

IN THE SUPREME COURT OF OHIO

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

MEMORANDUM IN OPPOSITION OF INTERVENORS STANLEY M. CHESLEY AND
THE LAW FIRM OF WAITE, SCHNEIDER, BAYLESS & CHESLEY CO., L.P.A. TO
RELATORS' MOTION FOR EMERGENCY RELIEF

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**MEMORANDUM IN OPPOSITION OF INTERVENORS STANLEY M. CHESLEY AND
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RELATORS' MOTION FOR EMERGENCY RELIEF**

INTRODUCTION

Unbelievable. Nowhere in the purported “Motion for Emergency Relief” (served by ordinary mail) do “Relators” [sic]¹ disclose to this Court that on April 25, 2016, all 382 of the underlying judgment creditors in Mildred Abbott, et al. v. Stanley M. Chesley, et al. (Boone County, Ky., Circuit Court Case No. 05-CI-00436) (the “Abbott Action”) filed both an execution case (EX1600448) and CJ case (Case No. CJ16006214) (collectively, the “Domestication Cases”) in the Hamilton County Common Pleas Court, pursuant to which they purport to domesticate the judgment from the Abbott Case in Ohio and pursue collection proceedings. [Exhs. A-E.]² She also omits to disclose to the Court that the new injunction action filed by the Intervenor, Mr. Chesley and the Waite Firm (against only thirty-eight of the Kentucky Plaintiffs), was filed after the Domestication Cases and in response to the Kentucky Plaintiffs’ collection actions. Indeed, given the nature of a domestication proceeding, it is akin to a responsive pleading.

By these glaring omissions, Relator intentionally offers the Court a misleading description of the lower-court proceedings and tries to conflate those proceedings with the

¹ Although counsel has moved to (apparently involuntarily) join Linda Brumley as a new Relator, there is only one Relator, Attorney Angela Ford, in this case and even she is no longer a party in the underlying case. We describe her as “involuntary” inasmuch as in the Domestication Cases a purported address was submitted but Ms. Brumley does not, in fact, reside at such address. [Exh. S, Mauer Aff’d] One would reasonably presume to know the address of a client, especially if one was purporting to represent the client before this Court.

² Judge Ruhlman originally scheduled the hearing referenced in the instant motion on June 9, but it was later rescheduled to June 23 to accommodate counsel for the Kentucky Plaintiffs and the Court. The two-day “emergency” prompted by the filing of the instant motion is just a game by counsel. This is further illustrated by the fact that the proceedings challenged have been pending for nearly two months. The pattern evidenced here is that Relator (or her clients) participate in proceedings, but if they lose a motion or apparently do not wish to have a motion heard by a particular judge, they improperly seek relief from this Court, even with the availability of an adequate remedy at law.

current case before this Court in order to falsely declare they are the same.³ In doing so, she simply ignores that different parties are involved and that the Kentucky Plaintiffs have commenced proceedings in Ohio – thus eliminating the very jurisdictional and justiciable arguments upon which Relator specifically premised the filing of an original action before this Court. Specifically, Relator’s stated basis for a writ of prohibition is that Judge Ruehlman allegedly lacked subject-matter jurisdiction because the original action filed before Judge Ruehlman (the “Hamilton County Action”) “is not justiciable.” [Relator’s Compl. at 4.] Relator asserted that the Hamilton County Action

does not state a single cause of action against Ms. Ford. Instead, it purports to seek the disclosure of certain information and enforcement of Ohio law in domesticating or collecting on the judgment against Chesley – even though Ms. Ford had not yet domesticated the judgment. In fact, Ms. Ford cannot domesticate the judgment, as she is not an Ohio lawyer.

[Id. at 10, ¶ 17 (emphasis added).]

Relator successfully persuaded this Court to stay proceedings in the Hamilton County Action because the very domestication action now filed had not been filed and because she, as counsel, was sued as opposed to her clients. See Relators’ Motion to Stay, at 4-5.⁴ Yet, even though the

³ As part of her effort, Relator attaches a proposed order as Exhibit B to her Motion. Her comments are misleading. As set forth below, the 2016 Complaint was principally directed to 34 Kentucky Plaintiffs who lack standing or do not own their claims because of bankruptcies or who lost their claims because of a failure to perfect them in their estates. The proposed TRO submitted with the 2016 Complaint is limited to those Plaintiffs.

However, all 382 Kentucky Plaintiffs filed the Domestication Cases, and Mr. Chesley is entitled to oppose the process and ensure the Domestication Cases comply with Ohio law. The proposed order attached to Exhibit B to the instant Motion was in response and is directed to the Domestication Cases and the Kentucky Plaintiffs’ non-compliance with Ohio law: The proposed order itself expressly references the Domestication Cases and their assigned case numbers. Not only is this permissible, it is absolutely necessary to afford Mr. Chesley those rights available under the Ohio case law.

⁴ As one example, Relator’s Motion to Stay, at 4-5, states:

Judge Ruehlman lacks jurisdiction over the underlying case because it does not present a justiciable case or controversy. The Ohio Constitution gives a common pleas court the power to hear only justiciable matters. *See* Ohio Const., Article IV, Section 4(B). As explained in Ms. Ford’s complaint, the purported “controversy” in Chesley’s complaint is between Chesley, a judgment debtor of a valid and enforceable Kentucky judgment, and Ms. Ford—the lawyer for Chesley’s judgment creditors. But in reality, these

Kentucky Plaintiffs themselves have filed the very domestication action Relator represented to this Court had to be filed before a justiciable controversy existed, Relator still want to preclude any challenge, and therefore deprive Mr. Chesley of the statutory rights and protections recognized by Ohio courts.

Relator's real contention is that Judge Ruehlman is somehow forever precluded from considering any case involving Mr. Chesley and any of the Kentucky Plaintiffs – including newly filed proceedings by the Kentucky Plaintiffs – assigned to him by the Hamilton County Assignment Commissioner. No rule supports this contention. But even then, Relator is not content. Now that the new proceedings have been assigned to Judge Ruehlman, Relator doubles down and seeks a stay of all proceedings. She wants to proverbially “have her cake and eat it too.” The game, of course, is that somehow the Kentucky Plaintiffs should be able to proceed with domestication of judgment proceedings while Mr. Chesley is denied the opportunity to exercise the same legal rights available to any other Ohio citizen confronted with a foreign judgment that has been proven, at least to date, to be noncompliant with Ohio's Uniform Enforcement of Foreign Judgments Act. Apparently, according to Relator, Ohio statutory protections accorded judgment debtors, and the case law applying these statutes, are to be summarily disregarded. Fortunately, Ohio law cannot be so easily ignored.

parties do not have any adverse legal interests, and Chesley has not even stated any causes of action against Ms. Ford. Therefore, Judge Ruehlman has no jurisdiction to adjudicate the complaint. *See State ex rel. Barclays Bank PLC v. Hamilton County Court of Common Pleas*, 74 Ohio St. 3d 536, 542, 660 N.E.2d 458 (1996).

Furthermore, Judge Ruehlman lacks the jurisdiction to prevent Ms. Ford or her clients from invoking the statutory remedies and procedures set forth in Ohio law. R.C. sections 2329 *et seq.* provides the process for domesticating a foreign judgment. But Judge Ruehlman has completely rewritten Ohio law *by enjoining domestication of a judgment before it even has been attempted*. And Judge Ruehlman has placed additional requirements on Ms. Ford not otherwise required under Ohio law before she or any other Ohio lawyer can domesticate the judgment. Again, Ms. Ford is not a judgment creditor. Such interference is not permitted. *See The State, ex rel. Celeste, Governor v. Smith, Judge*, 17 Ohio St.3d 163, 478 N.E.2d 763 (1985).

(Emphasis added.)

As set forth below, Relator's Motion is baseless and should be denied.

STATEMENT OF PROCEEDINGS

Given Relator's convenient omissions, some additional background for this Court's consideration is warranted.

A. The Hamilton County Action.

On August 1, 2014, the Kentucky Court in the Abbott case entered an order (the "Kentucky Judgment") determining that Mr. Chesley was jointly and severally liable for a \$42 million judgment that had been entered against other defendants in the same case some nine years earlier. Although the Abbott Case is not a class action, the Kentucky Judgment did not identify each of the individual judgment creditors or the amount of the judgment awarded to each such judgment creditor. Likewise, the Kentucky Judgment did not make any adjustment for sums that had been collected by the judgment creditors against the other defendants.

In January 2015, Mr. Chesley filed the Hamilton County Action, Case No. A1500067 in the Hamilton County Court of Common Pleas, seeking certain injunctive relief against Angela Ford, as counsel for the underlying judgment creditors in the Abbott Case. The Hamilton County Action was assigned to Respondent, the Honorable Robert P. Ruehlman ("Judge Ruehlman"). Certain of the judgment creditors who are Ohio residents were subsequently added as defendants in the Hamilton County action. In September 2015, approximately three weeks before Judge Ruehlman was to hold a preliminary injunction hearing, Relator commenced this original action. On September 17, 2015, this Court granted Relator's request for an emergency stay, ordering that "Case No. A1500067 and the enforcement of Respondent's orders are hereby stayed pending this court's resolution of this case." In compliance with that order, no further proceedings have occurred in Case No. A1500067, and the case has lain dormant pending this

Court's consideration of the Intervenor's Motion for Judgment on the Pleadings. A copy of the Amended Complaint filed in the Hamilton County Action is attached as Exhibit V.

B. The Adverse Result Against the Kentucky Plaintiffs in the Nevada Litigation.

Of course, this Court's stay did not preclude the Kentucky Plaintiffs from their collection efforts. For example, all 382 of the underlying Kentucky Judgment creditors filed actions in Nevada courts seeking to domesticate the Kentucky Judgment in Nevada and to garnish certain payments that were owed by a Nevada trust to the Waite Firm." Mr. Chesley and the Waite Firm opposed such efforts and argued that the Kentucky Judgment and related Kentucky orders are not enforceable against the Waite Firm. The Nevada Court agreed and concluded that the Kentucky orders are not enforceable against the Waite Firm because, among other things, it is not a party to the Abbott Case.

In fact, two separate judges in the Eighth Judicial District Court in Clark County, Nevada, have addressed the Kentucky Plaintiffs' ability to collect against the Waite Firm, and Attorney Ford has twice sought to garnish monies to be paid by the Castano Directed Distribution Trust (the "Castano Trust") to the Waite Firm. The first effort was before Judge Jerry A. Wiese in Case No. A718827 (the "First Nevada Action"), commencing May, 2015. [Exh. M.] In that case, Plaintiffs sought to domesticate the original Kentucky Judgment even though it had been rendered unenforceable by the amended Kentucky Judgment. Prior to dismissing the first case, Judge Wiese heard arguments on a number of issues with such collection efforts. In response, Judge Wiese expressed his correct belief that the Kentucky Plaintiffs' garnishment efforts violated the Waite Firm's constitutional right to due process:

I don't think Waite Schneider was a party to the prior case [the Kentucky Action]. *So I do think that there is a problem with due process* as far as trying to take money that belongs to Waite Schneider. I understand that there was essentially an alter ego, but there was no alter ego claim. There

was no determination as far as piercing the corporate veil that would lead to a judgment that can be collected directly, I don't think, from Waite Schneider. So I think that there needs to be some type of alter ego or corporate veil claim brought before that can happen.

[Exh. M (emphasis added).]

Judge Wiese, however, did not have to resolve the due process issue, as he found that the original Kentucky Judgment was unenforceable under Nevada's version of the Uniform Enforcement of Foreign Judgments Act:

ORDERED, *that Defendant's Motion to Strike Domestication Documents and declaring the attempted domestication void ab initio as the underlying judgment is not enforceable is granted.*

[Exh. N (emphasis added).]

On October 22, 2015, while the First Nevada Action was pending before Judge Wiese, the Kentucky Plaintiffs caused to be filed in the same court, before Judge Linda Marie Bell, another Application for Filing of Foreign Judgment Pursuant to NRS 17.330, this time using the amended Kentucky Judgment (Case No. A-15-726616-F, the "Second Nevada Action"). At the hearing, the Kentucky Plaintiffs presented the various Kentucky orders (including the June 2015 and September 2015 Kentucky Orders), but on February 11, 2016, Judge Bell expressly held that the Kentucky Orders were unenforceable against the Waite Firm and not entitled to "full faith and credit."

In the instant case, Abbott failed to give WSBC notice that WSBC was a potential alter ego of Chesley until the Kentucky Court already ruled on the issue. WSBC was not named as a party in Kentucky case 05-CI-00436. Abbott did not bring any separate action against WSBC to assert that Chesley and WSBC are alter egos. The Kentucky Court made an alter ego determination in a case with no way for WSBC to assert a defense against Abbott's claims.

The Court cannot extend full faith and credit to an order resulting from a lack of due process. "The full faith and credit clause of the United States Constitution requires that a final judgment entered in a sister state must be

respected by the courts of this state absent a showing of fraud, lack of due process or lack of jurisdiction in the rendering state.” *Mason v. Cuisenaire*, 128 P.3d 446, 448 (Nev. 2006) (quoting *Rosenstein v. Steele*, 747 P.2d 230, 231 (Nev. 1987)).

The Court finds that respecting the Kentucky Order declaring Chesley and WSBC to be alter egos would create a due process violation in this case. Abbott asks this Court to apply an order entered solely against Chesley to deprive a nonparty of its property. The Court grants WSBC’s petition and determines that WSBC’s interest in the Castano Trust is not subject to garnishment by Abbott. WSBC’s interest in the Castano Trust is its sole property. Abbott may attach funds distributed to Chesley individually, not funds distributed to WSBC.

[Exh. P (emphasis added).]⁵

Copies of Judge Bell’s subsequent March 31, 2016 Decision and Order denying the request for reconsideration is attached as Exhibit Q.⁶ The Kentucky Judgment creditors did not file an appeal from the Nevada court’s decisions, so they are final and not appealable.

C. The Kentucky Plaintiffs’ Filing of The Domestication Cases.

Having lost in Nevada, less than a month later, on April 25, 2016, all 382 of the underlying judgment creditors made their first attempt to domesticate the Kentucky Judgment in Ohio and execute on the newly created Ohio judgment. They did so by the filing of an Affidavit for Foreign Judgment Registration in Hamilton County (the “First Domestication Affidavit”).

⁵ Ohio law is in accord. A judgment rendered by a court that lacks personal jurisdiction over a defendant is void. *See, e.g., Maryhew v. Yova*, 11 Ohio St. 3d 154, 156 (1984). An objection to the lack of jurisdiction over a person generally must be raised either in the defendant’s answer or in a motion filed before the filing of an answer. *See, e.g., Franklin v. Franklin*, 5 Ohio App. 3d 74, 75-76 (7th Dist. 1981). However, if the defendant does not appear in the action, the defense is not waived for failing to object. *Maryhew*, 11 Ohio St. 3d at 156-159 (holding defendant had not submitted to the court’s jurisdiction, where submission to jurisdiction would have waived the issue of lack of personal jurisdiction); *State ex rel. DeWine v. 9150 Group, L.P.*, 977 N.E.2d 112, 116-17 (Ohio Ct. App. 9th Dist. 2012) (same). Furthermore, the judgment is void even if the defendant knew about the action because it is plaintiff’s duty to perfect service of process. *See, e.g., Maryhew*, 11 Ohio St. 3d at 159 (dismissing judgment even when there was “some indicia of legal gamesmanship on the part of the defendant” in knowing of, but not appearing in, the action).

⁶ The reasoning of the Nevada courts’ decisions is consistent with the rationale employed by Judge Ruehlman when he permitted the Waite Firm to intervene in the Hamilton County Action and ruled that the Kentucky orders were not enforceable against the Waite Firm.

Despite the required thirty-day waiting period provided for under Ohio Revised Code §2329.023(C), simultaneously, counsel for the Kentucky Plaintiffs had the Hamilton County Clerk of Court issue execution-related papers: EX1600448 (in preparation for an asset seizure); and CJ16006214 (in preparation for a lien on real property).⁷ The non-Relator defendants in the Hamilton County Action are all included in in the Domestication Cases. [Exhs. A-E.]

D. The Filing of The 2016 Complaint Against 38 Kentucky Plaintiffs.

Three days after the filing of the First Domestication Affidavit, Mr. Chesley and the Waite Firm filed the Complaint in Stanley M. Chesley et al. v. Probate Estate of Danny Lee Abney, Hamilton County Case No. A1902508 (the “2016 Complaint” and the “2016 Case”). [Exh. F.] The 2016 Complaint asserts that, as a matter of law, thirty-four of the Kentucky Plaintiffs in fact are not co-owners of the Kentucky Judgment because they filed bankruptcy or are deceased and failed to follow Kentucky probate law to preserve their claims against Mr. Chesley. That Complaint is supported by the affidavit of an expert witness, James C. Worthington, Sr., Esq. The remaining four Kentucky Plaintiffs had, in addition to the Domestication Cases, asserted various claims in Ohio, in which they (a) claimed that the bankrupt individuals and Kentucky probate estates were holders of claims under the Kentucky Judgment; and (b) attempted to enforce the Kentucky Judgment and related orders from the Kentucky Court against the Waite Firm despite the Nevada court’s final determination that those orders are not enforceable against the Waite Firm.

A copy of the 2016 Complaint is attached as Exhibit T. The Court should review this and the Hamilton County Action Complaint. [Exh. V.] They assert different claims, against

⁷ The thirty-day stay provided by this section is intended to preserve the due process rights of the judgment debtor by providing adequate notice before enforcement proceedings commence in Ohio. See, e.g., DLM Joint Venture v. Mershon’s World of Cars, Inc., 1995 WI 59718 (Ohio Ct. App. 2nd Dist, Jan. 5, 1995).

different parties, and Relator's statement that it is the same relief is simply false. The 2016 Complaint expressly states at page 6: "None of the claims asserted in the [Hamilton County Action] are asserted herein." Thus, Relator Ford is not a party to the 2016 Case. The First Domestication Affidavit includes each and every one of the supposed judgment creditors who are challenged in the 2016 Complaint, and therefore every one of the 38 defendants in the 2016 Case have specifically initiated domestication proceedings in Ohio.

The 2016 Complaint seeks equitable relief in its prayer and, if equitable relief had been pursued with the filing of the case, the matter would have been assigned to an "equity" judge, the Honorable Ethna M. Cooper. But no injunctive proceedings occurred, *i.e.*, no hearing was scheduled, no order was issued, etc. With no emergency hearings held on the injunctive relief claims, the docket sheet notes that the Clerk of Courts "re-rolled" the case and it was randomly assigned to a judge on the non-equity docket: Judge Ruehlman. [Exh. F, Docket Sheet.]

The Kentucky Plaintiffs have moved to dismiss the 2016 Case. [Exhs. I, J.] That motion is ripe—although Relator is now belatedly attempting to preclude Judge Ruehlman from even ruling on the motion. The Kentucky Plaintiffs also moved to transfer the 2016 Case to Judge Cooper. That motion is also ripe. [Exhs. G, H.] Once again, however, Relator is attempting to prevent Judge Ruehlman from even ruling on the motion.

E. Additional Challenges to the First Domestication Affidavit.

In addition to the issues raised in the Complaint, the First Domestication Affidavit fails to meet Ohio's Uniform Enforcement of Foreign Judgments Act because it does not disclose the current amount owed on the Judgment as required by Miller v. Bock Laundry Machine Co., 64 Ohio St. 2d 265, 268 (1980) and it does not disclose the names and addresses of the judgment creditors as required by Ohio Revised Code § 2329.023(A). Legal memoranda detailing these

failings were filed in the 2016 Case. [Exhs. K, L.] These failings are not detailed here inasmuch as they are for the trial court, in the first instance, to address, but some of the legal briefing is attached should the Court wish to review it.

In response to Mr. Chesley's filings, on June 8, 2016, counsel for the Kentucky Plaintiffs filed a Supplement To Affidavit For Foreign Judgment Registration (the "Second Domestication Affidavit"). The Kentucky Plaintiffs made that filing in the 2016 Case. Attached to that affidavit was a list of the creditors and their supposed addresses. All of the supposed creditors who are defendants in the 2016 Case are listed in the Second Domestication Affidavit.

The Second Domestication Affidavit is also wrong. Plaintiffs have demonstrated that fact in a filing in the 2016 Case. For example: Plaintiffs attempted to serve the 2016 Complaint on Defendant Linda Brumley at the address shown on the Second Domestication Affidavit; that effort failed; and the postcard from the Hamilton County Clerk of Court states that said address is "VACANT." Counsel for the Kentucky Plaintiffs apparently does not know the residence address of her client, the nominated replacement Relator in the instant writ action. [Exh. S.] Others deficiencies exist and will be subject to adjudication in due course.

Judge Ruehlman has not held a hearing on any of the pending motions. A hearing is scheduled for June 22, 2016, regarding the various motions, but it has not been noticed as a "preliminary injunction" hearing. Rather, it is a hearing intended to address the multitude of filings made and now ripe for consideration – most of them by Relator's clients.

ANALYSIS

Based upon the foregoing facts, there is no basis for the requested relief.

First, this Court's stay of the Hamilton County Action remains preserved and honored. Nothing is occurring in that case: no hearings, no filings, nothing whatsoever. Rather, as a ploy,

Relator attempts to mix apples and oranges by omitting any reference to the filings of the Kentucky Plaintiffs and impermissibly conflating the responsive filing made by Mr. Chesley and the Waite Firm with the instant case. But the dispositive facts are simple: The Kentucky Plaintiffs have now sought to domesticate the Kentucky Judgment. They have done so by new proceedings which, in part, have prompted a countersuit by Mr. Chesley. They have created a case and controversy for which an Ohio judge possesses jurisdiction and authority to adjudicate. Surely, no one can credibly suggest that the Kentucky Plaintiffs should be permitted to proceed with no opposition by Mr. Chesley and without being required to comply with the controlling Ohio law. But, of course, that is exactly is what Relator seeks: by her stay request, she wants to preclude any challenge to the Domestication cases.

Second, Movant's implicit efforts to broaden the scope of this original action to capture other proceedings is improper. An extraordinary writ may not issue where a right of appeal provides an adequate remedy at law. Thus, a prohibition action "does not lie to prevent an erroneous decision in a case which the court is authorized to adjudicate" – *i.e.*, where the court has subject matter jurisdiction. State ex rel. Tubbs Jones v. Suster, 84 Ohio St. 3d 70, 77 (1998). By the instant motion, Relator seeks to preclude Judge Ruehlman from adjudicating issues that he is clearly authorized to adjudicate under Ohio law – again, issues put in play by the Kentucky Plaintiffs' filings in Ohio. If the Kentucky Plaintiffs are displeased with any of his rulings, they can, like every other Ohio litigant, file an appeal. There is nothing extraordinary about this matter other than Relator's knowing and intentional effort to avoid being required to comply with Ohio law in connection with the collection of the Kentucky Judgment.

Third, Movant obviously disfavors Judge Ruehlman – a fact she made clear only after litigating a matter before him for over eight months. But this disfavor is not a basis for forcing

him off randomly assigned cases – let alone preventing him from ruling on a motion to transfer to Judge Cooper.⁸ No recusal has been sought, but, in any event, the law is clear that an original action is not the proper means for seeking recusal or disqualification of a judge. “[A] judge’s decision to voluntarily recuse himself or herself is a matter of judicial discretion which cannot be controlled through mandamus.” State ex rel. Brady v. Russo, 2007 WL 1848720, at *3 (Ohio Ct. App. 8th Dist., June 22, 2007).

CONCLUSION

For these reasons, the instant motion should be denied. No matter what Relator says, Mr. Chesley is entitled to his day in court just like any other Ohio citizen.

Respectfully submitted,

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⁸ Relator offers innuendoes challenging this random assignment. They are not well taken but, in any event, if such an issue existed, it should be presented to the administrative judge.

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CERTIFICATE FOR SERVICE

The undersigned certifies that on this 21st day of June, 2016, 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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APPENDIX OF EXHIBITS IN SUPPORT OF
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APPENDIX OF EXHIBITS

<u>DESCRIPTION</u>	<u>EXHIBIT</u>
Hamilton County, Ohio Common Pleas Court Case Docket for <u>Mildred Abbott et al vs. Stanley M Chesley et al</u> , Case No. EX1600448.....	A
Motion for Designation of Special Process Server filed in Case No. EX1600448....	B
Order Designating Special Process Server filed in Case No. EX1600448	C
Praecipe for Execution filed in Case No. EX1600448	D
Notice of Proof of Service filed in Case No. EX1600448	E
Hamilton County, Ohio Common Pleas Court Case Docket for <u>Stanley M. Chesley v. Probate Estate of Danny Lee Abney</u> , Case No. A1602508	F
Defendants' Motion To Transfer And Permanently Assign Judge Cooper filed in Case No. A1602508	G
Plaintiff Chesley's Opposition To Motion To Transfer Case filed in Case No. A1602508.....	H
Defendants Motion To Dismiss Pursuant To Civil R 12b(1) & (6) And Request For Attorney Fees filed in Case No. A1602508	I
Plaintiff Stanley M. Chesley's Opposition To Motion To Dismiss filed in Case No. A1602508.....	J
Notice Of Additional Deficiencies In Affidavits Seeking To Domesticate The Kentucky Judgment filed in Case No. A1602508	K
Chesley's Opposition To Domestication Of Judgment filed in Case No. A1602508	L

DESCRIPTION

EXHIBIT

December 10, 2015 Hearing Transcript from Case No. A-15-718827..... M

December 18, 2015 Order of Dismissal filed in Mildred Abbott, et al. v. Stanley M. Chesley, et al., Case No. A-15-718827-F, District Court Clark County, Nevada N

February 11, 2016, Decision and Order filed in Mildred Abbott, et al. v. Stanley M. Chesley, et al., Case No. A-15-726616-F, District Court Clark County, Nevada O

March 31, 2016, Decision filed in Mildred Abbott, et al. v. Stanley M. Chesley, et al., Case No. A-15-726616-F, District Court Clark County, Nevada..... P

Hamilton County, Ohio Common Pleas Court Case Docket for Mildred Abbott et al vs. Stanley M Chesley et al, Case No. CJ16006214 Q

Second Amended Judgment Entered October 22, 2014 in Case No. CJ16006214 R

Affidavit of Vince Mauer S

Complaint for Temporary Restraining Order, Declaratory Relief and Injunctive Relief filed in Case No. A1602508..... T

Plaintiffs’ Motion for Temporary Restraining Order and Permanent Injunction to Prevent Illegal Efforts to Enforce Judgment..... U

First Amended and Supplemental Verified Petition for Declaratory Judgment and Injunctive Relief filed in Stanley M. Chesley v. Angela M. Ford, Esq., et al., Hamilton County, Ohio Common Pleas Court Case No. A1500067..... V

Petitioner’s Motion for Leave to File Second Amended Verified Petition filed in Case No. A1500067 W

Respectfully submitted,

/s/ Marion H. Little, Jr.
John W. Zeiger (0010707)
Marion H. Little, Jr. (0042679)
Zeiger, Tigges & Little LLP
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*Attorneys for Intervenor
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Email: vmauer@fbtlaw.com

*Attorneys for Intervenor
Stanley M. Chesley*

CERTIFICATE FOR SERVICE

The undersigned certifies that on this 21st day of June, 2016, 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)

959-002:606364

Case Summary

Add to Portfolio

Case Number: EX1600448
Case Caption: MILDRED ABBOTT ET AL vs. STANLEY M CHESLEY ET AL
Judge: Unavailable
Filed Date: 4/26/2016
Case Type: X - EXECUTION FILING
Total Deposits: \$ 3.00 Credit
Total Costs: \$ 31.00

Case History

Doc Image#	Date	Description	Amount
	6/20/2016	SUPPLEMENTAL TO AFFIDAVIT FOR FOREIGN JUDGMENT REGISTRATION	
	5/2/2016	NOTICE OF PROOF OF SERVICE	
	4/27/2016	MOTION FOR DESIGNATION OF SPECIAL PROCESS SERVER	
	4/27/2016	ORDER DESIGNATING SPECIAL PROCESS SERVER	
	4/26/2016	EXECUTION ISSUED AGAINST [STANLEY M CHESLEY CIRCUIT BOONE COUNTY KENTUCKY 05CI436 CASE NO CJ16006214 DOJ 10/22/2014 INT DATE 10/22/2014 AMT OF JUDGMENT 42000000.00]	
	4/26/2016	EXECUTION DEPOSIT BY TABITHA M HOCHSCHEID	3.00-

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<p>EXHIBIT</p> <p>A</p>

COURT OF COMMON PLEAS
HAMILTON, COUNTY OHIO

MILDRED ABBOTT, et al
Plaintiff:

v.

STANLEY CHESLEY
Defendant

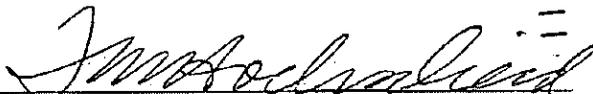
: CASE NO. ~~CS16-006214~~
:
: EX 1602448
:
: MOTION FOR DESIGNATION OF
: SPECIAL PROCESS SERVER
:

The Plaintiff moves this court for an order designating a person to make service a process on Defendant, STANLEY CHESLEY. The Plaintiff suggests the designation of Michael P Rolfes, who is at least 18 years of age and is not a party of this action, as a suitable person to make service.

WHEREFORE, Plaintiff respectfully requests the Court appoint Michael P Rolfes to serve as special process server without bond in order to serve the Defendant, STANLEY CHESLEY.

Respectfully Submitted,

Hochscheid & Associates, LLC


TABITHA M. HOCHSCHEID (0065172)

Attorney for Plaintiff
810 Sycamore Street; Suite 420
Cincinnati, Ohio 45202
(513) 338-1818 phone
(513) 263-9046 fax
tmh@hochscheidlaw.com

FILED

TRACY WINKLER
CLERK OF COURTS
HAMILTON COUNTY, OH
2016 APR 27 P 2:11



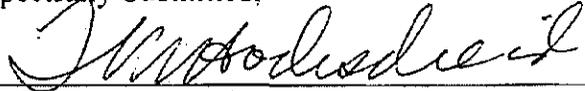
D114288314

EXHIBIT
B

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon: STANLEY CHESLEY,
9005 Camargo Road, Cincinnati OH 45243; by regular U.S. Mail this 26th day of April, 2016.

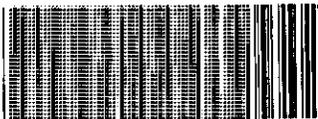
Respectfully Submitted,



Tabitha M. Hochscheid
Attorney for the Plaintiff

ENTERED

APR 26 2016



D114293727

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

Ethna M. Cooper, Judge

MILDRED ABBOTT, et al
Plaintiff:

v.

STANLEY CHESLEY
Defendant

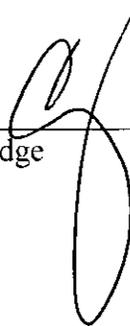
: CASE NO. ~~21K000214~~
: EX 1600448
:
:
:

: ORDER DESIGNATING SPECIAL
: PROCESS SERVER
:

ENTERED
APR 27 2016

On Motion of Plaintiff for an order designating Michael P Rolfes to make service on the Complaint on Defendant, STANLEY CHESLEY, and appearing that Michael P Rolfes is a qualified person over 18 years of age and is not a party of this action, it is necessary to prevent any delay or efforts to evade service by other means.

HEREBY ORDERED that Michael P Rolfes be designated to serve any papers regarding the Complaint on Defendant, STANLEY CHESLEY as provided in C.R. 4.1 (set 2), and to make due return of the service.



Judge

Respectfully Submitted,

Hochscheid & Associates, LLC



TABITHA M. HOCHSCHEID (0065172)
Attorney for Plaintiff
810 Sycamore Street; Suite 420
Cincinnati, Ohio 45202
(513) 338-1818 phone
(513) 263-9046 fax
tmh@hochscheidlaw.com

MAGISTRATE
APR 26 2016 ^{DMK}
HAS SEEN

EXHIBIT
C

Execution No. Ex 1600448

Common Pleas Court, Hamilton County, Ohio

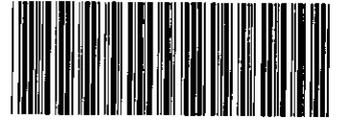
Mildred Abbott, et al

vs.

Stanley Chesley, et al.

PRAECIPE FOR EXECUTION

BJ 16 006214



D114275802

TRACY WINKLER
CLERK OF COURTS
HAMILTON COUNTY, OH

2016 APR 26 P 2:571

FILED

Clerk Fees \$3⁰⁰

Paid By M Kotsched/LR 0065172

The Clerk will please issue execution against

in the above case.

Attorney

**EXHIBIT
D**

STANLEY M. CHESLEY

**COURT OF COMMON PLEAS
HAMILTON COUNTY OHIO**

Judgment Creditor

MILDRED ABBOTT, ET AL

-VS-

Judgment Debtor

STANLEY M. CHESLEY

Whereas on the 25TH day of APRIL 2016, a **FOREIGN JUDGMENT** obtained against you in HAMILTON COUNTY, State of OHIO was filed in this Court.

Execution may issue on this Judgment thirty (30) days after the above date.

