

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

The Huntington National Bank,	:	
	:	
Plaintiff-Appellee,	:	
	:	
v.	:	No. 12AP-1070
	:	(C.P.C. No. 10- CVH-252)
R.J. Nicholosi and Midwest Electric	:	
Control Specialists, Inc.,	:	(ACCELERATED CALENDAR)
	:	
Defendants-Appellees,	:	
	:	
(Matt Straker and United Electric	:	
Enterprise, LLC,	:	
	:	
Defendants-Appellants).	:	

D E C I S I O N

Rendered on June 6, 2013

Buchanan Ingersoll & Rooney PC, Kathleen Jones Goldman and Bradley J. Kitlowski, for The Huntington National Bank.

Vorys, Sater, Seymour & Pease, LLP, and Tiffany Strelow Cobb, for High Voltage Maintenance Corp.

Dinsmore & Shohl, LLP, William M. Mattes and Michael V. Pasella, for Receiver.

Luper Neidenthal & Logan, Luther L. Liggett, Jr., and Matthew T. Anderson, for Brotherhood of Electrical Workers Union Local 575 Pension Fund and International Brotherhood of Electrical Workers Union Local 575 Associated Fringe Benefit Funds.

Garrison & Garrison, and James E. Garrison, for Auto Owners Insurance Co.

Erman, Teicher, Miller, Zucker & Freedman, P.C., Craig E. Zucker and Barbara A. Patek, for National Electric Benefit Fund and National Electric Annuity Plan.

Allen Kuehnle Stovall & Newman LLP, Richard K. Stovall and Nicholas R. Barnes, for R.J. Nicholosi

Goslee & Goslee, Ltd. and Daniel L. Bennett, for appellants.

APPEAL from the Franklin County Court of Common Pleas

TYACK, J.

{¶ 1} Matt Straker and United Electric Enterprise, LLC are appealing from the trial court's approval of a settlement agreement reached by the other parties to this litigation. The actual assignment of error reads:

THE TRIAL COURT ERRED BY GRANTING AN ORDER APPROVING THE NOVEMBER 28, 2012 SETTLEMENT AGREEMENT DISMISSING APPELLANTS' CLAIMS.

{¶ 2} The litigation began in January 2010 and within one week, a receiver was appointed to help defendant-appellee, Midwest Electric Control Specialists, Inc. ("Midwest Electric") manage its affairs.

{¶ 3} Straker and Midwest Electric moved to intervene in the litigation 17 months later and were allowed to intervene in August 2011.

{¶ 4} Straker and United Electric Enterprises, LLC ("UEE") did not participate in several subsequent status conferences or in a mediation which was ordered by the trial court. The other parties reached an agreement which the trial court accepted, noting Straker's and UEE's lack of participation in the litigation and mediation.

{¶ 5} The trial court could justifiably conclude that Straker and UEE abandoned the litigation and any claims they had. Further, the entity to which UEE consistently referred as owing UEE money was not Midwest Electric, the primary debtor to The Huntington National Bank who initiated the litigation.

{¶ 6} We can find no fault in a trial judge not going out of their way to protect the interests of an entity which interpleads with reference to the wrong party and then fails to participate in the lawsuit, especially court-ordered mediation.

{¶ 7} The sole assignment of error is overruled. The judgment of the Franklin County Court of Common Pleas is affirmed.

Judgment affirmed.

KLATT, P.J., and T. BRYANT, J., concur.

THOMAS F. BRYANT, J., retired of the Third Appellate District, assigned to active duty under the authority of Ohio Constitution, Article IV, Section 6(C).
