

THE OHIO SUPREME COURT
COVER SHEET

PETITIONER

BRUCE ARNOFF #754-939
P.O. BOX 8107
MANSFIELD, OHIO 44901

RESPONDENT

Cuyahoga County Fiscal Office, Dennis Kennedy
2079 E. 9th St.
Cleveland, Oh 44113

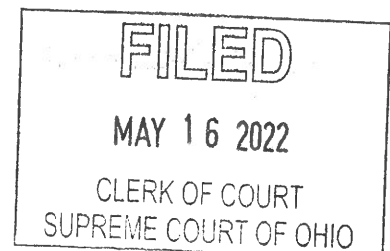
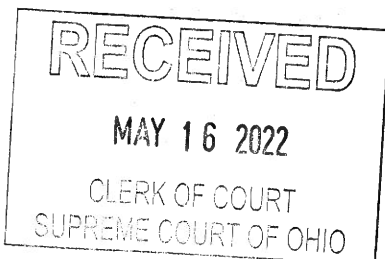
22-0593

NATURE OF PROCEEDING:

Original Action – Complaint for damages caused by Auditor’s Dereliction of Duty, fraud and misrepresentation causing damages to Petitioner

CAUSE OF ACTION

1. Plain Error violating Civil Rule 52 B & 60 B
2. Fraud and Misrepresentation. **R.C. 2305.09C**
3. Violation of **5th Amendment** causing loss of property due to fraudulent and negligent actions and/or omissions of Respondent
4. Violation of Due Process **4th, 5th, 6th, 8th and 14th Amendments** of the U.S. Constitution.
5. Violation of the 10th Amendment of the Ohio Constitution.
6. Breach of Contract and Duty



**THE OHIO SUPREME COURT
FRANKLIN COUNTY, OHIO**

BRUCE ARNOFF	:	CASE NO.: _____
Petitioner	:	JUDGE: _____
	:	Lower Court Case No.: CV-21-46532
-vs-	:	
	:	<u>ORIGINAL ACTION</u>
CUYAHOGA COUNTY FISCAL OFF.	:	under Supreme Court Practice Rule 5.06
2079 E. 9th St. Cleveland, Ohio 44113	:	Second Filing, Filed 03/12/22.
Respondent	:	

Now comes Respondent, Bruce Arnoff, with a Motion for this Original Action. Petitioner has been having immense problems with Cuyahoga County Courts and the 8TH District Court of Appeals. The current "Nunc Pro Tunc" order against these courts, that disqualified the Judges validates that the Ohio Supreme Court should be granted original jurisdiction. Also, the likelihood of a County Court ruling against a fellow County Agency, suggest that these Courts would never be expected to rule fairly and impartially. A reasonably prudent person would request that the Ohio Supreme Court would be the proper place to adjudicate and have an unbiased decision rendered. 2 Appellate Motions were filed but no case number was assigned.

Petitioner's statement of claim is simple. The County Auditor, Dennis Kennedy and his employees fraudulently and negligently misfiled Petitioner's Mechanic's Lien, which caused the Petitioner to lose his 5-bedroom home located at 5045 Harper Road in Solon, Ohio, which was 100% paid off.

The Auditor Admits Their Error On Their Website. There is no logical reason a decision was not rendered for Arnoff. **R.C. 2744.03A(6)(b)** clearly states that a Government Agency has strict liability for any "wanton or reckless acts" that cause injury or damage to another party. **R.C.319.01** states that the County Auditor has strict liability for any wanton, reckless or bad faith acts committed. **Bulletin No. 2008-006** and **R.C.319.35** outline the performance of duties for the Auditors Office and the legal responsibility for Clerical Errors. An Evidentiary Hearing should be held in order to force Defendant to prove their innocence. Bruce Arnoff raised the following indisputable issues:

