

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
www.cco.state.oh.us

JAMES KARA

Plaintiff

v.

OHIO DEPARTMENT OF TAXATION

Defendant

Case No. 2012-03794

Magistrate Holly True Shaver

DECISION OF THE MAGISTRATE

{¶1} Plaintiff brought this action alleging wrongful termination in violation of public policy and seeking a determination whether Paula Finnin¹ and Beth Lowe are entitled to civil immunity pursuant to R.C. 2743.02(F) and 9.86. The issues of liability and damages were bifurcated and the case proceeded to trial on the issue of liability.

{¶2} On January 19, 2010,² plaintiff began his employment with defendant as a Tax Auditor Agent I. Plaintiff was subject to a six-month probationary period before he became a member of a collective bargaining unit. Plaintiff's supervisor was Beth Lowe, Tax Auditor Agent Manager I, who had supervisory duties over employees in three office locations: Cleveland, Akron, and Mansfield. Although Lowe was stationed in the Akron office, plaintiff was stationed in the Cleveland office. Plaintiff was assigned a mentor, James Goldyn, who was also stationed in the Cleveland office. In the Cleveland office, Lowe supervised plaintiff, Goldyn, and Ron Myeress.

{¶3} Plaintiff alleges that during his employment, he witnessed Pat Mancuso, a supervisor in the Cleveland office, repeatedly harass Myeress. Although Myeress was

¹Paula Forrest, formerly known as Paula Finnin, shall be referred to as "Forrest" throughout this decision.

²All dates refer to the year 2010 unless otherwise noted.

not new to the Cleveland office, he had recently been promoted from the Data Purification Unit to a Tax Auditor Agent position similar to plaintiff's. Plaintiff testified that Mancuso would repeatedly tell Myeress that he should quit, that the audit department was for "young, not old men," that Mancuso would throw Myeress' name plate into the garbage can, that Mancuso asked plaintiff to throw Myeress' name plate into an office urinal, that Mancuso purposefully poured a drink onto Myeress' computer keyboard, and that Mancuso engaged in other boorish behavior toward Myeress. Plaintiff testified that he orally reported the harassing conduct to Bob Ruffing, another supervisor in the Cleveland office who said he would "tell who he needed to tell" about it. Plaintiff also testified that he spoke to co-worker Robert Fitzgerald about Mancuso's behavior toward Myeress.

{¶4} On April 15, Lowe conducted plaintiff's mid-probationary review. Another manager, Mark Thomas, accompanied Lowe to the review. Of the four "goals" listed on the performance review system, plaintiff was rated either "on target" or "above target." However, in the "dimensions" section, plaintiff was rated as "does not meet" in two of six categories. Specifically, plaintiff was rated "does not meet" in the quality and communication dimensions. The comments prepared by Lowe on the mid-probationary review are as follows. In the quality section: "James needs to focus more attention to detail. He has made mistakes reporting his time that could have been avoided by double-checking his work." In the communication section, it states: "James and his audit manager [Lowe] have discussed seeking clarification when he is uncertain about the message being communicated to him. He has had instances during this rating period where his audit manager has given him directions about what to do and he has not followed them. In addition, James could improve his communications with others so that the messages he conveys are more clear and accurate." (Defendant's Exhibit A, page 13.) As a result of his mid-probationary review, plaintiff was placed on a Performance Improvement Plan (PIP), which stated:

“James needs to spend more time reviewing his own work for accuracy prior to submitting it for review by others. Attention to detail is a crucial part of the job as a Tax Auditor Agent. In addition, James needs to follow direction provided to him by his audit manager and/or mentors and seek clarification if he is unclear on what is being asked or required of him. Adherence to written and oral Departmental guidelines and procedures will decrease the number of times his work is returned to him for correction or comments made in online systems to explain inaccuracies.” (Defendant’s Exhibit A, page 18.)

{¶5} Plaintiff and Lowe each gave markedly different versions of events following the mid-probationary review. Plaintiff testified that after his mid-probationary review had concluded, Lowe approached him and asked him to follow her into a vacant office. As plaintiff began to discuss issues raised in the evaluation, Lowe told him to “shush” and then asked plaintiff if he knew what was going on with Myeress. Plaintiff asked her what she meant. Lowe then asked whether plaintiff was aware that Myeress was filing a grievance about being harassed by Mancuso. When plaintiff replied that he knew about the harassment, Lowe told plaintiff that Myeress “does it to himself” and that she and Forrest would write a statement for him to sign in support of management. Plaintiff then stated that he did not want to get involved. Lowe told plaintiff that he was not protected by the union due to his probationary status and that it would be in his best interest to testify on behalf of management. Plaintiff ended the conversation by stating that he would “think about” testifying on behalf of management.

