

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
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KEVIN L. LANDIS

Plaintiff

v.

OHIO DEPARTMENT OF JOB AND
FAMILY SERVICES

Defendant

Case No. 2002-10101
Judge Joseph T. Clark

ENTRY GRANTING DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT

{¶ 1} On August 7, 2006, defendant, Ohio Department of Job and Family Services (ODJFS), filed a motion for summary judgment pursuant to Civ.R. 56(B) in response to the allegations contained in plaintiff's second amended complaint.¹ Plaintiff has not opposed the motion for summary judgment. An oral hearing on the motion was held on September 8, 2006. Plaintiff failed to appear at the hearing.

{¶ 2} Civ.R. 56(C) states, in part, as follows:

{¶ 3} “*** Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. No evidence or stipulation may be considered except as stated in this rule. A summary judgment shall not be rendered unless it appears from the evidence or stipulation, and only from the evidence or stipulation, that reasonable minds can come to

1

Upon review, the court notes that plaintiff's second amended complaint designates ODJFS as defendant in this case and the caption shall read as set forth above.

Case No. 2002-10101	- 2 -	ENTRY
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but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence or stipulation construed most strongly in the party's favor. ***" See, also, *Gilbert v. Summit County*, 104 Ohio St.3d 660, 2004-Ohio-7108, citing *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317.

{¶ 4} In his second amended complaint, plaintiff alleges that defendant entered false information about him into a data collection system and disseminated such information to a credit reporting agency. According to plaintiff, the data collection system continued to show a child support arrearage owed by plaintiff even though the Fifth District Court of Appeals had reversed the underlying judgment of paternity and the order of support. Plaintiff argues that defendant is liable for damages resulting from the false credit report inasmuch as defendant is charged with implementing the system and providing training and maintenance for the system.

{¶ 5} Defendant denies liability. It contends that each county is responsible for entering data into the system, and that it was not responsible for any actions of county employees. In support of its motion, defendant has attached an affidavit of Joseph Pilat, the deputy director for ODJFS, which states that the Support Enforcement Tracking System (SETS) is a "statewide automated data processing system" that the county child support agencies use to provide centralized information about child support orders and enforcement activities. According to the affidavit, county agencies enter all data into the system and those county employees are responsible for the accuracy of the information concerning child support orders as well as any updates or revisions to the information. In essence, defendant maintains that it is not responsible for the acts or omissions of any county agency and its employees. The court agrees.

{¶ 6} In addressing the parties' burden of proof, the Tenth District Court of Appeals explained that:

[Cite as *Landis v. Ohio Dept. of Job & Family Servs.*, 2006-Ohio-5675.]

{¶ 7} “The moving party bears the initial responsibility of informing the trial court of the basis for the motion, and identifying those portions of the record that demonstrate the absence of a genuine issue of fact on a material element of one or more of the nonmoving party’s claims for relief. *Dresher v. Burt* (1996), 75 Ohio St.3d 280, 292. If the moving party satisfies this initial burden by presenting or identifying appropriate Civ.R. 56(C) evidence, the nonmoving party must then present similarly appropriate evidence to rebut the motion with a showing that a genuine issue of material fact must be preserved for trial. *Norris v. Ohio Standard Oil Co.* (1982), 70 Ohio St.2d 1, 2. The nonmoving party does not need to try the case at this juncture, but its burden is to produce more than a scintilla of evidence in support of its claims. *McBroom v. Columbia Gas of Ohio, Inc.* (June 28, 2001), Franklin App. No. 00AP-1110.” *Nu-Trend Homes, Inc., et al. v. Law Offices of DeLibera, Lyons & Bibbo et al.*, Franklin App. No. 01AP-1137, 2003-Ohio-1633.

{¶ 8} In light of its standard of review, the court finds that the only reasonable conclusion to be drawn from the material submitted and the oral argument presented at the September hearing is that defendant had no responsibility for the data entry performed by county employees and, thus, defendant cannot be held liable to plaintiff. Consequently, there are no genuine issues of material fact and defendant is entitled to judgment as a matter of law.

{¶ 9} For the foregoing reasons, and construing the evidence most strongly in plaintiff’s favor, defendant’s motion for summary judgment is GRANTED and judgment is rendered in favor of defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

JOSEPH T. CLARK
Judge

cc:

Kevin L. Landis 201 ½ North Liberty Street Apt. B Baltimore, Ohio 43105		Plaintiff, Pro se
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Case No. 2002-10101	- 4 -	ENTRY
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Anne B. Strait Assistant Attorney General 150 East Gay Street, 23rd Floor Columbus, Ohio 43215-3130		Attorney for Defendant
SJM/cmd		

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