[Cite as *Heinrichs v. 356 Registry, Inc.*, 2016-Ohio-4646.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

R. Stephen Heinrichs,	:	
Plaintiff-Appellant,	:	
v.	:	Nos. 15AP-532 and 15AP-595 (C.P.C. No. 12CV-012434)
356 Registry, Inc.,	:	
Defendants-Appellees.	:	(REGULAR CALENDAR)

D E C I S I O N

Rendered on June 28, 2016

On brief: *Bailey Cavalieri LLC*, and *Tiffany C. Miller*, for appellant. **Argued:** *Tiffany C. Miller*.

On brief: *Chieffo Law Office*, and *Dominic J. Chieffo*, for appellee. **Argued:** *Dominic J. Chieffo*.

APPEALS from the Franklin County Court of Common Pleas

HORTON, J.

{¶ 1} Plaintiff-appellant, R. Stephen Heinrichs, appeals from multiple judgments of the Franklin County Court of Common Pleas, including the court's June 17, 2015 decision and entry granting defendants-appellees', 356 Registry, Inc. (the "Registry"), motion for contempt and sanctions against plaintiff and plaintiff's counsel. For the reasons which follow, we affirm in part and reverse in part.

I. FACTS AND PROCEDURAL HISTORY

{¶ 2} The Registry is an Ohio nonprofit corporation comprised of an international group of over 7,000 Porsche 356 series automobile owners and enthusiasts. The Registry publishes a magazine entitled "Porsche 356 Registry," which is distributed to its members. Plaintiff is a Porsche historian, collector, restoration expert, author, and event coordinator who had been a dues-paying Registry member for over 25 years. *See*

Heinrichs v. 356 Registry, Inc., 10th Dist. No. 13AP-361, 2013-Ohio-4161, ¶ 2 ("*Heinrichs I*"). Plaintiff, a California resident, filed a complaint in the Franklin County Court of Common Pleas against the Registry on October 1, 2012.

{¶ 3} The events giving rise to the complaint began when plaintiff allegedly noticed that the Registry did not publish its 2010-2011 financial information in the corporation's magazine. Plaintiff began a discussion on the Registry's online talk forum concerning the alleged missing financial information and made several demands asking the Registry to make its books and records available to him for inspection. The Registry offered to make most of its books and records available to plaintiff. Plaintiff, however, refused to view less than all of the Registry's books and records.

{¶ 4} Plaintiff's complaint asserted that the Registry had an obligation, pursuant to R.C. 1702.15, to permit plaintiff to inspect and copy the requested books and records. Plaintiff specifically requested that he be permitted to inspect the following documents: (1) annual financial statements and information for 2008 through the fiscal year completed on August 31, 2012 and interim financial statements for 2012; (2) general ledger; (3) expense records, including for the magazine, *the Goodie Store*, trustees' expenses, insurance, and grants and gifts for holiday meetings; (4) all minutes for meetings of trustees, board, committee and Registry members; (5) contract with *the Goodie Store*; (6) contract for the magazine; (7) material employment and independent contractor records; (8) contract or agreement with Porsche; (9) check register; and (10) a list of all Registry members and their mailing addresses. On October 3, 2012, the Registry's board of trustees voted to permanently terminate plaintiff's membership in the Registry.

{¶ 5} The Registry filed an answer to the complaint and asserted counterclaims for intentional interference with business relations and defamation. On November 2, 2012, plaintiff filed an amended complaint, adding claims for breach of fiduciary duty and defamation.

{¶ 6} On March 22, 2013, plaintiff filed a motion to compel discovery. Plaintiff noted that the Registry had refused to produce many of the documents plaintiff had requested, asserting that the documents requested would be the same documents plaintiff would examine if the court granted plaintiff's R.C. 1702.15 claim. The trial court issued a

decision and entry granting the motion to compel on April 16, 2013. The court concluded that the Registry could "not use Plaintiff's claim under R.C. 1702.15 to shield it from producing material the Plaintiff is entitled to learn in order to defend counterclaims." (Apr. 16, 2013 Decision at 6-7.)

{¶ 7} The Registry appealed the April 16, 2013 order and, on September 24, 2013, this court affirmed the order. We observed that the trial "court's order effectively grant[ed] Heinrichs' claim to inspect the specified books and records of Registry, pursuant to R.C. 1702.15, because the documents the court ordered it to produce to Heinrichs includes all of the requested records." *Heinrichs I* at ¶ 17. However, we concluded that the documents were discoverable, as R.C. 1702.15 does not "confer any privilege on a corporation to evade its duties to provide relevant documents under discovery provisions in litigation that includes claims beyond a claim for the statutory inspection of corporate records." *Id*. at ¶ 22.

{¶ 8} While *Heinrichs I* was pending on appeal, plaintiff filed a motion asking the trial court to hold the Registry in contempt for refusing to comply with the court's April 16, 2013 order to produce the documents. On July 12, 2013, the trial court issued an order obligating counsel for the Registry to appear and show cause why they should not be held in contempt for their failure to comply with the April 16, 2013 order. The court scheduled the matter for a July 25, 2013 show cause hearing, and specified that "[a]ll counsel and parties are ordered to be present." (July 12, 2013 Show Cause Order.) The parties filed a joint motion asking the court to excuse the parties' attendance, and the court denied "the request to excuse the parties' attendance in order to ensure due process is exercised." (July 23, 2013 Entry Denying Joint Mot. to Excuse Attendance.)

{¶ 9} George Dunn, the president of the Registry and the Registry's designated Civ.R. 30(B)(5) representative, traveled from his home in Florida to Columbus, Ohio to attend the July 25, 2013 show cause hearing. Plaintiff did not appear for the hearing. As such, the court converted the hearing to a status conference with counsel. On July 29, 2013 the court issued an entry stating that it had "determined that the subject of the contempt motion [was] the subject matter of the appeal," and thus stated that it would "abstain[] from any determination of the motion pending the appeal." (July 29, 2013 Entry.)

{¶ 10} On February 28, 2014, the Registry asked the court to modify the order to compel and asked for a protective order. The Registry noted that it was concerned plaintiff would use the documents produced in discovery for purposes other than case preparation. On March 25, 2014, the court issued a decision and entry denying the Registry's motion to modify. However, the court noted that, to the extent the discovery identified members of the Registry, "those individuals are not to be unnecessarily burdened by this litigation * * *. **Accordingly, the discovery sought shall be produced promptly and used for the purposes of this litigation as overseen by counsel**." (Emphasis sic.) (Mar. 25, 2014 Decision and Entry at 2.)