- 1) **The trial court erred by not ruling on the case, based on the merits** - Pursuant to **Byq v Lynd 2003 Ohio 7290**, "a case must be ruled on based on its merits". The Cuyahoga County Auditor cannot possibly prove that they did make an error in filing Respondents' Mechanics Lien. They even admit it on their website. This court has not ruled on any issue and has prejudicially protected a fellow governmental agency. This fact alone validates Petitioner's claim.
- 2) **The trail court erred by not allowing the Petitioner to amend the case and then proceed based on its merits** -Pursuant to **Campbell v Aepli 2007 Ohio 368**. Respondent attempted to correct errors, which as a Pro Se' litigant should have been allowed. However, some of the motions were not filed timely due to the "Special Circumstances" created by the COVID pandemic. Respondent is incarcerated and has often been locked down or quarantined due to the Pandemic. The prisons have an infection and death rate close to 100 times the national average.
- 3) **Fraud with damages is an actionable claim**, pursuant to **23 Am. J. 2d** which states "anything calculated to deceive another and accomplish a purpose, whether it be an act, omission, word, silence suppression of truth or any other device contrary to the plain rules of honesty is fraud".

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MEMORANDUM IN SUPPORT

Bruce Arnoff, owner of ATT Security and Home Services, a sole-proprietorship, secured a contract with Jeff Melton of Cleveland Properties to do an extensive rehabilitation of a 5-bedroom home located at 5045 Harper Road in Solon, Ohio. The basement was under water and filled with black mold, the interior of the home had cat feces and live cats, the subfloors needed to be replaced, the roof needed repair, and a 30 x 30 great room needed to have the broken concrete removed and replaced. When Petitioner had brought over \$38,000 of supplies, he properly went to the Auditor's Office and filed a Lien to insure he was paid. When the homeowner realized he could not afford the repairs, Petitioner filed a second lien covering additional material costs as well as the total labor costs for the rehabilitation of the home.

Petitioner went to the Auditor's Office on 2079 East 9th Street in Cleveland, Ohio and met with the Clerk to file the liens. The Clerk looked at the paperwork and pointed to an elderly man at a large counter in the adjacent room and instructed Petitioner to get the necessary property description form needed to execute the Lien. Petitioner did this and went back to the Clerk's Counter. The Clerk checked the paperwork to make sure it was correct, had Petitioner pay the filing fee and then filed the Liens.

The Cuyahoga County Fiscal Office, dba as the County Auditor received 2 liens from the Petitioner at the same time on January 05, 2017. The Clerk properly filed the second lien, which had the required property description, but the Mechanic's Lien, the Clerk neglected to scan in the required property description. As Petitioner paid money for documents to protect his investment and the document were misfiled and fraudulently not told that the second Lien, an UCC-1 Lien could not be filed at the Auditor's Office, the liability for damages had occurred. **The Auditor admitted the error on their website (Exhibit a)**

When PAJ Enterprises sued the owner of the property Case Number **18-CV-881521** and placed a lien on the property, Petitioner's Lien was ruled primary. When PAJ's Attorneys examined the Mechanics' Lien, they discovered the error made by the Cuyahoga County Auditors Clerk, as the property description was not filed. This error resulted in Petitioner losing a 5-bedroom home that he and his company fully restored. This caused a loss of the property worth \$300,000 and loss of \$1500 a month rental income as the Petitioner had to move into their rental property.

When the error was discovered, Petitioner went with witnesses to the Auditor's Office and met with the County Auditor, Dennis Kennedy. The Auditor quickly discovered their error and had a @ 45-year-old, handicapped gentleman with brown hair, who was seated in a wheelchair, filed on their computer, the missing property description and a note explaining that it was their error. Mr. Arnoff gave the Auditor a copy of the pending litigation against the property and was assured and promised by Mr. Kennedy that he

would notify the Court to stop Petitioner from losing him home. He fraudulently and negligently failed to do so. He also altered records to conceal the fact that his Office admitted the error a fraudulent action insuring that this case be ruled as timely.