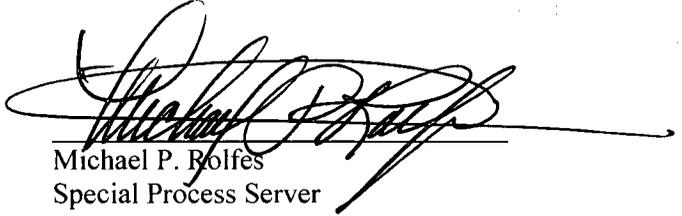
**TRACY WINKLER
CLERK OF COURTS**

Shena Otis, Deputy Clerk

**TABITHA M. HOCHSCHEID
810 SYCAMORE STREET, SUITE 420
CINCINNATI, OHIO 45202**

CERTIFICATE OF SERVICE

I, Michael P. Rolfes, hereby certify that the foregoing was Notice of Registration of Foreign Judgment was served upon the Defendant personally at his usual place of ~~residence~~ / business this 29th day of APRIL, 2016. AT 1:55 PM


Michael P. Rolfes
Special Process Server

Case Summary

Add to Portfolio

Case Number: A 1602508
Case Caption: STANLEY M CHESLEY vs. PROBATE ESTATE OF DANNY LEE ABNEY
Judge: ROBERT P RUEHLMAN
Filed Date: 4/28/2016
Case Type: H790 - DECLARATORY JUDGMENT- OC
Total Deposits: \$ 745.00 Credit
Total Costs: \$ 1114.00

Case History

Doc Image#	Date	Description	Amount
	6/20/2016	SUPPLEMENT TO DEFENDANTS RESPONSE TO CHESLEY'S MOTION FOR INJUNCTION TO PREVENT ENFORCEMENT OF IMPROPERLY DOMESTICATED KENTUCKY JUDGMENT	
	6/20/2016	NOTICE OF ADDITIONAL DEFICIENCIES IN AFFIDAVITS SEEKING TO DOMESTICATE THE KENTUCKY JUDGMENT	
	6/20/2016	CHESLEY'S OPPOSITION TO DOMESTICATION OF JUDGMENT	
	6/20/2016	SUMMONS ISSUED BY CERTIFIED MAIL TO GLENNA BROCK POWELL RENNER ESTATE	
	6/20/2016	SUMMONS ISSUED BY CERTIFIED MAIL TO PROBATE ESTATE OF GLORIA M WILLIAMS	
	6/20/2016	SUMMONS ISSUED BY CERTIFIED MAIL TO MARILYN KAYE BARNES	
	6/20/2016	SUMMONS ISSUED BY CERTIFIED MAIL TO JUDITH PECK	
	6/20/2016	SUMMONS ISSUED BY CERTIFIED MAIL TO BETTY KELLY ESTATE	
	6/20/2016	SUMMONS ISSUED BY CERTIFIED MAIL TO RUBY GODBEY	
	6/20/2016	SUMMONS ISSUED BY CERTIFIED MAIL TO BRIAN STERLING POWELL	
	6/20/2016	CERTIFIED MAIL SERVICE ISSUED TO PROBATE ESTATE OF GLORIA M WILLIAMS [CERTIFIED MAIL NBR.: 7194 5168 6310 0793 3364]	
	6/20/2016	CERTIFIED MAIL SERVICE ISSUED TO MARILYN KAYE BARNES [CERTIFIED MAIL NBR.: 7194 5168 6310 0793 3371]	
	6/20/2016	CERTIFIED MAIL SERVICE ISSUED TO GLENNA BROCK POWELL RENNER ESTATE [CERTIFIED MAIL NBR.: 7194 5168 6310 0793 3425]	
	6/20/2016	CERTIFIED MAIL SERVICE ISSUED TO BRIAN STERLING POWELL [CERTIFIED MAIL NBR.: 7194 5168 6310 0793 3418]	
	6/20/2016	CERTIFIED MAIL SERVICE ISSUED TO JUDITH PECK [CERTIFIED MAIL NBR.: 7194 5168 6310 0793 3401]	
	6/20/2016	CERTIFIED MAIL SERVICE ISSUED TO BETTY KELLY ESTATE [CERTIFIED MAIL NBR.: 7194 5168 6310 0793 3395]	
	6/20/2016	CERTIFIED MAIL SERVICE ISSUED TO RUBY GODBEY [CERTIFIED MAIL NBR.: 7194 5168 6310 0793 3388]	
	6/17/2016	ISSUE DESK - POSTAGE DEP. BY VINCENT MAUER RECEIPT NBR: 161000010175	49.00-
	6/17/2016	WRITTEN REQUEST FOR CERTIFIED MAIL SERVICE OF SUMMONS AND COMPLAINT ON SERVE ALL PARTIES LISTED	
	6/10/2016	NOTICE TO VINCENT E MAUER AS TO UNDELIVERED SERVICE ON LINDA BRUMLEY SERVICE TYPE: CERTIFIED MAIL SERVICE REASON CODE: VACANT [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7774]	
	6/8/2016	SUPPLEMENT TO DEFENDANTS RESPONSE TO CHESLEY'S MOTION FOR INJUNCTION TO PREVENT ENFORCEMENT OF IMPROPERLY DOMESTICATED KENTUCKY JUDGMENT	
	6/6/2016	PLAINTIFF STANLEY M. CHESLEY'S OPPOSITION TO MOTION TO DISMISS	

**EXHIBIT
F**

-  6/3/2016 PLAINTIFF CHESLEY'S OPPOSITION TO MOTION TO TRANSFER CASE
-  6/1/2016 DEFENDANTS' MOTION TO TRANSFER AND PERMANENTLY ASSIGN JUDGE COOPER
-  6/1/2016 DEFENDANTS MOTION TO DISMISS PURSUANT TO CIVIL R 12B(1) & (6) AND REQUEST FOR ATTORNEY FEES
-  5/23/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF ALMA BROCK ON 05/16/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7446]
-  5/19/2016 NOTICE TO VINCENT E MAUER AS TO UNCLAIMED SERVICE ON JUDITH PECK SERVICE TYPE: CERTIFIED MAIL SERVICE REASON CODE: UNCLAIMED [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7897]
-  5/19/2016 NOTICE TO VINCENT E MAUER AS TO UNDELIVERED SERVICE ON BETTY KELLY ESTATE UNABLE TO FORWARD
-  5/18/2016 NOTICE TO VINCENT E MAUER AS TO UNDELIVERED SERVICE ON RUBY GODBEY UNABLE TO FORWARD
-  5/18/2016 NOTICE TO VINCENT E MAUER AS TO UNDELIVERED SERVICE ON GLENNA BROCK POWELL RENNER EST SERVICE TYPE: CERTIFIED MAIL SERVICE REASON CODE: NO SUCH NUMBER [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7927]
-  5/16/2016 RESPONSE TO PLAINTIFFS MOTION FOR INJUNCTION TO PREVENT ENFORCEMENT OF IMPROPERLY DOMESTICATED JUDGMENT
-  5/16/2016 NOTICE TO VINCENT E MAUER AS TO UNDELIVERED SERVICE ON RONNIE ABNEY COADMINISTRATOR SERVICE TYPE: CERTIFIED MAIL SERVICE REASON CODE: NOT DELIVERABLE AS ADDRESSED [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7415]
-  5/16/2016 CHESLEY'S REPLY IN SUPPORT OF HIS MOTION TO PREVENT ENFORCEMENT OF IMPROPERLY DOMESTICATED KENTUCKY JUDGMENT
-  5/16/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF SHARON STEVENSON ON 05/11/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7613]
-  5/16/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO ERIC STAUFFER CO ADMINISTRATOR ON 05/12/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7583]
-  5/16/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO LORRAINE PILAR GALLION ADMINISTRATOR DE BONIS NON ON 05/11/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7729]
-  5/16/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF PHYLLIS APPLGATE ON 05/11/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7439]
-  5/13/2016 DEFENDANTS REPLY TO MOTION FOR INJUNCTIVE RELIEF
-  5/13/2016 NOTIFICATION FORM FILED.
-  5/13/2016 NOTICE TO VINCENT E MAUER AS TO UNDELIVERED SERVICE ON MARILYN KAYE BARNES SERVICE TYPE: CERTIFIED MAIL SERVICE REASON CODE: NO SUCH NUMBER [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7750]
-  5/13/2016 NOTICE TO VINCENT E MAUER AS TO UNDELIVERED SERVICE ON ERIC STAUFFER CO ADMINISTRATOR SERVICE TYPE: CERTIFIED MAIL SERVICE REASON CODE: NO SUCH NUMBER [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7576]
-  5/12/2016 NOTICE TO VINCENT E MAUER AS TO UNDELIVERED SERVICE ON PROBATE ESTATE OF GLORIA M WIL SERVICE TYPE: CERTIFIED MAIL SERVICE REASON CODE: ATTEMPTED - NOT KNOWN [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7736]
-  5/12/2016 NOTICE TO VINCENT E MAUER AS TO UNDELIVERED SERVICE ON PROBATE ESTATE OF CLARA LOU FU UNABLE TO FORWARD
- NOTICE TO VINCENT E MAUER AS TO UNDELIVERED SERVICE ON BRIAN STERLING POWELL SERVICE TYPE: CERTIFIED MAIL

 5/11/2016 SERVICE REASON CODE: VACANT [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7903]

 5/11/2016 NOTICE TO VINCENT E MAUER AS TO UNDELIVERED SERVICE ON PROBATE ESTATE OF MICHAEL MILL SERVICE TYPE: CERTIFIED MAIL SERVICE REASON CODE: VACANT [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7521]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO ELAINE SMITH ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7934]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO BILLIE JEAN REESE ON 05/05/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7910]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF MILTON LEWIS ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 8016]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PAMELA SUE MARLOWE ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7866]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO LINDA NEVELS ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7873]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO RITA PROFITT NORMAN ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7880]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO MARY LOU WHITE LYNCH ON 05/05/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7859]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO REBECCA LOVELL ESTATE ON 05/05/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7842]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO CHARLOTTE LOUISE HUGHES ON 05/06/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7811]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO DELLA MAE JACKSON ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7828]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO LEONA GAIL HANDLEY ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7798]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO LOUISA MOSS HOWARD ON 05/07/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7804]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO MS CAROL BOGGS ON 05/05/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7767]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO LORRAINE PILAR GALLION ADMINISTRATOR DE BONIS NON ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7712]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO RUBY ADAMS ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7743]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF MARTIN T WARD ON 05/05/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7699]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO LORRAINE PILAR GALLION ADMINISTRATOR DE BONIS NON ON 05/05/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7705]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO DAVID WALKER COADMINISTRATOR ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7682]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO DAVID WALKER COADMINISTRATOR ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7675]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF LANE WALKER ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7668]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF SHARON STEVENSON ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7620]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO SHANE SUDDUTH CO ADMINISTRATOR ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7644]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF ELLA JANE TACKETT ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7651]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF MARJORIE SUDDUTH ON 05/06/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7637]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF CONNIE STEPHENS ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7606]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF CONNIE STEPHENS ON 05/05/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7590]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF PAUL STAUFFER ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7569]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF SHARON SMITH ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7552]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF NORMA PICKETT ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7545]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF MICHAEL MILLER ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7538]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF CLARA LOU FULKS ON 05/05/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7491]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF MILTON LEWIS ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7507]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF WARREN SCOTT BURGESS ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7477]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF WATHALEE BRUMFELD ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7460]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO RONNIE ABNEY COADMINISTRATOR ABNEY ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7422]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF WATHALEE BRUMFELD ON 05/04/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7453]

 5/9/2016 ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF SUMMONS & COMPLAINT DELIVERED TO PROBATE ESTATE OF DANNY LEE ABNEY ON 05/05/16, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7408]

5/4/2016 JUDGE ASSIGNED CASE ROLLED TO RUEHLMAN/ROBERT/P PRIMARY

 5/3/2016 CHESLEY'S MOTION FOR INJUNCTION TO PREVENT ENFORCEMENT OF IMPROPERLY DOMESTICATED KENTUCKY JUDGMENT

5/2/2016 CERTIFIED MAIL SERVICE ISSUED TO PROBATE ESTATE OF MILTON LEWIS [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 8016]

 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO PROBATE ESTATE OF MILTON LEWIS

 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO GLENNA BROCK POWELL RENNER ESTATE

 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO ELAINE SMITH

 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO BILLIE JEAN REESE

 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO RITA PROFITT NORMAN

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 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO PAMELA SUE MARLOWE

 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO MARY LOU WHITE LYNCH

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 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO JUDITH PECK

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 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO LINDA BRUMLEY

 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO BETTY KELLY ESTATE

 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO REBECCA LOVELL ESTATE

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 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO RUBY ADAMS

 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO LORRAINE PILAR GALLION ADMINISTRATOR DE BONIS NON

 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO LORRAINE PILAR GALLION ADMINISTRATOR DE BONIS NON

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SUMMONS ISSUED BY CERTIFIED MAIL TO LORRAINE PILAR

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 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO PROBATE ESTATE OF MARTIN T WARD

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 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO RONNIE ABNEY COADMINISTRATOR ABNEY

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 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL WITH WAIVER TO PROBATE ESTATE OF PHYLLIS APPLIGATE

 5/2/2016 SUMMONS ISSUED BY CERTIFIED MAIL TO PROBATE ESTATE OF ALMA BROCK

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5/2/2016 CERTIFIED MAIL SERVICE ISSUED TO PROBATE ESTATE OF ALMA BROCK [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7446]

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5/2/2016 CERTIFIED MAIL SERVICE ISSUED TO PROBATE ESTATE OF WARREN SCOTT BURGESS [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7477]

- 5/2/2016 CERTIFIED MAIL SERVICE ISSUED TO PROBATE ESTATE OF DANNY LEE ABNEY [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7408]

- 5/2/2016 CERTIFIED MAIL SERVICE ISSUED TO PROBATE ESTATE OF WATHALEE BRUMFELD [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 7460]

-  4/29/2016 PLAINTIFFS MOTION FOR TEMPORARY RESTRAINING ORDER AND PERMANENT INJUNCTION TO PREVENT ILLEGAL EFFORTS TO ENFORCE JUDGMENT

- 4/29/2016 INITIAL CASE DEPOSIT PAID BY VINCENT E MAUER 696.00-

-  4/28/2016 COMPLAINT FILED

-  4/28/2016 CLASSIFICATION FORM FILED.

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**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
June 1, 2016 04:35 PM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 529747**

STANLEY M CHESLEY

vs.

**PROBATE ESTATE OF DANNY
LEE ABNEY**

A 1602508

**JUDGE
ROBERT P RUEHLMAN**

FILING TYPE: MOTION

PAGES FILED: 6

EFR200

EXHIBIT

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

STANLEY M. CHESLEY, et al.,	:	Case No. A1602508
	:	
Plaintiffs,	:	Judge Robert Ruehlman
	:	
vs.	:	DEFENDANTS' MOTION TO
	:	TRANSFER AND PERMANENTLY
PROBATE ESTATE OF DANNY	:	ASSIGN CASE TO JUDGE ETHNA
LEE ABNEY, et. al.,	:	COOPER
	:	
Defendants.	:	

Pursuant to Hamilton County Local Rule 7(a), Defendants move the Court to transfer this case to Judge Ethna Cooper, the equity judge for April 2016. This Court's own rules mandate that the requests for immediate equitable and injunctive relief made by Plaintiffs Stanley Chesley ("Chesley") and Waite Schneider Bayless & Chesley Co., L.P.A. ("WSBC") (collectively, "Plaintiffs") be heard by the judge serving in equity at the time the case was filed. The reasons for this request are set forth more fully in the accompanying Memorandum in Support.

Respectfully submitted,

/s/ **Tabitha M. Hochscheid**

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Attorney for Defendants

MEMORANDUM IN SUPPORT

This Court's rules are clear: "**A case shall be permanently assigned to the judge serving in equity at the time a motion for temporary restraining order is filed . . .**" (See Hamilton County Local Rule 7(a)) (emphasis added). Judge Cooper was the "judge serving in equity" in April 2016.

On April 28, 2016, Plaintiffs filed their "Complaint for Temporary Restraining Order, Declaratory Relief and Injunctive Relief." Not surprisingly, Plaintiffs themselves listed Judge Cooper in the caption of their filing. According to Plaintiffs, "[t]his litigation arises from the inappropriate and illegal efforts of certain of Chesley's putative judgment creditors to collect" a judgment awarded in Kentucky against Chesley. (See Complaint at 7).

In their Complaint, Plaintiffs requested immediate equitable relief:

- "Chesley seeks: (i) a declaratory judgment; (ii) a **temporary restraining order** and (iii) subsequent **injunction** to prevent collection efforts by putative judgment creditors who, in fact, are not judgment creditors." (See *id.* at 9) (emphasis added).
- "WSBC and all third-parties from Ohio whose information has been sought or obtained by the Defendants are entitled to **injunctive relief** providing protection of their private information. This protection should include an **injunction** preventing the Defendants from placing into the public record any information obtained through discovery authorized in the Miscellaneous Case." (See *id.* at ¶ 63) (emphasis added).
- "Chesley is entitled to a **temporary restraining and subsequent injunction** requiring the Defendants and their agents to cease all efforts to collect money from Chesley." (See *id.* at ¶ 67) (emphasis added).
- "Chesley is entitled to a **restraining order and injunction** preventing the Bankrupt Defendants from continuing their efforts to collect the Chesley Judgment unless they can demonstrate that they are actually co-owners of the Chesley Judgment." (See *id.* at ¶ 69) (emphasis added).

- “WSBC is entitled to a **temporary restraining order and subsequent injunctive relief** to prevent the continuing improper conduct described herein.” (*See id.* at ¶ 70) (emphasis added).

Plaintiffs’ Prayer for Relief provides, in part:

WHEREFORE: Plaintiffs pray the Court for orders and judgments that:

1. Grant **equitable relief** against the Defendants continuing efforts to collect money from Chesley on claims they do not own or which have been extinguished as a matter of law;

2. In a motions [sic] filed simultaneously with the Complaint, **Plaintiffs seek a temporary restraining order** that (i) grants the **equitable relief** described above and **directs immediate correction** of any filing actively now under consideration by any court and (ii) orders the Defendants not to destroy any documents relevant to the facts and claims asserted herein;

...

4. **WSBC is entitled to equitable relief** preventing the Defendants and their agents from asserting a lien on or seeking to seize the assets of WSBC . . .

(*See* Complaint at 26) (emphasis added).

The following day – April 29 -- Plaintiffs filed their “Motion for Temporary Restraining Order and Permanent Injunction to Prevent Illegal Efforts to Enforce Judgment.” Again, Plaintiffs listed Judge Cooper in the caption of their pleading. In that Motion, Plaintiffs requested “**immediate and later permanent equitable relief . . .**” (*See* Motion for Temporary Restraining Order at 1) (emphasis added). That Plaintiffs were invoking this Court’s equitable jurisdiction could not have been clearer:

- “Those pretend judgment creditors **should be enjoined** from pursuing collection of the Chesley Judgment in any manner including collection from WSBC.” (*See id.* at 2) (emphasis added).
- “The Bankrupt Defendants **should be enjoined** from pursuing collection of the Chesley Judgment until they can prove that [sic] are co-owners of the Chesley Judgment because Ohio law requires that proof before transferred claims can be enforced.” (*See id.* at 3) (emphasis added).

- “Plaintiffs are entitled to **immediate relief in the form of a temporary restraining order and a later a [sic] preliminary injunction** halting the Defendants continuing efforts in the ongoing litigation until Chesley's assertions against the KY Probate Defendants and the Bankrupt Defendants are resolved.” (*See id.* at 3-4) (emphasis added).

Finally, on May 3, 2016, Chesley filed a “Motion for Injunction to Prevent Enforcement of Improperly Domesticated Kentucky Judgment.” In this Motion, Chesley sought an order – again from Judge Cooper -- preventing and enjoining the alleged “illegal efforts by Defendants . . . and the co-owners of the Chesley Judgment” from collecting on that judgment. (*See* Motion for Injunction at 1).

The allegations in Plaintiffs’ Complaint and their Motion for Temporary Restraining Order, as well as Chesley’s Motion for Injunction, make clear that immediate equitable and injunctive relief was sought. Plaintiffs knew that their case would be assigned to the equity judge for April 2016 – they listed Judge Cooper in the caption of every filing.

But according to the Court’s online docket, this case was somehow “rolled” to Judge Robert Ruhlman on May 4 (after Plaintiffs had already filed their Complaint, Motion for Temporary Restraining Order, and Motion for Injunction). Even Plaintiffs acknowledge that a separate matter involving Chesley – the “Judge Ruhlman Case” – “is the subject of a pending proceeding in prohibition and mandamus initiated by then-Respondent Angela M. Ford against Judge Ruhlman on September 4, 2015. *State ex rel. Angela M Ford, Esq. v. Honorable Robert P. Ruhlman*, Ohio Supreme Court Case No. 2015-1470.” (*See* Complaint at 7-8). Per the Ohio Supreme Court’s Order, that case has been stayed since September 17, 2015.

Regardless, Judge Ruehlman cannot hear this case for a more fundamental reason. Under the Court's own rules, this case was "**permanently assigned to the judge serving in equity . . .**" at the time Plaintiffs' Motion for Temporary Restraining Order was filed. (See Hamilton County Local Rule 7(a)) (emphasis added). "The word 'shall' connotes a mandatory requirement." See *Davis v. Border*, 170 Ohio App. 3d 758, 2007-Ohio-692, 869 N.E.2d 46, ¶ 52 (11th Dist.).

Judge Ruehlman was not the "judge serving in equity" at the time Plaintiffs filed their Complaint and Motion for Temporary Restraining Order, or when Chesley filed his Motion for Injunction. Rather, Judge Cooper was the equity judge for April 2016 (when Plaintiffs filed the Complaint and Motion for Temporary Restraining Order) and Judge Jerome Metz is the equity judge for May 2016 (when Chesley filed the Motion for Injunction). Pursuant to Local Rule 7(a), this case should be transferred and permanently assigned to Judge Cooper.

Respectfully submitted,

/s/ **Tabitha M. Hochscheid**

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was electronically filed and served upon the following by regular U.S. Mail on this 24th day of May, 2016:

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/s/ Tabitha M. Hochscheid
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**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
June 3, 2016 12:09 PM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 530344**

STANLEY M CHESLEY

vs.

**PROBATE ESTATE OF DANNY
LEE ABNEY**

A 1602508

**JUDGE
ROBERT P RUEHLMAN**

FILING TYPE: REPLY

PAGES FILED: 3

EFR200

**EXHIBIT
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COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STANLEY M, CHESLEY, et al.	:	Case No. A1602508
	:	
Plaintiffs,	:	Judge Ruehlman
v.	:	
	:	
PROBATE ESTATE OF	:	PLAINTIFF’S OPPOSITION TO
DANNY LEE ABNEY, et al.	:	DEFENDANTS’ MOTION TO
	:	TRANSFER CASE
	:	
Defendants	:	

Plaintiff Stanley M. Chesley (“Chesley”) opposes Defendants’ Motion To Transfer and Permanently Assign Case to Judge Ethan Cooper (the “Motion”). The Motion should be denied because it rests on a limited and faulty reading of Hamilton County Common Pleas Local Rule 7.

1. The case was filed on Thursday April 28, 2016 while Judge Cooper was the equity judge. Plaintiffs filed a motion for equitable relief at 2:40 PM on Friday April 29, 2016 (the Equity Motion”). Both documents reveal that Plaintiffs’ counsels identified Judge Cooper as the judge; that identification was not made originally by the Clerk of Court or the Assignment Commissioner.

2. The last business day for Judge Cooper as the equity judge was Friday April 29, 2016.

3. Judge Cooper never scheduled a hearing in this case.

4. Judge Cooper never held a hearing in this case.

5. Defendants never made a filing in this case while it was pending before Judge Cooper or that identified Judge Cooper as presiding in this matter.

6. In fact, the case was randomly assigned to Judge Ruehlman.

7. Counsel for the Defendants never appeared in this matter or opposed Plaintiffs’ Equity Motion until May 13, 2016 long after the case was assigned to this Court, Judge Ruehlman presiding.

8. It has long been true in Hamilton County Common Pleas that if Plaintiff files a case that purports to request expedited equitable relief but then does not immediately pursue that relief, that case is assigned using the regular random assignment procedures. This prevents inappropriately assigning to the then serving equity judge cases filed by plaintiffs who do not, in fact, pursue immediate relief. That is what happened here. Plaintiffs did not seek a hearing in the afternoon of Friday April 29th, and so this case was assigned in the regular course to this Court, Judge Ruehlman presiding.

9. Defendants filed the Motion only after multiple filings in which they identified this Court, Judge Ruehlman presiding, as the Court with jurisdiction over this case. It is too late now for Defendants to forum shop for a different judge.

10. Having been assigned in the regular course by the Assignment Commissioner, this case should stay with the Court where it was assigned and who has scheduled a hearing that is less than a week away.

Respectfully submitted,

/s/ Vincent E. Mauer
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served by ordinary U.S. Mail, postage prepaid, on this 3rd day of June, 2016 upon:

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Tabitha M. Hochscheid, Esq.
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/s/ Vincent E. Mauer

0118087.0619701 4843-0353-2594v1



**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
June 1, 2016 02:35 PM
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Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 529658**

STANLEY M CHESLEY

vs.

**PROBATE ESTATE OF DANNY
LEE ABNEY**

A 1602508

**JUDGE
ROBERT P RUEHLMAN**

FILING TYPE: MOTION

PAGES FILED: 12

EFR200

EXHIBIT

I

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STANLEY M. CHESLEY	:	CASE NO. A1602508
	:	
and	:	Judge Robert Ruehlman
	:	
WAITE SCHNEIDER BAYLESS & CHESLEY CO., L.P.A.	:	
	:	DEFENDANTS MOTION TO DISMISS
Plaintiff	:	PURSUANT TO CIV R. 12(b)(1) & (6)
	:	AND REQUEST FOR ATTORNEY
vs.	:	FEES PURSUANT TO ORC § 2323.51
	:	AND CIV. R. 11
	:	
PROBATE ESTATE OF DANNY LEE ABNEY, et. al.	:	
	:	
Defendants	:	

Now come the Defendants by and through counsel and move this court to dismiss the complaint of the Plaintiffs on the grounds that this court lacks subject matter jurisdiction under Civil Rule 12(b)(1) and fails to state a claim upon which relief can be granted under Civil Rule 12(b)(6). Defendants request that they be granted an award of attorney fees under ORC 2323.51 and Civil R. 11 as the complaint is a unreasonable, frivolous and egregious. This motion is supported by the Pleadings in this matter, the Rules of Civil Procedure and the attached Memorandum in Support attached hereto.

Respectfully Submitted,

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MEMORANDUM IN SUPPORT

A. Procedural History

The parties to this matter have been in litigation for over a decade. The Plaintiff, Stanley M. Chesley (hereinafter “Chesley”) is a disbarred attorney and Waite Schneider Bayless & Chesley Co., L.P.A. (hereinafter WSBC) is his former law firm. The Defendants are part of the Plaintiffs/Judgment Creditors in litigation in Boone Circuit Court case no. 05-CI-00436 who are either allegedly deceased or bankrupt although the Plaintiff gives no specifics as to the date of death, the bankruptcy petition date or case numbers.

Chesley is one of several lawyers who represented the victims of the diet drug Phen Fen in a class action lawsuit in Boone Circuit Court. All the attorneys and the judge in the original case have been disbarred because of the handling of the settlement funds . Chesley is the last of the attorneys involved to be permanently disbarred by the Kentucky Supreme Court. See Kentucky Bar Association vs. Chesley, 393 S.W.3d 584 (2013) Based on the findings of the Kentucky Supreme Court, the Boone Circuit Court awarded summary judgment to Chesley’s former clients by amending the original judgment entry to include Stan Chesley and to hold him jointly and severally liable in August 2014 (hereinafter “Boone Circuit Judgment”). All Ky. Civ. R. 60 post judgment motions were denied by the Boone Circuit Court. The judgment is currently on appeal before the Kentucky Appeals Court in Case 2014CA001984.

At no time has Mr. Chesley filed a surety bond to keep the judgment from being executed on. Instead, he filed in Ohio a complaint for declaratory judgment and restraining order against his former clients, case A1500067 (which is being challenged in the Ohio Supreme Court on a writ of mandamus) and has challenged discovery order of Judge Steve Martin in an miscellaneous proceeding opened to conduct discovery case M061318. Chesley has even gone

so far as to request and receive a restraining order to prevent the sheriff from taking in him into custody after being held in contempt by the Boone Circuit Court. See Chesley vs. Hamilton County Sheriff Jim Neil, A1506294. Concurrently in federal court, Judgment creditors are actively litigating issues concerning fraudulent transfers which involve both Chesley and WSBC in the case of McGirr et. al. vs. Rehme, Southern District of Ohio case 16CV00464.

On April 25, 2016, Counsel for the Kentucky Plaintiffs filed the Kentucky judgment using the procedures set out in ORC 2329.021 et. seq. on April 25, 2016. On April 28, 2016 this case was filed and then on May 3, 2016 a motion for an injunction was filed alleging the judgment registration was invalid.

B. Civil Rule 12(b)(1) and (6)

Civil Rule 12(b) in pertinent part reads as follows:

(B) How presented. Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) lack of jurisdiction over the subject matter, (6) failure to state a claim upon which relief can be granted..... A motion making any of these defenses shall be made before pleading if a further pleading is permitted.

The Defendants move this court to dismiss this matter because the court both lacks subject matter jurisdiction and the complaint fails to state a claim upon which relief can be granted.

C. Plaintiff's complaint should be dismissed because this court does not have subject matter jurisdiction to interpret, modify or restrict enforcement of a Kentucky judgment.

1. Full Faith and Credit must be given to the Boone Circuit Judgment by the Ohio courts.

Full Faith and Credit must be given to judgments entered by courts of other states or federal district courts pursuant to the U.S. Constitution, Article IV. See, Wyatt vs. Wyatt (1992) 65 Ohio St. 3d 268, 269, 602 N.E. 2d 1166, 1167. Full Faith and Credit shall be given in each

State to the public Acts, Records, and Judicial Proceedings of every other State. * * *" Ohio courts are required to recognize the validity of a foreign judgment rendered by a court of competent jurisdiction. See, Id at 269, citing Durfee v. Duke (1963), 375 U.S. 106, 84 S.Ct. 242, 11 L.Ed.2d 186.

In rare instances collateral attack is permitted. "A judgment of a sister state's court is subject to collateral attack in Ohio if there was no subject matter or personal jurisdiction to render the judgment under the sister state's internal law, **and** under that law the judgment is void; however, such collateral attack is precluded in Ohio, if the [party] submitted to the jurisdiction of the sister state's court by an appearance precluding collateral attack in such state." (Emphasis added.) See Id. at 270 citing, Litsinger Sign Co. v. Am. Sign Co. (1967), 11 Ohio St.2d 1, 40 O.O.2d 30, 227 N.E.2d 609, paragraph one of the syllabus. Plaintiff's attack on the Kentucky judgment via a declaratory judgment action is a collateral attack as it raises issues which have been waived because they were not raised in the Kentucky litigation. It is clear Chesley submitted to the jurisdiction of the Kentucky Court as he filed an answer and heavily litigated the liability issues. Further, jurisdiction was proper under the Kentucky Long Arm statute. He cannot now ask this court to attack the Boone Circuit Judgment in Ohio. No such collateral attack is permitted. This court must grant full faith and credit to the Boone Circuit Judgment.

2. A Declaratory judgment is improper because the Defendants have followed correct judgment registration procedure.

R.C. 2329.021 through 2329.027 codifies the Uniform Enforcement of Foreign Judgments Act (hereinafter UEFJA) as enacted in Ohio in 1983. "The statutory procedures set forth in R.C. 2329.021 through 2329.027 are intended to give full faith and credit to foreign judgments as required by Section 1, Article IV of the United States Constitution. Foreign judgments are to be given the same full faith and credit as they have by law in the courts of the

state rendering judgment.” See, Miller v. Bock Laundry Machine Co. (1980), 64 Ohio St.2d 265, 266, 18 O.O.3d 455, 456, 416 N.E.2d 620, 622, certiorari denied (1981), 451 U.S. 987, 101 S.Ct. 2323, 68 L.Ed.2d 845.

Foreign judgments are defined as any judgment, decree, or order of a court of the United States, or of any court of another state, that is entitled to full faith and credit in this state. See, ORC § 2329.021. ORC § 2329.022 states that a foreign judgment must be filed with the clerk of the Court of Common Pleas and must be treated as if it was a judgment of the Court, “subject to the same procedures, defenses, and proceedings for reopening, vacating or staying as a judgment of the court of common pleas.”

The procedure of filing and notice is provided under ORC § 2329.023 which provides a three step process. Under (A) the Plaintiff must file an affidavit states the last known address of the Defendants; (B) requires a praecipe for service upon the Defendant to be filed and service of notice issued by the clerk and (C) states that no execution or enforcement can begin until a 30 period after filing has lapsed. Undersigned counsel for the Boone Circuit Plaintiffs followed this procedure in its CJ filing and a separate motion for injunction has been filed by Chesley and WSBC seeking to invalidate the registration as improper.. A response to this motion for injunction will be filed separately.

3. The filing of this complaint is an effort to circumvent the supersedes bond requirement in Kentucky and under the UEFJA.

Plaintiff Chesley has appealed the August 2014 Boone Circuit judgment to the Kentucky Court of Appeals as case 2014CA001984. This appeal is set for oral argument on June 14, 2016. Kentucky Rule of Civil Procedure 73.04 covers the procedure required to stay a judgment on appeal and reads as follows:

(1) Whenever an appellant entitled thereto desires a stay on appeal, as provided in Rule 62.03, he may present to the clerk or the court for approval an executed

supersedeas bond with good and sufficient surety. The address of the surety shall be shown on the bond. The bond shall be in a fixed amount and conditioned for the satisfaction of the judgment in full together with costs, interest and damages for delay, if the appeal is dismissed or if the judgment is affirmed, and to satisfy in full such modification of the judgment and such costs, including costs on the appeal and interest as the appellate court may adjudge.

(2) When the judgment is for the recovery of money not otherwise secured, the amount of the bond shall be fixed at such sum as will cover the whole amount of the judgment remaining unsatisfied, costs on the appeal, interest, and damages for delay, unless the trial court after notice and hearing and for good cause shown fixes a different amount or orders security other than the bond.

(3) When the judgment determines the disposition of the property in controversy as in real actions or replevin, or when such property is in the custody of the sheriff, or when the proceeds of such property or a bond for its value is in the custody or control of the court, the amount of the supersedeas bond shall be fixed at such sum only as will secure the amount recovered for the use and detention of the property, the costs of the action, costs on appeal, interest, and damages for delay. A supersedeas bond may be given to stay proceedings on a part of a judgment, and in such case the bond need only secure the part superseded.

The stay provision of the Uniform Enforcement of Foreign Judgment Acts under Ohio

Law is found at ORC § 2329.024 which reads as follows:

(A) If the judgment debtor shows the court of common pleas that an appeal is pending or will be taken from a foreign judgment that is filed pursuant to section 2329.022 of the Revised Code, or that a stay of execution of the foreign judgment has been granted AND if proof is given to the court that the judgment debtor has furnished the security for the satisfaction of the foreign judgment that is required by the jurisdiction in which the foreign judgment was rendered, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

(B) If the judgment debtor shows the court of common pleas any ground upon which enforcement of a judgment of a court of common pleas would be stayed, the court shall, upon requiring the same security for satisfaction of the judgment that is required in this state, stay enforcement of a foreign judgment that is filed pursuant to section 2329.022 of the Revised Code for an appropriate period. [emphasis added].