{¶6} In contrast, Lowe testified that the alleged conversation after plaintiff’s mid-probationary review never happened. According to Lowe, after plaintiff was given an opportunity to respond to the evaluation, plaintiff left the conference room. Lowe stayed in the conference room with Thomas for a few moments where she and Thomas discussed their conclusion that plaintiff seemed unaware that the evaluation that they

had given him was, in fact, negative. After that discussion with Thomas, Lowe left the Cleveland office and went home.³

{¶7} On July 13, plaintiff underwent his final probationary review, during which his overall rating was unsatisfactory and he was removed from his probationary employment. Again, plaintiff was rated “does not meet” in the dimensions of quality, communication, and also the quantity/timeliness dimension. The rater comments in the dimensions sections state as to quality: “James lacks attention to detail and clarity, especially when preparing his written communications. For example, James has many ‘adjusting entries’ in AMS to correct information entered in error. He has consistently charged time to ‘Audit – Field’ while working on audits in the office. Mistakes such as typographical errors, misspellings, or missing words in written correspondence may have been avoided if James had reviewed his own work and used software review tools to assist him. In addition, James’ written correspondence with his audit manager is confusingly inconsistent in quality. For example, AM has sent multiple emails on the same topic in order to get him to provide the details of his activities; a lot of my time has been spent just trying to figure out what he has done. Other times, he provides all of the details as requested.”

{¶8} In the quality/timeliness dimension, the comments are: “James has to be reminded to submit information that once told, he should be able to be responsible for himself. Forms that were collected during Orientation were not turned in by James, which resulted in a follow up email to obtain them. Another form that was to be completed and returned upon receipt of a manual was not returned and required a follow-up email to James to obtain it. In addition, James did not enter his CSDs in OAKS for FYE 2010 (as directed when he received his copy of his approved CSDs) until it was time for him to take his first CSD.”

³The court notes that Mark Thomas was not called as a witness.

{¶9} In the communication dimension, the comments are: “James has improved in his communications with his audit manager since his mid-probationary evaluation. However, he has had instances during this rating period where his audit manager has given him direction[s] about what to do and he has not followed them. James was instructed to print and make copies of various workpapers for his LMU audit and order them according to the Folder Contents handout provided during a group meeting. James did not print all of the forms requested nor did he have the ones he did print in order as directed. He plans appropriately for audit appointments with taxpayers, but struggles to present himself clearly and concisely in front of them. When asked, he indicates that he was not nervous and does not seem to recognize any deficiencies in his performance. Because of his inability to express himself clearly, the taxpayer representative for his LMU audit was confused by the methodology used and thought a portion of the audit was projected when in actuality it was a comprehensive review. James also struggled to explain what the taxpayer could do to try to contest the preliminary audit findings for this audit and the audit manager ultimately had to correct and clarify the information for the taxpayer representative.” (Defendant’s Exhibit B, page 10.)

{¶10} On the performance summary, the rater comments state: “Audit manager has concluded that it is highly doubtful that James has the ability to successfully perform on his own many of the duties of an auditor and properly represent the Department. Both his written and oral communication skills, as well as his lack of attention to detail (points of concern that were addressed as needing improvement during his mid-probationary review), do not bode well for his future effectiveness and efficiency as an employee of the Department. These problem areas put additional responsibility and time commitments on his manager to check for his mistakes and instruct him on how to correct them.

{¶11} “Prior to his employment with the Department, James had 23 months of accounting experience at 3 public accounting firms including one internship, prior experience interacting with several business clients, and experience preparing computerized documents. The skills and abilities that James has displayed while an employee with the Department are not at the level one would expect from someone having that much prior work experience. James’ weak communication skills, lack of attention to detail, and average computer skills are not sufficient for him to function successfully as an auditor for the Department. Therefore, his audit manager recommends that he not be retained.” (Defendant’s Exhibit B, page 16.)