{¶ 11} Plaintiff filed a motion for partial summary judgment on July 14, 2014. Plaintiff sought summary judgment on his R.C. 1702.15 books and records request, and sought partial summary judgment on his breach of fiduciary duties claim.

{¶ 12} The trial court issued a decision and entry granting plaintiff's motion for partial summary judgment on September 24, 2014. The court concluded that there were no genuine issues of material fact as to count one, and held that plaintiff was "entitled to inspect the books and records, as well as the minutes, pursuant to R.C. 1702.15." (Sept. 24, 2014 Decision and Entry on Summ. Jgmt. at 6.) Regarding plaintiff's breach of fiduciary duties claim, the court noted that plaintiff alleged in his complaint that the breach was "for mismanagement of financial affairs and failure to fairly answer to members," but that plaintiff now asserted that the breach was his wrongful suspension from the Registry. *Id*. at 10. The court concluded that reasonable minds could differ regarding whether the Registry failed to observe some duty to plaintiff when it terminated his membership, and further concluded that there were genuine issues of material fact regarding whether the Registry breached its fiduciary duties with respect to the Registry's finances, as "there [was] no evidence before the Court related to the finances of the Club." *Id*. at 12.

{¶ 13} On July 23, 2014, the Registry filed a motion to compel discovery, asking the court to order plaintiff to produce his personal financial information, his communications with Dr. Wolfgang Porsche, and his communications with Bill Sampson, a former Registry member.

{¶ 14} The trial court granted the Registry's motion to compel on September 24, 2014. The court noted plaintiff's argument that he did not need to produce his financial records as his defamation damages would be presumed, and stated that this argument fell "short for two reasons." (Sept. 24, 2014 Decision on Mot. to Compel at 4.) The court explained that "the Amended Complaint clearly presents a claim for defamation per se and per quod, and alleges the Plaintiff suffered special harm," and further stated that, pursuant to *Woods v. Capital University*, 10th Dist. No. 09AP-166, 2009-Ohio-5672 and *Gertz v. Robert Welch, Inc.*, 418 U.S. 323 (1974), it was "premature to preclude at this point in the discovery process that the Plaintiff is a private figure, or that the speech at issue is not a matter of public concern." *Id. See Woods* at ¶ 35, citing *Gertz* at 345-46 (noting that *Gertz* "limited the type of damages recoverable in defamation cases involving private individuals and statements regarding a matter of public concern," as the states can "no longer permit recovery of presumed or punitive damages, at least when liability was not based upon a showing of actual malice"). Accordingly, the court ordered plaintiff to produce his financial records. The court also ordered plaintiff to produce any correspondence he had with Dr. Porsche that referred to the Registry, and ordered plaintiff to produce all of his correspondence with Bill Sampson for in camera inspection.

{¶ 15} Plaintiff did not produce the documents as ordered, and on October 15, 2014, the Registry filed a motion asking the court to hold plaintiff in contempt. The Registry noted that plaintiff had stated he intended to "withdraw certain claims, which he ha[d] not" done. (Oct. 15, 2014 Mot. for Sanctions at 3.) The Registry also noted plaintiff's "defiance" to the "prior Orders of this Court. For example, his failure to appear on July 25, 2013." *Id.* at 4. The Registry noted that Dunn did travel to Ohio to appear on July 25, 2013 as ordered, "[a]t the great expense of over $1,000.00." *Id.*

{¶ 16} The court scheduled the Registry's contempt motion for an October 30, 2014 show cause hearing. The court specified that "Plaintiff and his counsel are ordered to appear," and stated that "[f]ailure to comply with the order may result in a finding of contempt." (Notice of Show Cause.)

{¶ 17} On October 24, 2014, plaintiff filed a motion for a protective order, asking the court to permit the parties to designate certain documents as confidential to protect the documents from public disclosure. (Mot. for Protective Order at 3.) The court granted

the motion, stating that either party could "designate as 'Confidential' documents any materials that party considers to be of a highly private, personal matter." (October 29, 2014 Confidentiality and Protective Order at 1.)

{¶ 18} On October 28, 2014, plaintiff filed a motion for a modification of the November 17, 2014 trial date. Plaintiff asserted that he was "experiencing health issues, and regular ongoing treatments for those issues," which made "it physically impossible for him to travel to Ohio by the time of the November 17 trial date." (Mot. to Modify Trial Date at 2.) Plaintiff also filed a motion to excuse his attendance from the October 30, 2014 show cause hearing, similarly citing his adverse health issues.

{¶ 19} Plaintiff did not appear for the October 30, 2014 show cause hearing. Plaintiff's counsel asked if she could submit medical records directly to the court to explain plaintiff's health issues, and the court stated that counsel could submit the records.

{¶ 20} On November 12, 2014, plaintiff filed a supplemental brief in support of his motion for a continuance of the trial date. Plaintiff claimed that he submitted his medical records directly to the court on November 7, 2014 "to confirm [his] various serious medical conditions." (Pl.'s Supp. Brief in Support of Mot. for Trial Continuance at 1.) The court granted plaintiff's motion for a continuance, and set the new trial date for January 27, 2015. The court also instructed "defense counsel to submit bills related to their appearance on October 30, 2014 at which the Plaintiff did not appear." (Nov. 17, 2014 Decision and Entry Granting Continuance.) The court later sua sponte rescheduled the trial date to April 6, 2015.

{¶ 21} On January 19, 2015 the Registry voluntarily dismissed its counterclaims.

{¶ 22} On February 17, 2015, the court issued a decision and entry granting in part, denying in part, and holding in part for later consideration the Registry's October 15, 2014 motion for contempt and sanctions. The court noted that plaintiff's contention that he could avoid producing his financial records by dismissing his defamation per quod claim "overlook[ed] the Court's earlier analysis and discussion of the *Helfrich* and *Woods* cases on page 4 of the Decision." (Feb. 17, 2015 Decision and Entry at 3-4.) The court ordered plaintiff to again produce his financial records. The court further stated that, "regarding the Plaintiff's failure to appear at the October 30, 2014 hearing, the Court awards as

damage to the Defendant, $1000 to compensate for George Dunn's travel to the hearing as ordered." *Id.* at 4.