Under the Ohio Stay provision the Plaintiff (Chesley) must a) have filed an appeal or a motion to vacate and b) files a bond sufficient to satisfy the judgment under Kentucky law. Ohio courts have interpreted this provision as follows: “contesting part[ies] must state grounds contrary to enforcement and must then submit an appropriated bond as a conjunctive not a

disjunctive... Without posting the required security, the trial court [is] justified in denying the appellant's motion to stay execution". See, Hinkle, Cox, Eaton, Coffield & Hensley v. Cadle Co., 676 N.E.2d 1256, 111 Ohio App.3d 713 (Ohio App. 11 Dist., 1996).

Likewise, the Ohio Civil Rules provide for a Stay of Proceedings to Enforce a Judgment under Civil Rule 62. Under Civil Rule 62, the Plaintiffs must likewise post a bond. Rule 62(A) states that, "in its discretion AND on such conditions for the security of the adversary as are proper, the court MAY stay the execution of any judgment or stay any proceedings to enforce judgment..."[emphasis added] and as such the Defendant's must not only satisfy the requirements for a stay but must ALSO post surety to secure payment of the judgment pending an motion. The Civil Rules clearly apply to this action as the application is specifically mentioned by ORC § 2329.022 and 2329.024. Appellate courts throughout Ohio have construed the civil rules as applicable to actions brought under 2329.021 et.seq. Id. at 716 citing, Signal Data Processing, Inc. v. Rex Humbarnd Found., Inc. (1994), 99 Ohio App.3d 646, 651 N.E.2d 498; Menu Maker Foods, Inc. v. HMS Property Mgt. Group, Inc. (June 16, 1994), Cuyahoga App. No. 66072, unreported, 1994 WL 264278. No surety has been offered or posted by Plaintiff Chesley in Ohio or Kentucky law rather this complaint for declaratory judgment has been filed. Mr. Chesley states he does not want to stay execution, yet he keeps filing requests for injunctive relief and declaratory judgment actions in this court in a blatant attempt to stop the Defendants from collecting money from him. The Ohio court can only follow those procedures set out in ORC § 2329.04 and has no jurisdiction to act otherwise. Further, filing a declaratory judgment action is in no way permitted under the UEFJA and therefore, this case should be dismissed.

D. The Complaint of the Plaintiffs is not the type of action contemplated by the R.C. 2721.17 and should be dismissed under Civil R. 12(b)(6)

In order for a court to grant a motion to dismiss for failure to state a claim, it must appear "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." See, O'Brien v. Univ. Community Tenants Union, 42 Ohio St.2d 242, 245, 327 N.E.2d 753 (1975).

“A proper claim for declaratory judgment must set forth sufficient facts to show “(1) a real controversy between the parties; (2) a controversy which is justiciable in character; and (3) a situation in which speedy relief is necessary to preserve the rights of the parties.”” Peat Marwick Main & Co. v. Elliott, 10th Dist. No. 90AP-921, 1991 Ohio App. LEXIS 101, *4-5 (Jan. 10, 1991), citing Burger Brewing Co. v. Liquor Control Comm., 34 Ohio St.2d 93, 97, 296 N.E.2d 261 (1973); Buckeye Quality Care Ctrs., Inc. v. Fletcher, 48 Ohio App.3d 150, 154, 548 N.E.2d 973 (10th Dist. 1988). However, there are only two reasons for dismissing a complaint for declaratory judgment pursuant to Civ.R. 12(B)(6): (1) where there is no real controversy or justiciable issue between the parties, or (2) where the declaratory judgment will not terminate the uncertainty or controversy, under R.C. 2721.07. see, Fioresi v. State Farm Mut. Auto. Ins. Co., 26 Ohio App.3d 203, 499 N.E.2d 5 (1st Dist. 1985), syllabus. If either is satisfied, then the court should dismiss complaint for failure to state a claim under Civ.R. 12(B)(6)." Id.

As to the requirement of justiciability, the First District Court of Appeals has held that a declaratory judgment action will “lie to determine only “an actual controversy, the resolution of which will confer certain rights or status upon the litigants.”” see, State vs. Braggs, 2013 Ohio 3364 (1st Dist. August 2, 2013) citing, Corron v. Corron, 40 Ohio St.3d 75, 79, 531 N.E.2d 708 (1988); and Schaefer v. First Natl. Bank, 134 Ohio St. 511, 18 N.E.2d 263 (1938), paragraph three of the syllabus (requiring a showing that “a real controversy between adverse parties exists which is justiciable in character and [that] speedy relief is necessary to the preservation of rights

that may be otherwise impaired or lost”). Id., citing Mallory v. Cincinnati, 1st Dist. Hamilton No. C-110563, 2012-Ohio- 2861, ¶ 10-16.

“A declaratory judgment action does not provide a means for determining whether previously-adjudicated rights were properly decided. Id. at ¶ 7 citing State v. Stewart, 2d Dist. Montgomery No. 98-CA-116, 1999 Ohio App. LEXIS 323, *8 (Feb. 5, 1999). The Declaratory Judgment Act does not authorize a court to render an advisory opinion. Id. at ¶ 6 citing Arnott v. Arnott, 132 Ohio St. 3d 401 at ¶10.

The complaint filed by Plaintiffs is not the type of action which is covered by the Declaratory Judgment Act (R.C. Chapter 2721). As to the Boone Circuit judgment and the declaration of rights sought by the parties, there is no provision under R.C. Chapter 2721 which would allow this court to adjudicate the rights of the judgment creditors who are allegedly deceased or bankrupt. No advisory opinion as to the validity of the Chesley judgment is permitted under R.C. § 2721.17.

As to WSBC it is apparent that the plaintiffs wish to have this court invalidate orders of the Kentucky Court as to the alter ego doctrine and or provide relief from the Judgment Creditors collection attempts and discovery in other cases. This is an abuse of the Declaratory Judgment statute and the judicial process as no final determination can be made as to the status of these parties because of pending litigation in the Southern District of Ohio entitled McGirr et. al. vs. Rehme, et. al. Case No. 16CV00464. Chesley and WSBC are defendants in the federal case and other members of the Boone Circuit Plaintiffs are the party Plaintiffs. The parties are engaged in discovery and the allegations contained in the complaint as it relate to Plaintiff WSBC should be determined by the Federal judge assigned to the McGirr matter including discovery issues and the validity of the alter ego ruling in Kentucky. In addition, there is currently a case before the First District Court of Appeals which is solely about post judgment discovery and is an added

vehicle for the Plaintiffs to address any concerns about “discovery abuses”. Clearly, the declaratory judgment sought is not justiciable and cannot provide a final determination on the myriad of issues between these parties.

E. An award of attorney’s fees is appropriate under R.C. § 2323.51 and Civ R. 11 because this actions of the Plaintiffs and their attorneys are frivolous.

“Under Civ.R. 11, an attorney’s or pro se litigant’s signature on a pleading constitutes a certificate “that to the best of the attorney's or party's knowledge, information, and belief there is good ground to support it[,] and that it is not interposed for delay. Civ.R. 11 employs a subjective bad-faith standard to invoke sanctions by requiring that any violation of that rule must be willful.”” See, Evans vs. Quest Diagnostics, Inc. 2015 Ohio 3320 at ¶ 18 citing, State ex rel. Dreamer v. Mason, 115 Ohio St.3d 190, 2007-Ohio-4789, 874 N.E.2d 510, ¶ 19; State ex rel. Bardwell v. Cuyahoga Cty. Bd. of Commrs., 127 Ohio St.3d 202, 2010-Ohio-5073, 937 N.E.2d 1274, ¶ 7. “A motion for sanctions under R.C. 2323.51 requires a court to determine whether the challenged conduct constitutes frivolous conduct, as defined by the statute, and, if so, whether any party has been adversely affected by the frivolous conduct. R.C. 2323.51(B)(2)(c). To award sanctions under R.C. 2323.51, the test is whether no reasonable lawyer would have brought the action in light of the existing law.” Id. citing, Riston v. Butler, 149 Ohio App.3d 390, 2002-Ohio-2308, 777 N.E.2d 857, ¶ 36 (1st Dist.). The statute was designed to chill egregious, overzealous, unjustifiable, and frivolous action. Id.

In light of the fact that a decade of litigation has existed between Chesley and the Defendants an award of attorney fees for the filing this declaratory judgment action is merited. This suit, as well as other post judgment litigation, could easily be avoided were Chesley to post a bond in either Kentucky or Ohio. However, in lieu of a bond Chesley continues to ask Courts of Hamilton County, Ohio to usurp their authority and issue injunctions and declare judgments

which are not permissible under Ohio law. Further, in light of the existing appeals in both state, mandamus actions pending before the Ohio Supreme Court and litigation in federal court it is unreasonable and unnecessary for Chesley to pursue this matter. Likewise, WSBC has acted unreasonably by filing an unnecessary suit because they don't like order issued by the Boone Circuit Court and because they feel an abuse of discovery has taken place. There is an appeal in the first District Court of Appeals specifically about discovery and a federal law suit is pending concerning their status vis a vis Chesley. It is unreasonable, frivolous and egregious to ask this court to declare anything with regard to these issues and this suit serves no purpose except to cause the Defendants unreasonable delay and expense in collecting money awarded to them in the Boone Circuit case.

Finally, the Defendants submit that they have been adversely affected by the actions of the Plaintiffs as they have been sued and have been asked to defend a suit which is without basis at Ohio Law. They have incurred attorney fees and continue to face delays in recovery of moneys due them when Chesley and WSBC attempt to do an end run around the Kentucky and Federal Courts.

CONCLUSION

The Defendants request this court dismiss the complaint of the Plaintiff pursuant to Civil Rule 12(b)(1) and 12(b)(6). The Plaintiffs' complaint is an attempt to get an order from this court to limit his exposure to at least part of the judgment issued by the Kentucky Court. It is an attempt by the Plaintiff to get orders to address issues surrounding discovery which is ongoing in other cases and which are currently being litigation in the Court of Appeals and/or Federal Court. This court has no power under the Uniform Enforcement of Foreign Judgment Act or the Declaratory Judgment Act to give the Plaintiff's what they want. An end run around the courts of Kentucky and Federal Court should not be sanctioned by this court and is a frivolous and

meritless request which should give rise to an award of attorney fees under 2323.51 and Civil R.

11.

Respectfully Submitted,

/s/ Tabitha M. Hochscheid

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Dismiss and Request for Attorney Fees has been served upon the following by electronic mail and regular mail this 1st day of June, 2016.

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Respectfully Submitted,

/s/ Tabitha M. Hochscheid

Tabitha M. Hochscheid



**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
June 6, 2016 10:30 AM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 530647**

STANLEY M CHESLEY

vs.

**PROBATE ESTATE OF DANNY
LEE ABNEY**

A 1602508

**JUDGE
ROBERT P RUEHLMAN**

FILING TYPE: REPLY

PAGES FILED: 5

EFR200

EXHIBIT

J

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STANLEY M, CHESLEY, et al.	:	Case No. A1602508
	:	
Plaintiffs,	:	Judge Ruehlman
	:	
v.	:	PLAINTIFF STANLEY M. CHESLEY'S
	:	OPPOSITION TO MOTION TO
PROBATE ESTATE OF	:	DISMISS
DANNY LEE ABNEY, et al.	:	
	:	
Defendants	:	

Plaintiff Stanley M. Chesley (“Chesley”) opposes Defendants’ Motion to Dismiss Pursuant to Civ. R. 12(b)(1) & (6) and Request for Attorney Fees Pursuant to ORC Section 2323.51 and Civ. R. 11 (the “Motion”). The Motion misrepresents Plaintiffs’ complaint and the relief requested by Plaintiffs.

This case has two parts:

Plaintiffs’ complaint that initiated this case seeks to insure that all entities who seek to enforce the Kentucky judgment in Ohio are, in fact, owners of a portion of that judgment – this part of the case implicates about 30 of the 382 putative co-owners non-equivalent, undivided interests in the Kentucky judgment against Chesley; and

Enforcement of Ohio law applicable to the 382 putative judgment creditors as they seek to domesticate the Kentucky judgment into an Ohio judgment and then enforce that judgment in Ohio. This part of the case arises from faulty use of the Uniform Enforcement of Foreign Judgments Act (the “UEFJA”) by the Defendants and the other alleged co-owners of the Kentucky judgment.

WHAT PLAINTIFFS ACTUALLY SEEK

In the Complaint, Plaintiffs ask that the Court insure that about 30 supposed judgment creditors be forced to demonstrate that they are in fact co-owners of the Kentucky judgment. That request means that Plaintiffs agree there is a Kentucky judgment, all they ask is that potential non-owners not be permitted to wield that judgment.

In the second part of this case, Chesley asks that the co-owners of the Kentucky judgment comply with the UEFJA and other Ohio law applicable to the enforcement in Ohio of judgments from a sister state. Again, Chesley's position assumes there is a judgment in Kentucky.

The import of Chesley's two positions is that he is not asking this Court to void the Kentucky judgment.

THE FULL FAITH AND CREDIT CLAUSE IS NOT RELEVANT

Defendants' primary argument is that Chesley's requests violate the Full Faith and Credit provisions of the Constitution of the United States of America. This argument is misplaced and fails to acknowledge that Chesley does not seek herein redetermination of the merits of the Kentucky judgment; rather, he seeks only the relief described above.

There are two means of domesticating a foreign judgment in Ohio: through the procedures set forth in the 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).

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 seeks: assurance that the newly created Ohio judgment will be collected by actual co-owners and will comply with applicable Ohio law before it is enforced in Ohio.¹

¹ 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

CHESLEY DOES NOT SEEK A STAY

The judgment owners, or some of them, have used the judgment to pursue collection related activities in Nevada (2 cases), Colorado, Louisiana, Hamilton County Common Pleas Case No. M151179, and two federal cases.

Chesley did not and has not used litigation to seek a stay. Instead, he seeks only to insure that applicable law is obeyed. Nowhere in any of Chesley's filings is there any request for a stay that might last as long as his appeal is pending on Kentucky.

SANCTIONS ARE NOT WARRANTED

It is neither illegal nor immoral for Plaintiffs to ask that supposed judgment creditors be asked to prove that status given that there is cause to believe the Defendants may not be co-owners of the judgment. Plaintiffs' suspicions are supported by public documents and an affidavit from an expert Kentucky lawyer.

Likewise, there is nothing sanctionable about insuring that people using legal processes to collect a foreign judgment Obey Ohio law.

Respectfully submitted,

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*Counsel for Plaintiff Stanley M.
Chesley*

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).

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served by ordinary U.S. Mail, postage prepaid, on this 6th day of June, 2016 upon:

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

Tabitha M. Hochscheid, Esq.
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/s/ Vincent E. Mauer

0118087.0619701 4819-0432-5170v1



**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
June 20, 2016 10:29 AM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 534053**

STANLEY M CHESLEY

vs.

**PROBATE ESTATE OF DANNY
LEE ABNEY**

A 1602508

**JUDGE
ROBERT P RUEHLMAN**

FILING TYPE: NOTICE

PAGES FILED: 2

EFR200

**EXHIBIT
K**

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

Stanley M. Chesley, *et al.* : Case No. A1602508
Plaintiffs, : Judge Ruchlman
 :
v. : EX160048
 : CJ16006214
Probate Estate of Danny Lee Abney, *et al.* :
Defendants. : A memorandum in support is attached

**NOTICE OF ADDITIONAL DEFICIENCIES IN AFFIDAVITS SEEKING TO
DOMESTICATE THE KENTUCKY JUDGMENT**

The counsel for the 382 putative judgment creditors filed two affidavits in support of efforts to domesticate the Kentucky judgment in Ohio under Ohio Revised Code Section 2329.023(B), and related sections. The second of those affidavits supposedly sets forth the names and addresses of the 382 judgment creditors.

38 of the 382 putative judgment creditors are named defendants herein. All of those 38 are listed in the affidavits filed by counsel for the putative judgment creditors. Comparing the results of service of the complaint in this case with the affidavits provides an opportunity to sample the accuracy of the affidavits filed on behalf of the supposed judgment creditors.

Plaintiffs attempted to serve their complaint on Defendant Linda Brumley¹ at the address shown on the affidavit of Tabitha Hochscheid. That effort failed. The postcard from the Hamilton County Clerk of Court states that said address is “VACANT.”

Plaintiffs attempted to serve their complaint on Defendant Rudy Godbey at the address shown on the affidavit of Tabitha Hochscheid. That effort failed. The postcard from the Hamilton County Clerk of Court states that said address is incorrect and the post office was “unable to forward” the clerk’s correspondence.

¹ Linda Brumley is the nominated replacement petitioner in *State ex rel. Ford v. The Honorable Robert P. Ruchlman*, Ohio Supreme Court Case No. 2015-1470.

In other words, 2 of the 38 addresses are wrong. If we expand that sample across all 382 putative judgment creditors, we expect that Tabitha Hochscheid's affidavit has 20 incorrect addresses. The judgment debtors must prove that all the addresses are correct.

Respectfully submitted,

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0118087.0619701 4818-7127-4803v1



**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
June 20, 2016 10:27 AM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 534048**

STANLEY M CHESLEY

vs.

**PROBATE ESTATE OF DANNY
LEE ABNEY**

A 1602508

**JUDGE
ROBERT P RUEHLMAN**

FILING TYPE: FILING

PAGES FILED: 6

EFR200

EXHIBIT

L

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

Stanley M. Chesley, <i>et al.</i>	:	Case No. A1602508
Plaintiffs,	:	Judge Ruchlman
	:	
v.	:	EX160048
	:	CJ16006214
Probate Estate of Danny Lee Abney, <i>et al.</i>	:	
Defendants.	:	

CHESLEY’S OPPOSITION TO DOMESTICATION OF A JUDGMENT (1) THE OWNERS OF WHICH ARE UNCERTAIN, AND (2) THAT DOES NOT DISCLOSE CALCULATIONS OF THE AMOUNT OWED

The Kentucky judgment entered against Chesley is in favor of the “plaintiffs” in the *Abbott* case. 382 of the identified 463 named plaintiffs listed in the Kentucky pleadings now claim to be co-owners of the judgment. This litigation challenges the ownership claims of several of those 382 putative co-owners.

Plaintiffs’ judgment domestication filings do not disclose (i) the current alleged total owed, (ii) a calculation of either the total amount owed or (iii) the calculated amount owed to each putative judgment creditor. Such disclosure is required because without that data this Court cannot properly control use the Ohio judgment that the Plaintiffs seek to create.

Do to these failings, Plaintiff Stanley M. Chesley (“Chesley”) objects to domestication of the Kentucky judgment.

The supposed co-owners seek to domesticate the Kentucky judgment in Ohio thus creating an Ohio judgment that can be enforced in Ohio. Among those supposed co-owners are all the KY Probate Estate Defendants (as defined in the Complaint) and all the Bankrupt Defendants (as defined in the Complaint) according to Tabitha Hochscheid’s Supplement to Affidavit for Foreign Judgment Registration filed herein on June 8, 2016.

NOW IS THE TIME TO DETERMINE WHO OWNS THE JUDGMENT

This case puts at issue the question of who are the true owners of the Kentucky judgment. Ohio law requires that the true owners of the judgment be identified when a foreign judgment is domesticated in Ohio. O.R.C. Section 2329.022.

Plaintiffs have provided evidence (an affidavit from an expert Kentucky probate lawyer) demonstrating that several supposed judgment creditors whose names appear on the list filed by Tabitha Hochscheid on June 8, 2016 are not in fact co-owners of the judgment. Thus, there are issues of fact surrounding that affidavit and the judgment creditors compliance with Ohio law.

Until the true owners of the judgment are determined, no Ohio judgment should be created by domestication because collection activity in Ohio should be permitted because only by entities who are true owners of the judgment.

NOW IS THE TIME TO DETERMINE THE AMOUNT STILL OWED ON THE JUDGMENT

A significant part of the Kentucky judgment has been collected. Filings in Nevada by the judgment creditors in Nevada admit that over \$17,000,000 has been collected. Plaintiffs believe that significantly more than \$17,000,000 has been collected that must be credited against the Kentucky judgment than is admitted in the Nevada filing.

The April 22, 2016 Affidavit for Foreign Judgment Registration signed by Tabitha Hochscheid (her first affidavit) that seeks to domesticate the Kentucky judgment does not admit that any amount has been collected against the judgment. That makes this affidavit fundamentally untrue and so inadequate to domesticate the Kentucky judgment in Ohio.

In a case that is very analogous to the current situation, the Ohio Supreme Court reversed both the trial court and the court of appeals. The Ohio Supreme Court held that the judgment debtor (analogous to Chesley herein) is entitled to have the foreign judgment reduced to the true

amount owed before domestication and the creation of an Ohio judgment. The Ohio Supreme Court said:

In its present posture it [the partially settled and paid judgment obligation] is analogous to a claim of partial satisfaction of the judgment. Had execution on the judgment been attempted in Texas, appellant could have proceeded to have it set aside to the extent of the settlement. However, instead of obtaining execution on the Texas judgment in that forum, appellee sought to have it reduced to an enforceable Ohio judgment. This is an appropriate opportunity for appellant [analogous to Chesley herein] to assert its entitlement to the settlement credit, and for the trial court to render judgment in the amount for which it would be enforceable in Texas.

For the foregoing reasons, the judgment of the Court of Appeals is reversed and the cause is remanded to the Court of Common Pleas for recomputation of the judgment sum...

Miller v. Bock Laundry Machine Company, 64 Ohio St.2d 265, 268 (1980). Accord, *Signal Data Processing v. The Rex Hubbard Foundation*, 99 Ohio App.3d 646, 650 (Summit Cty. 1994) (“Where the rendering state entitles a judgment debtor credit for amounts paid toward satisfaction of a judgment, such credit will be permitted by the Ohio court domesticating and enforcing such judgment.”)

Instead of a settlement credit, Chesley asserts that he is entitled to a credit for amounts collected from his co-judgment debtors who are jointly and severally liable with him on the Kentucky judgment.¹ The judgment owners admitted in Nevada that the collections exceed \$17,000,000 and Chesley asserts that additional credits are required.

Chesley is entitled to have this issue decided now, before an excessive Ohio judgment is created and enforced in Ohio. See *Columbus Check Cashiers, Inc. v. Cary*, 196 Ohio App.3d 132 (Franklin Cty. 2011) discussing the importance for knowing how much is owed before collection activity is permitted.

¹ The Kentucky judgment is being appealed in Kentucky. Chesley disputes that he owes any money to the judgment creditors. Chesley is not asking this Court to address the validity and existence of the Kentucky judgment.

THE BURDEN IS ON THE JUDGMENT CREDITORS

The requirement that judgment owners comply with Ohio law in order to obtain an Ohio judgment was addressed in *VYN-All Corporation v. Window I, Inc.*, 105 Ohio App.3d 451 (Lake Cty. 1995) wherein the court said:

Ohio's foreign judgment enforcement provision is contained in R.C. 2329.022, which provides: . . . '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 the same manner as a judgment of a court of common pleas.' . . .

Section 1738, Title 28, U.S. Code provides in relevant part: 'The records and judicial proceedings of any court of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form.'

These statutes are to be strictly construed. The failure of a party seeking enforcement of the foreign judgment to comply with the requirements listed in these statutes precludes that party from obtaining full faith and credit of the foreign judgment in an Ohio common pleas court, and the subsequently desired Ohio judgment and execution.

(emphasis added). It is clear that the judgment owners have the burden of proving who owns the judgment and how much is owed.

THE AMOUNT OWED TO EACH CREDITOR MUST BE PROVEN

Chesley reserves the right to, at the proper time, ask the Court to require disclosure of the amount owed to each of the judgment creditors – whoever and however many there may really be. The Kentucky judgment is really 382 separate judgments awarded to different people in different amounts. It must be definite as to its owners and the amount owed to each. 62 Ohio Jur. 3d Judgments § 24 *Certainty*.

Despite the fact that the Kentucky judgment is in favor of the *Abbott* case plaintiffs as a group, the putative judgment creditors are not consistently acting as a group:

Linda Brumley, alone, is the nominated replacement petitioner in *State ex rel. Ford v. The Honorable Robert P. Ruehlman*, Ohio Supreme Court Case No. 2015-1470;

Mary Lou White-Lynch, alone, sought to collect millions for herself using the Kentucky judgment in *Waite Schneider Bayless and Chesley Co., LPA v. Davis*, United States District Court, Southern District of Ohio Case No. 11-cv-851; and

a group of twenty of the 382 supposed judgment creditors are seeking to collect on only their own claims in *McGirr et al. v. Rehme, et al.*, United States District Court, Southern District of Ohio Case No. 16-cv-464.

The individual judgment co-owners willingness and ability to act alone is very important because it means that an Ohio court that knows the gross amount owed on the Kentucky judgment may not, in fact, know the amount at issue in any particular proceeding that might be initiated by less than the 382 acting collectively. Hence the need for disclosure of the amount owed to each.

CONCLUSION

The Court should issue an order that denies domestication of the Kentucky judgment into an enforceable Ohio judgment until: (1) the total amount owed is subject to a proper affidavit as required by Section 2329.022 and Chesley is permitted to test the asserted amount owed; and (2) the proper owners of the judgment are determined as discussed in Plaintiffs' Complaint.

Respectfully submitted,

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/s/ Vincent E. Mauer

0118087.0619701 4824-5536-7986v1

1 CASE NO. A-15-718827

2 DEPT. NO. 30

3 DOCKET U

4

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DISTRICT COURT

6

CLARK COUNTY, NEVADA

7

* * * * *

8

9 MILDRED ABBOTT, et al.,)

10 Plaintiff,)

11 vs.)

12 STANLEY CHESLEY, et al.,)

13 Defendant.)

14

15

16

REPORTER'S TRANSCRIPT

17

OF

18

PROCEEDINGS

19

BEFORE THE HONORABLE JERRY A. WIESE, II

20

DEPARTMENT XXX

21

DATED THURSDAY, DECEMBER 10, 2015

22

23 REPORTED BY: KRISTY L. CLARK, RPR, NV CCR #708,

24

CA CSR #13529

25

EXHIBIT
M

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14 BY: VINCENT MOORE, ESQ.
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3960 Howard Hughes Parkway
Ninth Floor
Las Vegas, Nevada 89169
(702)795-5555

* * * * *

25

1 LAS VEGAS, NEVADA, THURSDAY, DECEMBER 10, 2015;

2 9:13 A.M.

3
4 P R O C E E D I N G S

5 * * * * *

6
7 THE COURT: Everybody else here on Abbott
8 versus Chesley? Okay. Come on up.

9 MR. MUIJE: Good morning, Your Honor. John
10 Muije for the plaintiffs. And with me is cocounsel,
11 Angela Ford, admitted pro hac vice.

12 MS. FORD: Good morning, Your Honor.

13 THE COURT: Good morning.

14 MR. KEMP: Will Kemp for the Waite firm.

15 MR. FELL: Thomas Fell on behalf of the
16 Castano Trust.

17 MR. SHAPIRO: Good morning, Your Honor.
18 Brian Shapiro on behalf of Stanley Chesley, and also
19 with me is Vincent Moore. There is an application to
20 be admitted pro hac here today.

21 MR. PEPPERMAN: Eric Pepperman on behalf of
22 the Waite firm as well and present is Mr. Don Rafferty
23 who also has a pending motion to associate as counsel.

24 MR. RAFFERTY: Thank you, Your Honor.

25 THE COURT: Let's take care of the

1 association motions first. There's no oppositions that
2 I have seen. Does anybody have an opposition to the
3 motions to associate?

4 MR. MUIJE: Your Honor, we haven't had an
5 adequate opportunity. I believe I got one yesterday
6 and the other one last Friday. And my father-in-law
7 passed away over the weekend. So it's been kind of a
8 crazy circumstance. We would like an opportunity to
9 respond to those, if possible.

10 MR. KEMP: Well, Judge, that would mean they
11 can't participate at the hearing which I don't think
12 would be fair.

13 THE COURT: I didn't see any reason to -- to
14 deny them. So I think what I'm going to do is I think
15 there's good cause to grant them. I'm going to grant
16 motions to associate. If you find that there's some
17 reason that I need to reconsider that, feel free to
18 file something.

19 MR. MUIJE: That's fine, Your Honor.

20 MR. KEMP: Judge, before we get going, can I
21 ask if you got a chance to review the recent filing we
22 made with regard to the tax lien?

23 THE COURT: I did.

24 MR. KEMP: Thank you, Your Honor.

25 THE COURT: Yeah. So I mean, I guess the

1 issue is even if the -- even if the foreign judgment is
2 valid, the issue is if there's a tax lien that's going
3 to take the money out and that is going to take first
4 priority.

5 MR. MUIJE: Your Honor, respectfully, I have
6 litigated the tax lien issue several times in the past.
7 The fact that it exists and has been recorded in Ohio
8 has no power in the state of Nevada for the very simple
9 reason that first in time, first in right. When we
10 served our writs on the trustee, we attached that we
11 perfected a security interest in those funds.

12 The IRS has not even recorded their lien in
13 Nevada, assuming it's a valid lien, and we'd like to
14 address the points and authorities. Again, that's a
15 document we got yesterday. It's not -- I haven't had
16 time to pull it, but as of right now, our creditor
17 rights are perfected. Secured creditor rights are
18 superior to any lien asserted by the IRS.

19 THE COURT: Okay. I think I looked at
20 everything other than the tax lien issue last time, but
21 I'm happy to let you guys argue and make a record.

22 MR. SHAPIRO: Well, Your Honor, if I just --
23 I'm going to try again, try to short-circuit this --
24 this proceeding. It's my understanding from the last
25 hearing that we were all attending, we filed a

1 motion -- variety of motions on behalf of Mr. Chesley
2 to dismiss, in essence, this particular case. And it's
3 my understanding what you did, based upon the court
4 minutes, was that Your Honor decided to retain
5 jurisdiction for 60 days, which extended a little
6 longer because of the necessity by counsel to continue
7 this hearing, ordered that a preliminary injunction
8 would be issued, that the plaintiffs would post a bond
9 of \$100,000. And then during the interim, they would
10 domesticate what they perceived to be the correct
11 judgment.

12 THE COURT: The October judgment?

13 MR. SHAPIRO: Pardon me?

14 THE COURT: The October judgment?

15 MR. SHAPIRO: The October judgment which they
16 have filed the pleading with -- it's in front of
17 Judge Bell. We will be filing an applicable motion in
18 front of Judge Bell. But now you have the correct
19 judgment in front of a different judge. And based upon
20 the court minutes, it was my understanding that Your
21 Honor intended to dismiss this case because they
22 recorded or attempted to domesticate an unenforceable
23 judgment, and now they have done the correct one, the
24 October judgment, in front of Judge Bell.

25 So again, simply trying to short-circuit it

1 in following what this Court -- what I thought the
2 Court's instructions were last time is that my thought
3 was that Your Honor was going to dismiss the case
4 because they recorded the -- they attempted to
5 domesticate a judgment which is unenforceable.

6 THE COURT: That's my intention.

7 MR. SHAPIRO: Okay. And then on top of that,
8 simply dissolving the injunction. I prepped an order
9 just simply stating that. I think that the other
10 motions we filed we simply denied as moot. And we
11 will, unfortunately for Judge Bell, be moving in front
12 of Judge Bell to address other issues. But I think
13 that's the -- my understanding what the procedural --

14 THE COURT: I think that's what's going to
15 have to happen.

16 MR. MUIJE: Your Honor --

17 THE COURT: I think I agree with you unless
18 they can convince me otherwise.

19 MR. SHAPIRO: So I have no other argument
20 pertaining to it, but unless -- I would like to reserve
21 my reply if --

22 THE COURT: That's fine.

23 MS. FORD: May I, Your Honor?

24 THE COURT: Go ahead.

25 MS. FORD: Okay. Thank you for allowing my

1 pro hac vice application.

2 THE COURT: No problem.

3 MS. FORD: From the last hearing, I listened
4 to what was being argued by counsel and listened to
5 what the Court's judgment was at that time. And based
6 upon that, we filed a supplemental pleading because the
7 law in Kentucky is different from what the law in
8 Nevada is when it comes to a final judgment. And we
9 supplied the authority for the Court that in Kentucky,
10 under our civil rules of procedure, under our case law,
11 and even according to the court of appeals' opinion in
12 this case on interlocutory orders that have been taken
13 up on appeal, the first -- the September order is a
14 final judgment that is enforceable. It's valid. It is
15 no different in terms of the credit that it's given.
16 It is a final judgment. It is not void as was argued
17 in the last hearing. And we have supplied the
18 authority for that.

19 So we'd ask the Court to consider that in its
20 ruling on whether or not it's a void judgment, because
21 under Kentucky law that is -- that is simply not the
22 case. In fact, Chesley even appealed from the judgment
23 that he is now arguing before this Court is void. The
24 only reason that the second amended judgment was
25 asked -- was requested and was granted by the Court was

1 to establish a specific start date for prejudgment
2 interest because this has been extraordinarily highly
3 contentious litigation that has gone on for 11 years.
4 And so we tried to do our best to short-circuit issues
5 that could be taken up on the Court -- with the court
6 of appeals since we've had multiple issues taken up.

7 But the start date is normally not included.
8 There's an order for pre- and post-judgment interest.
9 And that was in the judgment that has been domesticated
10 before this Court. The only change in the second
11 amended was to include that start date. It's not
12 necessary to making it a final judgment. It was just
13 to clarify any issue, any question that might be raised
14 in the future that would really be before the trial
15 court as collection moves forward in terms of the
16 amount of money being collected.

17 There was no -- there was no objection to the
18 amount of the interest being 8 and 12 percent. That is
19 in the order that has been domesticated in this court.
20 Those are statutory amounts, and none of that was
21 changed. The compounding of interest is statutory in
22 Kentucky. That did not change. So the only change at
23 all is the start date for pretrial judgment interest.
24 And that doesn't affect the finality or the validity of
25 the existing order that we domesticated before this

1 Court.

2 One of the issues that was raised, and I
3 don't know if it's still important to the Court today,
4 is that the -- that the judgment against him was void
5 because it didn't identify the judgment debtors and
6 creditors. That very same issue was argued to the
7 Kentucky trial court, and his motions were denied. We
8 included those post judgment orders and motions for the
9 Court, but the fact is is that it is an order. It was
10 fully briefed and argued in Kentucky and the trial
11 court ruled on it, and those arguments are now being
12 made to this Court.