{¶12} As the court found in its August 26, 2013 decision on partial summary judgment, inasmuch as plaintiff was a probationary employee when his employment was terminated, he is considered an at-will employee for purposes of his wrongful termination claim. See *State ex rel. Rose v. Ohio Dept. of Rehab. & Corr.*, 91 Ohio St.3d 453 (2001).

{¶13} In order to establish a claim for wrongful termination in violation of public policy, plaintiff must prove: 1) a clear public policy manifested in a statute, regulation, or the common law (the clarity element); 2) that discharging an employee under circumstances like those involved would jeopardize the policy (the jeopardy element); 3) that the discharge at issue was motivated by conduct related to the policy (the causation element); and 4) that there was no overriding business justification for the discharge (the overriding justification element.) *Kulch v. Structural Fibers, Inc.*, 78 Ohio St.3d 134, 151 (1997). The clarity and jeopardy elements are questions of law, while causation and overriding justification elements are questions of fact. *Collins v. Rizkana*, 73 Ohio St.3d 65, 70 (1995).

{¶14} In the decision on partial summary judgment, the court found that plaintiff had met his burden of articulating a clear public policy based upon three sources: 1) 18 U.S.C. 1622, (subornation of perjury); 2) R.C. 2905.12(A) (coercion); and 3) R.C.

124.56 (abuse of power.) The court further found that plaintiff had established the jeopardy element. However, the court found that issues of fact existed with regard to both the causation and overriding justification elements. Therefore, these two elements shall be analyzed.

{¶15} James Goldyn, who was retired at the time of trial but had worked for defendant for 27 years, testified that he was “stunned” when he learned that plaintiff’s employment had been terminated. According to Goldyn, he found plaintiff to be qualified for the position, and that he caught on quickly to what was asked of him. Goldyn criticized Lowe for not informing him that she was concerned with plaintiff’s progress throughout his probationary period. Goldyn was not aware that plaintiff had been placed on a PIP, and he felt that plaintiff’s computer skills were “at par.” Goldyn did state that plaintiff had informed him that he had received low scores in two areas in his mid-probationary evaluation.

{¶16} Notably, although Goldyn testified that he was assigned to mentor both plaintiff and Myeress, Goldyn testified that he did not witness any harassment of Myeress by Mancuso. Goldyn testified that Myeress got upset about things that he personally would not have, and that Myeress had difficulty using his computer. Goldyn testified that he took plaintiff’s dismissal personally because he could not understand why plaintiff was not retained.

{¶17} Robert Fitzgerald testified that he was a Tax Auditor 4, and that he worked for defendant for 29.5 years. Fitzgerald testified that he met Mancuso in 2000 and got along with him initially. However, over time he felt that he could not trust Mancuso. Fitzgerald testified that Mancuso would walk through the cubicles and make faces at Myeress. According to Fitzgerald, Myeress seemed uncomfortable in the auditor group, describing him as a “Nervous Nellie.”

{¶18} John Sammon testified that he was a Tax Auditor 3, and that he had worked for defendant for 28.5 years. Sammon testified that he was friendly with

Myeress, and that he observed Myeress looking “stressed” very often. Sammon testified that he observed Mancuso teasing Myeress, and substantiated plaintiff’s testimony that Mancuso would throw Myeress’ nameplate into the garbage can, and that Mancuso would ask Myeress, “why don’t you go back to taxpayer services; audit is a young man’s game.” Although Mancuso stated things about Myeress’ age, it is undisputed that Mancuso was the oldest employee in the Cleveland office. Sammon testified that he was also friendly with Mancuso, and that after having been acquainted with him for over 25 years, he came to the conclusion that “that’s just the way he is.” Sammon stated that he also orally reported to Ruffing that Myeress was being teased by Mancuso. However, Sammon did not consider the teasing as harassment that should have been reported in writing to go up the chain of command. Sammon stated that Forrest was Mancuso’s supervisor, but noted that she was not stationed in the Cleveland office.