{¶ 23} On March 20, 2015, the Registry filed a motion asking the court to order plaintiff to return the documents the Registry had produced in discovery. The Registry asserted that plaintiff intended to use the membership list produced in discovery for purposes other than this litigation, and attached an excerpt from a February 24, 2015 letter from plaintiff's counsel to the motion. In the letter, plaintiff's counsel stated that plaintiff had reviewed the documents produced by the Registry, and was "working on preparing a written report of the analysis and findings, identifying areas for improvement. It is our expectation we will soon be in a position to share that analysis with you and the Registry's membership." (Mar. 20, 2015 Mot. for Return of Documents, Ex. B.)

{¶ 24} The court granted the Registry's motion to return discovery documents on March 25, 2015. The court noted that it "remain[ed] steadfast in its commitment to prevent the law or civil litigation from being used as a sword." (Mar. 25, 2015 Decision and Entry at 2.) The court ordered plaintiff to "**return the Membership Lists (one with names of members and one with names and other personal information such as addresses), financial information and meeting minutes which were produced pursuant to discovery to the Defendant's counsel, and prohibits the retention of copies by Plaintiff**." (Emphasis sic.) *Id.* at 3.

{¶ 25} On April 13, 2015, the court again ordered plaintiff to return the discovery materials to defense counsel, as plaintiff had not complied with the court's March 25, 2015 order. The court specified that "[f]ailure to comply with this order may result in the imposition of sanctions and/or a finding of Plaintiff in contempt of court." (Apr. 13, 2015 Order.) On April 21, 2015, plaintiff dismissed counts two and three of his amended complaint with prejudice.

{¶ 26} On April 24, 2015, the Registry filed a motion asking the court to hold both plaintiff and plaintiff's counsel, Tiffany C. Miller, in contempt and to impose sanctions against them. The Registry noted that, in defiance of the court's March 25, 2015 and April 13, 2015 orders to return discovery, on April 3, 2015, Attorney Miller used the membership list to mail letters drafted by plaintiff to every member of the Registry. The

Registry noted that Attorney Miller was responsible for the mailing, as the return address on the letters was the address of Attorney Miller's law firm.

{¶ 27} The Registry attached plaintiff's April 3, 2015 "Open Letter to the Members of 356 Registry, Inc." to its motion for sanctions. The letter contains 5 pages of plaintiff's own statements, and contains a 13-page report from plaintiff's independent financial consultant, J. Michael Nesser. Plaintiff stated in the letter that "356 Registry [was] deficient and has problems with its recordkeeping practices," that the documents produced by the Registry "reflect nothing in the realm of typical bookkeeping practices," and that the documents did not permit plaintiff to assess if the election of officers was "being handled appropriately or fairly." (Apr. 24, 2015 Mot. for Sanctions, Ex. F.) Plaintiff stated that he wanted the members "to encourage your leadership to institute sensible bylaw reforms to make it better." *Id*.

{¶ 28} In the Nesser report attached to the open letter, Nesser stated that he had reviewed the 2,200 pages of documents "produced by 356 Registry, Inc." (Apr. 24, 2015 Mot. for Sanctions, Ex. F.) Nesser identified the various documents, including the contracts, which the Registry had produced in discovery, and quoted from some of the documents. For example, the Nesser report quotes from the minutes of the September 22, 2012 trustee and officer meeting, stating "that the treasurer 'came up with a reserve number of $298,157,' noting that 'obviously, this reserve would not be adequate if we are required to incur legal expenses to defend the Registry and protect the integrity of the Registry.' " *Id*.

{¶ 29} On May 21, 2015, the court issued a notice stating that it would hold the hearing on the Registry's April 24, 2015 motion for contempt and sanctions on June 10, 2015. The notice stated that "[t]he Plaintiff and all counsel are ordered to appear. Failure to appear may result in the imposition of sanctions including but not limited to the imposition of a fine and/or a finding of contempt." (May 21, 2015 Notice of Hearing.) On May 26, 2015, plaintiff filed a motion to excuse his attendance from the June 10, 2015 hearing, citing his alleged health problems.

{¶ 30} Plaintiff did not attend the June 10, 2015 hearing, and the court overruled plaintiff's motion to excuse his attendance. The court acknowledged plaintiff's claim that "he has medical problems," and stated that "[t]hose medical problems have not been

outlined to the Court. They have not been established as any cause to delay this matter for two years and continue to prosecute it without ever appearing in court." (June 10, 2015 Hearing Tr. at 6.) Counsel for the Registry presented the court with a photo of plaintiff taken on March 7, 2015, when plaintiff was standing "on his feet * * * for five hours, peddling his book." *Id.* at 8. Counsel for the Registry noted that the plaintiff appeared to be "as healthy as me and you." *Id.* The Registry asked the court to hold plaintiff and his counsel in contempt and to sanction them by imposing jail time and a $50,000 fine against each.

{¶ 31} Plaintiff's counsel asserted that pages of "medical records ha[d] been filed with this Court in camera and shared privately with defense counsel, simply so it would not be filed as a matter of public record, outlining [plaintiff] suffering lymph node disease, brain cancer and lung cancer and currently undergoing radiation and chemotherapy treatment for those afflictions." *Id.* at 10-11. Plaintiff's counsel asserted that "the reason that [they] didn't" return the discovery documents as ordered was because both counsel and plaintiff "considered all of the documents in [their] possession to no longer be discovery documents, but to be 1702 review documents." *Id.* at 16.

{¶ 32} On June 17, 2015, the court issued a decision and entry granting the April 24, 2015 motion for contempt and resolving all other pending motions. The court observed that plaintiff had been "doing everything he can do to use the legal process as a tool of harassment to the Defendant." (June 17, 2015 Decision and Entry at 2.) The court found plaintiff to be in contempt of court for "never appearing after having been ordered twice to be here," for "publishing information that he received in discovery, in violation of this Court's Order," for "pursuing this action without color of viable cause of a action beyond discovering the records pursuant to R.C. 1702," and "for delaying this process over and over and over without just cause." *Id.* at 3. The court further concluded that "[t]hese matters were also participated in" by Attorney Miller as well, "so the Court's orders apply to her as well as him, that is, contempt and sanctions." *Id.* The court held that, in order "[t]o purge themselves from contempt the Court hereby imposes a fine of Fifty Thousand and 00/100 Dollars ($50,000.00) payable to the Defendant for the expenditure it has had to put forth in this action." *Id.* The court also ordered plaintiff and his counsel to again "return all documents received in discovery." *Id.*

II. ASSIGNMENTS OF ERROR

{¶ 33} Plaintiff appeals, assigning the following errors:

> FIRST ASSIGNMENT OF ERROR: The trial court erred in the part of its summary judgment finding an Ohio non-profit corporation's contracts are not books and records within the meaning of Ohio Rev. Code § 1702.15.
>
> SECOND ASSIGNMENT OF ERROR: The trial court erred and abused its discretion in ordering Appellant to return all documents received during discovery.
>
> THIRD ASSIGNMENT OF ERROR: The trial court erred and abused its discretion in granting, in part, a motion for sanctions filed by Appellee and ordering damages of $1,000 to compensate a witness for the cost of traveling to a hearing.
>
> FOURTH ASSIGNMENT OF ERROR: The trial court erred and abused its discretion in imposing, following a show-cause hearing requested by Appellee, a "fine" against Appellant and his attorney of $50,000 for reasons having nothing to do with the subject-matter of Appellee's contempt motion, without finding evidence of contempt, without receiving evidence to substantiate the amount of the fine, and without finding wrongful conduct by Appellant's counsel.

III. FIRST ASSIGNMENT OF ERROR – R.C. 1702.15

{¶ 34} Plaintiff's first assignment of error contends the trial court erred in its partial summary judgment ruling by concluding that plaintiff's right to inspect the Registry's books and records under R.C. 1702.15 did not include the right to inspect contracts. Plaintiff sought to inspect several documents under his R.C. 1702.15 examination right, including the Registry's contracts with third parties. The trial court concluded that, while "[m]embership records [were] clearly included in the organization's books and records" under R.C. 1702.15, the "books and records do not include contracts." (Sept. 24, 2014 Decision and Entry on Summ. Jgmt. at 8-9.)

{¶ 35} Appellate review of summary judgment motions is de novo. *Helton v. Scioto Cty. Bd. of Commrs.*, 123 Ohio App.3d 158, 162 (4th Dist.1997). "When reviewing a trial court's ruling on summary judgment, the court of appeals conducts an independent review of the record and stands in the shoes of the trial court." *Mergenthal v. Star Bank Corp.*, 122 Ohio App.3d 100, 103 (12th Dist.1997). We must affirm the trial court's

judgment if any of the grounds raised by the movant at the trial court are found to support it, even if the trial court failed to consider those grounds. *Coventry Twp. v. Ecker*, 101 Ohio App.3d 38, 41-42 (9th Dist.1995).

{¶ 36} Plaintiff contends that the trial court erred in its construction of R.C. 1702.15. Issues pertaining to statutory construction are also reviewed de novo. Ceccarelli v. Levin, 127 Ohio St.3d 231, 2010-Ohio-5681, ¶ 8, citing State v. Consilio, 114 Ohio St.3d 295, 2007-Ohio-4163, ¶ 8. When construing a statute, a court's objective is to determine and give effect to the legislative intent. State ex rel. Solomon v. Police & Firemen's Disability & Pension Fund Bd. of Trustees, 72 Ohio St.3d 62, 65 (1995), citing *State v. S.R.*, 63 Ohio St.3d 590, 594-95 (1992). "In determining legislative intent, our duty is 'to give effect to the words used, not to delete words used or to insert words not used.' " State v. Maxwell, 95 Ohio St.3d 254, 2002-Ohio-2121, ¶ 10, quoting *Columbus-Suburban Coach Lines, Inc. v. Pub. Util. Comm.*, 20 Ohio St.2d 125, 127 (1969). Clear and unambiguous statutes must be applied as written and must not be subject to further statutory construction. State v. Wemer, 112 Ohio App.3d 100, 103 (4th Dist.1996), citing State ex rel. Herman v. Klopfleisch, 72 Ohio St.3d 581, 584 (1995).

{¶ 37} R.C. 1702.15 provides as follows:

> Each corporation shall keep correct and complete books and records of account, together with minutes of the proceedings of its incorporators, members, directors, and committees of the directors or members. Subject to limitations prescribed in the articles or the regulations upon the right of members of a corporation to examine the books and records, all books and records of a corporation, including the membership records prescribed by section 1702.13 of the Revised Code, may be examined by any member or director or the agent or attorney of either, for any reasonable and proper purpose and at any reasonable time.

{¶ 38} The trial court concluded that plaintiff had "a reasonable and proper purpose" for his R.C. 1702.15 examination request, "namely, an inquiry of the financial health of the Registry." (Sept. 24, 2014 Decision and Entry on Summ. Jgmt. at 7.) *See also Lake v. Buckeye Steel Castings Co.*, 2 Ohio St.2d 101 (1965), at paragraph one of the syllabus (noting that, when "a shareholder of a corporation demands in writing an inspection of its shareholder lists in order to communicate with other shareholders

'regarding the affairs of the corporation,' he states a specific purpose which is reasonable and proper"). The Registry takes no issue with the court's conclusion that plaintiff stated a reasonable and proper purpose for his R.C. 1702.15 inspection.

{¶ 39} Rather, the present dispute concerns the proper scope of plaintiff's R.C. 1702.15 inspection. In *No-Burn, Inc. v. Murati*, 9th Dist. No. 25495, 2011-Ohio-5635, the Ninth District Court of Appeals concluded that a shareholder's right to examine the books and records of a for-profit corporation included the right to examine contracts. R.C. 1701.37(C) describes a shareholder's right to inspect the books and records of a corporation, and provides, in relevant part, that a shareholder has the right to examine "the articles of the corporation, its regulations, its books and records of account, minutes, and records of shareholders aforesaid, and voting trust agreements, if any, on file with the corporation, and to make copies or extracts thereof." R.C. 1701.37(C). The *No-Burn* court concluded that the shareholder's R.C. 1701.37(C) inspection right included the right to inspect "[c]ontracts (employment, consulting, transactional, leases, guarantees, loans) and offers to contract (loan applications)," as contracts "provide a picture of management's utilization of corporate resources and willingness to assume risks. Such information is highly relevant to the ascertaining of a corporation's general condition and state of affairs." *Id*. at ¶ 20.