13 Following the judgment that was entered,
14 there was asset discovery. And thus far, there are
15 over 5-, 6,000 pages of documents. Based on the
16 evidence from those documents, the trial court entered
17 two orders that are important for this hearing --

18 MR. SHAPIRO: Your Honor -- Your Honor, I
19 hate to object. But, you know, the statements which
20 are being made have nothing to do with the finality in
21 whether this underlying judgment is enforceable. Yes,
22 there was post judgment discovery. Yes, things have
23 occurred. Yes, my client appealed the first judgment,
24 has appealed the second judgment as well. The question
25 that I raised was: Is this judgment enforceable in

1 light of being amended and superseded? Not asserting
2 that it's not valid. It's not enforceable.

3 THE COURT: Let her make her argument.

4 MR. SHAPIRO: Okay. Thank you.

5 MS. FORD: There is no authority cited to the
6 Court thus far that had it -- has been -- it has been
7 superseded. Chesley himself appealed from the very
8 judgment that is domesticated in this Court. And there
9 is no -- it's statements of counsel, but there's no
10 authority cited to the Court that in any way would --
11 would find that the judgment domesticated has been
12 superseded and is not itself valid. Both judgment
13 orders are valid, enforceable orders and are considered
14 final by our courts. And we've provided the authority
15 on that issue. May I move forward on the --

16 THE COURT: Sure.

17 MS. FORD: -- on the -- on some of the
18 substance? Based on all the evidence in the record,
19 there have been multiple hearings. And there are two
20 orders in particular that the trial court has entered
21 executing on its judgment. That is the September and
22 June orders that we have included as exhibits to our
23 responses. They are under Exhibit 7 to our combined
24 opposition. And if the Court just focuses on that and
25 the actual orders that we're asking the Court to give

1 full faith and credit to, I think it provides a lot of
2 guidance and informs the Court that those issues have,
3 in fact, been argued, litigated in Kentucky
4 extensively, and the Court has issued orders.

5 In the September order, the Court found that
6 it did in fact have personal jurisdiction over Stanley
7 Chesley and it was entitled to take action to enforce
8 its judgment even when the assets of the judgment
9 debtor are located in other states. The Court included
10 the authority that it was relying on in its order. The
11 Court found that Mr. Chesley continues to control and
12 direct Waite Schneider. The Court found that the
13 windup agreement that is the subject of the June
14 earlier order that purported to transfer his ownership
15 and interest in Waite Schneider to a trustee was in
16 fact a sham transaction.

17 The court specifically said, and I quote,
18 "The documents also show that the Defendant Chesley is
19 entitled to control the payee of fees from the tobacco
20 litigation through the Castano Trust. And in
21 December 2014, he directed those fee payments into a
22 Waite, Schneider, Bayless and Chesley account while he
23 had directed the previous payments to his personal
24 accounts." The Court found that he was in fact taking
25 action to render himself insolvent while directing

1 assets to Waite Schneider, including fees for Fannie
2 Mae litigation, the total of more than \$16 million and
3 tobacco litigation, and the transfer of \$59 million
4 from his personal accounts to Waite Schneider.

5 The court specifically ordered, based on
6 those findings, that Chesley immediately transfer his
7 interest in Waite Schneider to the plaintiffs. The
8 court also specifically said that its June order
9 remains in full effect. As directed in that order,
10 Defendant Chesley and his attorneys shall immediately
11 turn over to plaintiffs' counsel any and all monetary
12 payments made to Defendant Chesley or Waite Schneider
13 or from his interest in Waite Schneider. Defendant
14 Chesley shall immediately direct the trustee of the
15 Castano Trust that all payments to which he and/or
16 Waite Schneider are entitled from the Castano Trust be
17 paid directly to the plaintiffs' counsel.

18 Chesley filed an interlocutory appeal on that
19 order, the June and September orders, and requested a
20 stay of the court's June order. Our appellate court
21 has already denied the interlocutory appeal on the June
22 orders. We have attached that opinion. It is
23 Exhibit 3 to my affidavit that is attached to the
24 opposition to the motions of -- of Chesley. I believe
25 it is also Exhibit 4 in our supplemental brief on the

1 finality issue which is the last -- the last pleading
2 that we filed.

3 Chesley also filed a writ of prohibition
4 against the trial judge. And that goes directly to our
5 court of appeals. He argued that the judge lacked
6 jurisdiction to issue an order that affected an asset
7 outside of Kentucky's borders, i.e., Chesley's interest
8 in Waite Schneider, which is in fact an Ohio
9 corporation. The Court denied the writ. And in its
10 judgment, in its opinion, clearly upheld the trial
11 court's jurisdiction and found that it had the
12 jurisdiction to enforce its judgment and to execute on
13 assets located in different states. The authority is
14 set forth in the opinion of the trial court.

15 Mr. Chesley has been ordered to deliver his
16 interest in Waite Schneider and all payments from the
17 Castano Trust to the plaintiffs' counsel. We have
18 asked this Court to honor the Kentucky court's orders
19 and its judgment and its execution orders and require
20 the trust to pay over any funds to the plaintiffs in
21 satisfaction of their judgment.

22 Chesley has not followed the court's orders.
23 The directions are clear. And we're asking this Court,
24 though, to honor them and give them full faith and
25 credit.

1 As far as Waite Schneider, there's a lot,
2 probably maybe the most, discussion about that at the
3 last hearing. Waite Schneider has no independent claim
4 to the payments from the Castano Trust. And even if it
5 did, as a result of the Kentucky orders, neither
6 Chesley or Waite Schneider has a claim to the payments
7 because the payments have been transferred.

8 Waite Schneider has argued that it's a third
9 party and it was never given notice or due process of
10 anything in Kentucky, has never been heard, and it has
11 a valid claim to the money. The argument doesn't make
12 sense. Chesley is the sole owner of Waite Schneider.
13 He is the sole member of its board of directors. He is
14 the agent for service of process, at least the last
15 time I checked in the last two months.

16 His interest in the -- in the entity has been
17 executed on and he has been ordered to transfer it.
18 Waite Schneider has no other owners and it ceased
19 practicing law. It is an entity that holds assets and
20 receives income now. Plaintiffs do not have a judgment
21 against Waite Schneider. They have a judgment and have
22 executed on the ownership of a company. The company
23 itself has no independent right to object to a transfer
24 of its ownership.

25 Waite Schneider has also argued that it has a

1 superior claim to the payments from the Castano Trust
2 and that plaintiffs must first domesticate their
3 judgment in Ohio. But the Kentucky court has issued
4 opinions on that issue and our court -- and our court
5 of appeals have issued opinions rejecting that
6 argument.

7 The trial court in Kentucky has the
8 jurisdiction, as I'm sure this Court does, to enforce
9 its judgment. Even though there are Kentucky court
10 orders dealing with the issues that have been raised by
11 the defendants, and we believe that the argument stops
12 there, we did include some of the background on the
13 issues that were before the trial court. Not all,
14 because that would require hundreds of pages probably
15 of bank documents.

16 For the trial court, we did provide a summary
17 that I'm happy to provide the Court. And I think in a
18 footnote to one of their pleadings, we said we'll
19 provide as much as the Court wants. But the issues
20 have been ruled on. What the undisputed evidence
21 showed is that Stanley Chesley has always individually
22 controlled where the payments from the Castano Trust
23 are made. The documents, the bank -- the personal
24 investment account documents and the bank documents
25 supplied to the trial court showed that from years 2009

1 to January 2012, those payments went into a personal
2 investment account, the Johnson Trust Investment
3 Account.

4 So for that period of time, he directed the
5 payments to him personally. He did not designate Waite
6 Schneider as a beneficiary of the Castano payments
7 until December 2014, after the judgment in this case.
8 Those are documents that the court considered. We
9 provided some of them to the trial court just as a
10 glimpse for some of the documents that were provided.

11 But what we have demonstrated and what we
12 demonstrated to the trial court in Kentucky is that
13 Waite Schneider's interest only arises from the fact
14 that Chesley individually exercised his right to direct
15 the payments to Waite Schneider. That will play into
16 the tax lien. I haven't even seen the tax lien yet,
17 but that will be something that we respond to since
18 it's a bit more of an issue now.

19 THE COURT: Can I interrupt you, just ask a
20 question? Because based on the prior ruling that I
21 made that I thought that this was not a final judgment
22 and that you needed to domesticate the October
23 judgment, that's been done now. Apparently that's in
24 front of Judge Bell. What -- why do you need this one?
25 Why does it matter?

1 MS. FORD: Well, it matters because we
2 have -- we have a payment that -- that is being made.
3 I don't know if it creates a timing issue and if we
4 lose that money because of the later domestication, but
5 we do have a valid, enforceable judgment that is
6 recognized in Kentucky. So we wanted to provide the
7 authority to the Court and hope that you had reserved a
8 final ruling on that issue. And if necessary -- if the
9 Court believes it is necessary, then consolidate the
10 two.

11 But I represent 382 plaintiffs, Your Honor.
12 And this litigation has gone on for a very long time.
13 And we have been stalled and blocked at every turn.
14 And we would like to bring an end to this litigation
15 and not lose, once again, a significant amount of funds
16 that could be used to satisfy a judgment. My clients
17 are mostly in Kentucky, but they're also in 42 states
18 including one here in Las Vegas.

19 So why is it important? It's important
20 because it creates yet another issue whether or not
21 potentially -- I would leave that to Mr. Muije to argue
22 as far as the application of the second writ to the
23 money that the court has held be held in -- by the
24 Wells Fargo bank by the Castano Trust.

25 So that would be my No. 1 concern. But, also

1 because I -- I would prefer -- my request is that -- is
2 that the Court consider its ruling before issuing a
3 final order dismissing actually domesticated judgment
4 that we strongly believe is valid and has been
5 recognized as valid in the state in which it was
6 issued.

7 THE COURT: Okay. Thank you.

8 MS. FORD: I don't know if it's important to
9 the Court to -- to go through some of the additional
10 documents. We did -- we did attach an e-mail and a
11 letter from the Castano Trust as a glimpse of what the
12 trial court of Kentucky looked at. One of the letters
13 dated January 11th, that is attached to the trust
14 motion, actually, for entry of judgment as part of an
15 Exhibit 2. The paragraphs are clear.

16 One of the paragraphs, the first numbered
17 paragraph, states that, "We acknowledge, as
18 co-trustees, that Chesley, as an individual, is a
19 beneficiary of the trust and is entitled to the
20 quarterly distributions as set forth in the Trust Form
21 II," which was attached.

22 Paragraph 2 in that letter states, "provides
23 the current instructions for payments to Stanley
24 Chesley as beneficiary." And the third paragraph
25 states that "Chesley has given irrevocable instructions

1 not to modify the payments unless in writing signed by
2 the Fifth Third and Chesley." And, of course, that was
3 done later. And he did, in fact, give other
4 instructions when he wanted the money directed to Waite
5 Schneider after the loan that has been argued about was
6 paid in full.

7 That's all I'm -- unless there's further
8 issues raised by the -- by the defendants, that's --
9 that's all I will go into now. I can quote from the
10 court orders but would ask the Court if it retains
11 jurisdiction over the case to look at the orders that
12 have been issued so the plaintiffs don't have to
13 relitigate issues that have been very hard fought and
14 has delayed any execution for quite a long time.

15 THE COURT: Okay. Thank you.

16 MR. MUIJE: Your Honor, may I make one
17 supplemental point to address the Court's concern?

18 THE COURT: Sure.

19 MR. MUIJE: Specifically, by serving the
20 first writ back this summer, we perfected a security
21 interest in that. If this Court were to dismiss the
22 case, arguably the tobacco trust could run across the
23 street and wire transfer those funds before Judge Bell
24 had a chance to do anything. I believe that's why the
25 Court preserved the status quo.

1 But it doesn't make sense since the first
2 judgment, the one we domesticated before Your Honor, is
3 a valid, final appealable order under Kentucky law, I
4 think it makes more sense to consolidate the two so
5 that we don't have two competing judgments, an appeal
6 going on here while we are arguing in front of Judge
7 Bell in the district court. Consolidate them. Your
8 Honor has already read everything.

9 It would be kind of unfair to Judge Bell to
10 ask her to start from scratch and reread it all over,
11 not to mention how many additional trees and hours of
12 attorneys' time would be wasted by doing that. I think
13 judicial economy makes sense. If this Court has any
14 doubt about the validity of the first judgment,
15 consolidate Judge Bell's case here in this courtroom.
16 Your Honor will have them, and Your Honor already
17 understands the history and the dynamics of this case.
18 Just makes common sense from a judicial economy
19 standpoint to have it all here before Your Honor who's
20 familiar with the facts. Thank you, Judge.

21 THE COURT: Thank you. Anybody at this table
22 want to address the issue of consolidation first?

23 MR. SHAPIRO: Brian Shapiro on behalf of --

24 THE COURT: I tell you, it's easier for me if
25 I'm going to dismiss the case to just dismiss it and

1 let Judge Bell deal with it all.

2 MR. SHAPIRO: Regarding --

3 THE COURT: I guess I could consolidate
4 first.

5 MR. SHAPIRO: Regarding consolidation, Your
6 Honor, there's no -- besides the oral request today,
7 there's no motion before this Court to consolidate both
8 proceedings, Point No. 1.

9 Point No. 2, it's two different domestication
10 proceedings. One, which we believe is an
11 unenforceable. I'm not saying that the underlying
12 judgment was void. It's been superseded. And so the
13 first judgment is unenforceable which is a requirement.
14 The failure to do it belongs to the side to the left,
15 with all due respect to Ms. Ford and her counsel and
16 prior counsel. I can represent to this Court they
17 knew -- I believe they knew how to domesticate the
18 first judgment or the superseded -- they have done it
19 in other states. This is the only state which they
20 tried to domesticate the prior judgment to the best of
21 my knowledge.

22 And so in essence, by consolidating both
23 cases, they're attempting to string along the
24 unenforceable judgment with the potential enforceable
25 judgment which, my client's position, would be

1 improper.

2 THE COURT: Okay.

3 MR. SHAPIRO: I don't know if anyone else has
4 any additional.

5 THE COURT: If it's not unanimously agreed
6 to, then I'm not going to worry about it. So the
7 problem I guess I have is I'm not convinced that the
8 judgment that you domesticated first is enforceable
9 because there was a subsequent one. And I understand
10 the argument that in the state of Kentucky, it would be
11 considered a valid judgment that you can appeal from.
12 And that's great. I just think that if there's a
13 superseded judgment or order, even if it changes one
14 little thing, it's the most recent judgment or order.
15 And if you are going to domesticate something, that's
16 probably what needs to be domesticated.

17 Now, I understand the argument that, Well,
18 all it did was it set a starting point for the
19 interest. But I think that's an important issue.
20 Anything that deals with the amount or the timing of
21 when amounts are going to start or stop running is an
22 important issue especially when you're trying to
23 domesticate it in another state where if you're going
24 to try to receive or recover moneys in this state based
25 on that prior judgment or order, that date that you're

1 going to start the interest running is something that
2 is going to have to be applied in this state as it
3 relates to collecting that money. So I just -- I can't
4 find that first judgment was a final judgment.

5 MR. MUIJE: Your Honor, one point on that --
6 and I understand that in some cases the amount of
7 interest, starting date of the interest would make a
8 difference. In this case, assuming zero interest
9 accrued or had accrued on a judgment, the 42 million
10 less the approximate 17 million already satisfied is
11 still a total that is more than all of the money that
12 Mr. Chesley will ever receive from the tobacco trust.

13 So interest is really a red herring here.
14 Whether it's 1 penny interest or \$100 million interest,
15 it's not going to matter because there's not even
16 enough money in Nevada to cover the unpaid principal of
17 the judgment.

18 THE COURT: That -- the fact that you're
19 trying to recover the money from the trust doesn't mean
20 that the judgment ends with that.

21 MR. MUIJE: Understood.

22 THE COURT: The judgment can continue if --
23 if Mr. Chesley hits the lottery, you're going to go
24 after that money. And so those dates become -- I think
25 they are relevant.

1 MR. MUIJE: Well, and I would agree. In the
2 larger picture, academically, they're relevant. But a
3 way to address it, I believe, is to consolidate the
4 matter so that we have a situation here in Nevada
5 exactly like we do in Kentucky. One judge, one court
6 has jurisdiction over everything, which is what a
7 superseded judgment does.

8 It's not a different court. It's not a -- a
9 different judge. Basically the judge fine-tunes his
10 prior order and is still hearing the case. And
11 respectfully I think that's the sound economic result,
12 the sound public policy result that Your Honor, who's
13 already familiar with this case, retain jurisdiction
14 and consolidate the two. And we can certainly have
15 that motion on file within a couple of days.

16 THE COURT: I understand the argument. And
17 if everybody had agreed to that, I probably would say I
18 would consolidate and then dismiss the first one. But
19 it's not an agreed to thing so I'm not going to do
20 that. I can tell you that since the issues were raised
21 again today, I'll tell you what my inclination is. Not
22 that it's going to -- I don't think it matters, but --
23 and we don't do advisory opinions so I don't know that
24 it matters at all. But I don't think that the fact
25 that the names and addresses weren't included matters.

1 I don't think that the fees per plaintiff matter. So I
2 wouldn't get rid of the case based on those issues.

3 I don't think Waite Schneider was a party to
4 the prior case. So I do think that there is a problem
5 with due process as far as trying to take money that
6 belongs to Waite Schneider. I understand that the
7 Kentucky court found that there was essentially an
8 alter ego, but there was no alter ego claim. There was
9 no determination as far as piercing the corporate veil
10 that would lead to a judgment that can be collected
11 directly, I don't think, from Waite Schneider.

12 So I think that there needs to be some type
13 of an alter ego or corporate veil claim brought before
14 that can happen.

15 MR. MUIJE: Your Honor, there's actually one
16 Nevada Supreme Court case exactly on that point. It's
17 called LFC Marketing versus Loomis. It was decided
18 about 15 years ago. And it held that the individual
19 judgment debtor was reverse alter ego. And it wasn't
20 in the context of a new lawsuit. It wasn't in the
21 context of the pleadings. It was in the context of
22 execution.

23 A third-party claim was filed, much as it was
24 here, and the Nevada Supreme Court said, these are the
25 15 things that the trial court had a right to look at.

1 It had a right to do that in the context of
2 post-judgment enforcement proceeding. And we're
3 sustaining the trial court's ruling that LFC Marketing
4 was the alter ego of the judgment debtor, and you can
5 take the assets of LFC Marketing. And that was all
6 done within the context of the same original case in
7 which alter ego had not been brought up.

8 THE COURT: I'm not familiar with the case.
9 You may be right.

10 MR. MUIJE: I would be happy to supply it to
11 the Court. I can have it to Your Honor before lunch.

12 THE COURT: I don't know that it's going to
13 matter because I think, based on what's in front of me
14 today, I retain jurisdiction so that you could -- so
15 that the money wasn't taken out of the account until
16 you had an opportunity to file the October -- the
17 October judgment. That's been done. Now that's been
18 assigned to Judge Bell. That -- that -- I don't have
19 any control over where cases get assigned.

20 So I think what I am going to do based on
21 what I have in front of me, I'm not -- I can't find
22 that the judgment that was domesticated that's in this
23 case is a valid, enforceable judgment. So I'm going to
24 grant the defendant's motion to dismiss this case based
25 on that finding alone.

1 Based on that, I think all the other motions
2 become moot. The subsequent judgment that was filed in
3 front of Judge Bell, you guys can go ahead and litigate
4 that one in front of her. I'm going to say that the
5 injunction that I issued is dissolved because it's no
6 longer -- it doesn't matter anymore if the domesticated
7 documents have been dismissed as it relates to this
8 case. And I'll order that the bond be exonerated so
9 that you guys can be done with me and move on to Judge
10 Bell and start from scratch.

11 MR. FELL: And, Your Honor, to be clear --
12 Thomas Fell on behalf of the Castano Trust. To be
13 clear, because the underlying domestication is not
14 valid, the writ, because you're saying that the other
15 motions are moot, including my motion, the writ would
16 not have been valid as well.

17 THE COURT: Correct.

18 MR. FELL: Okay. Thank you, Your Honor.

19 MR. MUIJE: The injunction will remain in
20 effect until we have the order entered, I assume?

21 THE COURT: Well, get -- how quick can you
22 get an order filed?

23 MR. SHAPIRO: I drafted an order, Your Honor.

24 MR. MUIJE: Which I haven't seen, Your Honor.

25 MR. SHAPIRO: I am more than happy to give it

1 him. I anticipated that you were going to follow your
2 court minutes, and I just indicated -- I'll -- may I
3 read it? And I will give a copy to Mr. Muije.

4 THE COURT: Sure.

5 MR. SHAPIRO: I'm sorry. It is ordered that
6 the Court's findings of fact and conclusions of law,
7 stated on the record, incorporated with this order as
8 fully stated herein. It's further ordered that
9 defendant's motion to strike domestication documents
10 and declaring the attempted domestication void have
11 been issued as the underlying judgment was not
12 enforceable and is granted and this case is hereby
13 dismissed. It's further ordered that the preliminary
14 injunction entered on October 14th, 2015, is hereby
15 dissolved. And it's further ordered the remaining
16 portion of defendant's motions are hereby denied as
17 moot.

18 I did not address, since I thought it was my
19 motions, the other two motions which were filed. It
20 was just my motions which I filed with the Court. And
21 I will hand a copy to --

22 THE COURT: Do you have a problem with that
23 order?

24 MR. MUIJE: Your Honor, it doesn't address
25 the bond or the exoneration.

1 THE COURT: It doesn't.

2 MR. MUIJE: And, again, he read very quickly
3 a paragraph or two. I'd like to sit down and parse
4 through it just to make sure it covers all bases.

5 THE COURT: All right. The injunction will
6 remain for the next week. Just get the order submitted
7 to me, and I'll get it signed.

8 MR. MUIJE: I'll review this carefully and
9 suggest a couple of tweaks to Mr. Shapiro so that we
10 have it on harmony and on accord with what the judge
11 has ruled here.

12 THE COURT: That's fine.

13 MR. SHAPIRO: May I at least submit the
14 application to associate counsel?

15 THE COURT: Yes, absolutely.

16 MR. SHAPIRO: May I approach?

17 THE COURT: Yes. Does it matter?

18 MR. SHAPIRO: Actually, it doesn't, but just
19 to clean up the record.

20 THE COURT: You're going to have to do it
21 again in front of Judge Bell.

22 MR. SHAPIRO: I agree.

23 MR. MUIJE: Another \$600 filing fee, Brian.

24 MR. SHAPIRO: It's already been filed.

25 Thank you, Your Honor.

1 THE COURT: Thanks, guys.

2 MR. KEMP: Judge, you said that the
3 injunction remains enforce for a week.

4 THE COURT: Yep.

5 MR. KEMP: So that would be -- what day is
6 today?

7 THE COURT: Today's Thursday. It will remain
8 in effect till next Thursday.

9 MR. KEMP: Okay. Thank you, Your Honor. At
10 5:00 p.m., I assume?

11 THE COURT: At 5:00 p.m., yeah. I'm just
12 going to hope that you guys get an order submitted to
13 me between now and then so we can get it done.

14 MR. PEPPERMAN: Your Honor, if we do submit
15 the order, would that mean the injunction's dissolved
16 as soon as you enter the order? Or is it --

17 THE COURT: The injunction will be dissolved
18 once the order is entered and the bond will be
19 exonerated at the same time.

20 MR. KEMP: Thank you.

21 MR. MUIJE: I will get on that order as
22 quickly as I can.

23 THE COURT: Thanks, guys.

24 MR. MUIJE: Thank you, Judge.

25 MR. SHAPIRO: Thank you, Your Honor.

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MR. FELL: Thank you, Your Honor.

THE COURT: I hate to dump it on Judge Bell.
That's why I asked if you guys all wanted to keep it in
here.

MR. KEMP: She gets paid just like you do.

THE COURT: Thanks, guys. See you later.

(Thereupon, the proceedings
concluded at 9:49 a.m.)

1 Coulthard, LLP filed a petition pursuant to NRS §31.070 to determine title in property subject
2 to wrongful attachment (referred to herein as "WSBC Petition") which was heard on the above
3 referenced date and time. Castano Directed Distribution Trust (the "Trust"), by and through
4 Thomas H. Fell, Esq., of Fennemore Craig, P.C. filed a motion for entry of judgment pursuant
5 to NRS §31.330 (referred to herein as the "Trust Motion") which was heard on the above
6 referenced date and time. At the time of the hearing, the Plaintiffs appeared by and through
7 John Muije Esq., of the law firm of John W. Muije & Associates, and Angela M. Ford, of the
8 Law Offices of Angela M. Ford, the Defendant appeared by and through Brian D. Shapiro, Esq.,
9 of the Law Office of Brian D. Shapiro, LLC, WSBC appeared by and through Will Kemp. Esq.,
10 and Eric M. Pepperman, Esq., of Kemp Jones & Coulthard, LLP and the Trust appeared by and
11 through Thomas H. Fell of Fennemore Craig, P.C. At the time of hearing, the Court heard
12 arguments by the parties, made its findings of fact and conclusions of law on the record, good
13 cause appearing therefore it is hereby

14
15
16 ORDERED, that the Court's findings of fact and conclusions of law as stated on the
17 record are incorporated within this Order as if fully stated herein. It is further

18
19 ORDERED, that Defendant's Motion to Strike Domestication Documents and declaring
20 the attempted domestication void ab initio as the underlying judgment is not enforceable is
21 granted. It is further

22 ORDERED, that this case is dismissed. It is further

23
24 ORDERED, that the remaining Defendant's Motions are hereby denied as moot. It is
25 further

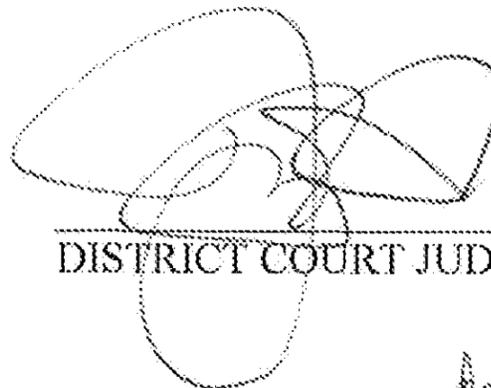
26 ORDERED, that WSBC's Petition is hereby denied as moot. It is further

27 ORDERED, that the Trust Motion is hereby denied as moot. It is further
28

1
2 ORDERED, that the preliminary injunction entered on October 14, 2015 is hereby
3 dissolved. It is further

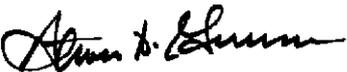
4 ORDERED, that the bond for the preliminary injunction in the amount of \$100,000.00 is
5 hereby exonerated and the Clerk of the Court is authorized to remit such funds to Angela M.
6 Ford, Chevy Chase Plaza, 836 Euclid Avenue, Suite 311, Lexington, Kentucky 40502.
7

8
9 DATED 16 Dec 2015

10
11 
12 _____
13 DISTRICT COURT JUDGE

14 Submitted by:

15 
16 Brian D. Shapiro, Esq.
17 Nevada Bar No. 5772
18 Law Office of Brian D. Shapiro, LLC
19 228 S. 4th Street
20 Las Vegas, NV 89101
21 (702)386-8600, Fax (702)33-0944
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DAO

EIGHTH JUDICIAL DISTRICT COURT CLERK OF THE COURT
CLARK COUNTY, NEVADA

MILDRED ABBOTT,

Plaintiff,

us.

STANLEY M. CHESLEY,

Defendant.

Case No. A-15-726616-F
Dep't No. VII

DECISION AND ORDER

This case arises from a judgment obtained by Plaintiff Mildred Abbott against Defendant Stanley Chesley in Kentucky case 05-CI-00436. Now before the Court is Third Party Claimant Waite Schneider Bayless & Chesley's ("WSBC") Petition to Determine Title in Property Subject to Wrongful Attachment and Third Party Castano Directed Distribution Trust's ("Castano Trust") Motion to Interplead. The matter came before the Court on February 2, 2016. The Court grants WSBC's Petition to Determine Title and finds that Abbott's judgment against Chesley in case 05-CI-00436 cannot be used to garnish WSBC's interest in the Castano Trust. The Court denies Castano Trust's Motion to Interplead as moot.

I. Procedural and Factual Background

Chesley used to be an attorney licensed to practice in Ohio. He was the sole owner of WSBC. In 2013, Chesley was disbarred based on allegations that he improperly retained funds that should have gone to his client. Chesley transferred ownership of WSBC in a Wind-Up Agreement in April of 2013. Abbott and other Plaintiffs (hereinafter referred to as "Abbott") obtained a second amended judgment against Chesley in Kentucky case 05-CI-00436 on October 22, 2014 based on the same circumstances that lead to Chesley's disbarment. Abbott did not name WSBC as party to the action.

EXHIBIT
O

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII



FEB 11 2016

1 Abbott filed a motion to transfer beneficial interest in the Castenado Trust in case
2 05-CI-00436. Abbott asserted that Chesley maintained a beneficial interest in WSBC. On
3 June 23, 2015, the Kentucky Court ordered Chesley to transfer his beneficial interest in
4 WSBC and any payments derived from that interest to Abbott.

5 Abbott subsequently filed a motion to execute. Abbott argued that Chesley failed to
6 comply with the Kentucky Court's June 23, 2015 order. Chesley argued that he no longer
7 had in interest in WSBC. The Kentucky Court issued an order on September 25, 2015. The
8 Kentucky Court found that "the Wind-Up Agreement in a sham, and that Defendant
9 Chesley continues to control and direct WSBC" and disregarded WSBC's corporate identity.
10 The Kentucky Court essentially ruled that Chesley was an alter ego of WSBC, though it
11 never used that term. The Kentucky Court ordered Chesley to transfer his interest in WSBC
12 and any payments derived from that interest to Abbott. The order specifically addressed
13 the Castano Trust, which makes periodic transfers to WSBC's account for fees earned in
14 past cases involving the tobacco industry. The Kentucky Court ordered Chesley to direct
15 the Castano Trust "that all payments to which [Chesley] and/or WSBC are entitled from the
16 Castano Trust shall be paid directly to Plaintiff counsel." WSBC was never named a party to
17 case 05-CI-00436 and did not have an opportunity to argue to the Kentucky Court that it
18 was not an alter ego of Chesley.

19 On October 22, 2015, Abbott filed an application of foreign judgment in the instant
20 case. The application was made in Nevada because it is where Castano Trust is located.
21 Abbott seeks to garnish funds from the Castano Trust that are due to be paid to WSBC.
22 WSBC was not named as a party in the instant case. On January 8, 2016, Castano Trust
23 filed a motion to interplead WSBC as a defendant.

24 On January 13, 2016, WSBC filed its petition to determine title to WSBC's interest in
25 the Castano Trust. WSBC argues its interest in the Castano Trust is WSBC's sole property
26 and Chesley has no interest in the Castano Trust. Abbott filed a response on January 29,
27 2016, arguing that under the Kentucky Court's order, Chesley and WSBC are alter-egos of
28 each other, and Chesley is a personal beneficiary of the Castano Trust.

1 an alter ego determination in a case with no way for WSBC to assert a defense against
2 Abbott's claims.

3 The Court cannot extend full faith and credit to an order resulting from a lack of due
4 process. "The full faith and credit clause of the United States Constitution requires that a
5 final judgment entered in a sister state must be respected by the courts of this state absent a
6 showing of fraud, lack of due process or lack of jurisdiction in the rendering state." Mason
7 v. Cuisenaire, 128 P.3d 446, 448 (Nev. 2006) (quoting Rosenstein v. Steele, 747 P.2d 230,
8 231 (Nev. 1987).

9 The Court finds that respecting the Kentucky Order declaring Chesley and WSBC to
10 be alter egos would create a due process violation in this case. Abbott asks this Court to
11 apply an order entered solely against Chesley to deprive a nonparty of its property. The
12 Court grants WSBC's petition and determines that WSBC's interest in the Castano Trust is
13 not subject to garnishment by Abbott. WSBC's interest in the Castano Trust is its sole
14 property. Abbott may attach funds distributed to Chesley individually, not funds
15 distributed to WSBC.

16 **III. Conclusion**

17 The Court grants WSBC's Petition to Determine Title and finds that Abbott's
18 judgment against Chesley in case 05-CI-00436 cannot be used to garnish WSBC's interest
19 in the Castano Trust. Because this Order removes the conflict regarding title to funds held
20 by the Castano Trust, the Court denies Castano Trust's Motion to Interplead as moot.

21
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23 DATED this 11 day of February, 2016.



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26 _____
27 LINDA MARIE BELL
28 DISTRICT COURT JUDGE

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date of filing, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system or, if no e-mail was provided, by facsimile, U.S. Mail and/or placed in the Clerk's Office attorney folder(s) for:

Name	Party
John W. Mujie, Esq. John W. Mujie & Associates Angela Ford, Esq.	Counsel for Mildred Abbott
Brian D. Shapiro, Esq. Brian D. Shapiro, LLC	Counsel for Stanley Chesley
Thomas Fell, Esq. Fennemore Craig, P.C.	Counsel for Castano Directed Distribution Trust
Will Kemp, Esq. Kemp, Jones & Coulthard, LLP Donald J. Rafferty, Esq. Cohen, Todd, Kite & Stanford, LLC	Counsel for Waite Schneider Bayless & Chesley Co.



SHELBY DAHL
LAW CLERK, DEPARTMENT VII

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Decision and Order filed in District Court case number A626616 DOES NOT contain the social security number of any person.

/s/ Linda Marie Bell Date 2/10/16
District Court Judge

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

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DAO

EIGHTH JUDICIAL DISTRICT COURT CLERK OF THE COURT
CLARK COUNTY, NEVADA

MILDRED ABBOTT,

Plaintiff,

us.

STANLEY M. CHESLEY,

Defendant.