{¶19} Plaintiff testified that he did not report Mancuso’s conduct to Lowe, even though Lowe was both his and Myeress’ supervisor, because he knew that she was “good friends” with Mancuso. Plaintiff also testified that after April 15, Lowe never raised the subject of the grievance or harassment again and never presented him with any statement to sign. Plaintiff testified that he never told Goldyn about Lowe’s alleged threat, but that he did discuss it with Robert Blomquist, Myeress’ union representative, a few days after April 15. According to plaintiff, Blomquist did not instruct plaintiff to put anything in writing about the alleged threat, or to file anything about it. Plaintiff also testified that he discussed Lowe’s alleged threat with police but was informed that no crime had been committed. Plaintiff also stated that he never informed Gregory Siegfried, the EEO officer whose contact information is contained in defendant’s anti-discrimination and anti-harassment policy, about the harassment that he witnessed (Defendant’s Exhibit J). The court notes that Blomquist was not called as a witness.

{¶20} Lowe testified that she noticed that plaintiff routinely made grammatical and spelling errors in emails, both to defendant's employees and clients, which she felt reflected poorly on defendant. Lowe stated that the first encounter she had in the field with plaintiff and Goldyn was at a taxpayer initial meeting, and her impression was that plaintiff was not paying attention. To prepare for the performance reviews, Lowe reviewed multiple sources of information, including plaintiff's application for employment. Lowe explained that after new employees are hired by the Human Resources (HR) department, an inquiry is sent to prior employers for references. Lowe learned that two of plaintiff's previous employers stated not to contact them. By the end of March, the sole employer that had agreed to be contacted reported that plaintiff was not considered re-hirable. According to Lowe, she had serious concerns about how much work plaintiff was performing as opposed to what Goldyn was doing for him. She felt that Goldyn was helping plaintiff too much. Lowe explained that she noticed a big difference in the quality of the work that plaintiff produced after Goldyn had assisted him versus work that plaintiff directly submitted to her. Lowe explained that in the Cleveland office there was a distrust of management, and if she had discussed her concerns with Goldyn, he would have "just called [her] a liar." Lowe testified that she had serious doubts about whether plaintiff had the ability to do the job long-term.

{¶21} Lowe also testified that Goldyn wrote a "glowing" report about plaintiff's work but that her own experience with plaintiff's work was not good. After the mid-probationary evaluation, Lowe accompanied plaintiff to a liquor markup audit. Lowe perceived that plaintiff kept moving through the presentation even though the taxpayer was confused. It was Lowe's conclusion that plaintiff did not understand the purpose of the questions he was asking the taxpayer. Lowe felt that plaintiff did not have a good understanding of the audit process. Lowe described plaintiff as "stumbling" through the presentation, despite the fact that she had rehearsed the presentation with plaintiff prior to the audit.

{¶22} With regard to Myeress, Lowe testified that she was not acquainted with him before he moved to the audit division. Lowe also stated that Myeress never told her that he had problems with Mancuso or that he was filing a grievance. In her opinion, Myeress was struggling and suffering too much stress in the audit position. Myeress emailed Lowe on March 25, to notify her that he wanted to return to his former position in taxpayer services. (Defendant's Exhibit M.) According to Lowe, Myeress did not advise her of any problems he had with Mancuso when she contacted him to discuss his desire to return to his former position. As of April 12, Myeress returned to the Data Purification section and was supervised by someone else. According to Lowe, she was not aware of Myeress' grievance when she conducted either the mid-probationary or the final review of plaintiff, and that she only became aware of Myeress' grievance during the litigation of plaintiff's claim. In conclusion, Lowe testified that she was not comfortable retaining plaintiff, and that the issues between Myeress and Mancuso had nothing to do with her decision to recommend removal.

{¶23} Charles Kumpar testified that he is a Labor Relations Administrator I and that he has been employed by defendant's HR department for over 25 years. Kumpar explained the grievance process. According to Kumpar, although there are five steps in the grievance process, Myeress asked that his grievance be advanced to Step 3, which is permissible, and it was therefore initially forwarded to the commissioner's designee. Myeress' grievance skipped Step 1 (immediate supervisor), and Step 2 (section administrator). Kumpar explained that sworn testimony is not routinely provided during a Step 3 hearing. Myeress' grievance was denied at the Step 3 level, with a finding of no contract violation; it went to Step 4 (mediation); and ultimately, the union withdrew its request for Step 5 (arbitration) on May 1, 2012. (Defendant's Exhibit O.) Myeress' grievance form was filled out on April 9, 2010, and was faxed on April 13, 2010.