{¶ 40} The contracts a nonprofit corporation enters into similarly provide a picture of management's use of the nonprofit's resources. Notably, plaintiff requested to inspect the Registry's books and records in order to assess the financial health of the Registry. In order to ascertain the state of the corporation's finances, a member of a nonprofit corporation must be able to view the contracts the corporation has entered into. *See Paul v. China MediaExpress Holdings, Inc.*, Del.Ch. C.A. No. 6570-VCP (Oct. 11, 2011) (in an action to inspect the books and records of a corporation under 8 Del.C. 220, the court concluded the shareholder was "entitled to production of documents constituting any contracts," and noted that the "existence, or nonexistence, of these contracts and documents would affect directly the Company's revenue and net income"). Accordingly, under the facts of this case, we conclude that the trial court erred in determining that plaintiff's R.C. 1702.15 examination right did not include the right to examine contracts. *See also Pullins v. Holmes*, 5th Dist. No. 06CA000037, 2007-Ohio-

4603, ¶ 62 (concluding that a nonprofit "corporation's records of employee salaries and compensation are part of its books and/or records of account").

{¶ 41} Based on the foregoing, plaintiff's first assignment of error is sustained.

IV. SECOND ASSIGNMENT OF ERROR – RETURNING DISCOVERY

{¶ 42} Plaintiff's second assignment of error asserts the trial court erred by ordering plaintiff to return the documents produced in discovery. Plaintiff asserts that the trial court's March 25, 2015 order to return discovery documents was "ambiguous and confusing," because the court indicated that the relief was "directed to materials gained pursuant to Rule 26 discovery rights," and did "not necessarily address materials obtained pursuant to § 1702.15 examination rights." (Appellant's Brief at 36.)

{¶ 43} Plaintiff explains that, following the court's partial summary judgment ruling on plaintiff's R.C. 1702.15 request, counsel for the Registry instructed plaintiff "to treat documents provided for discovery purposes as the same documents for § 1702.15 examination purposes." (Appellant's Brief, 36.) As such, plaintiff asserted that all the documents produced in discovery became documents produced under R.C. 1702.15, and were thus in plaintiff's "possession strictly and only by virtue of his inspection rights under § 1702.15 – not pursuant to discovery." (Apr. 6, 2015 Memo in Opp. at 3.) Accordingly, plaintiff argues that he did not have any discovery documents to return to the Registry.

{¶ 44} The March 25, 2015 order was neither ambiguous nor confusing. The order clearly, and in bold print, ordered plaintiff to return to the Registry the membership lists, financial information, and meeting minutes the Registry had produced in discovery. Plaintiff's argument regarding the origin of the documents fails because, in this action, plaintiff received all the documents at issue through discovery.

{¶ 45} Indeed, plaintiff asked the Registry to produce these documents in discovery. The Registry refused to produce the documents, arguing that the documents requested would be the same documents produced for plaintiff's R.C. 1702.15 examination. Plaintiff then successfully prosecuted a motion to compel the documents. Plaintiff was only entitled to receive the documents during discovery because "the claims before the trial court involve[d] more than simply an R.C. 1702.15 claim for inspection of corporate records, and there [was] no indication that the party seeking inspection of those

records added claims simply to access these records via discovery without having to establish entitlement under the statute." *Heinrichs I* at ¶ 26. In *Heinrichs I*, we noted that, "if this case were restricted to Heinrichs' claim to inspect Registry's corporate records under R.C. 1702.15, a trial court order compelling the disclosure of those same records in discovery would be improper because it would render the case moot." *Heinrichs I* at ¶ 24.

{¶ 46} Plaintiff's contention that the documents came into his possession pursuant to R.C. 1702.15, and not through discovery, ignores the facts of this case. Although the documents plaintiff obtained in discovery were ultimately the same documents the Registry would have produced to plaintiff for his R.C. 1702.15 examination, that subsequent fact does not alter the initial fact that the documents originated in discovery.

{¶ 47} Trial courts possess broad discretion in regulating discovery, and appellate courts generally review a trial court's decision regarding discovery issues for an abuse of discretion. MA Equip. Leasing I, L.L.C. v. Tilton, 10th Dist. No. 12AP-564, 2012-Ohio-4668, ¶ 13. An abuse of discretion connotes more than an error of law or judgment, it implies that the court's attitude is unreasonable, arbitrary or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

{¶ 48} "Inherent in the power vested in the court to control the discovery process is the recognition that a party has no absolute right to freely use and disseminate the often sensitive information which may come into his possession in the course of discovery." *Conley v. Clark Equip. Co.*, 10th Dist. No. 84AP-966 (Mar. 13, 1986), citing Civ.R. 26(C). *See also* Civ.R. 26(C) (providing that the trial court "may make any order that justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense"). The Registry presented the court with the February 24, 2015 letter which indicated that plaintiff intended to use the membership list produced in discovery to contact the Registry's members. As such, the trial court appropriately exercised its inherent authority to regulate discovery by ordering plaintiff to return the materials produced in discovery to the Registry.

{¶ 49} Furthermore, the trial court's order to return the materials did not prejudice plaintiff in any way. When the court issued the order on March 25, 2015, no claims were pending, as the Registry had dismissed its counterclaims, plaintiff had

dismissed the second and third counts of his amended complaint, and the trial court had entered summary judgment on the first count of plaintiff's amended complaint. *See Ruschel v. Nestle Holdings, Inc.*, 8th Dist. No. 89977, 2008-Ohio-2035, ¶ 45 (finding that the court did not abuse its discretion in ordering the plaintiff to return the documents produced in discovery, because the order "did not prejudice [the plaintiff] in the litigation as the court ordered [the plaintiff's] copies to be returned upon the summary judgment ruling"). Accordingly, the trial court did not abuse its discretion in ordering plaintiff to return the materials produced in discovery.

{¶ 50} Based on the foregoing, plaintiff's second assignment of error is overruled.

V. THIRD AND FOURTH ASSIGNMENTS OF ERROR — CONTEMPT

{¶ 51} Plaintiff's third and fourth assignments of error assert that the trial court abused its discretion by entering the two contempt orders. Plaintiff's third assignment of error asserts that the trial court erred by awarding the Registry $1,000 to compensate it for Dunn's travel costs. Plaintiff's fourth assignment of error asserts that trial court erred by imposing the $50,000 fine against plaintiff and plaintiff's counsel. An appellate court will not reverse a trial court's finding of contempt, including the imposition of penalties, absent an abuse of discretion. *Byron v. Byron*, 10th Dist. No. 03AP-819, 2004-Ohio-2143, ¶ 15. *See also City of Whitehall v. Bambi Motel*, 10th Dist. No. 97APC04-539 (Dec. 18, 1997) (Noting that "in contempt proceedings, great reliance should be placed upon the discretion of the trial judge both in his findings of contempt and in the penalty imposed.").