Case No. A-15-726616-F

Dep't No. VII

DECISION AND ORDER

This case arises from a judgment obtained by Plaintiff Mildred Abbott against Defendant Stanley Chesley in Kentucky case 05-CI-00436. On February 11, 2016, the Court ruled Abbott's judgment against Chesley in case 05-CI-00436 cannot be used to garnish Waite Schneider Bayless & Chesley's ("WSBC") interest in the Castano Directed Distribution Trust ("Castano Trust"). Now before the Court is Abbott's Motion to Reconsider the Court's Ruling Dated February 11, 2016. This matter was scheduled to come before the Court on March 8, 2016. The Court now rules on the motion without an oral hearing pursuant to EDCR 2.23(c). The Court denies Abbott's Motion to Reconsider. The Court also grants Abbott's Motion to Seal Exhibits 8 and 9 to Abbott's response to WSBC's petition to determine title in property. The Court vacates the hearing currently set for April 12, 2016.

I. Procedural and Factual Background

Chesley was the sole owner of WSBC before April 2013, when he transferred ownership of WSBC in a Wind-Up Agreement. Abbott and other Plaintiffs (hereinafter referred to as "Abbott") obtained a judgment against Chesley in Kentucky case 05-CI-00436 on October 22, 2014. Abbott did not name WSBC as party to the action.

On June 23, 2015, the Kentucky Court ordered Chesley to transfer his beneficial interest in WSBC and any payments derived from that interest to Abbott. Chesley argued

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DISTRICT JUDGE
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**EXHIBIT
P**

1 that he no longer had in interest in WSBC. The Kentucky Court issued an order on
2 September 25, 2015, ruling "the Wind-Up Agreement in a sham, and that Defendant
3 Chesley continues to control and direct WSBC" and disregarding WSBC's corporate
4 identity. The Kentucky Court essentially ruled that Chesley was an alter ego of WSBC,
5 though it never used that term. The order specifically addressed the Castano Trust, which
6 makes periodic transfers to WSBC's account. The Kentucky Court ordered Chesley to direct
7 the Castano Trust "that all payments to which [Chesley] and/or WSBC are entitled from the
8 Castano Trust shall be paid directly to Plaintiff counsel." WSBC was never named a party
9 to case 05-CI-00436 and did not have an opportunity to argue to the Kentucky Court that it
10 was not an alter ego of Chesley.

11 On October 22, 2015, Abbott filed an application of foreign judgment in the instant
12 case. The application was made in Nevada, where Castano Trust is located. Abbott seeks to
13 garnish funds from the Castano Trust that are due to be paid to WSBC. WSBC was not
14 named as a party in the instant case. On January 8, 2016, Castano Trust filed a motion to
15 interplead WSBC as a defendant. On January 13, 2016, WSBC filed its petition to
16 determine title to WSBC's interest in the Castano Trust.

17 On February 11, 2016, the Court ruled that enforcing the Kentucky Order declaring
18 Chesley and WSBC to be alter egos would create a due process violation in the instant case.
19 WSBC did not receive notice of the Kentucky case that found Chesley and WSBC to be alter
20 egos. The Kentucky Court made an alter ego determination in a case with no way for WSBC
21 to assert a defense against Abbott's claims. WSBC's interest in the Castano Trust is its sole
22 property. The Court found Abbott may attach funds distributed to Chesley individually, not
23 funds distributed to WSBC.

24 On February 22, 2016, Abbott filed a motion to reconsider the February 11, 2016
25 Decision. Abbott argues the Decision was erroneous because it misapplied the law to
26 Abbott's claims. WSBC filed an opposition on March 7, 2016, asserting Abbott was merely
27 rearguing issues already ruled on by the Court. Abbott argued additional grounds for
28 reconsideration in its reply, filed on March 8, 2016.

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DISTRICT JUDGE
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II. Discussion

A. Motion to Seal

Abbott filed a response to WSBC’s petition to determine title to WSBC’s interest in the Castano Trust on January 29, 2016. The response contains exhibits Abbott now moves to have sealed. Exhibits 8 and 9 are financial documents containing confidential information such as account numbers.

Nevada Supreme Court Rule Part VII governs the sealing of Court records. The Court may seal records when there are compelling circumstances. The sensitive financial information within the exhibits justifies sealing these Court records. In addition, Abbott’s motion to seal was unopposed. See EDCR 2.20(e). Therefore, the Court grants Abbott’s motion to seal Exhibits 8 and 9.

B. Motion for Reconsideration

Reconsideration is only appropriate when “substantially different evidence is subsequently introduced or the decision is clearly erroneous.” Masonry & Title Contractors Ass’n of S. Nev. v. Jolley, Urga & Wirth, 941 P.2d 486, 489 (Nev. 1997). “Only in very rare instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling already reached should a motion for rehearing be granted.” Moore v. City of Las Vegas, 551 P.2d 244, 246 (Nev. 1976). “Rehearings are not granted as a matter of right, and are not allowed for the purposes of reargument...” Geller v. McCowan, 178 P.2d 380, 381 (Nev. 1947).

In the motion for reconsideration, Abbott first reargues the issues raised in WSBC’s petition to determine title to WSBC’s interest in the Castano Trust: whether Chesley was the true beneficiary of the trust rather than WSBC and whether Chesley and WSBC were alter egos. Abbott does not provide the Court with new evidence or persuade the Court that it ruled erroneously on these points.

Abbott raises two additional arguments that the Court’s February 11, 2016 Decision was erroneous. First, Abbott argues the Court should not have evaluated the merits of

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

1 Kentucky order in deciding whether to extend full faith and credit. Second, Abbott argues
2 the Kentucky order did not violate due process.

3 **1. The Court Properly Evaluated the Due Process Implications of the**
4 **Kentucky Court's Decision**

5 "Under the Full Faith and Credit Clause of the United States Constitution, a
6 final judgment entered in a sister state must be respected... However, not all judgments are
7 entitled to full faith and credit in Nevada." City of Oakland v Desert Outdoor Adver, Inc.,
8 267 P3d 48, 50-51 (Nev. 2011). "The full faith and credit clause of the United States
9 Constitution requires that a final judgment entered in a sister state must be respected by
10 the courts of this state absent a showing of fraud, lack of due process or lack of jurisdiction
11 in the rendering state." Mason v. Cuisenaire, 128 P.3d 446, 448 (Nev. 2006) (quoting
12 Rosenstein v. Steele, 747 P.2d 230, 231 (Nev. 1987).

13 This Court had the authority and the duty to evaluate the due process implications of
14 the Kentucky Court's orders in case 05-CI-00436. The case Abbott cites to dispute the
15 Court's evaluation goes through a due process analysis. See Milliken v Meyer, 311 US 457,
16 463 (1940). Therefore, this argument by Abbott is not a proper basis for the Court to
17 reconsider its ruling.

18 **2. The Court Properly Determined that the Kentucky Court's Decision**
19 **Violated Due Process**

20 Generally, "[d]ue process is satisfied by giving both parties 'a meaningful
21 opportunity to present their case.'" JD Constr. v IBEX Int'l Group, 240 P3d 1033, 1040
22 (Nev. 2010) (quoting Mathews v. Eldridge, 424 U.S. 319, 349 (1976)). In its February 11,
23 2016 Decision, the Court concluded enforcing the Kentucky order would violate due process
24 because WSBC had no notice of the Kentucky case. Abbott argues two bases for the Court
25 to reconsider its findings on this issue. First, Abbott argues the Court improperly used
26 Nevada law in determining the proper procedure for Abbott's alter ego claim. Second,
27 Abbott argues WSBC received notice of the Kentucky case through Chesley.
28

LINDA MARIE BELL
DISTRICT JUDGE
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1 **a. The Court Did Not Use Nevada Law to Establish the Proper**
2 **Procedure for Abbott's Alter Ego Claim**

3 In its February 11, 2016 Decision, the Court cites both Nevada and
4 Kentucky law to evaluate the due process required in an alter ego claim. The Court found
5 “[b]oth states require that notice be given before a court determines that individuals or
6 entities are alter egos.” See Callie v. Bowling, 160 P.3d 878, 879-81 (Nev. 2007) and Inter-
7 Tel Techs., Inc. v. Linn Station Properties, LLC, 360 S.W.3d 152, 168 (Ky. 2012).

8 The Court did not find that the Kentucky order violated due process because it failed
9 to follow Nevada law. The Court found the Kentucky order violated due process because it
10 failed to follow its own law. Though Abbott argues the Court misinterpreted Kentucky law,
11 Abbott did not cite a single case where Kentucky courts have allowed a claimant to establish
12 an alter ego relationship without giving notice to both alleged alter ego parties.
13 Furthermore, the Court did not find a due process violation solely because Abbott did not
14 bring a separate claim against WSBC. The Court found a due process violation because
15 WSBC did not receive notice of any action, including case 05-CI-00436, seeking to establish
16 an alter ego relationship between WSBC and Chesley.

17 The Court correctly found that due process required WSBC to receive notice of the
18 action relating to its purported alter ego relationship with Chesley. Because this finding
19 was not erroneous, this argument by Abbott is not a proper basis for the Court to reconsider
20 its ruling.

21 **b. WSBC Did Not Receive Notice of the Kentucky Proceedings**
22 **Through Chesley**

23 Abbott argues WSBC received notice of the Kentucky case through
24 Chesley's involvement in the case. Abbott asserts three methods: (1) through Chesley as
25 WSBC's registered agent for service of process, (2) through WSBC paying Chesley's
26 attorneys fees, and (3) through virtual representation by Chesley.

27 Suing a registered agent in his individual capacity does not give notice to a related
28 entity that its interests may be at risk. Abbott argues, “if it were required that WSBC

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1 receive a copy of the motion, for purposes of notice, the motion would have been delivered
2 to Chesley..." (Reply in Supp. of Mot. Recons. at p. 2.) If it had been required that WSBC
3 receive any pleading in the Kentucky case, the Court would have directed service to WSBC,
4 putting Chesley and WSBC on notice that Chesley was acting as a registered agent, not in
5 his individual capacity. The Court finds it concerning that Abbott argues Chesley acted
6 purely in his individual capacity when signing documents regarding the Castano Trust
7 "individually and as President of WSBC" (Id. at p. 6) while simultaneously arguing Chesley
8 acted as a representative of WSBC's interest by being sued in his individual capacity.

9 Paying the attorneys fees for another individual does not entitle the payee to notice
10 regarding the case at issue. Paying attorneys fees does not make the payee a party to the
11 action. Under Nevada Rule of Professional Conduct 1.8(f) and Kentucky Supreme Court
12 Rule 130(1.8)(f), attorneys must keep information relating to the representation of a client
13 confidential from non-clients paying for the client's representation.

14 The Court is not persuaded by Abbott's virtual representation argument for two
15 reasons. First, the Kentucky court made no mention of virtual representation in its
16 decision. It would be illogical to conclude that a due process violation based on a lack of
17 notice could be cured by a silent and invisible finding by a court. Second, virtual
18 representation cannot serve as an end run around the due process issue in this case. The
19 standard for virtual representation is similar to the standard for alter egos. In order for a
20 Court to find parties are alter egos, "[t]here must be such unity of interest and ownership
21 that one is inseparable from the other." Truck Ins. Exch. v. Palmer J. Swanson, Inc., 189
22 P.3d 656, 660 (Nev. 2008). The determining factor of virtual representation "is such
23 identity of interest as to give reasonable assurance that the contingent rights of the absent
24 party will be protected by the person joined in the suit." Harris v Jackson, 192 SW3d 297,
25 303 (Ky. 2006), as mod (May 24, 2006) (quoting Carroll v. First Nat. Bank & Trust Co. of
26 Lexington, 227 S.W.2d 410, 411 (Ky.1950). There is a critical distinction in the degree of the
27 unity of interests. This distinction is reflected in the procedures courts may take to
28 determine alter ego relationships and virtual representation. Courts must provide notice to

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DISTRICT JUDGE
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1 potential alter egos regarding cases seeking to establish alter ego relationships. A court
2 may not rely on a virtual representation determination, even if one had existed in this case,
3 to deprive a party of the opportunity to address the higher unity of interest inherent in an
4 alter ego relationship.

5 The Court correctly found that WSBC did not receive proper notice of case 05-CI-
6 00436. Because this finding was not erroneous, this argument by Abbott is not a proper
7 basis for the Court to reconsider its ruling.

8 **III. Conclusion**

9 Abbott failed to provide a basis for the Court to conclude that its February 11, 2016
10 ruling was erroneous. The Court denies Abbott's Motion to Reconsider the Court's Ruling
11 Dated February 11, 2016. The Court grants Abbott's Motion to Seal Exhibits 8 and 9 and
12 vacates the hearing currently set for April 12, 2016.

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15 DATED this 30th day of March, 2016.

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20 LINDA MARIE BELL
21 DISTRICT COURT JUDGE

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25 LINDA MARIE BELL
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27 DEPARTMENT VII
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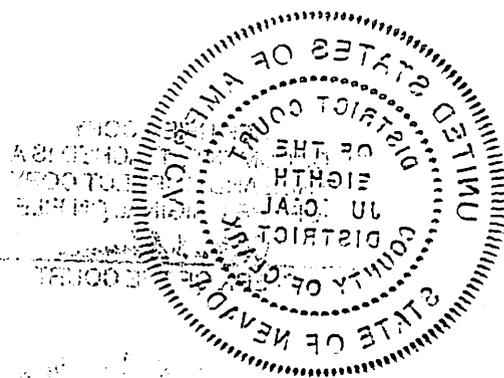
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date of filing, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system or, if no e-mail was provided, by facsimile, U.S. Mail and/or placed in the Clerk's Office attorney folder(s) for:

Name	Party
John W. Mujie, Esq. John W. Mujie & Associates Angela Ford, Esq.	Counsel for Mildred Abbott
Brian D. Shapiro, Esq. Brian D. Shapiro, LLC	Counsel for Stanley Chesley
Thomas Fell, Esq. Fennemore Craig, P.C.	Counsel for Castano Directed Distribution Trust
Will Kemp, Esq. Kemp, Jones & Coulthard, LLP Donald J. Rafferty, Esq. Cohen, Todd, Kite & Stanford, LLC	Counsel for Waite Schneider Bayless & Chesley Co.



SHELBY DAHL
LAW CLERK, DEPARTMENT VII

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Decision and Order filed in District Court case number A626616 DOES NOT contain the social security number of any person.

/s/ Linda Marie Bell Date 3/22/16
District Court Judge

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

Case Summary

Add to Portfolio

Case Number: CJ16006214
Case Caption: MILDRED ABBOTT ET AL vs. STANLEY M CHESLEY ET AL
Judge: Unavailable
Filed Date: 4/25/2016
Case Type: CJ - CERTIFICATE OF JUDGMENT
Total Deposits: \$.00
Total Costs: \$ 26.00

Case History

Doc Image#	Date	Description	Amount
	6/3/2016	FOREIGN JUDGMENT NOTICE SENT BY CERTIFIED MAIL WAS RETURNED UNCLAIMED	
	5/26/2016	FOREIGN JUDGMENT NOTICE SENT BY CERTIFIED MAIL WAS RETURNED UNCLAIMED.	
	5/26/2016	FOREIGN JUDGMENT NOTICE SENT BY CERTIFIED MAIL WAS RETURNED UNCLAIMED	
	4/28/2016	CERTIFIED MAIL SERVICE ISSUED TO STANLEY M CHESLEY [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 4933]	
	4/28/2016	REISSUE OF FOREIGN JUDGMENT NOTICE. THE NOTICE THAT WAS SENT 4-25-16 & THE ONE REISSUED 4-26-16 HAD THE WRONG DATE THE JUDGMENT WAS OBTAINED.	
	4/26/2016	EX 1600448	
	4/26/2016	REISSUE OF FOREIGN JUDGMENT NOTICE. THE NOTICE THAT WAS SENT 4-25-16 HAD THE WRONG ATTORNEY LISTED.	
	4/26/2016	CERTIFIED MAIL SERVICE ISSUED TO STANLEY M CHESLEY [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 1840]	
	4/25/2016	CERTIFIED MAIL SERVICE ISSUED TO STANLEY M CHESLEY [CERTIFIED MAIL NBR.: 7194 5168 6310 0787 0188]	
	4/25/2016	JUDGMENT FILED ON 04/25/16 AT 12:06	
	4/25/2016	ATTORNEY: TABITHA M HOCHSCHEID	
	4/25/2016	PLUS 8% SIMPLE PRE-JUDGMENT INTEREST FROM APRIL 1, 2002 TO DATE OF JUDGMENT AND POST-JUDGMENT INTEREST AT THE RATE OF 12% FROM THE DATE OF JUDGMENT AND COURT COSTS.	
	4/25/2016	JUDGMENT DEBTOR(S): STANLEY M CHESLEY	
	4/25/2016	COURT ISSUING JUDGMENT: CIRCUIT ; COUNTY: BOONE ; STATE: KENTUCKY	
	4/25/2016	JUDGMENT AMOUNT: \$42,000,000.00 COSTS: \$	
	4/25/2016	JUDGMENT OR DECREE RENDERED: 10/22/14 INTEREST RATE: %	
	4/25/2016	FILING, DOCKETING, ENDORSING, AND COURT AUTOMATION COSTS: \$16.00 CERTIFICATE COST: \$5.00 RECEIPT #: 3486	
	4/25/2016	CAPTION: MILDRED ABBOTT ET AL VS: STANLEY M CHESLE ET AL CASE#: 05CI436	
	4/25/2016	JUDGMENT CREDITOR(S): MILDRED ABBOTT ET AL	

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EXHIBIT
Q

COMMONWEALTH OF KENTUCKY

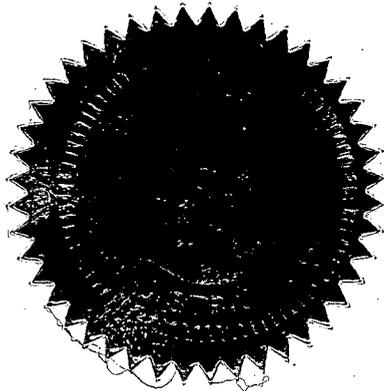
COUNTY OF BOONE

* * *

CERTIFICATION

ACT OF

CONGRESS



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TRACY WINKLER
CLERK OF COURTS
BOONE COUNTY, OH

EXHIBIT
R

412900911C



CERTIFICATION ACT
OF CONGRESS

(FOR OUT OF STATE USE)

County BOONE

UNITED STATES OF AMERICA

STATE OF KENTUCKY,

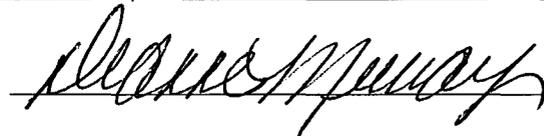
SS.

BOONE County

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-436 SECOND AMENDED JUDGMENT ENTERED 10-22-2014

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 15th day of JUNE, 2015.

 Clerk

STATE OF KENTUCKY,

SS.

BOONE County

I, JAMES 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 15th day of JUNE, 2015.

 Judge

STATE OF KENTUCKY,

SS.

BOONE County

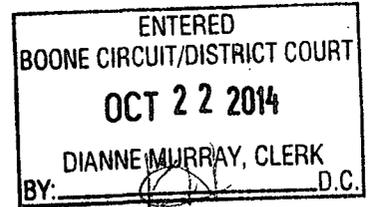
I, DIANNE MURRAY, Clerk of the CIRCUIT Court in the State and county aforesaid, do certify that JAMES R. SCHRAND who signed the foregoing certificate, is and was at the time of signing same, Judge of said Court, duly elected and qualified; that all of his/her official acts as such are entitled to full 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 15th day of JUNE, 2015.

 Clerk

2015 APR 25 12:07 PM
CLERK OF COURTS
HAMILTON COUNTY, OH
TRACY WINKLER

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

SECOND AMENDED JUDGMENT

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

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CLERK OF COURTS
HAMILTON COUNTY, OH

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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.

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HAMILTON COUNTY, OH

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

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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).

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HAMILTON COUNTY, OH

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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

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TRACY WINKLER
CLERK OF COURTS
HAMILTON COUNTY, OH

10353

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, Cunnigham 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, Cunnungham 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.

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HAMILTON COUNTY, OH

6254

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 simple interest at a rate of 8% per annum from April 1, 2002, and post-judgment interest compounded annually 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 20 day of October, 2014.

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TRACY WINKLER
CLERK OF COURTS
HAMILTON COUNTY, OH

6255

[Handwritten Signature]

JAMES R. SCHRAND, JUDGE
BOONE CIRCUIT COURT

COPIES TO:

ALL ATTORNEYS OF RECORD

CERTIFICATE

I, DIANNE MURRAY, clerk of the Boone District/Circuit Court, thereby 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 22 day of October, 2014

DIANNE MURRAY
BOONE DISTRICT/CIRCUIT COURT
Knollton 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 5 day of June 2014
DIANNE MURRAY

By: [Handwritten Signature] D.C.

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2016 APR 25 P 12:07

TRACY WINKLER
CLERK OF COURTS
HAMILTON COUNTY, OH

6356

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

MILDRED ABBOTT, et. al.

Plaintiff

VS.

STANLEY M. CHESLEY

Defendant(s)

:
:
:
:
:
:
:
:
:
:

Case No.

PRAECIPE FOR SERVICE
CERTIFICATE OF JUDGMENT

Please prepare a Certificate of Judgment in the above entitled cause.

JUDGMENT AGAINST: STANLEY M. CHESLEY

JUDGMENT DATE: October 22, 2014

JUDGMENT AMOUNT: \$42,000,000.00

PLUS 8% SIMPLE PREJUDGMENT INTEREST FROM APRIL 1, 2002 TO DATE OF
JUDGMENT AND POSTJUDGMENT INTEREST AT THE RATE OF 12% FROM THE
DATE OF JUDGMENT AND COURT COSTS

Please furnish to Hamilton County Common Pleas Court.

Respectfully Submitted,

Hochscheid & Associates, LLC



Tabitha M. Hochscheid 0065172

Attorney for Plaintiff

810 Sycamore Street; Suite 420

Cincinnati, Ohio 45202

513-338-1818 phone

513-263-9046 fax

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TRACY WINKLER
CLERK OF COURTS
HAMILTON COUNTY, OH

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

MILDRED ABBOTT, et. al.	:	Case No.
Plaintiff	:	
VS.	:	<u>AFFIDAVIT FOR</u>
	:	<u>FOREIGN JUDGMENT</u>
STANLEY M. CHESLEY	:	<u>REGISTRATION</u>
	:	
Defendant(s)	:	

STATE OF OHIO)
)SS:
COUNTY OF HAMILTON)

Now comes, Tabitha M. Hochscheid, and being duly cautioned and sworn state as follows:

- 1) I am the attorney for, Mildred Abbott, et. al., the Judgment-Creditors.
- 2) On the 22d day of October, 2014 Mildred Abbott, et. al. obtained a Judgment against the Judgment-Debtor, Stanley M. Chesley, whose last known address was 9005 Camargo Road, Cincinnati, Ohio, 45243.
- 3) Said Judgment was obtained in the Circuit Court in and for Boone County, Kentucky, a Court of records of the State of Kentucky on October 22, 2014. A copy of said Judgment pursuant to Congressional Act is attached hereto as Exhibit "A".
- 4) The judgment referred to herein is for the sum of \$42,000,000.00, along with prejudgment simple interest at the rate of 8% per annum from April 1, 2002 and post judgment interest compounded annual at the rate of 12% from the date of judgment and costs.

Further Affiant Sayeth Naught.


 Tabitha M. Hochscheid (0065172)
 Attorney for Plaintiff
 Hochscheid & Associate, LLC
 810 Sycamore Street, Suite 420
 Cincinnati, OH 45202
 Phone: (513) 338-1818
 Fax: (513) 263-9046
 Email: tmh@hochscheidlaw.com

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 HAMILTON COUNTY, OH
 CLERK OF COURTS
 TRACY WINKLER

State of Ohio)
) :ss
County of Hamilton)

The foregoing instrument was acknowledged before me, this 22nd day of April, 2016 by Tabitha M. Hochscheid.

Lenise N. Franklin

Notary Public

My Commission expires: March 19, 2020



LENISE N. FRANKLIN
Notary Public, State of Ohio
My Commission Expires
March 19, 2020

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2016 APR 25 P 12:07

TRACY WINKLER
CLERK OF COURTS
HAMILTON COUNTY, OH

STANLEY M. CHESLEY
9005 CAMARGO ROAD
CINCINNATI, OH 45243

**COURT OF COMMON PLEAS
HAMILTON COUNTY OHIO**

Judgment Creditor

MILDRED ABBOTT, ET AL

-vs-

Judgment Debtor

STANLEY M. CHESLEY

Whereas on the 25TH day of APRIL, 2016, a **FOREIGN JUDGMENT** obtained against you in HAMILTON COUNTY, State of OHIO was filed in this Court.

Execution may issue on this Judgment thirty (30) days after the above date.

TRACY WINKLER
CLERK OF COURTS

Allison Guard, Deputy Clerk

I. List name and address of Judgment Creditor's Attorney

YALE R. LEVY
4645 EXECUTIVE DR.
COLUMBUS, OH 43220
(614) 898-5200

AFFIDAVIT OF VINCENT E. MAUER

The undersigned being duly warned and sworn states:

1. I am an attorney licensed to practice law in Ohio. I am one of the counsel representing the Plaintiffs in *Chesley et al. v. Probate Estate of Danny Lee Abney*, Hamilton County Case No. A1902508 (the "Case"). I am over eighteen years of age and have never been declared mentally incompetent. I have personal knowledge of the facts stated herein.

2. Ms. Linda Brumley ("Brumley") is a named defendant in the Case. Plaintiffs asked the Hamilton County, Ohio Clerk of Court (the "Clerk") to serve the Complaint filed in the Case on Brumley at 415 Mulberry Street, West Union, Ohio 45693. The Clerk sent me a post card stating that the Complaint could not be served on Brumley at that address because the property is "vacant."

3. The Supplement To Affidavit For Foreign Judgment Registration filed in the Case on June 6, 2016 has attached to it a purported list of the names and addresses of the supposed 382 co-owners of the Kentucky judgment against Stanley M. Chesley. The address for Brumley on that list is 415 Mulberry Street, West Union, Ohio 45693.

4. Further affiant sayeth naught.

Vincent E. Mauer
Vincent E. Mauer

Sworn and subscribed in my presence by Vincent E. Mauer who is known to me on June 20, 2016.

Kimberly Beth Kulebrander Mauer
Notary Public, State of Ohio
My commission expires on _____

0118087.0619701 4847-5410-9491v1



KIMBERLY BETH KULEBRANDER MAUER
Attorney at Law
Notary Public, State of Ohio
My Commission has no expiration date
Section 147.03 O.R.C.

EXHIBIT
S



**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
April 28, 2016 12:15 PM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 493892**

STANLEY M CHESLEY

A 1602508

vs.

**PROBATE ESTATE OF DANNY
LEE ABNEY**

**FILING TYPE: INITIAL FILING (IN COUNTY) WITH NO JURY
DEMAND**

PAGES FILED: 66

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**EXHIBIT
T**

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

Stanley M. Chesley
9005 Camargo Road
Cincinnati, OH 45243

Waite Schneider Bayless & Chesley Co., LPA
1 West Fourth Street, Suite 1513
Cincinnati, Ohio 45202

Plaintiffs,

v.

Probate Estate of Danny Lee Abney
c/o Carol Barnes co-administrator
P.O. Box 42
Irvine, KY 40336

Ronnie Abney co-administrator
1002 Dark Hallow Road
Irvine, KY 40336

Also serve:
William Trude, Esq.
135 Dry Branch Road
Irvine, KY 40336

Probate Estate of Phyllis Applegate
c/o George Applegate, administrator
610 Martin Drive
Richmond, KY 40475

Probate Estate of Alma Brock
c/o Amy Glodo, administrator
253 W. Laurel Road
London, KY 40741

Probate Estate of Wathalee Brumfield
c/o Nathaniel Brumfield
2342 Union City Road
Richmond, KY 40475

: Case No. _____

:
: Judge Ethna Cooper

:
: **COMPLAINT FOR TEMPORARY**
: **RESTRAINING ORDER,**
: **DECLARATORY RELIEF AND**
: **INJUNCTIVE RELIEF**

:
: **PLAINITFF WAITE SCHNEIDER**
: **BAYLESS & CHESLEY CO., LPA**
: **ALSO SEEK DAMAGES**

:
: This complaint and the related motion for
: temporary and injunctive relief are
: supported by the attached Affidavit of
: James C. Worthington, Sr., Esq.

Also Serve:
Catherine York, Esq.
1409 Pleasant Ridge
Lexington, KY 40509

Probate Estate of Warren Scott Burgess
c/o Marilyn Burgess, administrator
100 Fuller St.
Georgetown, KY 40324

Probate Estate of Clara Lou Fulks
c/o Lois Rushing, administrator
P.O. Box 7
Dycusburg, KY 42038

Also Serve:
James E. Story, Esq.
P.O. Box 216
Eddyville, KY 42038

Probate Estate of Milton Lewis
c/o Joy Perry, administrator
15 Sallie Lyttle Road
Manchester, KY 40962

Also Serve:
Clay M. Bishop, Jr., Esq.
102 Walters Street, Suite 2
Manchester, KY 40962

Probate Estate of Michael Miller
c/o Wilma Coleman, limited guardian
117 Glass Ave.
Lexington, KY 40505

Also Serve:
Angel Miller, administrator
120 Carlisle Ave
Lexington, KY 40505

Probate Estate of Norma Pickett
c/o Jonaka White Hall, Esq.
CW Firm, PLLC
300 10th Ave. South
Nashville, TN 37203

Probate Estate of Sharon Smith
c/o Stephen L. Hogg, Esq.
117 Riverview Drive
Pikeville, KY 41501

Probate Estate of Paul Stauffer
c/o Scott Stauffer, co-administrator
103 Lakeshore Drive
Richmond, KY 40475, and

Eric Stauffer, co-administrator
607 Galata Drive
Lexington, KY 40503

Also Serve:
Elizabeth R. Seif, Esq.
DeCamp Talbott Seif
301 East Main Street, Suite 600
Lexington, KY 40507

Probate Estate of Connie Stephens
c/o Kenneth Stephens, administrator
120 Pug Lane
Berea, KY 40403

Also Serve:
William D. Reynolds, Esq.
P.O. Box 1250
140 West Main St.
Mt. Vernon, KY 40456

Probate Estate of Sharon Stevenson
c/o Leland Stevenson, administrator
3085 Hwy 235
Nancy, KY 42544

Also Serve:
Jay McShurley
126 N. Maple St.
P.O. Box 1827
Somerset, KY 42502

Probate Estate of Marjorie Sudduth
c/o Craig Sudduth, co-administrator
150 Northwood Drive
Frankfort, KY 40342

Shane Sudduth, co-administrator
315 Eagle Drive
Lawrenceburg, KY 40342

Probate Estate of Ella Jane Tackett
c/o Sharon Tackett, administrator
449 Apple Street
Hazard, KY 41701

Probate Estate of Lane Walker
c/o Charlotte Baker, co-administrator
63 Forest Hill Road
Manchester, KY 40962, and

David Walker, co-administrator
7148 East Laurel Road
London, KY 40741

Also Serve:

Joseph C. White, Esq.
303 Main Street
Manchester, KY 40962

Probate Estate of Martin T. Ward
c/o Betty Ward, administrator (deceased)
1105 Gainesway Dr.
Lexington, KY 40517, and

Lorraine Pilar Gallion, administrator
de bonis non
1105 Gainesway Drive
Lexington, KY 40517

Also Serve:

Catherine York, Esq.
1409 Pleasant Ridge Dr.
Lexington, KY 40509, and

Dennis A. Bradley, Esq.
205 N. Upper St.
Lexington, KY 40507

Probate Estate of Gloria M. Williams
c/o Lalaneah Bailey, administrator
1109 Winburn Dr. # 27
Lexington, KY 40511

Ruby Adams
c/o Gloria Little
2322 Highland Ave.
Cincinnati, OH 45212

Marilyn Kaye Barnes
RR #4, Box 274
Monticello, Kentucky 42633

Ms. Carol Boggs
3415 County Road 181
Ironton, Ohio 45638

Linda Brumley
415 W. Mulberry Street
West Union, OH 45693

Ruby Godbey
1134 Terrington Way
Miamisburg, OH 45342

Leona Gail Handley
202 Woodview Drive
Nicholasville, Kentucky 40356

Louisa Moss Howard
3895 Mack Road
Fairfield, OH 45014

Charlotte Louise Hughes
P.O. Box 328
Garrett, Kentucky 41630

Della Mae Jackson
116 Benjamin Lane
London, Kentucky 40741

Betty Kelly Estate
117 West Parkwood
Fairborn, OH 45324

Rebecca Lovell Estate
4591 Miles Drive
Port Orange, FL 32127

Mary Lou White-Lynch
5610 Tiffany Lane
Springfield, OH 45502

Pamela Sue Marlowe
315 West Wyatt Street
Fredonia, Kentucky 42411

Linda Nevels
125 Deuce Lane
Monticello, Kentucky 42633

Rita Profitt-Norman
190 Pavillion Drive
Georgetown, Kentucky 40324

Judith Peck
2233 Riverside Drive, Unit 1A
Cincinnati, OH 45202

Brian Sterling Powell
650 Old Peacock Road, #5
Paris, Kentucky 40361

Billie Jean Reese
16 Marksman Trail
Louisville, Kentucky 40216

Glenna Brock Powell Renner Estate
3909½ Jewell Street
Middletown, OH 45042

Elaine Smith
80 Alfred Drive
West Liberty, Kentucky 41472

Unknown Jane or John Does 1-20
Putative judgment creditors
who filed bankruptcy

Unknown Jill or Jack Smiths 1-25 :
 Judgment creditors who inherited :
 their claim against Chesley or :
 their interest in the Chesley Judgment :
 :
 Defendants. :

COMES NOW Plaintiffs Stanley M. Chesley (“Chesley”) and Waite Schneider Bayless & Chesley Co., LPA (“WSBC”) who assert the following:

INTRODUCTION

Defendants are all allegedly part of a group of 382 persons or entities all of which claim to own an undivided and non-pro rata share of an August 1, 2014 judgment awarded in Kentucky against Chesley. This litigation arises from the inappropriate and illegal efforts of certain of Chesley’s putative judgment creditors to collect that judgment. A description of how that judgment arose and its current status is attached hereto as Appendix A.

PROCEDURAL STATUS

The parties and other interested entities have filed court papers in this matter in five states (seven total state cases), two appellate courts (five cases) and four federal court cases. Judgment collection related activity in all but one of those 16 cases was initiated by judgment creditors. The most relevant of those filings are summarized below.