When Petitioner originally filed this action in Cuyahoga County Courts, the Courts failed to find against the Respondent even after they failed to submit any “certified proof” that they did not make an error within the 30 days required by **Civil Rule 12**. Then, when the Petitioner sent the Auditor an Interrogatory, it was not answered within 30 days as required by **Civil Rule 33**. These failures to follow the rules of the Court should have led to a Summary Judgment, which was requested by the petitioner and wrongfully denied.

The County Auditor/Fiscal Office is required to protect the interest of the parties it represents. They wantonly and recklessly failed to do this. They acted in “bad faith” when they promised to notify the Court of their error and cost the Petitioner his life savings that he had invested in this home. The Auditor was asked repeatedly to help protect the Petitioners’ interests and blatantly and negligently failed to do so.

The 8th District Court of Appeals has failed to acknowledge both of Petitioner’s Appellate Motions that were timely filed. Some of Petitioner’s Motions were delayed due to the COVID pandemic, and others by the Court failing to send notices, but according to the **Ohio General Assembly** and ***Chapman Ent. V McClain 2021 Ohio 2386***, time had not tolled, due to the pandemic. Any motions or responses not filed timely during the pandemic were supposed to be ruled as timely and not to have affected the outcome.

This case was improperly dismissed by the trial court, in order to protect its fellow Government Agency. When a Court fails to even consider a Petitioners’ arguments and prejudicially only recognizes the part of the law which grants “Sovereign Immunity” without fairly and impartially ruling on the exceptions to “Sovereign Immunity”, that is comparable to the exact reasons why the Cuyahoga County Court Judges have been disqualified from hearing cases.

RELIEF SOUGHT

Listed below are losses incurred due to the negligent and fraudulent actions of the County Fiscal Office:

Mechanic’s Lien	\$ 38,430.00
UCC-1 Lien	\$162,500.00
Loss of Rental Income \$18,000/yr. x 20	\$360,000.00
Loss of Property	<u>\$300,000.00</u>

TOTAL LOSSES: \$858,930.00

Petitioner also requests the maximum amount of punitive or compensatory damage as allowed. The Auditor should have Errors and Omissions Insurance or Commercial Liability Insurance.

CONCLUSION

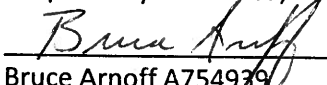
The Cuyahoga County Fiscal Office dba Cuyahoga County Auditor admitted on their website that they made an error. When Petitioner sold insurance, he was required to get Errors & Omissions' Insurance. Lawyers are required to have Malpractice Insurance, the County should also have some insurance (Errors and Omissions Insurance, Commercial Liability Insurance, etc.) to protect them from liability for errors. **Section 319.35** clearly states that the Auditor's Office is liable for clerical errors when assessing taxes, so why does not the same provision extend to filing errors on liens? This section openly admits that this Office makes errors. Since Petitioner has filed this lawsuit, the Auditor's Office has changed its Policies and Procedures regarding the filing of liens, thereby admitting that their procedures did not properly protect themselves or the parties seeking a lien to protect their interests.

This Court needs to mandate that the Insurance that covers the Auditors' Office for Errors and Omissions, pay the damages in full. If they do not have insurance, a Summary Judgment should be issued as reasonable minds can come to but 1 conclusion, the County Auditors negligent error caused Petitioner to lose his home. Their "Wanton and Reckless Act" makes them 100% liable according to **O.R.C. 2744.03. (A)(6)(b).**

Ohio has long afforded Pro Se' litigants "considerable leniency" pursuant to ***Besser v Griffey (1993) 88 Ohio App 3d 379*** and though minor procedural errors may have been made, they are excusable and do not permit the State not to rule on the issues based on their merit. This case must be ruled on based on the merits to protect not only the Respondent, but also the citizens of Ohio who may be potential victims.


THE AUDITOR AMITTED THEIR ERROR, A VERDICT FOR PLAINTIFF WAS MANDATD BY LAW. Either Mandate Cuyahoga County Courts to correct their error or you enter a Judgment.