{¶ 52} Contempt of court is defined as disobedience of an order of a court. *Windham Bank v. Tomaszcyk*, 27 Ohio St.2d 55 (1971), at paragraph one of the syllabus. It is "conduct which brings the administration of justice into disrespect, or which tends to embarrass, impede or obstruct a court in the performance of its functions." *Id.* "The purpose of contempt proceedings is to secure the dignity of the courts and the uninterrupted and unimpeded administration of justice." *Id.* at paragraph two of the syllabus. A court has both inherent and statutory authority to punish contempt. *Howell v. Howell*, 10th Dist. No. 04AP-436, 2005-Ohio-2798, ¶ 19, quoting *In re Contempt of Morris*, 110 Ohio App.3d 475, 479 (8th Dist.1996).

{¶ 53} Courts classify contempt as either direct or indirect, and as either criminal or civil. *See* Cincinnati v. Cincinnati Dist. Council *51*, 35 Ohio St.2d 197, 202-03 (1973). Contempt is classified as direct or indirect depending on where the contempt occurs. Direct contempt occurs in the presence of the court in its judicial function. *Byron* at ¶ 12. Indirect contempt involves behavior outside the presence of the court that demonstrates lack of respect for the court or for the court's orders. *Id*.

{¶ 54} "While both types of contempt contain an element of punishment, courts distinguish criminal and civil contempt not on the basis of punishment, but rather, by the character and purpose of the punishment." Brown v. Executive 200, Inc., 64 Ohio St. 2d 250, 253 (1980). " 'Civil as distinguished from criminal contempt is a sanction to enforce compliance with an order of the court or to compensate for losses or damages sustained by reason of noncompliance.' " *Pugh v. Pugh*, 15 Ohio St.3d 136, 140 (1984), quoting *McComb v. Jacksonville Paper Co.*, 336 U.S. 187 (1949). Criminal contempt sanctions are not coercive in nature, but act as "punishment for the completed act of disobedience, and to vindicate the authority of the law and the court." *Brown* at 254.

{¶ 55} Although, "[i]n cases of criminal, indirect contempt, it must be shown that the alleged contemnor intended to defy the court," *Midland Steel Prods. Co. v. U.A.W. Local 486*, 61 Ohio St.3d 121 (1991), at paragraph two of the syllabus, in cases of "civil contempt" it is "irrelevant that the transgressing party does not intend to violate the court order. If the dictates of the judicial decree are not followed, a contempt citation will result." *Pedone v. Pedone*, 11 Ohio App.3d 164, 165 (8th Dist.1983). *See also Windham Bank* at paragraph three of the syllabus. For civil contempt, the burden of proof is clear and convincing evidence; for criminal contempt the burden of proof is proof beyond a reasonable doubt. Lopez v. Lopez, 10th Dist. No. 04AP-508, 2005-Ohio-1155, ¶ 56; *Brown* at syllabus.

{¶ 56} Both of the contempt sanctions at issue concern indirect, civil contempt.

A. *$1,000 Fine*

{¶ 57} Plaintiff contends that the $1,000 award to compensate Dunn for his travel to the October 30, 2014 hearing was erroneous because "Dunn did not, in fact, travel to or appear at the Oct. 30 hearing, so there were no travel costs incurred." (Appellant's Brief at 44.) Indeed, Dunn was not ordered to appear at the October 30, 2014 hearing, and Dunn

did not attend that hearing. However, reviewing the record, it is apparent that the trial court intended to compensate Dunn for his travel to the July 25, 2013 hearing, not the October 30, 2014 hearing.

{¶ 58} The court ordered "[a]ll counsel and parties" to be present for the July 25, 2013 show cause hearing, and the court denied the joint motion to excuse the parties' attendance "in order to ensure due process is exercised." (July 12, 2013 Notice; July 23, 2013 Entry Denying Joint Mot. to Excuse Attendance.) In the Registry's October 15, 2014 motion for contempt and sanctions, the Registry noted that plaintiff failed to attend the July 25, 2013 hearing, while Dunn "travelled [sic] from Florida to appear as ordered," and that Dunn incurred $1,000 in travel expenses doing so. (Oct. 15, 2014 Mot. for Contempt at 4.)

{¶ 59} Thus, in the court's February 17, 2015 decision and entry granting in part the Registry's October 15, 2014 motion for contempt and sanctions, the court simply mistakenly stated that the award of $1,000 in travel expenses was to compensate Dunn for his travel to the October 30, 2014 hearing, and not the July 25, 2013 hearing. The court specifically stated in the February 17, 2015 entry that it had "noticed the hearing to afford Mr. Dunn due process," and that it "denied an excuse of his attendance in order to ensure his due process." (Feb. 17, 2015 Decision and Entry at 4.) As noted, the July 25, 2013 hearing concerned plaintiff's motion for contempt and sanctions against the Registry, and the court denied the joint request to excuse the parties' attendance in order to ensure due process.

{¶ 60} Accordingly, the lower court made a simple, clerical error in its February 17, 2015 entry by referring to the October 30, 2014 hearing and not the July 25, 2013 hearing. As such, the court may correct its clerical error by issuing a nunc pro tunc entry.

{¶ 61} The common law rule giving courts the power to enter nunc pro tunc orders has been codified by Civ.R. 60(A). *State v. Furlong*, 10th Dist. No. 00AP-637 (Feb. 6, 2001). Civ.R. 60(A) provides that "[c]lerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time on its own initiative or on the motion of any party." In *Furlong*, we explained that:

> A nunc pro tunc order may be issued by a trial court, as an exercise of its inherent power, to make its record speak the truth. It is used to record that which the trial court did, but which has not been recorded. It is an order issued now, which has the same legal force and effect as if it had been issued at an earlier time, when it ought to have been issued. Thus, the office of a nunc pro tunc order is limited to memorializing what the trial court actually did at an earlier point in time. It can be used to supply information which existed but was not recorded, to correct mathematical calculations, and to correct typographical or clerical errors.