A. The “Judge Ruehlman Case.” In January of 2015, Chesley initiated *Chesley v. Ford, et al.*, Hamilton County Common Pleas Case No. A1500067 (the “Judge Ruehlman Case”).¹ Chesley’s asserts therein that applicable Ohio law requires the disclosure of certain information before a foreign judgment is used in Ohio (e.g. to support discovery from non-judgment debtor Ohioans), recognized in Ohio (e.g. the basis of a creditor’s bill action) or

¹ Respondent Angela M. Ford (“Agent Ford” herein) has been dismissed from the Judge Ruehlman Case. Agent Ford was and is an agent of Chesley’s judgment creditors.

enforced in Ohio (e.g. for seizure of Ohio property from the judgment debtor). Chesley further asserted that the “Chesley Judgment,” defined below, does not include the required information.

The Judge Ruehlman Case is the subject of a pending proceeding in prohibition and mandamus initiated by then-Respondent Angela M. Ford against Judge Ruehlman on September 4, 2015. *State ex rel. Angela M. Ford, Esq. v. Honorable Robert P. Ruehlman*, Ohio Supreme Court Case No. 2015-1470. At Ford’s request, proceedings in the Judge Ruehlman Case have been stayed since September 17, 2015 (the “Ruehlman Case Stay”).

Plaintiffs are not waiving any of the assertions they made in the Ruehlman Case. None of the claims asserted in the Ruehlman Case are asserted herein.

B. The “Miscellaneous Case”. Defendants and all of Chesley’s other alleged judgment creditors started a Hamilton County Common Pleas miscellaneous case in October 2015. That case is M151179 and was pending before Judge Martin. Because this case is an “M” case under Ohio Revised Code 2319.09, Judge Martin’s jurisdiction is limited and the claims brought in this matter cannot be heard in that case.²

The Miscellaneous Case is now on appeal to the Ohio First District Court of Appeals as case number C160315. Therefore, Judge Martin no longer has jurisdiction over the Miscellaneous Case.

Nothing in this case is intended to prevent the discovery already approved by Judge Martin in the Miscellaneous Case.

² The motion to open the Miscellaneous Case states, in its title, that its purpose is to serve subpoenas and cites R.C. 2319.09 as providing authority for opening the Miscellaneous Case. Ohio courts say that: “We do not view the court’s power under R.C. 2319.09 as extending any further than enforcing the implementation of the foreign discovery order.” *Fischer Brewing Co. v. Flax*, 138 Ohio App. 3d 92, 96, 740 N.E.2d 351, 354 (2000). See also *Thomas v. Rome*, 2013-Ohio-4046, ¶ 22 and *E.I. DuPont de Nemours & Co. v. Thompson*, 29 Ohio App. 3d 272, 274, 504 N.E.2d 1195, 1197 (1986).

STATEMENT OF THIS CASE

In October 2015, Defendants' counsel disclosed that 43 of putative 382 Chesley judgment creditor "plaintiffs" have died and their probate estates are now supposedly among Chesley's 382 judgment creditors. Eighteen of those probate estates are defendants herein, the "KY Probate Estate Defendants." It is Plaintiffs' assertion that the KY Probate Estate Defendants are not Chesley's judgment creditors and their collection action is wrongful.

The situation is similar with the "Bankrupt Defendants," defined below. Those defendants have each been the subject of a federal bankruptcy case; hence, the United States Bankruptcy Code automatically transferred their claims against Chesley to the respective bankruptcy estate. See, 11 U.S.C. Section 522. It is Plaintiffs' assertion that the Bankrupt Defendants may not be among Chesley's judgment creditors, that they do not have standing to assert any claims under the judgment, and that their collection action is wrongful unless they can prove they own part of the Chesley Judgment.³

The KY Probate Estate Defendants and the Bankrupt Defendants and the remaining Defendants are all engaged in the collection activities described herein either as named parties or through their agents as described herein.

Accordingly, Chesley seeks: (i) a declaratory judgment; (ii) a temporary restraining order and (iii) subsequent injunction to prevent collection efforts by putative judgment creditors who, in fact, are not judgment creditors.

Chesley's judgment creditors, including the Defendants, have attempted to collect the Chesley Judgment by seizing the assets of WSBC. This illegal action damaged WSBC. After

³ The standing requirements for the collection of a transferred claim are discussed in a collection of cases related to the foreclosure of transferred mortgages. See, for example, *Federal Home Loan Mortgage Corp. v. Schwartzwald*, 134 Ohio St.3d 13 (2011).

the failure of those efforts in front of two different Nevada judges, the Defendants' Agents initiated those same efforts in multiple federal court cases.

Without domesticating the Chesley Judgment in Ohio, Chesley's judgment creditors have alleged that they have a lien on WSBC's assets in Ohio. WSBC asserts that Defendants' lien assertion is contrary to Ohio law and warrant the award of damages against Defendants.

Defendants, acting in concert with Chesley's other judgment creditors, have abused the discovery process in two states and inappropriately disclosed protected information concerning non-parties. This current activity should be stopped and any future such abuse should be prohibited.

INTRODUCTION

1. Chesley is a resident of Hamilton County, Ohio. WSBC is an existing corporate entity formed under Ohio law that does business solely in Ohio. WSBC's principal place of business is in Hamilton County, Ohio.

2. Defendants each individually assert that it is: (1) a "plaintiff" 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"); and (2) one of the Abbott Case plaintiffs who is among Chesley's judgment creditors.⁴ The Abbott Case is not a class action. Each of Chesley's putative judgment creditors holds an individual claim against Chesley.

3. Defendant Carol Boggs ("Boggs") is a resident of Ohio and a putative Chesley judgment creditor. Boggs has claimed publicly that she is one of Chesley's judgment creditors. Boggs' agents have asserted that same fact. Boggs has publicly admitted that she filed a bankruptcy petition.

⁴ All the Abbott Case plaintiffs are clients of Angela M. Ford, Esq. However, not all plaintiffs in the Abbott Case are Chesley's putative judgment creditors.

4. Defendants are all represented by the same several lawyers in certain other litigation related to the Chesley Judgment. Those counselors include Angela M. Ford, Esq. and Brian S. Sullivan, Esq. (individually “Agent Ford” or “Agent Sullivan” and jointly the “Agents”).

5. The amount Chesley allegedly owes to any particular Defendant is unknown. The amount Chesley allegedly owes to any co-owner of the Chesley Judgment is unknown. Chesley reserves the right to assert this and other deficiencies in the Kentucky judgment, *inter alia*, if relevant to jurisdiction or if Defendants seek to domesticate the Kentucky judgment.

6. Acting through Agent Sullivan, Defendants have each taken legal action in Ohio to obtain information that they hope to use to collect the Chesley Judgment.

7. The “KY Probate Estate Defendants” are (i) the Probate estate of Danny Lee Abney, (ii) the Probate estate of Phyllis Applegate, (iii) the Probate Estate of Alma Brock, (iv) the Probate Estate of Wathalee Brumfield, (v) the Probate Estate of Warren Scott Burgess, (vi) the Probate Estate of Clara Lou Fulks, (vii) the Probate Estate of Milton Lewis, (viii) the Probate Estate of Michael Miller, (ix) the Probate Estate of Norma Pickett, (x) the Probate Estate of Sharon Smith, (xi) the Probate Estate of Paul Stauffer, (xii) the Probate Estate of Connie Stephens, (xiii) the Probate Estate of Sharon Stevenson, (ixv) the Probate Estate of Marjorie Sudduth, (xv) the Probate Estate of Ella Jane Tackett, (xvi) the Probate Estate of Lane Walker, (xvii) the Probate Estate of Martin T. Ward, and (xviii) the Probate Estate of Gloria M. Williams. The “KY Probate Estate Defendants” are each a probate estate created by a legal proceeding in Kentucky. The existence of the KY Probate Estate Defendants and their alleged status as an alleged Chesley judgment creditor was disclosed in information that Agent Ford and Defendants’

Nevada counsel recently provided as part of a Nevada legal proceeding attempting to enforce the Chesley Judgment.

8. Acting through Agent Sullivan, Defendant Mary Lou White-Lynch is the putative Chesley judgment creditor who caused the filings in a federal case asserting that she and Chesley's other judgment creditors have a "lien" on the assets of WSBC located in Ohio. As part of that proceeding, Defendant White-Lynch asserted that the Bankrupt Defendants and the KY Probate Estate Defendants are among Chesley's judgment creditors.

9. Defendant Linda Brumley is the putative Chesley judgment creditor who is the writ of prohibition filed against Judge Ruehlman. As part of that writ proceeding, Defendant Brumley asserted that the Bankrupt Defendants and the KY Probate Estate Defendants are among Chesley's judgment creditors.

10. Putative judgment creditor Connie McGirr is the leader of a group of 20 of the 382 judgment creditors who are seeking to collect funds owed to WSBC in order to collect the Chesley Judgment. Agent Sullivan filed pleadings of behalf of Defendant McGirr and her group in two separate federal court cases. One of McGirr's gang of 20 is a person who would qualify as a Bankrupt Defendant and another of McGirr's gang of 20 is a person who would qualify as a KY Probate Defendant; Plaintiffs reserve the right to add those two putative judgment creditors to this action if those claims are not part of the litigation initiated by McGirr and the gang of 20.

11. The judgment against Chesley is in favor of the Abbott Case "plaintiffs" without naming the owners of that judgment. According to Agent Ford's affidavits, 382 of the Abbot Case plaintiffs are Chesley's judgment creditors. According to Agent Ford, the other Abbott Case plaintiffs (who are also Agent Ford's clients) are not Chesley's judgment creditors, despite the fact that Agent Ford asserted claims in the Abbott Case against Chesley on behalf of those

Abbott Case plaintiffs who are not Chesley's judgment creditors. Hence, Defendants cannot prove they are one of Chesley's judgment creditors merely by demonstrating that they are a plaintiff in the Abbott Case.

12. According to Agent Ford's list of 382 judgment creditors filed in Nevada which is verified by her affidavit, each of the Defendants claims to own an undivided and non-equivalent interest in the Chesley Judgment.

13. Defendants Marilyn Kaye Barnes, Carol Boggs, Leona Gail Handley, Charlotte Louise Hughes, Della Mae Jackson, Pamela Sue Marlowe, Linda Nevels, Brian Sterling Powell, Rita Profitt-Norman, Billie Jean Reese, and Elaine Smith are collectively the "Bankrupt Defendants." Except for Defendant Boggs, Chesley used the partial disclosure made by Agent Ford to determine that each Bankrupt Defendant was the debtor in a bankruptcy case in a federal bankruptcy court. For each Bankrupt Defendant, except Defendant Boggs, there is an indication in the public records of the respective bankruptcy case that the supposed Chesley judgment creditor is or was the bankrupt debtor subject to that bankruptcy case.

14. Chesley believes that there are additional members of the 382 supposed judgment creditors identified by Agent Ford who (a) obtained their claim against Chesley via an inheritance or intestacy transfer and whose claim might not have been properly preserved and therefore be legally extinguished or (b) were the subject of a bankruptcy case. These supposed judgment creditors are identified herein as the "Jane or John Doe" or "Jill or Jack Smith," Defendants respectively. These placeholders are inserted into this case so that specific putative judgment creditors can be added to this case as their existence and addresses are determined.

15. The Court has personal jurisdiction over all the parties herein. The Court has subject matter jurisdiction over the issues and claims described herein. Venue of this matter is appropriate in this Court.

**THE KENTUCKY JUDGMENT AGAINST CHESLEY
AND DEFENDANTS' COLLECTION ACTIVITY**

16. On August 1, 2014 the Boone County, Kentucky Circuit Court ("Boone Circuit Court") entered an Order against Chesley in the Abbott Case. That Order awarded the "Chesley Judgment." 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.

17. Chesley has exercised his right to appeal the Chesley Judgment to the Kentucky Court of Appeals and expects the Chesley Judgment to be reversed. See Appendix A attached. Nothing in this Complaint 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. Chesley is NOT asking this Court to void or reverse the Chesley Judgment.

18. The amount of the Chesley Judgment is stated in one gross amount, \$42,000,000. According to Agent Ford's affidavit in Nevada, the amount owed by Chesley to the judgment creditors is now over \$76,000,000, after accounting for over \$17,000,000 that Agent Ford admits she has collected from the other judgment debtors and the accrual of interest from 2002. Agent Ford has collected over \$40,000,000 for the benefit of the Defendants and Chesley's other judgment creditors.

19. Defendants (acting through Agent Ford and Defendants' Nevada counsel) filed two separate domestications of the Chesley Judgment and served in Nevada two separate garnishment writs in an effort to satisfy the Chesley Judgment. Those two garnishments explicitly stated Defendants' intent to seize funds payable to WSBC.

20. As a result of Defendants' actions in Nevada, Plaintiffs were forced to engage Nevada counsel. Plaintiffs' Ohio and Nevada counsel engaged in significant litigation in Nevada. Chesley moved to dismiss Defendants' first effort to domesticate the Chesley Judgment in Nevada. Judge Wiese in Nevada dismissed the Defendants' first domestication effort; while making that ruling, Judge Wiese stated that Defendants could not seize the assets of WSBC.

21. Defendants (through Agent Ford and Nevada counsel) initiated a second domestication of the Chesley Judgment in Nevada and issued a second garnishment writ in Nevada. This second garnishment was again directed at funds payable to WSBC. A different Nevada Judge (Judge Bell) again ruled that Chesley's judgment creditors cannot seize the assets of WSBC. Copies of Judge Bell's initial Decision & Order, as well as her Decision & Order denying Defendants' motion for reconsideration of the initial decision are attached as Exhibits A and B (together, the "Nevada Decisions"). The Nevada Decisions are final orders. The Nevada Decisions concluded, among other things, that the Chesley Judgment and subsequent Kentucky orders are not enforceable against WSBC.

22. Defendants (through Agent Sullivan) have taken action in Ohio to seek discovery that is supposedly intended to identify assets of Chesley against which Defendants could collect the Chesley Judgment. This discovery is addressed to third parties. See the several subpoenas issued in the Miscellaneous Case.

A. At a March 11, 2016 hearing during the Miscellaneous Case, Judge Martin stated that "The evidence that's collected is supposed to be confidential; it's not to be placed into the public record without order of the Court."

B. Pursuant to a subpoena issued in the Miscellaneous Case, on March 15, 2016, Chesley's judgment creditors, including the Defendants, conducted a deposition of Mr. Thomas Rehme, the trustee who now legally owns WSBC.

C. In violation of Judge Martin's instructions, Agent Sullivan acting for the Defendants has placed portions of Mr. Rehme's testimony into the public record in more than one court. Defendants should be ordered to file a motion in each case where improper information was placed into the public record that removes that information from the public record.

23. Defendants, acting through Agent Ford and local counsel, have taken steps to domesticate the Chesley Judgment in Louisiana and Colorado. The express purpose of those filings is to seize the income of WSBC. Agent Ford has stated Defendants' intent to use the Chesley Judgment to seize certain funds in Colorado that may become payable to WSBC.

24. Defendant Boggs asserts in court filings, in the press and in open court that she is one of Chesley's judgment creditors. That statement may be legally incorrect.

25. Any amount paid to any of the Bankrupt Defendants on account of the Chesley Judgment after each persons' bankruptcy case was filed may not belong to that defendant and might be subject to transfer to the rightful owner.

ALL FOR ONE AND ONE FOR ALL

26. Through Agent Sullivan, Defendant Mary Lou White-Lynch is asking Judge Carr of the United States District Court, Northern District of Ohio to seize certain funds and direct those funds to Agent Ford, presumably for the benefit of all of Chesley's judgment creditors including the Defendants.

27. At all relevant times, the funds at issue in the Judge Carr Case were the property of WSBC.

28. In his filings asking for this relief, Agent Sullivan asserted to federal court Judge Carr that he is acting on behalf of only one of Chesley's judgment creditors, Defendant White-Lynch. Similarly, the writ of prohibition case against Judge Ruehlman (discussed above) is also being pursued by Agent Sullivan on behalf of only one of Chesley's judgment creditors, Defendant Brumley.

29. Despite being only one of 382 alleged Chesley judgment creditors, Defendant White-Lynch has never presented to Judge Carr an amount owed just to White-Lynch or any other amount less than the total amount of the Chesley Judgment.

30. Despite being only one of 382 alleged Chesley judgment creditors, Defendant Brumley in the writ of prohibition case before the Ohio Supreme Court has never presented to the Ohio Supreme Court an amount owed to only Defendant Brumley or any other amount less than the total amount of the Chesley Judgment.

31. Acting through Agent Sullivan, McGirr leads a group of 20 supposed Chesley judgment creditors (including one who is in the same position as the KY Probate Estate Defendants and one who is in the same position as the Bankrupt Defendants), who have initiated a fraudulent conveyance action against Plaintiffs and Rehme. See, *McGirr et al. v. Rehme, et al.*, U.S.D.C. S.D. Ohio Case No. 1:16-cv-464.

32. Despite being only twenty of 382 alleged Chesley judgment creditors, McGirr and her group have not alleged an amount allegedly owed to only the twenty plaintiffs in the *McGirr et al. v. Rehme, et al.*, U.S.D.C. S.D. Ohio Case No. 1:16-cv-464 or any other amount less than the total amount of the Chesley Judgment.

33. The amount supposedly owed to any individual owner of the Chesley Judgment has not been disclosed by the Defendants or their several counsel in Kentucky, Ohio, Nevada, Louisiana or Colorado.

34. One co-owner of the Chesley Judgment Mary White-Lynch, acting through their mutual agent, is asserting that she is entitled to enforce the entire amount of the Chesley Judgment against the property that she seeks to seize through her filings before Judge Carr. Chesley believes, but does not know for certain, that Mary White-Lynch intends to share any funds she obtains through her efforts with Judge Carr amongst all of Chesley's supposed judgment creditors including those Defendants who may not actually be Chesley's judgment creditors. As putative co-owners of the Chesley Judgment, Defendants presumably know how Defendant White-Lynch and their mutual agent, Agent Sullivan, are using the Chesley Judgment in filings before Judge Carr.

35. McGirr and her gang of 20, acting through Agent Sullivan, are asserting that they are entitled to enforce the entire amount of the Chesley Judgment against the property that she seeks to seize through her filings before Judge Cleland. Chesley believes, but does not know for certain, that McGirr intends to share any funds she obtains through her efforts amongst all of Chesley's supposed judgment creditors including those Defendants who may not actually be Chesley's judgment creditors.

36. As putative co-owners of the Chesley Judgment, Defendants presumably know how Defendant Brumley and their mutual agent, Agent Sullivan, are using the Chesley Judgment in filings before the Ohio Supreme Court.

37. As putative co-owners of the Chesley Judgment, Defendants presumably know how McGirr and her Gang of 20 and their mutual agent, Agent Sullivan, are using the Chesley Judgment in federal court.

38. Under Ohio principal / agent law, Defendants collectively are charged with knowledge of, and responsibility for, (i) judgment domestications and garnishment writ filings in Nevada by Agent Ford, (ii) domestication filings in Colorado or Louisiana, and (iii) the above-described actions in Ohio because all those actions were taken by the Agent Sullivan on Defendants' behalf using property in which the Defendants claim an undivided and non-*pro rata* ownership interest, the Chesley Judgment.

EFFORTS TO COLLECT EXTINGUISHED / TRANSFERRED DEBTS

39. In her Nevada affidavit, Agent Ford has listed each of the KY Probate Estate Defendants as one of Chesley's judgment creditors. Although not explained by Agent Ford, Chesley presumes that the KY Probate Estate Defendants are each asserting that it succeeded to a decedent's claim against Chesley and is now one of the Abbott Case "Plaintiffs" who is a Chesley Judgment creditor.

40. Kentucky law has certain rules that must be met when a probate estate wants to be substituted as a plaintiff in pending litigation and assert a tort claim owned by a decedent. If those rules are not followed within one year after the original claimant's death, the claim is extinguished as a matter of Kentucky law. The Kentucky Practice treatise explains the basic rule as follows:

When a party to litigation pending in a Kentucky court dies, the action is abated unless and until the action is revived by substituting the decedent's representative. The provisions of KRS 395.278 direct that the "application to revive an action in the name of the representative or successor of a plaintiff, or against the representative or successor of a defendant, shall be made within one (1) year after the death of a deceased party." KRS 395.278

is "a statute of limitation, rather than a statute relating to pleading, practice or procedure, and the time limit within this section is mandatory and not discretionary" and, therefore, neither a court nor a party may extend the one-year statute of limitations. If an action is not revived against the administrator of the decedent's estate and the administrator substituted as the real party in interest within one year of a defendant's death, the action must be dismissed. Whether an action has been timely revived is a matter of law. In one case, an executor for the estate was duly appointed and the estate was admitted to probate. However, timely application to revive the civil action against the decedent's representative was not filed. As stated in the trial court's order, "[a]bsent the showing of some act or conduct which misleads or deceives the plaintiff the action must be dismissed.

2 Ky. Prac. Prob. Prac. & Proc. § 1891 (citations omitted). The same legal rule applies with equal force to plaintiffs who die while the action is pending. See the attached Affidavit of James C. Worthington, Sr., Esq.

41. The proper procedure for reviving an action is by filing a motion under Kentucky Civil Rule 25.01 in the case where the substitution of parties is desired, here the Abbott Case. After the application is filed, the Boone Circuit Court must enter an order substituting the probate estate as a party and reviving the action within the one year statute of limitations. The purported successor plaintiffs [the KY Probate Estate Defendants] cannot simply provide notice of its ownership of a claim and substitution as a party plaintiff.

42. The Abbott Case's docket in the Boone Circuit Court does not reveal the entry of any order(s) substituting the KY Probate Estate Defendants, or any of them, as plaintiffs in the Abbott Cases and reviving claims of the KY Probate Estate Defendants against Chesley. The KY Probate Estate Defendants each failed to comply with Kentucky Civil Rule 25.01 and Kentucky Revised Statute 395.278 and those failures are fatal to the claims of the KY Probate Estate Defendants' causes of action against Chesley.

43. Despite the fact that they do not own a legally cognizable claim against Chesley or WSBC, acting through the Agents, each of the KY Probate Estate Defendants continues to assert otherwise through filings in multiple states, including Nevada and Ohio.

44. Chesley is entitled to have the total of the Chesley Judgment reduced by the amount supposedly owed to the KY Probate Estate Defendants because their claims have been legally extinguished.

45. The KY Probate Estate Defendants should be directed: (i) to account for all funds they received on account of their alleged interest in the Chesley Judgment; and (ii) to transfer to the rightful owners (maybe the remaining owners of the Chesley Judgment) any funds paid to them on account of the Abbott Case after the claim of that particular KY Probate Estate Defendant was extinguished. Chesley is not asking for this relief because he has no right to those funds.

46. The Bankrupt Defendants⁵ may not be the owner(s) of any claim against Chesley because their claims (or their respective interests in the Chesley Judgment) were transferred to a bankruptcy estate. The Bankrupt Defendants' continuing efforts to collect money from Chesley are wrongful unless they can show they own the claims against Chesley.

47. Any money paid to a particular Bankrupt Defendants after each persons' bankruptcy case was filed should be accounted for and transferred to the proper owner of that claim; if that transfer does not occur, those persons who are jointly liable on judgments entered in the Abbott Case (including Chesley) may be exposed to excess liability since improper payments to the Bankrupt Defendants might not reduce the amount of the Chesley Judgment.

⁵ Chesley has reason to believe up to 34 of Chesley's 382 alleged judgment creditors (as disclosed by Agent Ford) may have filed bankruptcy and may no longer have an interest in the Chesley Judgment because their claims against Chesley were transferred to their respective bankruptcy estates. See 11 U.S.C. Section 522. The current Bankrupt Defendants are some of the up to 34 transferor former judgment creditors.

48. There may be more of the 382 alleged judgment creditors whose personal situation means they should be included as Bankrupt Defendants. Chesley will request that these persons be added to this case as their identity and address is discovered and that those supposed judgment creditors be treated as Bankrupt Defendants.

49. There may be more of the 382 alleged judgment creditors who obtained their claim against Chesley or interest in the Chesley Judgment from a deceased person. After those identities and addresses are discovered, Chesley will try to determine if the supposedly transferred claim was properly preserved and transferred. If not, Chesley will request that these persons be added to this case and that they be treated as a KY Probate Defendant.

ILLEGAL EFFORTS TO SEIZE THE ASSETS OF WSBC

50. WSBC is not a party to the Abbott Case and is not a judgment debtor.

51. Agent Ford filed motions in the Abbott Case asking the Boone Circuit Court to declare that it could collect the Chesley Judgment against the assets of WSBC. Not surprisingly, those two motions were granted because WSBC was not a party to the Abbott Case and so could not oppose those motions.

52. Defendants and all the other judgment creditors are seeking to seize the assets of WSBC. Those efforts have been made in Ohio and Nevada and are threatened in Colorado and Louisiana.

53. Defendants and all the other judgment creditors were unsuccessful in Nevada when they tried to seize the assets of WSBC in Nevada using the two Kentucky orders. Three different statements from two different Nevada judges declare that the assets of WSBC cannot be seized to satisfy the Chesley Judgment using the two Kentucky orders. The Nevada Decisions are *res judicata* on the issues decided therein and as final orders all the judgment creditors (including the

Defendants), WSBC and Chesley were parties to the Nevada action. A copy of the third decision analyzing Nevada and Kentucky law is attached as Exhibit C.

54. The Nevada Decisions hold that under Kentucky and Nevada law, the two Kentucky orders cannot be enforced against WSBC because they violate WSBC's due process rights on account of the fact that WSBC was never made a party in the Abbott Case and never received notice of Defendants' efforts to attack WSBC's assets.

55. Acting through Agent Sullivan, Defendants continue their efforts to seize the assets of WSBC. Said efforts are taking place in the Judge Carr Case and the Fraudulent Conveyance Action.

56. Defendants' actions constitute trespass and attempted conversion of the specific assets of WSBC that they have sought to seize.

57. Defendants' actions tortuously interfered with WSBC's contractual relationship with those entities on which Defendants' served a garnishment order in an effort to seize the assets of WSBC.

58. WSBC was and continues to be damaged by Defendants' actions described in this complaint.

59. WSBC is entitled to a declaration that the two Kentucky orders do not create a lien under Ohio law on the assets of WSBC. This exactly what the Nevada judges decided is the law for liens in Nevada under either Nevada or Kentucky law. WSBC also is entitled to a declaration that the Chesley Judgment and the two Kentucky orders are not enforceable against WSBC or its assets.

ABUSIVE DISCOVERY

60. Defendants' collection tactics include an effort to abuse Chesley's family and friends and to harass innocent third-parties who do business with Chesley or WSBC. This effort includes subpoenaing bank account records of Chesley's spouse and service of multiple subpoenas on the same third parties (banks and accounting firms).

61. Defendants have served multiple sets of discovery on Chesley.

62. For several years, an agreed protective order was in place in Kentucky to protect the financial information provided to Defendants pursuant to the (i) multiple sets of discovery requests served on Chesley and (ii) the at least twelve subpoenas served on third parties (banks, insurers and accountants). This order was very important because Defendants have sought and received information concerning several third-parties.⁶

63. Recently, Defendants acting through Agent Ford sought and obtained an order in the Abbott Case that eviscerated the agreed protective order in that case. WSBC and all third-parties from Ohio whose information has been sought or obtained by the Defendants are entitled to injunctive relief providing protection of their private information. This protection should include an injunction preventing the Defendants from placing into the public record any information obtained through discovery authorized in the Miscellaneous Case.

64. WSBC and all third-parties from Ohio whose information has been sought or obtained by the Defendants are entitled to injunctive relief providing protection from multiple subpoenas issued by the Agents on behalf of Chesley's judgment creditors (including the Defendants) in an effort to discovery information that might be used to collect the Chesley Judgment.

⁶ Defendants discovery of this information has been conducted by Agent Ford in violation Ky Rule of Civil Procedure which requires that the third parties whose information is sought be given notice of the subpoenas served by Agent Ford.

65. The Agents disclosure of Rehme's testimony in violation of Judge Martin's directions occurred before the expiration of Rehme's opportunity to review his testimony and correct same using an *errata* sheet as provided by Ohio law. Defendants should be ordered to supplement their filings to include that *errata* sheet so that Rehme's testimony is complete.

RELIEF REQUESTED HEREIN

66. Chesley is entitled to a declaratory judgment stating that the KY Probate Estate Defendants are not his Judgment Creditors and that their claims against him have been extinguished.

67. Chesley is entitled to a temporary restraining and subsequent injunction requiring the Defendants and their agents to cease all efforts to collect money from Chesley.

68. Chesley is entitled to an order requiring the KY Probate Estate Defendants to disclose: (i) the amount of the \$42,000,000 Chesley Judgment and the supposed current total [over \$76,000,000] owed to each of those Defendants so that those amounts can be removed from the total judgment amount and the supposed current debt can be recalculated (including a recalculation of the interest on the Chesley Judgment). Chesley is entitled to an order directing the KY Probate Estate Defendants to correct the filings in Nevada, Colorado, Louisiana and Ohio to state the correct number of judgment creditors and the proper (reduced) amount allegedly owed by Chesley.

69. Chesley is entitled to a restraining order and injunction preventing the Bankrupt Defendants from continuing their efforts to collect the Chesley Judgment unless they can demonstrate that they are actually co-owners of the Chesley Judgment.

70. WSBC is entitled to a temporary restraining order and subsequent injunctive relief to prevent the continuing improper conduct described herein.

71. WSBC is entitled to money damages to compensate it for the improper conduct described herein.

PRAYER FOR RELIEF

WHEREFORE: Plaintiffs pray the Court for orders and judgments that:

1. Grant equitable relief against the Defendants continuing efforts to collect money from Chesley on claims they do not own or which have been extinguished as a matter of law;
2. In a motions filed simultaneously with the Complaint, Plaintiffs seek a temporary restraining order that (i) grants the equitable relief described above and directs immediate correction of any filing actively now under consideration by any court and (ii) orders the Defendants not to destroy any documents relevant to the facts and claims asserted herein;
3. Any other relief to which Chesley is entitled;
4. WSBC is entitled to equitable relief preventing the Defendants and their agents from asserting a lien on or seeking to seize the assets of WSBC;
5. WSBC is entitled to an award of damages against the Defendants in an amount determined by the Court; and
6. Any other relief to which WSBC is entitled.

Respectfully submitted:

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APPENDIX A TO COMPLAINT

Chesley is not asking this Court to void the Chesley Judgment or to block enforcement of the Chesley Judgment against Chesley's assets. Chesley believes, however, that it is important for the Court to appreciate the reason for his confidence that the Chesley Judgment will be reversed. For that reason, Chesley provides the following background:

A. In the late 1990s, Kentucky attorneys Messrs. Cunningham, Gallion and Mills ("CGM") initiated pharmaceutical product liability related litigation over the weight loss drug Fen-phen. CGM represented several hundred plaintiffs. That litigation was pending in Boone County when CGM approached Chesley for help negotiating a settlement. In return for that assistance, CGM agreed to pay Chesley 20% of their attorney fees. Chesley was then a well known and successful plaintiffs' counsel in mass tort actions. With Chesley's help, the defendants raised their settlement offer from about \$50,000,000 to \$200,000,000.

B. CGM were responsible for securing approval of the settlement and distributing funds to their clients. Unknown to Chesley, CGM stole a portion of the \$200,000,000 from their clients.

C. In 2005, the Abbott Case was initiated by most of CGM's clients. In 2007, Agent Ford won a \$42,000,000 joint and several money judgment against CGM. The judgment against CGM was awarded on a summary judgment motion filed by Agent Ford in the Abbott Case. At the same time, Boone Circuit Court Judge Weir denied the summary judgment sought by Agent Ford against Chesley. Judge Weir stated "[t]he rationale of the previously entered partial summary judgment [against CGM] does not apply to" Chesley.

D. CGM appealed the summary judgment against them and Ford appealed the denial of summary judgment against Chesley. The Kentucky Court of Appeals reversed the entry of summary judgment against CGM and again denied summary judgment against Chesley.

E. The Abbott Case plaintiffs, including the Defendants, appealed to the Kentucky Supreme Court. The Kentucky Supreme Court reinstated summary judgments against CGM and again denied summary judgment against Chesley. The 2013 Kentucky Supreme Court's *Abbott et al. v. Chesley et al.*, 413 S.W.3d 589 (K.Y. Dec. 2013) states:

Appellants also contend that the joint and several liability of CGM [Cunningham, Gallion and Mills] 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.

F. Unlike Chesley, CGM were accused of federal crimes for their actions that form the basis of the Abbott Case. Cunningham and Gallion were convicted of federal crimes. An evidence admission decision of the United States District Court Judge who presided over the second criminal trial sheds further light on Chesley's innocent actions. During a bench conference, trial counsel for the United States, Ms. Voorhees stated "Your Honor, we have never identified Mr. Chesley as a co-conspirator." After that statement, the federal judge considered all the evidence thus far introduced in the criminal trial and declined to admit certain evidence that would have been admissible if Chesley had conspired with CGM. In other words, the federal trial judge hearing CGM's criminal case knew that Chesley was not in league with those criminal defendants.

G. The Kentucky Bar Association initiated disciplinary proceedings against Chesley. The Kentucky Bar Association determined that Chesley be disbarred and that he be ordered to pay restitution of \$7,555,000.

H. Chesley's disbarment proceeding came before the Kentucky Supreme Court in March 2013 which is before that same court denied the Abbott Case plaintiffs' motion for summary judgment against Chesley (see discussion above). The Kentucky Supreme Court affirmed the decision to disbar Chesley. *Kentucky Bar Association v. Chesley*, 393 S.W.3d 584 (K.Y. Mar. 2013). That decision did not cause the Kentucky Supreme Court to later grant summary judgment against Chesley.

I. In 2014, without any further discovery, the Abbott Case plaintiffs brought another summary judgment against Chesley. This time, the motion was heard by Judge Schrand. The Abbott Case plaintiffs asserted against Chesley joint and several liability with CGM on the 2007 judgment in the amount of \$42,000,000.

J. Judge Schrand entered the Chesley Judgment in August 2014. 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. Judge Schrand made this decision despite the fact that the Kentucky Supreme Court refused to award summary judgment against Chesley after that court's disbarment decision. For unknown reasons, Judge Schrand did not reduce the \$42,000,000 face amount of the 2007 judgment despite the fact that Agent Ford collected and distributed over \$37,000,000 in the Abbott Case.