{¶24} Upon review of the evidence, the court finds that plaintiff has failed to prove that his removal was motivated by his alleged refusal to testify on behalf of management with regard to Myeress' grievance. Assuming arguendo that Lowe threatened him with termination for his failure to write a statement in support of management, the reasonable inference is that Lowe would be inclined to continue plaintiff's employment once he informed her that he would either make no statement at all, or, perhaps, testify on behalf of management. Plaintiff admitted that after the April 15 evaluation, neither plaintiff nor Forrest ever asked him to provide any statement.

{¶25} Moreover, plaintiff testified that Lowe and Forrest were conspiring to terminate his employment as evidenced by an email that Lowe wrote on April 5, where she states to Forrest that: "Hopefully I have laid the ground work with this evaluation to do what we need to do." (Plaintiff's Exhibit 4.) However, this email was sent before any grievance was filed and prior to the evaluation when plaintiff alleges that Lowe threatened him. The court finds that the evidence shows that Lowe was "laying the groundwork" to place plaintiff on a PIP, and that if plaintiff's performance had improved significantly pursuant to the PIP, he may have been retained. The court finds that plaintiff's argument that Lowe was "laying the groundwork" to fire him because of his reluctance to testify on behalf of management is not credible.

{¶26} In addition, although the court finds that the management structure in the Cleveland office appears dysfunctional, it is plausible that Lowe was not aware of Myeress' problems with Mancuso or his intention to file a grievance. Lowe was stationed in the Akron office, not the Cleveland office. Lowe testified that Myeress did not tell her that he had any problems with Mancuso, even when she discussed Myeress' desire to return to his former position. Kumpar testified that Myeress requested that his grievance be initiated at Step 3, which would have bypassed Lowe as his immediate supervisor. Finally, Lowe testified that she did not learn of the

grievance until this lawsuit was filed. The court concludes that plaintiff has failed to prove the causation element by a preponderance of the evidence.

{¶27} With regard to the final element, that there was no overriding business justification for plaintiff's removal, although plaintiff downplayed his documented performance issues at trial, the court notes that Lowe's perception that plaintiff demonstrated communication problems is substantiated in Defendant's Exhibit I, which is a collection of emails that plaintiff sent during his probationary employment. The court notes that the emails contain multiple grammatical mistakes. The court concludes that plaintiff's performance, as documented in both performance reviews and in Defendant's Exhibit I, shows that defendant had an overriding business justification to remove plaintiff from his probationary employment. In the final analysis, the court finds that plaintiff has failed to prove his claim of wrongful termination in violation of public policy by a preponderance of the evidence. Therefore, judgment shall be recommended in favor of defendant.

{¶28} Turning to plaintiff's claims regarding the civil immunity of Paula Forrest and Beth Lowe, R.C. 2743.02(F) states, in part:

{¶29} "A civil action against an officer or employee, as defined in section 109.36 of the Revised Code, that alleges that the officer's or employee's conduct was manifestly outside the scope of the officer's or employee's employment or official responsibilities, or that the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner shall first be filed against the state in the court of claims that has exclusive, original jurisdiction to determine, initially, whether the officer or employee is entitled to personal immunity under section 9.86 of the Revised Code and whether the courts of common pleas have jurisdiction over the civil action."

{¶30} R.C. 9.86 states, in part:

{¶31} "[N]o officer or employee [of the state] shall be liable in any civil action that arises under the law of this state for damage or injury caused in the performance of his

duties, unless the officer's or employee's actions were manifestly outside the scope of his employment or official responsibilities, or unless the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner."

{¶32} There is no dispute that Forrest and Lowe were employees of the state. Plaintiff asserts that Forrest and Lowe acted with malicious purpose, in bad faith, or in a wanton or reckless manner when they recommended that he be removed from his probationary employment. Plaintiff points to specific emails that Lowe sent to Forrest and other written documents regarding plaintiff to show that Lowe harbored ill-will toward him.

{¶33} "Malicious purpose encompasses exercising 'malice,' which can be defined as the willful and intentional design to do injury, or the intention or desire to harm another, usually seriously, through conduct that is unlawful or unjustified.