{¶ 62} "[S]anctions for noncompliance in civil contempt proceedings may include fines designed to compensate the other party for the losses incurred as a result of the contemnor's refusal to comply." *Williams v. Cordle*, 10th Dist. No. 95APF08-978 (Feb. 8, 1996). While plaintiff refused to comply with the court's order obligating him to attend the July 25, 2013 show cause hearing, Dunn complied with the court's order, and incurred $1,000 in travel expenses as a result. As such, the trial court acted within its discretion to compensate Dunn for the expenses he incurred in travelling to Ohio for the July 25, 2013 hearing. *See Nedel v. Nedel*, 11th Dist. No. 2007-P-0022, 2008-Ohio-1025, ¶ 64 (concluding that the trial court's award of "$831.11 in travel expenses and attorney fees" was not an abuse of discretion, as "Mr. Nedel exerted time and energy to attend the hearing, and incurred attorney fees, only to find that Ms. Nedel's counsel had failed to appear"). The trial court is instructed to correct its clerical error in the February 17, 2015 entry through a nunc pro tunc entry.

{¶ 63} Based on the foregoing, plaintiff's third assignment of error is overruled.

B. *$50,000 Fine*

{¶ 64} Plaintiff's fourth assignment of error asserts that the trial court erred by imposing the $50,000 contempt sanction against plaintiff and plaintiff's counsel. The court cited four different findings of contempt in its June 17, 2015 entry.

{¶ 65} Initially, the court found plaintiff in contempt for never appearing in the action, despite the court's orders obligating him to appear. The trial court ordered plaintiff to personally appear at both the October 30, 2014 and the June 10, 2015 hearings, but plaintiff did not appear for either hearing. Plaintiff asserts that the trial court "shrugged off [plaintiff's] serious, documented medical conditions," and contends that the court was

informed of his "dire medical situation and had been provided with medical records to confirm it." (Appellant's Brief at 51, 48-49.) "Impossibility of performance is an affirmative defense to contempt." *Heekin v. Silver Rule Masonry, Inc.*, 1st Dist. No., 2011-Ohio-2775, ¶ 15. However, the record does not support plaintiff's alleged adverse health issues.

{¶ 66} Plaintiff asserts that he handed some medical records directly to the trial court on November 7, 2014. Notably, plaintiff did not file the documents with the clerk of court as confidential records, pursuant to the court's October 29, 2014 order, and there is no indication that plaintiff ever asked the court to file the alleged medical records with the clerk of court. As such, the alleged medical records were never included in the "original papers and exhibits thereto filed in the trial court," which "constitute the record on appeal in all cases." App.R. 9(A)(1). *See* Civ.R. 5(E) (for documents to be "filed" under the Rules of Civil Procedure, the filing "shall be made by filing them with the clerk of court, except that the judge may permit the documents to be filed with the judge, in which event the judge shall note the filing date on the documents and transmit them to the clerk"); *Apps v. Apps*, 10th Dist. No. 02AP-1072, 2003-Ohio-7154, ¶ 19 (noting that, while "Civ.R. 5(E) grants a judge discretion to forward documents received by him or her to the clerk's office for filing, there is no requirement that he or she do so").

{¶ 67} On October 21, 2015, plaintiff filed a motion in this court asking to supplement the record with the "medical records that were submitted to the trial court *in camera* on Nov. 7, 2014." (Emphasis sic.) (Appellant's Mot. to Supp. the Record.) We granted plaintiff's motion to supplement on November 3, 2015, and the record was officially supplemented on November 16, 2015 with one envelope of exhibits. The envelope, however, does not contain a single medical record. Rather, plaintiff supplemented the record with the emails between himself and Bill Sampson which plaintiff had submitted to the court for in camera review during discovery.

{¶ 68} "The duty to insure that the record on appeal is complete falls upon the appellant." *Greff v. Meeks & Co.*, 10th Dist. No. 96APE05-692 (Jan. 16, 1997). *See also* App.R. 9(B)(1). "The duty of submitting the record falls upon an appellant because it is he who bears the burden of showing error by reference to matters in the record." *Watley v. Dept. of Rehab. & Corr.*, 10th Dist. No. 06AP-1128, 2007-Ohio-1841, ¶ 16. Thus,

when portions of the record "necessary for resolution of assigned errors are omitted from the record, the reviewing court has nothing to pass upon and thus, as to those assigned errors, the court has no choice but to presume the validity of the lower court's proceedings, and affirm." *Knapp v. Edwards Laboratories*, 61 Ohio St.2d 197, 199 (1980).

{¶ 69} Because there are no medical records to support plaintiff's claim that he was physically unable to travel to Ohio to appear in court as ordered on October 30, 2014 or June 10, 2015, we are bound to presume regularity in the proceedings below. Notably, at the June 10, 2015 hearing the trial court acknowledged plaintiff's claim that he was suffering from "medical problems," and specifically stated that "[t]hose medical problems have not been outlined to the Court." (June 10, 2015 Hearing Tr. at 6.) Accordingly, we conclude that the trial court did not abuse its discretion by holding plaintiff in contempt for refusing to obey the court's orders obligating him to appear in court.

{¶ 70} Plaintiff next asserts that the "trial court made *no* finding of contempt or disobedience with the March 25 order." (Emphasis sic.) (Appellant's Brief at 47.) However, the court specifically stated in its June 17, 2015 entry that it was holding plaintiff and his counsel in contempt "for publishing information that he received in discovery, in violation of this Court's Order." (June 17, 2015 Decision and Entry at 3.)

{¶ 71} The record demonstrates that plaintiff and his counsel used the membership list produced in discovery to effectuate the mailing of the April 3, 2015 open letter. The Nesser Report, which was attached to and mailed out with the open letter, specifically identified the documents produced in discovery, and contained direct quotes from some of the documents. Thus, plaintiff and his counsel did publish information they received in discovery, in violation of the court's March 25, 2015 and April 13, 2015 orders. The court did not abuse its discretion by holding plaintiff and plaintiff's counsel in contempt for violating the orders obligating them to return the documents produced in discovery.

{¶ 72} The court further found plaintiff in contempt for pursuing this action without a viable cause of action, beyond the R.C. 1702.15 claim. Plaintiff's own financial expert concluded, after reviewing the documents the Registry produced in discovery, that "it seem[ed] unlikely that the actions or inaction of the trustees of the Registry rise to the level of constituting a breach of fiduciary duty." (Apr. 24, 2015 Mot. for Contempt and

Sanctions, Ex. F.) Plaintiff also never presented any evidence to support his defamation claim before dismissing that claim. Accordingly, we find no abuse of discretion in the court's holding plaintiff in contempt for pursuing the action without a viable cause of action, beyond the R.C. 1702.15 claim.