K. Judge Schrand of the Boone Circuit Court crocheted together Chesley and CGM despite the fact that Judge Weir and the Kentucky Supreme Court said their situations are different. 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.

EXHIBIT A

CLERK OF THE COURT

1 DAO

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

5 MILDREDABBOTT,

Plaintiff,

us.

8 STANLEY M. CHESLEY,

Defendant.

Case No. A-15-726616-F

Dep't No. VII

DECISION AND ORDER

11 This case arises from a judgment obtained by Plaintiff Mildred Abbott against
12 Defendant Stanley Chesley in Kentucky case 05-CI-00436. Now before the Court is Third
13 Party Claimant Waite Schneider Bayless & Chesley's ("WSBC") Petition to Determine Title
14 in Property Subject to Wrongful Attachment and Third Party Castano Directed Distribution
15 Trust's ("Castano Trust") Motion to Interplead. The matter came before the Court on
16 February 2, 2016. The Court grants WSBC's Petition to Determine Title and finds that
17 Abbott's judgment against Chesley in case 05-CI-00436 cannot be used to garnish WSBC's
18 interest in the Castano Trust. The Court denies Castano Trust's Motion to Interplead as
19 moot.

I. Procedural and Factual Background

21 Chesley used to be an attorney licensed to practice in Ohio. He was the sole owner of
22 WSBC. In 2013, Chesley was disbarred based on allegations that he improperly retained
23 funds that should have gone to his client. Chesley transferred ownership of WSBC in a
24 Wind-Up Agreement in April of 2013. Abbott and other Plaintiffs (hereinafter referred to
25 as "Abbott") obtained a second amended judgment against Chesley in Kentucky case 05-CI-
26 00436 on October 22, 2014 based on the same circumstances that lead to Chesley's
27 disbarment. Abbott did not name WSBC as party to the action.

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

1 Abbott filed a motion to transfer beneficial interest in the Castenado Trust in case
2 05-CI-00436. Abbott asserted that Chesley maintained a beneficial interest in WSBC. On
3 June 23, 2015, the Kentucky Court ordered Chesley to transfer his beneficial interest in
4 WSBC and any payments derived from that interest to Abbott.

5 Abbott subsequently filed a motion to execute. Abbott argued that Chesley failed to
6 comply with the Kentucky Court's June 23, 2015 order. Chesley argued that he no longer
7 had in interest in WSBC. The Kentucky Court issued an order on September 25, 2015. The
8 Kentucky Court found that "the Wind-Up Agreement in a sham, and that Defendant
9 Chesley continues to control and direct WSBC" and disregarded WSBC's corporate identity.
10 The Kentucky Court essentially ruled that Chesley was an alter ego of WSBC, though it
11 never used that term. The Kentucky Court ordered Chesley to transfer his interest in WSBC
12 and any payments derived from that interest to Abbott. The order specifically addressed
13 the Castano Trust, which makes periodic transfers to WSBC's account for fees earned in
14 past cases involving the tobacco industry. The Kentucky Court ordered Chesley to direct
15 the Castano Trust "that all payments to which [Chesley] and/or WSBC are entitled from the
16 Castano Trust shall be paid directly to Plaintiff counsel." WSBC was never named a party to
17 case 05-CI-00436 and did not have an opportunity to argue to the Kentucky Court that it
18 was not an alter ego of Chesley.

19 On October 22, 2015, Abbott filed an application of foreign judgment in the instant
20 case. The application was made in Nevada because it is where Castano Trust is located.
21 Abbott seeks to garnish funds from the Castano Trust that are due to be paid to WSBC.
22 WSBC was not named as a party in the instant case. On January 8, 2016, Castano Trust
23 filed a motion to interplead WSBC as a defendant.

24 On January 13, 2016, WSBC filed its petition to determine title to WSBC's interest in
25 the Castano Trust. WSBC argues its interest in the Castano Trust is WSBC's sole property
26 and Chesley has no interest in the Castano Trust. Abbott filed a response on January 29,
27 2016, arguing that under the Kentucky Court's order, Chesley and WSBC are alter-egos of
28 each other, and Chesley is a personal beneficiary of the Castano Trust.

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DISTRICT JUDGE
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II. Discussion

“Only property owned by the judgment debtor is subject to garnishment...” Brooksby v. Nev. State Bank, 312 P.3d 501, 502 (Nev. 2013). “If the property levied on is claimed by a third person as the person’s property... the plaintiff or the third-party claimant is entitled to a hearing within 10 days therefrom before the court having jurisdiction of the action, in order to determine title to the property in question, which hearing must be granted by the court upon the filing of an application or petition therefor.” NRS 31.070.

In order for a Court to find that parties are alter egos, “[t]here must be such unity of interest and ownership that one is inseparable from the other.” Truck Ins. Exch. v. Palmer J. Swanson, Inc., 189 P.3d 656, 660 (Nev. 2008). Alter egos are liable for each others’ debts because “adherence to the corporate fiction of a separate entity would, under the circumstances, sanction fraud or promote injustice.” Polaris Indus. Corp. v. Kaplan, 747 P.2d 884, 886 (Nev. 1987).

The procedure for determining whether parties are alter egos, and thus co-judgment debtors, appears to be similar, if not identical, in Nevada and Kentucky. In Nevada, “a defendant who is subject to a judgment creditor’s alter ego claim must receive, in an independent action, formal notice, service of process, an opportunity to conduct discovery, fact-finding, and an opportunity to be heard, before the claim is resolved.” Callie v. Bowling, 160 P.3d 878, 879-81 (Nev. 2007). In Kentucky, it is also proper to secure a judgment against one debtor and then bring “a piercing suit” against potential alter egos. Inter-Tel Techs., Inc. v. Linn Station Properties, LLC, 360 S.W.3d 152, 168 (Ky. 2012). Both states require that notice be given before a court determines that individuals or entities are alter egos.

In the instant case, Abbott failed to give WSBC notice that WSBC was a potential alter ego of Chesley until the Kentucky Court already ruled on the issue. WSBC was not named as a party in Kentucky case 05-CI-00436. Abbott did not bring any separate action against WSBC to assert that Chesley and WSBC are alter egos. The Kentucky Court made

1 an alter ego determination in a case with no way for WSBC to assert a defense against
2 Abbott's claims.

3 The Court cannot extend full faith and credit to an order resulting from a lack of due
4 process. "The full faith and credit clause of the United States Constitution requires that a
5 final judgment entered in a sister state must be respected by the courts of this state absent a
6 showing of fraud, lack of due process or lack of jurisdiction in the rendering state." Mason
7 v. Cuisenaire, 128 P.3d 446, 448 (Nev. 2006) (quoting Rosenstein v. Steele, 747 P.2d 230,
8 231 (Nev. 1987).

9 The Court finds that respecting the Kentucky Order declaring Chesley and WSBC to
10 be alter egos would create a due process violation in this case. Abbott asks this Court to
11 apply an order entered solely against Chesley to deprive a nonparty of its property. The
12 Court grants WSBC's petition and determines that WSBC's interest in the Castano Trust is
13 not subject to garnishment by Abbott. WSBC's interest in the Castano Trust is its sole
14 property. Abbott may attach funds distributed to Chesley individually, not funds
15 distributed to WSBC.

16 **III. Conclusion**

17 The Court grants WSBC's Petition to Determine Title and finds that Abbott's
18 judgment against Chesley in case 05-CI-00436 cannot be used to garnish WSBC's interest
19 in the Castano Trust. Because this Order removes the conflict regarding title to funds held
20 by the Castano Trust, the Court denies Castano Trust's Motion to Interplead as moot.

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DATED this 11 day of February, 2016.



LINDA MARIE BELL
DISTRICT COURT JUDGE

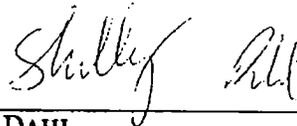
LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date of filing, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system or, if no e-mail was provided, by facsimile, U.S. Mail and/or placed in the Clerk's Office attorney folder(s) for:

Name	Party
John W. Mujie, Esq. John W. Mujie & Associates Angela Ford, Esq.	Counsel for Mildred Abbott
Brian D. Shapiro, Esq. Brian D. Shapiro, LLC	Counsel for Stanley Chesley
Thomas Fell, Esq. Fennemore Craig, P.C.	Counsel for Castano Directed Distribution Trust
Will Kemp, Esq. Kemp, Jones & Coulthard, LLP Donald J. Rafferty, Esq. Cohen, Todd, Kite & Stanford, LLC	Counsel for Waite Schneider Bayless & Chesley Co.



SHELBY DAHL
LAW CLERK, DEPARTMENT VII

AFFIRMATION

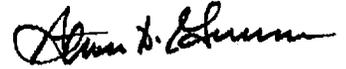
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Decision and Order filed in District Court case number A626616 DOES NOT contain the social security number of any person.

/s/ Linda Marie Bell Date 2/10/16
District Court Judge

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

EXHIBIT B



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DAO

EIGHTH JUDICIAL DISTRICT COURT CLERK OF THE COURT
CLARK COUNTY, NEVADA

MILDRED ABBOTT,

Plaintiff,

vs.

STANLEY M. CHESLEY,

Defendant.

Case No. A-15-726616-F

Dep't No. VII

DECISION AND ORDER

This case arises from a judgment obtained by Plaintiff Mildred Abbott against Defendant Stanley Chesley in Kentucky case 05-CI-00436. On February 11, 2016, the Court ruled Abbott's judgment against Chesley in case 05-CI-00436 cannot be used to garnish Waite Schneider Bayless & Chesley's ("WSBC") interest in the Castano Directed Distribution Trust ("Castano Trust"). Now before the Court is Abbott's Motion to Reconsider the Court's Ruling Dated February 11, 2016. This matter was scheduled to come before the Court on March 8, 2016. The Court now rules on the motion without an oral hearing pursuant to EDCR 2.23(c). The Court denies Abbott's Motion to Reconsider. The Court also grants Abbott's Motion to Seal Exhibits 8 and 9 to Abbott's response to WSBC's petition to determine title in property. The Court vacates the hearing currently set for April 12, 2016.

I. Procedural and Factual Background

Chesley was the sole owner of WSBC before April 2013, when he transferred ownership of WSBC in a Wind-Up Agreement. Abbott and other Plaintiffs (hereinafter referred to as "Abbott") obtained a judgment against Chesley in Kentucky case 05-CI-00436 on October 22, 2014. Abbott did not name WSBC as party to the action.

On June 23, 2015, the Kentucky Court ordered Chesley to transfer his beneficial interest in WSBC and any payments derived from that interest to Abbott. Chesley argued

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1 that he no longer had in interest in WSBC. The Kentucky Court issued an order on
2 September 25, 2015, ruling "the Wind-Up Agreement in a sham, and that Defendant
3 Chesley continues to control and direct WSBC" and disregarding WSBC's corporate
4 identity. The Kentucky Court essentially ruled that Chesley was an alter ego of WSBC,
5 though it never used that term. The order specifically addressed the Castano Trust, which
6 makes periodic transfers to WSBC's account. The Kentucky Court ordered Chesley to direct
7 the Castano Trust "that all payments to which [Chesley] and/or WSBC are entitled from the
8 Castano Trust shall be paid directly to Plaintiff counsel." WSBC was never named a party
9 to case 05-CI-00436 and did not have an opportunity to argue to the Kentucky Court that it
10 was not an alter ego of Chesley.

11 On October 22, 2015, Abbott filed an application of foreign judgment in the instant
12 case. The application was made in Nevada, where Castano Trust is located. Abbott seeks to
13 garnish funds from the Castano Trust that are due to be paid to WSBC. WSBC was not
14 named as a party in the instant case. On January 8, 2016, Castano Trust filed a motion to
15 interplead WSBC as a defendant. On January 13, 2016, WSBC filed its petition to
16 determine title to WSBC's interest in the Castano Trust.

17 On February 11, 2016, the Court ruled that enforcing the Kentucky Order declaring
18 Chesley and WSBC to be alter egos would create a due process violation in the instant case.
19 WSBC did not receive notice of the Kentucky case that found Chesley and WSBC to be alter
20 egos. The Kentucky Court made an alter ego determination in a case with no way for WSBC
21 to assert a defense against Abbott's claims. WSBC's interest in the Castano Trust is its sole
22 property. The Court found Abbott may attach funds distributed to Chesley individually, not
23 funds distributed to WSBC.

24 On February 22, 2016, Abbott filed a motion to reconsider the February 11, 2016
25 Decision. Abbott argues the Decision was erroneous because it misapplied the law to
26 Abbott's claims. WSBC filed an opposition on March 7, 2016, asserting Abbott was merely
27 rearguing issues already ruled on by the Court. Abbott argued additional grounds for
28 reconsideration in its reply, filed on March 8, 2016.

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II. Discussion

A. Motion to Seal

Abbott filed a response to WSBC's petition to determine title to WSBC's interest in the Castano Trust on January 29, 2016. The response contains exhibits Abbott now moves to have sealed. Exhibits 8 and 9 are financial documents containing confidential information such as account numbers.

Nevada Supreme Court Rule Part VII governs the sealing of Court records. The Court may seal records when there are compelling circumstances. The sensitive financial information within the exhibits justifies sealing these Court records. In addition, Abbott's motion to seal was unopposed. See EDCR 2.20(e). Therefore, the Court grants Abbott's motion to seal Exhibits 8 and 9.

B. Motion for Reconsideration

Reconsideration is only appropriate when "substantially different evidence is subsequently introduced or the decision is clearly erroneous." Masonry & Title Contractors Ass'n of S. Nev. v. Jolley, Urga & Wirth, 941 P.2d 486, 489 (Nev. 1997). "Only in very rare instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling already reached should a motion for rehearing be granted." Moore v. City of Las Vegas, 551 P.2d 244, 246 (Nev. 1976). "Rehearings are not granted as a matter of right, and are not allowed for the purposes of reargument..." Geller v. McCowan, 178 P.2d 380, 381 (Nev. 1947).

In the motion for reconsideration, Abbott first reargues the issues raised in WSBC's petition to determine title to WSBC's interest in the Castano Trust: whether Chesley was the true beneficiary of the trust rather than WSBC and whether Chesley and WSBC were alter egos. Abbott does not provide the Court with new evidence or persuade the Court that it ruled erroneously on these points.

Abbott raises two additional arguments that the Court's February 11, 2016 Decision was erroneous. First, Abbott argues the Court should not have evaluated the merits of

1 Kentucky order in deciding whether to extend full faith and credit. Second, Abbott argues
2 the Kentucky order did not violate due process.

3 **1. The Court Properly Evaluated the Due Process Implications of the**
4 **Kentucky Court's Decision**

5 "Under the Full Faith and Credit Clause of the United States Constitution, a
6 final judgment entered in a sister state must be respected... However, not all judgments are
7 entitled to full faith and credit in Nevada." City of Oakland v Desert Outdoor Adver, Inc.,
8 267 P3d 48, 50-51 (Nev. 2011). "The full faith and credit clause of the United States
9 Constitution requires that a final judgment entered in a sister state must be respected by
10 the courts of this state absent a showing of fraud, lack of due process or lack of jurisdiction
11 in the rendering state." Mason v. Cuisenaire, 128 P.3d 446, 448 (Nev. 2006) (quoting
12 Rosenstein v. Steele, 747 P.2d 230, 231 (Nev. 1987).

13 This Court had the authority and the duty to evaluate the due process implications of
14 the Kentucky Court's orders in case 05-CI-00436. The case Abbott cites to dispute the
15 Court's evaluation goes through a due process analysis. See Milliken v Meyer, 311 US 457,
16 463 (1940). Therefore, this argument by Abbott is not a proper basis for the Court to
17 reconsider its ruling.

18 **2. The Court Properly Determined that the Kentucky Court's Decision**
19 **Violated Due Process**

20 Generally, "[d]ue process is satisfied by giving both parties 'a meaningful
21 opportunity to present their case.'" JD Constr. v IBEX Int'l Group, 240 P3d 1033, 1040
22 (Nev. 2010) (quoting Mathews v. Eldridge, 424 U.S. 319, 349 (1976). In its February 11,
23 2016 Decision, the Court concluded enforcing the Kentucky order would violate due process
24 because WSBC had no notice of the Kentucky case. Abbott argues two bases for the Court
25 to reconsider its findings on this issue. First, Abbott argues the Court improperly used
26 Nevada law in determining the proper procedure for Abbott's alter ego claim. Second,
27 Abbott argues WSBC received notice of the Kentucky case through Chesley.
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a. The Court Did Not Use Nevada Law to Establish the Proper Procedure for Abbott's Alter Ego Claim

In its February 11, 2016 Decision, the Court cites both Nevada and Kentucky law to evaluate the due process required in an alter ego claim. The Court found "[b]oth states require that notice be given before a court determines that individuals or entities are alter egos." See Callie v. Bowling, 160 P.3d 878, 879-81 (Nev. 2007) and Inter-Tel Techs., Inc. v. Linn Station Properties, LLC, 360 S.W.3d 152, 168 (Ky. 2012).

The Court did not find that the Kentucky order violated due process because it failed to follow Nevada law. The Court found the Kentucky order violated due process because it failed to follow its own law. Though Abbott argues the Court misinterpreted Kentucky law, Abbott did not cite a single case where Kentucky courts have allowed a claimant to establish an alter ego relationship without giving notice to both alleged alter ego parties. Furthermore, the Court did not find a due process violation solely because Abbott did not bring a separate claim against WSBC. The Court found a due process violation because WSBC did not receive notice of any action, including case 05-CI-00436, seeking to establish an alter ego relationship between WSBC and Chesley.

The Court correctly found that due process required WSBC to receive notice of the action relating to its purported alter ego relationship with Chesley. Because this finding was not erroneous, this argument by Abbott is not a proper basis for the Court to reconsider its ruling.

b. WSBC Did Not Receive Notice of the Kentucky Proceedings Through Chesley

Abbott argues WSBC received notice of the Kentucky case through Chesley's involvement in the case. Abbott asserts three methods: (1) through Chesley as WSBC's registered agent for service of process, (2) through WSBC paying Chesley's attorneys fees, and (3) through virtual representation by Chesley.

Suing a registered agent in his individual capacity does not give notice to a related entity that its interests may be at risk. Abbott argues, "if it were required that WSBC

1 receive a copy of the motion, for purposes of notice, the motion would have been delivered
2 to Chesley..." (Reply in Supp. of Mot. Recons. at p. 2.) If it had been required that WSBC
3 receive any pleading in the Kentucky case, the Court would have directed service to WSBC,
4 putting Chesley and WSBC on notice that Chesley was acting as a registered agent, not in
5 his individual capacity. The Court finds it concerning that Abbott argues Chesley acted
6 purely in his individual capacity when signing documents regarding the Castano Trust
7 "individually and as President of WSBC" (Id. at p. 6) while simultaneously arguing Chesley
8 acted as a representative of WSBC's interest by being sued in his individual capacity.

9 Paying the attorneys fees for another individual does not entitle the payee to notice
10 regarding the case at issue. Paying attorneys fees does not make the payee a party to the
11 action. Under Nevada Rule of Professional Conduct 1.8(f) and Kentucky Supreme Court
12 Rule 130(1.8)(f), attorneys must keep information relating to the representation of a client
13 confidential from non-clients paying for the client's representation.

14 The Court is not persuaded by Abbott's virtual representation argument for two
15 reasons. First, the Kentucky court made no mention of virtual representation in its
16 decision. It would be illogical to conclude that a due process violation based on a lack of
17 notice could be cured by a silent and invisible finding by a court. Second, virtual
18 representation cannot serve as an end run around the due process issue in this case. The
19 standard for virtual representation is similar to the standard for alter egos. In order for a
20 Court to find parties are alter egos, "[t]here must be such unity of interest and ownership
21 that one is inseparable from the other." Truck Ins. Exch. v. Palmer J. Swanson, Inc., 189
22 P.3d 656, 660 (Nev. 2008). The determining factor of virtual representation "is such
23 identity of interest as to give reasonable assurance that the contingent rights of the absent
24 party will be protected by the person joined in the suit." Harris v Jackson, 192 SW3d 297,
25 303 (Ky. 2006), as mod (May 24, 2006) (quoting Carroll v. First Nat. Bank & Trust Co. of
26 Lexington, 227 S.W.2d 410, 411 (Ky.1950). There is a critical distinction in the degree of the
27 unity of interests. This distinction is reflected in the procedures courts may take to
28 determine alter ego relationships and virtual representation. Courts must provide notice to

LINDA MARIE BELL
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DEPARTMENT VII

1 potential alter egos regarding cases seeking to establish alter ego relationships. A court
2 may not rely on a virtual representation determination, even if one had existed in this case,
3 to deprive a party of the opportunity to address the higher unity of interest inherent in an
4 alter ego relationship.

5 The Court correctly found that WSBC did not receive proper notice of case 05-CI-
6 00436. Because this finding was not erroneous, this argument by Abbott is not a proper
7 basis for the Court to reconsider its ruling.

8 **III. Conclusion**

9 Abbott failed to provide a basis for the Court to conclude that its February 11, 2016
10 ruling was erroneous. The Court denies Abbott's Motion to Reconsider the Court's Ruling
11 Dated February 11, 2016. The Court grants Abbott's Motion to Seal Exhibits 8 and 9 and
12 vacates the hearing currently set for April 12, 2016.

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14
15 DATED this 30th day of March, 2016.

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19 _____
20 LINDA MARIE BELL
21 DISTRICT COURT JUDGE
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25 LINDA MARIE BELL
26 DISTRICT JUDGE
27 DEPARTMENT VII
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date of filing, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system or, if no e-mail was provided, by facsimile, U.S. Mail and/or placed in the Clerk's Office attorney folder(s) for:

Name	Party
John W. Mujie, Esq. John W. Mujie & Associates Angela Ford, Esq.	Counsel for Mildred Abbott
Brian D. Shapiro, Esq. Brian D. Shapiro, LLC	Counsel for Stanley Chesley
Thomas Fell, Esq. Fennemore Craig, P.C.	Counsel for Castano Directed Distribution Trust
Will Kemp, Esq. Kemp, Jones & Coulthard, LLP Donald J. Rafferty, Esq. Cohen, Todd, Kite & Stanford, LLC	Counsel for Waite Schneider Bayless & Chesley Co.

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII



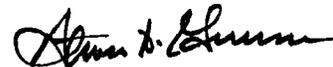
SHELBY DAHL
LAW CLERK, DEPARTMENT VII

AFFIRMATION

Pursuant to NRS 239B.030
The undersigned does hereby affirm that the preceding Decision and Order filed in District Court case number A626616 DOES NOT contain the social security number of any person.

/s/ Linda Marie Bell Date 3/22/16
District Court Judge

EXHIBIT C



CLERK OF THE COURT

1 **ORDER**

2 Brian D. Shapiro, Esq.
3 Nevada Bar No. 5772
4 Law Office of Brian D. Shapiro, LLC
5 228 S. 4th Street
6 Las Vegas, NV 89101
7 (702)386-8600, Fax (702)33-0944
8 brian@brianshapirolaw.com
9 Attorney for Defendant, STANLEY M. CHESLEY

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

10 MILDRED ABBOTT, ET AL.)	Case No: A-15-718827-F
)	
11 Plaintiffs)	Dept. No. XXX
)	
12)	
13 vs)	
)	Date: 12-10-15
)	Time: 9:30 a.m.
14 STANLEY M. CHESLEY, ET AL.)	
)	
15 Defendants)	
16)	

17 **ORDER**

18 STANLEY M. CHESLEY ("Defendant"), by and through his counsel, Brian D. Shapiro,
19 Esq. of the Law Office of Brian D. Shapiro, LLC, filed the following motions which were heard
20 on the above referenced date and time: Motions to Strike Domestication Documents and
21 declaring the attempted domestication void ab initio as the (1) the underlying judgment is not
22 enforceable; (2) the domestication failed to name the proper parties; (3) the domestication failed
23 to provide the full addresses and amount owed to each party; (4) the domestication failed to
24 provide the amount owed to each party; and (5) the Plaintiffs failed to pay the filing fee
25 (collectively referred to herein as "Defendant's Motions"). Waite Schneider Bayless &
26 Chesley Co., L.P.A. ("WSBC"), by and through Eric M. Pepperman, Esq., of Kemp Jones &
27
28

1 Coulthard, LLP filed a petition pursuant to NRS §31.070 to determine title in property subject
2 to wrongful attachment (referred to herein as "WSBC Petition") which was heard on the above
3 referenced date and time. Castano Directed Distribution Trust (the "Trust"), by and through
4 Thomas H. Fell, Esq., of Fennemore Craig, P.C. filed a motion for entry of judgment pursuant
5 to NRS §31.330 (referred to herein as the "Trust Motion") which was heard on the above
6 referenced date and time. At the time of the hearing, the Plaintiffs appeared by and through
7 John Muije Esq., of the law firm of John W. Muije & Associates, and Angela M. Ford, of the
8 Law Offices of Angela M. Ford, the Defendant appeared by and through Brian D. Shapiro, Esq.,
9 of the Law Office of Brian D. Shapiro, LLC, WSBC appeared by and through Will Kemp, Esq.,
10 and Eric M. Pepperman, Esq., of Kemp Jones & Coulthard, LLP and the Trust appeared by and
11 through Thomas H. Fell of Fennemore Craig, P.C. At the time of hearing, the Court heard
12 arguments by the parties, made its findings of fact and conclusions of law on the record, good
13 cause appearing therefore it is hereby

14
15
16 ORDERED, that the Court's findings of fact and conclusions of law as stated on the
17 record are incorporated within this Order as if fully stated herein. It is further

18
19 ORDERED, that Defendant's Motion to Strike Domestication Documents and declaring
20 the attempted domestication void ab initio as the underlying judgment is not enforceable is
21 granted. It is further

22 ORDERED, that this case is dismissed. It is further

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24 ORDERED, that the remaining Defendant's Motions are hereby denied as moot. It is
25 further

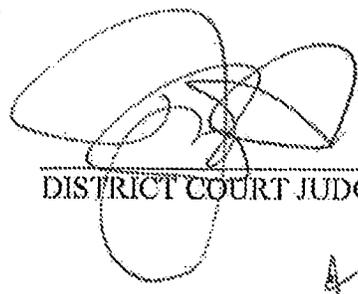
26 ORDERED, that WSBC's Petition is hereby denied as moot. It is further

27 ORDERED, that the Trust Motion is hereby denied as moot. It is further
28

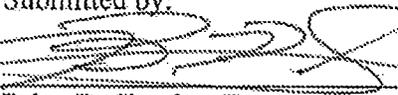
1
2 ORDERED, that the preliminary injunction entered on October 14, 2015 is hereby
3 dissolved. It is further

4 ORDERED, that the bond for the preliminary injunction in the amount of \$100,000.00 is
5 hereby exonerated and the Clerk of the Court is authorized to remit such funds to Angela M.
6 Ford, Chevy Chase Plaza, 836 Euclid Avenue, Suite 311, Lexington, Kentucky 40502.
7

8
9 DATED 16 Dec 2015

10
11 
12 _____
13 DISTRICT COURT JUDGE
14 A

14 Submitted by:

15 
16 Brian D. Shapiro, Esq.
17 Nevada Bar No. 5772
18 Law Office of Brian D. Shapiro, LLC
19 228 S. 4th Street
20 Las Vegas, NV 89101
21 (702)386-8600, Fax (702)33-0944
22 brian@brianshapirolaw.com
23 Attorney for Defendant, STANLEY M. CHESLEY
24
25
26
27
28

AFFIDAVIT OF JAMES C. WORTHING, SR.

BOONE CIRCUIT COURT
54th JUDICIAL DISTRICT

Case No. 05-CI-436

Mildred Abbott *et al.*

v.

Stanley M. Chesley *et al.*

EXPERT WITNESS AFFIDAVIT OF JAMES C. WORTHINGTON, SR.

COMES James C. Worthington, Sr. and after first being duly sworn states as follows:

1. I am a duly licensed attorney licensed to practice law in the Commonwealth of Kentucky.

I have practiced law since 1992 and have focused my practice on estate and trust issues since 1996, and have practiced in Kentucky since 2000.

2. I am a Fellow of the American College of Trust and Estate Counsel, described as of December 3, 2015, on its website, www.actec.org, as follows:

The American College of Trust and Estate Counsel (formerly known as The American College of Probate Counsel) is a nonprofit association of lawyers and law professors skilled and experienced in the preparation of wills and trusts; estate planning; and probate procedure and administration of trusts and estates of decedents, minors and incompetents. Its more than 2,700 members are called "Fellows" and practice throughout the United States, Canada and other foreign countries.

To qualify for membership, a lawyer must have no less than 10 years' experience in the active practice of probate and trust law or estate planning. Lawyers and law professors are elected to be Fellows based on their outstanding reputation, exceptional skill, and substantial contributions to the field by lecturing, writing, teaching and participating in bar activities. It is their aim to improve and reform probate, trust and tax laws, procedures, and professional responsibility.

3. My Curriculum Vitae with a List of Presentations is attached to this Affidavit. Most relevant here is that for approximately 10 years, I have made an annual presentation providing an

update about Kentucky probate cases to the Midwest/Midsouth Estate Planning Institute sponsored by the University of Kentucky Continuing Legal Education program.

4. I have reviewed the pleadings in the above-captioned case and have researched the law regarding the substitution of parties following a party's death, particularly CR 25.01, KRS 395.278, and have reviewed numerous cases applying that law. I have also reviewed CR 17.01 and numerous cases regarding the requirement that the real party in interest bring claims, the principles regarding assignment of claims, and the principle of champerty to prevent claims the assignment of which would violate public policy.

5. As I will explain below, I have reached the opinion that this court should dismiss the claims in the case at bar of any party who died after the current action was filed and whose claim was not revived in the manner provided for by CR 25.01 and KRS 395.278, *i.e.*, by filing (not merely serving), within one year of the death of the deceased party, a motion with the court to revive the action. I will refer to this as the Substitution of Parties opinion or issue and provide support for it in section 7 and its sub-sections.

6. I have also reached the opinion that if a decedent died before the current action was filed in 2005, CR 17.01 requires that the proper party to bring that decedent's claim would be the personal representative of his or her estate or an assignee, in which case the assignee must bring the action. I will refer to this as the Real Party in Interest opinion or issue and provide support for it in section 8 and its sub-sections.

7. I base my opinion regarding the Substitution of Parties issue on the following analysis.

7.1. The Kentucky Practice treatise explains the basic rule as follows:

When a party to litigation pending in a Kentucky court dies, the action is abated unless and until the action is revived by substituting the decedent's representative. The provisions of KRS 395.278 direct that the "application to revive an action in the name of the representative or successor of a plaintiff,

or against the representative or successor of a defendant, shall be made within one (1) year after the death of a deceased party.” KRS 395.278 is “a statute of limitation, rather than a statute relating to pleading, practice or procedure, and the time limit within this section is mandatory and not discretionary” and, therefore, neither a court nor a party may extend the one-year statute of limitations. **If an action is not revived against the administrator of the decedent's estate and the administrator substituted as the real party in interest within one year of a defendant's death, the action must be dismissed.** Whether an action has been timely revived is a matter of law. In one case, an executor for the estate was duly appointed and the estate was admitted to probate. However, timely application to revive the civil action against the decedent's representative was not filed. As stated in the trial court's order, “[a]bsent the showing of some act or conduct which misleads or deceives the plaintiff the action must be dismissed.

2 Ky. Prac. Prob. Prac. & Proc. § 1891 (emphasis added; citations omitted). As noted in the following section, the law applies with equal force to plaintiffs who die while the action is pending.

7.2. The Kentucky Supreme Court addressed the death of a plaintiff in *Hammons v. Tremco, Inc.*, Ky., 887 S.W.2d 336 (1994). There, the plaintiff died while his appeal was pending. The defendant moved to dismiss the appeal when more than a year had passed without the action being revived by the personal representative of the plaintiff's estate. The Hammons Court explained the relationship of the statute and the CR 25.01 while explaining the mandatory nature of dismissal:

Therefore, when considered together, KRS 395.278 and CR 25.01(1) require that when a plaintiff dies any action pending on the part of the deceased plaintiff **must be revived** by the decedent's successor or personal representative **within one year**, and the successor or personal representative must be substituted as the real party in interest.

887 S.W.2d at 338 (emphasis added) (*Hammons* was a workers compensation case to which the civil rules fully applied.)

7.3. One of the cases cited by *Hammons* and used to support the treatise quoted in section 7 is *Snyder v. Snyder*, Ky.App., 769 S.W.2d 70 (1989). There, a decedent's son was appointed as administrator of her estate after she died following entry of a decree of legal separation. The other spouse successfully moved to vacate the decree based on a jurisdictional defect (the lack of an outside witness regarding residency as required by KRS 403.025 & KRS 403.140). The decedent's son then moved to vacate the order vacating the decree because the spouse failed to revive the action against administrator within a year of the decedent's death. "We hold that KRS 395.278, relating to the reviver of an action, is a statute of limitation, rather than a statute relating to pleading, practice or procedure, and the time limit within this section is mandatory and not discretionary, thereby preventing a party or the court from extending such time via CR 6.02. Thus, an action which is not revived within the one-year statutory period of this provision **must be dismissed. A personal representative does not automatically succeed to his decedent's rights and status as a litigant** and thus is not a party to any suit against the decedent unless the action is revived." 769 S.W.2d at 72 (emphasis added; citations omitted).

7.4. The proper procedure for reviving an action is by filing a motion under CR 25.01 in the case where the substitution of parties is desired. The court must enter an order substituting the party and reviving the action; the purported successor cannot simply provide notice of his or her substitution. Filing is required; mere service is not sufficient. *Osborne v. Kenacre Land Corp.*, Ky.App., 65 S.W.3d 534 (2001).