{¶34} "* * *

{¶35} "'Bad faith' has been defined as the opposite of good faith, generally implying or involving actual or constructive fraud or a design to mislead or deceive another. * * * Bad faith is not prompted by an honest mistake as to one's rights or duties, but by some interested or sinister motive. * * *

{¶36} "Finally, 'reckless conduct' refers to an act done with knowledge or reason to know of facts that would lead a reasonable person to believe that the conduct creates an unnecessary risk of physical harm and that such risk is greater than that necessary to make the conduct negligent. * * * The term 'reckless' is often used interchangeably with the word 'wanton' and has also been held to be a perverse disregard of a known risk. * * * As to all of the above terms, their definitions connote a mental state of greater culpability than simple carelessness or negligence." (Internal citations omitted.) *Wrinn v. Ohio State Highway Patrol*, 10th Dist. Franklin No. 11AP-1006, 2013-Ohio-1141, ¶ 12, quoting *Caruso v. State*, 136 Ohio App.3d 616, 620-22 (10th Dist.2000).

{¶37} The first example is an email found in Plaintiff's Exhibit 10, where plaintiff requested bereavement leave to attend the funeral of his "fiancée to be." Although Lowe responded to plaintiff that his leave request was granted, she forwarded plaintiff's request to Forrest and criticized his use of the term "fiancée to be." Plaintiff argues that Lowe's mocking tone in an email to Forrest shows that Lowe harbored ill-will toward him and that the decision to terminate his employment followed due to her personal animus toward him.

{¶38} Another example that plaintiff cites is that Lowe made a "pros and cons" list about him when she was evaluating whether to recommend retaining or removing him from employment. One of the cons was that Lowe considered plaintiff to be "goofy." Another con was that plaintiff talked to "Fitz and Sammon." When Lowe testified about the list, she explained that in her opinion, plaintiff sometimes made goofy remarks in her presence, but she could not recall examples at trial. In addition, Lowe testified that the "Fitz and Sammon" reference did not have any relevance to management vs. union activity; rather, she had been informed by another manager, Elizabeth Russo, that Russo had observed plaintiff spending significant amounts of time speaking to Fitzgerald and Sammon when he had no business purpose to be speaking to them because they were not his mentors or in his chain of command.

{¶39} Finally, plaintiff points to Lowe's use of "emoticons" in emails that she sent to Forrest. Emoticons are electronic "smiley faces" or "frowning faces" that are used to show emotions in emails. Plaintiff argues that Lowe's use of frowning emoticons in emails related to plaintiff's performance connotes ill-will or malice toward him.

{¶40} In the context of immunity, an employee's wrongful conduct, even if it is unnecessary, unjustified, excessive or improper, does not automatically subject the employee to personal liability unless the conduct is so divergent that it severs the employer-employee relationship. *Elliott v. Ohio Dept. of Rehab. & Corr.*, 92 Ohio

App.3d 772, 775 (1994), citing *Thomas v. Ohio Dept. of Rehab. & Corr.*, 48 Ohio App.3d 86, 89 (1988).

{¶41} Upon review of the evidence, the court finds that Lowe's written statements, including emails to Forrest about plaintiff and her use of emoticons, were not so divergent to sever the employer-employee relationship. Furthermore, although the use of emoticons in Lowe's emails may have been unprofessional or immature, the court finds that her opinions expressed in the emails do not rise to the level of malice, bad faith, or reckless conduct. In addition, the court finds that the use of a pros and cons list is a reasonable way to evaluate an employee's performance.

{¶42} For the reasons stated above, the magistrate recommends that Forrest and Lowe be entitled to immunity pursuant to R.C. 9.86 and 2743.02(F), and that the courts of common pleas do not have jurisdiction over any civil actions that may be filed against them based upon the allegations in this case. The court further finds that plaintiff has failed to prove his claim of wrongful termination in violation of public policy by a preponderance of the evidence. Therefore, judgment is recommended in favor of defendant.

{¶43} *A party may file written objections to the magistrate's decision within 14 days of the filing of the decision, whether or not the court has adopted the decision during that 14-day period as permitted by Civ.R. 53(D)(4)(e)(i). If any party timely files objections, any other party may also file objections not later than ten days after the first objections are filed. A party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion within 14 days of the filing of the decision, as required by Civ.R. 53(D)(3)(b).*

HOLLY TRUE SHAVER
Magistrate

cc:

David W. Neel
55 Public Square, Suite 1950
Cleveland, Ohio 44113

Velda K. Hofacker
Assistant Attorney General
150 East Gay Street, 18th Floor
Columbus, Ohio 43215-3130

Filed February 21, 2014
Sent To S.C. Reporter 11/5/15