in the first instance.

Respectfully submitted,

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