7.5. I have reviewed approximately 20 cases decided under CR 25.01 and KRS 395.278 and have not found any cases reaching a different result than that expressed in my opinion. There are situations that are distinguishable from the instant case that could be used to mislead the court. Where real property is involved, the heirs rather than the personal representative are the real party

in interest. *See, e.g., Commonwealth v. Maynard*, Ky.App., 294 S.W.3d 43 (1994). This is because “[u]pon death of an owner of real property, the title to said property passes directly to the heirs at law or to the beneficiaries under a will; it does not pass through the estate.” *Slone v. Casey*, Ky.App., 194 S.W.3d 336, 337 (2006). *See also Levin v. Ferrer*, Ky., 535 S.W.2d 79 (1975). This is related to the first-year law student lesson that there is never a gap in the title to real property. Where efforts are made to prevent a plaintiff from learning that a defendant has died, estoppel may bar the assertion of the limitations defense presented by the civil rule and statute. *Harris v. Jackson*, Ky., 192 S.W.3d 297, 304 (2006) (citing *Munday v. Mayfair Diagnostic Laboratory*, Ky., 831 S.W.2d 912, 915 (1992)). *But see Frank v. Estate of Enderle*, Ky.App., 253 S.W.3d 570 (2008) (where defense counsel informed plaintiff’s counsel of defendant’s death and plaintiff’s counsel failed to act within one year, estoppel did not apply).

7.6. I have also reviewed the court’s 88-page docket, particularly the filings and motion hearings, in the case at bar as well as a list of deceased Kentucky plaintiffs, a copy of which is attached. Based on that review, I conclude that no orders were entered substituting personal representatives and reviving actions in the case at bar. Thus, these plaintiffs have not complied with CR 25.01 and KRS 395.278 and those failures are fatal to their causes of action.

8. I base my opinion regarding the Real Party in Interest issue on time-tested principles.

8.1. In 1852, our highest court decided *McChord v. Fisher’s Heirs*, 52 Ky. 193 (1852). Despite its age, our appellate courts have cited it 27 times and as recently as 2003.

Heirs and distributees can not, in their own names, in law or equity, prosecute suits to recover the unadministered estate of the intestate, or to collect debts; but **such suits can only be maintained by the personal representative who has qualified as such**, if there be one, or, if not, by one or more to be appointed to administer; except in cases where the distributees may sue in equity to recover the estate, or portions thereof, because, although there be an administrator or administrators, etc., they refuse to administer upon the estate

sued for, or to prosecute suits for the recovery thereof; and in such cases the personal representatives are necessary parties.

In this case it appears there is an administrator duly appointed by the Mason county court; but he is not made a party to the suit by the guardian, nor is it alleged in the bill that he, being informed of his right to the money in the hands of the defendant, Joshua Fisher, refuses to collect it by suit or otherwise; for this reason, also, this suit can not be maintained by the present complainant.

52 Ky. at 194-95. (emphasis added).

8.2. Where a claim has been assigned, the assignee must bring the action. *See generally Works v. Winkle*, Ky., 234 S.W.2d 312 (1950). I am not aware that any claims have been assigned in the case at bar and do not express an opinion regarding whether any of the claims in the case at bar are brought by assignees.

8.3. I have also reviewed the court's 88-page docket, particularly the filings and motion hearings, in the case at bar as well as a list of deceased Kentucky plaintiffs, a copy of which is attached. Based on that review, I conclude that the claims of persons who died before the 2005 filing are not being pursued by the real party in interest and those claims should be dismissed under CR 17.01.

8.4. Champerty is designed to prevent the purchase of a cause of action and has deep roots in the common law. *Hensley v. Clay*, Ky., 208 S.W.2d 501, 502 (1948). I am not aware that any claims have been purchased or that would otherwise involve a violation of public policy and do not express an opinion whether champerty applies in the case at bar.

FURTHER THE AFFIANT SAYETH NAUGHT.



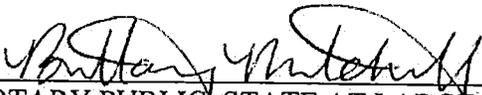
JAMES C. WORTHINGTON, SR., Affiant

Affidavit of James C. Worthington, Sr.
Page 6 of 7

STATE OF KENTUCKY)
) SS:
COUNTY OF JEFFERSON)

The foregoing document was acknowledged and sworn to before me this 4th day of December, 2015.

My Commission expires: 11-05-2019 .



NOTARY PUBLIC, STATE AT LARGE, KENTUCKY

JAMES C. WORTHINGTON, SR.

Worthington Law Firm
First Trust Centre, Suite 610 North
200 S. Fifth Street
Louisville, Kentucky 40202
(502) 371-1193
jim@worthingtonlawfirm.com

Legal Career

February 2010 to Present
Worthington Law Firm
Louisville, Kentucky

Sole practitioner. Legal practice involving all facets of estate and trust planning, administration, and related controversies; planning for Medicaid and VA benefits; tax planning and controversy; and business organization, re-organization, disposition, and succession.

June 2005 to February 2010
Stock Yards Bank & Trust Co.
Louisville, Kentucky

Vice President and Wealth Advisor/Estate Planning. Responsible for administration of all decedents' estates as well as trusts and estates holding special assets or involving complex relationships; co-chair of Fiduciary Oversight Committee overseeing encroachments and other non-investment discretionary decisions; responsible for administration of life insurance trusts; worked with other clients, their officers, and their professional advisors to achieve the client's estate and financial planning goals.

September 2000 to June 2005
Stites & Harbison, PLLC
Louisville, Kentucky

Counsel in the Trusts & Estates Service Group. Estate planning and administration, business succession planning, estate and trust litigation, and charitable planning for donors and non-profit organizations.

August 1992 to August 2000
Poe, Hoof & Reinhardt
Durham, North Carolina

Associate ('92 to '97) and Partner ('98 to '00). Practice concentration in estate planning and administration, business formation and planning, and real estate transactions. Litigation experience including mediations, arbitrations, and jury and bench trials as first and second chair.

Education

LL.M. in Taxation, 2011
University of Alabama School of Law
Tuscaloosa, Alabama

3.82 GPA
Graduated with high honors

J.D., 1992
Duke University School of Law
Durham, North Carolina

Research Editor, Duke Environmental Law & Policy Forum; American
Jurisprudence Award in Constitutional Law.

B.S., 1987
Washington University
St. Louis, Missouri

Graduated *magna cum laude* in Mechanical Engineering.

Bar Admissions

Kentucky
North Carolina
Fourth Circuit Court of Appeals, M.D.N.C., E.D.N.C.

Professional Activities

American College of Trust and Estate Counsel
Elected Fellow (March 2014)

Kentucky Bar Association

Probate and Trust Law Section, Former Chair and Current Chair-Elect
Probate and Trust Law Section Legislative Committee, Member
Taxation Section, Member

Louisville Bar Association

Probate & Estate Section, Former Chair
Leadership Academy, Member of Initial Steering Committee

American Bar Association

Real Property, Trust & Estate Section (formerly RPPT), Member
Business Planning Group, Member
Taxation Section, Member
Individual and Family Taxation Committee, Member
Estate Planning & Administration for Business Owners, Farmers & Ranchers
Committee, Former Vice-Chair
Probate and Fiduciary Litigation Committee, Former Member

University of Kentucky Midwest/Midsouth Estate Planning Institute

Program Steering Committee Member
Speaker for Annual Kentucky Case Law Update, 2005 - 2015

Louisville LawWire e-newsletter (no longer published), Wills & Estates Editor

Civic Activities

National Association of Workforce Boards

Member, Board of Directors, May 2015 – Present

55,000 Degrees

Member of Founding Board of Directors
Finance Committee, Former Chair

Kentuckiana Works, Inc.

Chair of the Board, 2009 – August 2012
Program Oversight Committee, Chair, 2005-2009
Board of Directors, 2001 – June 2013

Family & Childrens Place

Board of Directors, Former Member
Finance & Personnel Committee, Former Member

Home of the Innocents

2005 & 2006 Childfriend Breakfast Committee, Chair
Resource Development Committee, Former Member

Louisville Zoo Foundation

Bequest & Planned Giving Council (no longer active), Member

Focus Louisville, Spring 2001

Toastmasters International, CTM Certificate in Public Speaking

JAMES C. WORTHINGTON, SR.

Worthington Law Firm
First Trust Centre, Suite 610 North
200 S. Fifth Street
Louisville, Kentucky 40202
(502) 371-1193
jim@worthingtonlawfirm.com

**PRESENTATIONS AND PUBLICATIONS
(2001 – Present)**

2015

Speaker, "Probate Update (including Revised Uniform Fiduciary Access to Digital Assets Act)," Bluegrass Estate Planning Council, Lexington, Ky., Sept. 1, 2015

Author, "Limits on Powers of Attorney," Attorney at Law Magazine, Vol. 3, No. 4, August 2015

Speaker, "Kentucky Estate Planning and Administration Case Law & Legislative Update," 42nd Midwest/Midsouth Estate Planning Institute, Lexington, Ky., July 16, 2015

Speaker, "Legal and Financial Planning for VA Benefits," Southern Indiana Estate Planning Council, New Albany, In., Jan. 13, 2015

2014

Speaker, "Planning for a Full or Partial Outright Sale or Gift," National Business Institute Estate Planning for Farmers Seminar, Lexington, Ky., Nov. 10, 2014

Speaker, "Early Experiences with Kentucky's Almost Uniform Trust Code," Louisville Estate Planning Council, Louisville, Kentucky, October 22, 2014

Speaker, "The Kentucky Uniform Trust Code: Selected UTC Provisions and Kentucky Law Changes," Kentucky Law Update, Lexington, Ky., October 2, 2014

Speaker, "Understanding Estate, Gift and Trust Taxation" and "Using Revocable Trusts," Foxmoor Continuing Education's "The Complete Trust Course," Louisville, Ky., Aug. 20, 2014

Speaker, "Kentucky Estate Planning and Administration Case Law & Legislative Update," 41st Midwest/Midsouth Estate Planning Institute, Lexington, Ky., July 24, 2014

2013

Speaker, "Planning for a Full or Partial Outright Sale or Gift" & "Planning for a Gradual Transfer within the Family," National Business Institute Estate Planning for Farmers Seminar, Louisville, Ky., Dec. 10, 2013

Speaker, "Kentucky Estate Planning and Administration Case Law & Legislative Update," 40th Midwest/Midsouth Estate Planning Institute, Lexington, Ky., July 26, 2013

2012

Speaker, "Kentucky Estate Planning and Administration Case Law & Legislative Update," 39th Midwest/Midsouth Estate Planning Institute, Lexington, Ky., July 26, 2012

2011

Speaker, "Kentucky Probate & Trust Update 2011," Kentucky Law Update, Louisville, Ky., December 1, 2011

Speaker, "Kentucky Estate Planning and Administration Case Law & Legislative Update," 38th Midwest/Midsouth Estate Planning Institute, Lexington, Ky., July 21, 2011

2010

Author, "The Conflict Between a Lawyer's Duty to the Client and the Statutory and Regulatory Standards for Tax Practitioners," *KBA Bench & Bar*, November 2010

Speaker, "Kentucky Probate & Trust Update 2010, Including House Bill 188," Kentucky Law Update, Louisville, London, and Prestonsburg, Ky., September 3 and October 6 & 20, 2010

Speaker, "Kentucky Probate Law Update," Bluegrass Estate Planning Council, Lexington, Ky., September 7, 2010

Speaker, "Kentucky Estate Planning and Administration Case Law & Legislative Update," 37th Midwest/Midsouth Estate Planning Institute, Lexington, Ky., July 22, 2010

Moderator, "Molding Estate Plans to Changed Circumstances," Kentucky Bar Association Convention, Lexington, Ky., June 16, 2010

Speaker, "Estate Planning," Retirement Planning Seminar for Kentucky National Guard members, Frankfort, Kentucky, March 23, 2010

Speaker, "Tax Ethics," Louisville Estate Planning Council, Louisville, Ky., March 16, 2010

Speaker, "Current Estate Planning Issues," Bluegrass Estate Planning Council, Lexington, Ky., January 5, 2010

2009

Speaker, "Probate Law Update," Kentucky Law Update, Louisville, Ky., December 4, 2009

Panelist, "Charitable Entrepreneurism," Seminar sponsored by The Cure Starts Now, Cincinnati, Ohio, November 18, 2009

Speaker, "Tax Ethics," Estate and Tax Seminar Sponsored by Stock Yards Bank & Trust Co., Jeffersonville, In., October 29, 2009

Speaker, "Kentucky Estate Planning Case Law & Legislative Update," 36th Midwest/Midsouth Estate Planning Institute, Lexington, Ky., July 23, 2009

Panelist, "Financial Exploitation of the Elderly," Kentucky Bar Association Convention, Covington, Ky., June 11, 2009

2008

Speaker, "Kentucky Estate Planning & Trust/Fiduciary Law Update," 35th Midwest/Midsouth Estate Planning Institute, Lexington, Ky., July 25, 2008

2007

Speaker, "Understanding Tax Procedures to Avoid Problems Later," National Business Institute Estate Administration Seminar, Louisville, Ky., November 13, 2007

Panelist, "Fiduciary, Legal & Investment Issues Regard Non-Profits," Estate and Tax Seminar Sponsored by Stock Yards Bank & Trust Co., Jeffersonville, In., October 25, 2007

Speaker, "Kentucky Estate Planning Case Law & Legislative Update," 34th Midwest/Midsouth Estate Planning Institute, Lexington, Ky., July 20, 2007

Speaker, "Kentucky Fiduciary Law Case & Legislative Update," 34th Midwest/Midsouth Estate Planning Institute Pre-Institute Program, Lexington, Ky., July 19, 2007

Panelist, "Estate Litigation: What Every Attorney Needs to Know About Probate & Estate Planning," KBA Convention, Louisville, Ky., June 22, 2007

Speaker, "Fiduciary Law Update," Louisville Estate Planning Council, Louisville, Ky., May 15, 2007

Speaker, "The Probate Process from Start to Finish in Kentucky," National Business Institute, Louisville, Ky., April 19, 2007

Speaker, "Indiana Fiduciary Law Update," Southern Indiana Estate Planning Council, Jeffersonville, In., April 10, 2007

Panelist, "An Historical Look at Principal & Income Acts and Their Impact on Trust Investing," Bluegrass Estate Planning Council, Lexington, Ky., April 3, 2007

Speaker, "Current Issues in Fiduciary Duty, Including the Prudent Man Rule and the Prudent Investor Act," Estate Planning Council of Louisville, Louisville, Ky., January 18, 2007

2006

Speaker, "Understanding Tax Procedures to Avoid Problems Later," National Business Institute, Louisville, Ky., November 30, 2006

Panelist, "An Historical Look at Principal & Income Acts and Their Impact on Trust Investing," Estate and Tax Seminar Sponsored by Stock Yards Bank & Trust Co., Jeffersonville, In., October 26, 2006

Speaker, "Kentucky Estate Planning Case Law & Legislative Update," Louisville Estate Planning Council, Louisville, Ky., October 17, 2006

Speaker, "Kentucky Estate Planning Case Law & Legislative Update," 33rd Midwest/Midsouth Estate Planning Institute, Lexington, Ky., July 14, 2006

Speaker, "Kentucky Fiduciary Law Case & Legislative Update," 33rd Midwest/Midsouth Estate Planning Institute Pre-Institute Program, Lexington, Ky., July 13, 2006

Panelist, "Issues Impacting the Formation and Administration of Trusts," Louisville Bar Association, Louisville, Ky., May 23, 2006 & March 28, 2006

Speaker, "Current Issues in Fiduciary Duties and Trust Administration," The Louis D. Brandeis School of Law's Ninth Annual Estate Planning Institute, Louisville, Ky., April 28, 2006

Author, "Sophisticated Giving," Sophisticated Living, March/April 2006

Speaker, "Wealth Management Insights," Stock Yards Bank 2006 Economic Seminar, Louisville, Ky., March 8, 2006

Panelist, "Caring for Your Horses When You Can No Longer Care for Them," American Morgan Horse Association Annual Convention, Lexington, Ky., February 17, 2006

Speaker, "The Indiana, Kentucky, and Uniform Principal and Income Acts," Southern Indiana Estate Planning Council, Jeffersonville, In., February 14, 2006

Speaker, "The Probate Process from Start to Finish in Kentucky," National Business Institute, Louisville, Ky., February 10, 2006

2005

Author, "'Tis the Season for Giving," The Louisville Zoo Trunkline, Winter 2005

Panelist, "Planned Giving 101," Council for the Advancement and Support of Education Kentucky Conference, Louisville, Ky., December 8, 2005

Panelist, "Strangi and Its Progeny: Five Cases," Estate Planning Council of Louisville, Louisville, Ky., November 17, 2005

Speaker, "Estate Issues for Funeral Home Directors," Funeral Directors Association of the Falls City, Louisville, Ky., November 8, 2005

Speaker, "Jim's Quick & Easy Plan to Kick Up Your Planned Giving Program," Louisville Olmsted Parks Conservancy, Louisville, Ky., November 3, 2005

Panelist, "Trusts in Business Succession," Harding, Shymanski & Co., P.S.C. Industry Conference, Louisville, Ky., November 2, 2005

Speaker, "Current Fiduciary Issues: Drafting and Administration," Estate and Tax Seminar Sponsored by Stock Yards Bank & Trust Co., Jeffersonville, In., October 27, 2005

Speaker, "Charitable Gifts," Breckenridge Memorial Hospital Foundation, Hardinsburg, Ky., August 17, 2005

Speaker, "Living Wills, Wills and Trusts, and Charitable Giving," Trinity Presbyterian Church, Louisville, Ky., July 25-27, 2005

Speaker, "Kentucky Estate Planning & Administration Case Law Update," 32nd Annual Midwest/Midsouth Estate Planning Institute, Lexington, Ky., July 22, 2005

Co-Author, "Income Tax Reimbursement Clauses in Irrevocable Grantor Trusts—When to Use Them and When Not To," Probate & Property, May/June 2005

Speaker, "The Implications of Circular 230 for Lawyers, Trust Officers, and Other Financial Services Professionals," Louisville Bar Association, Louisville, Ky., May 24, 2005

Moderator, "Roundtable on Post-Mortem Administration of Business Interests," 2005 ABA RPPT Symposia, Washington, D.C., April 29, 2005

Panelist, "2004-2005 Developments on Family Limited Partnerships, S Corporations Reform, and Closely Held Businesses," 2005 ABA RPPT Symposia, Washington, D.C., April 28, 2005

2004

Speaker, "Oddities and Challenges in Kentucky Probate Law," National Business Institute, Louisville, Ky., August 25, 2004

Author, "House Bill 517—Kentucky Principal and Income Act, 2004 Session in Summary: Banking Laws from the Regular Session of the Kentucky General Assembly," Kentucky Bankers Association, July 2004

Speaker "A Review of Significant, Though Largely Unpublished, Kentucky Probate & Estate Cases Between January 2003 and February 2004," KBA Convention, Lexington, Ky., June 25, 2004

Panelist, "The Final Regulations under IRC § 643 and the New Kentucky Principal and Income Act," Louisville Bar Association, Louisville, Ky., June 14, 2004

Speaker, "The Use of Trusts in Estate Planning for Kentucky Residents," Lorman Education Services, Louisville, Ky., May 19, 2004; May 16, 2003

Speaker, "Wills, Trusts and Powers of Attorney for You and Your Family," Legal Secretaries of Louisville, Louisville, Ky., March 16, 2004

Speaker, "Use of Charitable Remainder and Charitable Lead Trusts," Center for Higher Education Law, Louisville, Ky., February 20, 2004

Panelist, "Gift Planning with Retirement Assets," Center for Higher Education Law, Louisville, Ky., February 20, 2004

2003

Speaker, "Have You Made A Will: What to Think About Before You Sit Down with a Lawyer," Firm Client, Louisville, Ky., November 17, 2003

Speaker, "Kentucky Estate Planning and Drafting Fundamentals," National Business Institute, Louisville, Ky., October 30, 2003

Speaker, "Probate and Estate Planning Update for the General Practitioner," KBA Kentucky Law Update, Louisville, Ky., September 25, 2003; Lexington, Ky., October 17, 2003

Author, "The Soft Skills of An Estate Planning Practice," LBA Bar Briefs, September 2003

Speaker, "Planned Giving in a Time of Low AFRs," Center for Higher Education Law, Nashville, Tenn., September 19, 2003

Speaker, "Charitable and Planned Giving," Easter Seals of Louisville, Louisville, Ky., June 26, 2003

Panelist, "Working with Professional Advisors: Dos and Don'ts," Fundraising Executives of Metro Louisville, Louisville, Ky., March 11, 2003

Speaker, "Advance Directives," Hardin Memorial Hospital Medical Staff, Elizabethtown, Ky., March 3, 2003

2002

Speaker, "The Death of the 'New' Death Tax," KBA Convention, Covington, Ky., June 12, 2002

Speaker, "Estate Planning Strategies After the Economic Growth and Tax Relief Reconciliation Act of 2001," The Louis D. Brandeis School of Law's Fifth Annual Estate Planning Institute, Louisville, Ky., April 26, 2002

Speaker, "Estate Planning Strategies After The 2001 Tax Act," Louisville Estate Planning Council, Louisville, Ky., April 16, 2002

Speaker, "Financial Planning Strategies in Light of Tax Law Changes," Kentuckiana Chapter of the Financial Planning Association, Louisville, Ky., January 16, 2002

2001

Author, "A Search for Certainty in an Uncertain Era: Estate Planning in the Wake of H.R. 1836," LBA Bar Briefs, September 2001

Co-Author, "Asset Protection in a Divorce Context," 28th Annual Midwest/Midsouth Estate Planning Institute, Lexington, Ky., July 13, 2001

Speaker, "QDROs and Other Issues Related to Employee Benefit and Retirement Plans," Louisville Bar Association, Louisville, Ky., May 23, 2001



**TRACY WINKLER
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COMMON PLEAS DIVISION

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Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 494290**

STANLEY M CHESLEY

A 1602508

vs.

**PROBATE ESTATE OF DANNY
LEE ABNEY**

FILING TYPE: MOTION

PAGES FILED: 5

EFR200

**EXHIBIT
U**

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

Stanley M. Chesley, *et al.* : Case No. A1602508
Plaintiffs :
 :
v. : Judge Ethna Cooper
 :
 :
Probate estate of Danny Lee Abney, *et al.* :
Defendants. :

**PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND
PERMANENT INJUNCTION TO PREVENT ILLEGAL EFFORTS TO ENFORCE
JUDGMENT**

Plaintiffs Chesley¹ and WSBC seek immediate and later permanent equitable relief that (1) prevents the KY Probate Estate Defendants from continuing to seek to collect any portion of the Chesley Judgment from Chesley or WSBC because that portion of the Chesley Judgment has been legally extinguished; and (2) prevents the Bankrupt Defendants from seeking to collect any portion of the Chesley Judgment from Chesley or WSBC that they cannot prove they own because Plaintiffs have good cause to believe the Bankrupt Defendants may not own any portion of the Chesley Judgment.

PLAINTIFFS SEEK PROTECTION FROM THE KY PROBATE ESTATE DEFENDANTS

The following facts support Plaintiffs' right to the relief requested in this Motion:

1. In October 2015, Agent Ford filed an affidavit in Nevada that identified Chesley's supposed 382 judgment creditors. Each of the KY Probate Estate Defendants is listed by Ford as one of Chesley's judgment creditors and a co-owner of the Chesley Judgment;
2. The underlying litigation that led to the Abbott Case involved pharmaceuticals, drugs taken by humans. Thus, each claim against Chesley was once owned by a human or the estate of a human being;

¹ Capitalized defined terms have the same meaning herein as in the Complaint that initiated this litigation.

3. An independent expert Kentucky lawyer with substantial probate experience opined that for the KY Probate Estate Defendants to succeed to the claims of a decedent and pursue that claim against Chesley, each KY Probate Estate Defendant needed to file a motion in the Abbott Case to revive the decedent's claim and secure a court order reviving that claim; and

4. That same expert witness reviewed the Abbott Case record and stated that each of the KY Probate Estate Defendants in fact failed to secure an order in the Abbott Case.

The above-stated facts make it clear that the KY Probate Estate Defendants are not Chesley's judgment creditors and the portion of the undivided Chesley Judgment attributable to the KY Probate Estate Defendants is void. Those pretend judgment creditors should be enjoined from pursuing collection of the Chesley Judgment in any manner including collection from WSBC.

Further, the KY Probate Defendants should be directed to correct their court filings in Nevada and elsewhere by revising (a) the list of judgment creditors to exclude the KY Probate Estates and (b) downward the amount owed by Chesley pursuant to the corrected Chesley Judgment and report that adjustment in the several open cases involving the Chesley Judgment.

JUDGMENT CREDITORS' WHO'S CLAIMS WERE TRANSFERRED

Defendant Boggs has publicly admitted that she filed bankruptcy. For that reason, she may not a co-owner of the Chesley Judgment. Despite that fact, Defendant Boggs continues efforts to collect the Chesley Judgment.

Using the names and partial addresses disclosed by Agent Ford, Plaintiffs identified twelve (12) more putative judgment creditors who filed bankruptcy (with Defendant Boggs the "Bankrupt Defendants"). Despite the lack of complete addresses, Plaintiffs were able to locate those persons' bankruptcy case public records and those bankruptcy court records confirm that

the bankruptcy case debtors are, in fact, the same persons who now assert that they are Chesley's judgment creditors. This position may be wrong under applicable federal law which transferred the claims against Chesley or the interest in the Chesley Judgment to the bankruptcy estate that was created as a matter of law. See, 11 U.S.C. Section 522.

As discussed in the Complaint, Chesley has cause to believe that more of his putative judgment creditors filed bankruptcy. There are more name and city/state matches between bankruptcy filers and the Nevada list of judgment creditors filed by Agent Ford. In those cases, however, the public records do not confirm that the judgment creditor and the bankrupt debtor are the same person. This litigation is intended to resolve the ownership of the claim against Chesley asserted by these persons.

The Bankrupt Defendants should be enjoined from pursuing collection of the Chesley Judgment until they can prove that are co-owners of the Chesley Judgment because Ohio law requires that proof before transferred claims can be enforced. See, for example, *Federal Home Loan Mortgage Corp. v. Schwartzwald*, 134 Ohio St.3d 13 (2011). As the Ohio Supreme Court said, "standing is required" in order to invoke the jurisdiction of a court as the Bankrupt Defendants have done on multiple occasions.

CONCLUSION

It is obvious that persons cannot act to collect a debt that has been legally extinguished or which was transferred away as a matter of law. This illegal activity should be stopped now and later permanently enjoined.

Plaintiffs are entitled to immediate relief in the form of a temporary restraining order and a later a preliminary injunction halting the Defendants continuing efforts in the ongoing

litigation until Chesley's assertions against the KY Probate Defendants and the Bankrupt Defendants are resolved.

Respectfully Submitted:

/s/ Vincent E. Mauer
Vincent E. Mauer (0038997)
Frost Brown Todd LLC
3300 Great American Tower
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Counsel for Stanley M. Chesley

/s/ Donald J. Rafferty
Donald J. Rafferty (0042614)
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drafferty@ctks.com
Counsel for Waite Schneider Bayless & Chesley, Co., LPA

0118087.0619701 4834-8945-5404v1

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STANLEY . CHESLEY, et al.
Plaintiffs

v.

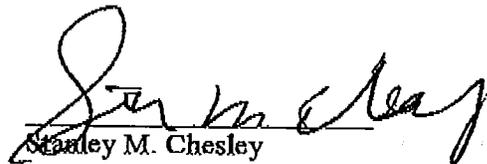
MARY LOU WHITE-LYNCH, et al.
Defendants

Case No. _____

Judge Cooper

AFFIDAVIT IN SUPPORT OF MOTIONS FOR EQUITABLE RELIEF

Plaintiff 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 **COMPLAINT FOR TEMPORARY RESTRAINING ORDER, DECLARATORY RELIEF AND INJUNCTIVE RELIEF / PLAINTIFF WAITE SCHNEIDER BAYLESS & CHESLEY CO., LPA ALSO SEEK DAMAGES** filed in the above-captioned case; (3) I am the judgment debtor who is the target of the Chesley Judgment described in the that complaint, (4) to the best of my knowledge and belief, the facts set out in the Verified Complaint are true and correct.


Stanley M. Chesley

Sworn to and subscribed in my presence on April 28 2016 by Stanley M. Chesley who is known to me.


Notary public, State of Ohio
My commission expires on never

VINCENT E. MAUER, Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration Date
Section 147.03



**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
May 4, 2015 04:30 PM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 409133**

STANLEY M CHESLEY

vs.

ANGELA M FORD

A 1500067

**JUDGE
JODY M LUEBBERS**

FILING TYPE: AMENDED COMPLAINT

PAGES FILED: 26

EFR200

**EXHIBIT
V**

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

-and-

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

Respondents.

Case No. A1500067

Judge Ruehlman

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

PURPOSE OF THE AMENDMENT

This First Amended And Supplemental Verified Petition For Declaratory Judgment And Injunctive Relief (this “Amended Petition”) makes three significant changes to the previously filed Verified Petition For Declaratory Judgment And Injunctive Relief (the “Petition”). The amendment:

- (i) identifies as individually named Respondents six of Respondent Angela Ford’s (“Ford”) clients who she has described as Chesley’s judgment creditors.¹ Those six particular respondents reside in Ohio (collectively the “Ohio Respondents” or individually an “Ohio Respondent”). Those six persons were previously parties as members of the group known as “Unknown Respondents”;
- (ii) describes some of Ford’s past conduct in Ohio arising from her representation of Ohioans which demonstrates Ford’s contacts with Ohio supporting the Court’s personal jurisdiction over her; and
- (iii) presents to the Court some of Ford’s recent conduct that negatively impacts several Ohio entities that are not parties to the action nor owned by Petitioner – specifically, Ford issued a subpoena to an Ohio corporation seeking the financial information of about 10 nonparties and Ford served discovery on Chesley seeking the information of several nonparties. Ford’s prior acts and threats which foretold these actions forced the Petitioner to bring this action. These are but the opening acts of Ford’s planned assault on Ohio entities.

The newly added verified paragraphs provide evidence (as opposed to Ford who has never provided any evidence) supporting this Court’s personal jurisdiction over Ford in Ohio by demonstrating that (i) several previously sued but not specifically identified “Unknown Respondents” are Ohioans and (ii) Ford has had multiple contacts with Ohio for several years arising directly from her activity described in the Petition.

The newly added verified paragraphs also provide additional evidence that (i) a true case and controversy exists and (ii) Petitioner and many nonparty Ohioans need and should receive the requested relief.

¹ The remainder of Ford’s clients who she has described as Chesely’s judgment creditors continue, at least for now, to be identified as the “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 owed to a list of approximately 400 persons that has not been updated in over 13 years.² 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

² 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.

Chesley and third parties who Ford has targeted may be properly protected.³ Absent the relief requested in this action, the rights of Chesley and others will be irreparably harmed.

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.⁴

³ 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 information concerning and belonging to 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.

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.

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

⁴ Ford asserted that complete diversity existed despite what Judge Economus called the "undisputed" fact that the Unknown Respondents included several Ohio residents.

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 Chesley⁵ and (iii) the 2013 Kentucky Supreme Court’s *Abbott v. Chesley* decision agreed saying:

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

⁵ 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.

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.⁶ 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

⁶ 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.

interest.⁷ 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. 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

⁷ 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.

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.⁸ 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 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

⁸ 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.

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.

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.⁹

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

⁹ 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?

individually¹⁰ 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.

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.

¹⁰ 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.

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.¹¹

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

¹¹ 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.

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 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.¹² In that motion, Ford stated that she plans to file fraudulent conveyance actions; given her discovery targets, Ford is clearly targeting

¹² A copy of this motion was filed with the Court on April 28, 2015.

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 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.¹³ 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.

¹³ 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?

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.¹⁴ Ford is anxious 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, 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.¹⁵ Ford made that

¹⁴ 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 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."

¹⁵ *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

assertion in open court and in multiple filings in the Abbott Case. Ford chose to rely on the 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

use of the settlement grid in 2007 to determine the amount of the Criminal Defendants Judgment effectuated a fraud on the Kentucky court.

portions of those funds were distributed by Ford to her clients, including the Ohio Respondents.¹⁶ 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. 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

¹⁶ See Angela M. Ford's Pre-Hearing Memorandum filed on September 6, 2011 in the Criminal Case.

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;

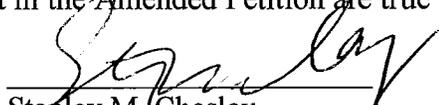
D. Enjoin Respondent Angela M. Ford, the Unknown Respondents, the Ohio Respondents and any other person acting on behalf of the Unknown Respondents or the Ohio Respondents from registering or domesticating the Chesley Judgment in Ohio and attempting to issue subpoenas or any other discovery to non-parties 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 First Amended and Supplemental Restated Verified Petition For Declaratory Judgment And Injunctive Relief (the "Amended Petition"); (3) I am the judgment debtor who is the target of the Chesley Judgment described in the Amended Petition, (4) to the best of my knowledge and belief, the facts set out in the Amended Petition are true and correct.


Stanley M. Chesley

Sworn to, and subscribed, in my presence on May 4, 2015 by Stanley M. Chesley who is known to me.




Melissa A. Zehn
Notary Public, State of Ohio
My Commission Expires November 1, 2019 11/01/19

SIGNATURE AND APPEARANCE OF PETITIONER'S COUNSEL

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

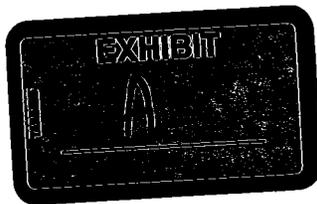
Respectfully submitted,

/s/ Vincent E. Mauer
Vincent E. Mauer (0038997)
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301 E. Fourth Street
Cincinnati, Ohio 45202
513-651-6785
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vmauer@fbtlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of May, 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



FILED
 BOONE CIRCUIT DISTRICT COURT
 AUG 01 2007
 DIANNE MURRAY, CLERK
 BY: *[Signature]* 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 Hannon 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%,

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



**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
W**

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

Stanley M. Chesley,	:	Case No. A1500067
	:	Judge Ruehlman
Petitioner,	:	
	:	PETITIONER'S MOTION FOR LEAVE
v.	:	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)
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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)
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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 : Case No. A1500067
9005 Camargo Road :
Cincinnati, Ohio 45243 : Judge Ruehlman
Petitioner :
v. : **SECOND AMENDED AND**
: **SUPPLEMENTAL**
Angela M. Ford, Esq. : **VERIFIED PETITION FOR**
Chevy Chase Plaza : **DECLARATORY JUDGMENT AND**
836 Euclid Avenue, Suite 311 : **INJUNCTIVE RELIEF**
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 :

	:	
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 this 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

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