{¶ 73} The court also held plaintiff in contempt for delaying the action. Plaintiff asserts that "the record reflects absolutely nothing to indicate [plaintiff] engaged in wrongful delay tactics." (Appellant's Brief at 52.) We disagree. Plaintiff repeatedly refused to appear in this action despite being ordered to appear. Plaintiff also refused to comply with the court's order to produce his personal financial records, and attempted to avoid that obligation by stating that he would dismiss his per quod theory of defamation. However, simply dismissing the per quod theory of defamation was insufficient to relieve plaintiff from his duty to produce the financial records, as the court's order to produce those records was also based on the holdings in *Woods* and *Gertz*. Plaintiff's refusal to appear as ordered and refusal to produce documents as ordered delayed the action.

{¶ 74} Moreover, this court's independent review of the record demonstrates many instances of plaintiff unnecessarily delaying the action by filing legally incorrect documents. For example, plaintiff asked the court to hold the Registry in contempt for failing to comply with the court's April 16, 2013 order, while that order was on appeal. (*See* June 17, 2013 Mot. for Sanctions.) *See Yee v. Erie Cty. Sheriff's Dept.*, 51 Ohio St.3d 43, 44 (1990). Plaintiff also filed several motions seeking Civ.R. 60(B) relief from orders which were not final orders. (*See* Apr. 16, 2015 Mot. for Relief; Feb. 20, 2015 Mot. for Relief; Dec. 8, 2014 Mot. for Relief; Nov. 25, 2014 Mot. for Relief.) *Matrka v. Stephens*, 77 Ohio App.3d 518, 520 (10th Dist.1991), citing *Jarrett v. Dayton Osteopathic Hosp., Inc.*, 20 Ohio St.3d 77, 78 (1985) (holding that "a party may seek Civ.R. 60(B) relief only from a final judgment"). Plaintiff also attempted to appeal the trial court's partial summary judgment ruling, when that order specifically stated "[t]his is not a final, appealable order." (Sept. 24, 2014 Decision and Entry Granting Partial Summ. Jgmt. at 12; Oct. 24, 2014 Notice of Appeal.) Accordingly, the trial court did not abuse its discretion by holding plaintiff in contempt for delaying the action.

{¶ 75} Finally, plaintiff asserts that the $50,000 fine was "not premised on evidence to support any reason for that dollar amount," and asserts that pursuant to R.C.

2705.05, the "statutory limit for that offense was $250." (Appellant's Brief at 54.) R.C. 2705.05 provides that, if an accused is found guilty of contempt, "the court may impose any of the following penalties:" for a first offense, a fine of not more than $250 or a prison term of not more than 30 days in jail. R.C. 2705.05(A).

{¶ 76} However, "[b]ecause a trial court has inherent power to punish a contemptuous refusal to comply with its orders, by imposing an appropriate sanction, the penalty is not limited by the express monetary penalties set forth in R.C. 2705.05." *City of Whitehall*. *See also Cincinnati Dist. Counsel 51* at 207 (where the Supreme Court of Ohio analyzed R.C. 2705.05 and found it "highly doubtful that the General Assembly may properly limit the power of a court to punish for contempt," as "the power to punish for contempt has traditionally been regarded as inherent in the courts and not subject to legislative control"); *Copley Twp. Bd. of Trustees v. W.J. Horavth Co.*, 193 Ohio App.3d 286, 2011-Ohio-1214, ¶ 10 (9th Dist.) (noting that, while "Section 2705.05(A) of the Ohio Revised Code prescribes sanctions for contempt violations," courts "are not required to follow it").

{¶ 77} Furthermore, "[i]t is well-settled that judicial sanctions in civil contempt proceedings may be employed to compensate the complainant for losses sustained." *Garnett v. Garnett*, 10th Dist. No. 00AP-84 (Aug. 15, 2000). "In ordering damages caused by violation of a court order, the court need not measure the amount of such damages precisely when seeking to compensate the aggrieved party." *Id*. *See also Olmstead Twp. v. Riolo*, 49 Ohio App.3d 114, 117 (8th Dist.1988); *State ex rel. Fraternal Order of Police v. Dayton*, 49 Ohio St.2d 219 (1977), syllabus (noting that "[a] trial court has discretion to include reasonable attorney fees as a part of costs taxable to a defendant found guilty of civil contempt"); *State v. Kilbane*, 61 Ohio St.2d 201, 207 (1980) (concluding that the contempt sanction, "when viewed in light of the surrounding circumstances was well within the trial judge's discretion").

{¶ 78} Here, the $50,000 fine was a remedial civil contempt sanction, intended to compensate the Registry "for the expenditure it has had to put forth in this action." (June 17, 2015 Decision and Entry at 3.) The Registry's attorneys submitted their billing records from the October 30, 2014 show cause hearing, and those records revealed that Attorney Don Anspaugh's hourly rate was $137.00 per hour and that Attorney Dominic

Chieffo's hourly rate was $300.00 per hour. At the June 10, 2015 hearing, Attorney Chieffo informed the court that his total billable fees in the case were $170,000.

{¶ 79} Accordingly, viewing the totality of the circumstances, the $50,000 contempt fine was a fraction of the overall amount the Registry was forced to expend in defending the action, and was thus an appropriate civil contempt sanction. *Compare Citicasters Co. v. Stop 26-Riverbend*, 147 Ohio App.3d 531, 2002-Ohio-2286, ¶ 63 (7th Dist.) (noting that "the trial court did not abuse its discretion in imposing the $10,000 a day" contempt fine, as the "[a]ppellee advanced to appellants $1,725,000 of the $2,750,000 total purchase price," such that "$10,000 [did] not seem disproportionate"); *Cincinnati District Counsel 51* at 208 (holding that, because the strike at issue obligated the city to use "supervisory personnel to operate the waterworks" at a cost of "$63,000, not including fees of $20,000 paid to outside contractors," these facts justified "the award of $13,000 in compensation to the city"). The trial court did not abuse its discretion in imposing the $50,000 fine.

{¶ 80} Based on the foregoing, plaintiff's fourth assignment of error is overruled.

VI. CONCLUSION

{¶ 81} Having overruled plaintiff's second, third, and fourth assignments of error, and sustaining plaintiff's first assignment of error, we affirm in part and reverse in part the judgment of the Franklin County Court of Common Pleas. We remand the matter for the trial court to issue a nunc pro tunc entry consistent with this decision, correcting the clerical error in the court's February 17, 2015 decision and entry granting in part the Registry's October 15, 2014 motion for contempt and sanctions.

Judgment affirmed in part and reversed in part; cause remanded with instructions.

BROWN and SADLER, JJ., concur.

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