Respectfully submitted,


Bruce Arnoff A754939
P.O. Box 8107
Mansfield, Ohio 44901

CERTIFICATE OF SERVICE

A copy of this motion has been sent to all parties via regular US Mail on this 10th day of May, 2022.


Bruce Arnoff

Proof of Liability at bottom

2:09:40 PM Tue, Mar 23rd

Search Results

[\[View Image\]](#)

AFN: 201701300427
Date Recorded: 01/30/2017
Book:

Type: ML - MECHANIC'S LIEN
Number of Pages: 3
Amount: \$0.00

Grantor

Type	Last Name	First Name	M. Name	Detail
R	ARNOFF	ENTERPRISES		

Grantee

Type	Last Name	First Name	M. Name	Detail
E	CLEVELAND	PROPERTIES OF OHIO		

References

Type	AFN	Book/Page

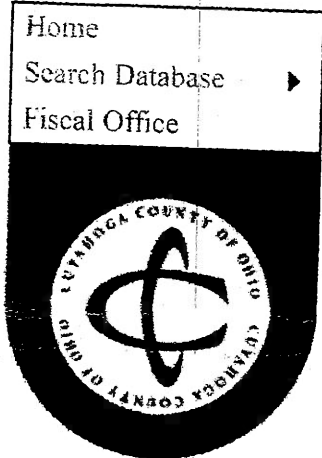
Legal Description

Category	Value
Sublot:	
Original Lot:	
Township:	
Street Name:	
Parcel #:	951-42-010

Comments

- Auditor admitted ERROR
- Valid claim filed & prejudicially dismissed
- Irrefutable Evidence establishing Liability
- Why have I not been properly compensated?

LEGAL DESCRIPTION INADVERTANTLY OMITTED AT TIME OF SCANNING.



*

LIST OF CASES FILED IN LAST 5 YEARS

BRUCE ARNOFF, INMATE ID # A 754939

Below is a list of cases filed by Bruce Arnoff in the last 5 years:

CRIMINAL – Lorain County 18CR098905,

9th District COA - 19CA011475 Appeal, Writ of Prohibition 19CA011603, Writ of Procedendo 20CA011650, Writ of Certiorari 20CA011650,

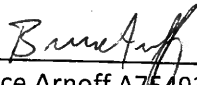
Ohio Supreme Court - 21-1667, Motion to Certify Conflict 21-1419, Habeas Corpus 1:20-02668

CIVIL:

<u>Lorain County:</u>	Kenneth Lieux 20CV201251, 21CA011755, 21CA011809	Legal Malpractice
<u>9th District COA:</u>	Lorain County Jail 20CV203545, 20 CV202189, 21CA011765	Negligence
<u>Summit County:</u>	Denise Ferguson 20CV940124, 2021-10-3310	Legal Malpractice
<u>Cuyahoga County:</u>	Gary Cook CV20-940120	Legal Malpractice
	Cuyahoga County Auditor CV21-946532	Negligence, Breach of Contract
<u>8th District COA:</u>	PAJ Enterprises CV20-940228, CV21-946524, 21CA110714	Fraud
	Huntington Bank Cv20-923602	Fraud Replevin
	Gilhan Two CV21-950315	Mechanic's Lien
	City of Garfield Heights CV21-947644	Damages
	PNC Bank	Fraud Replevin

BEING QUARANTINED DUE TO COVID HAS CAUSED MANY CASES TO BE DISMISSED AS IT WAS IMPOSSIBLE TO RESPOND IN A TIMELY FASHION DUE TO LOCKDOWNS.

I certify that this is the list of cases filed by Bruce Arnoff xxx-xx-3815 in the last 5 years. This document was prepared on the 10 day of May, 2022.



Bruce Arnoff A754939
Richland Correctional Inst.
P.O. Box 8107
Mansfield, Ohio 44901

