

**IN THE SUPREME COURT OF OHIO**

YUNIS ADON EL EXPRESS TRUST, a	:	
Natural Person d.b.a. JONAH BURTON	:	
ADDIS,	:	Case No. 2020-1288
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
OHIO DEPARTMENT OF JOB AND	:	
FAMILY SERVICES, et al.,	:	
	:	
Defendants.	:	

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**DEFENDANTS OHIO DEPARTMENT OF JOB AND FAMILY SERVICES  
AND DIRECTOR KIMBERLY HALL'S MOTION TO DISMISS  
THE AMENDED COMPLAINT**

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The Ohio Department of Job and Family Services (“ODJFS”) and its Director, Kimberly Hall, hereby move the Court for an order dismissing the Amended Complaint for lack of jurisdiction. ODJFS and Director Hall alternatively move for an order dismissing the claims against them for failure to state a valid claim for relief. A Memorandum in Support follows.

Respectfully submitted,

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## **MEMORANDUM IN SUPPORT**

### **I. INTRODUCTION**

Plaintiff Yunis Adon El Express Trust, d.b.a. Jonah Burton Addis (“Mr. Addis”), by bringing this action to contest a child support order that the Cuyahoga County Juvenile Court entered against him, is asking this Court to act outside its own jurisdiction and to usurp the exclusive jurisdiction of the Juvenile Court. He seeks a jury trial in this Court, and he asks the Court to adjudicate several claims, including claims of alleged constitutional violations, breach of contract, copyright infringement, and trespass. This Court does not have original jurisdiction over this case. The Amended Complaint does not present any of the limited circumstances, established by the Ohio Constitution, in which the Court may exercise original jurisdiction. Furthermore, by statute, Ohio’s juvenile courts have exclusive jurisdiction to address child support matters that are separate from divorce proceedings. Therefore, any challenge to the child support order issued against Mr. Addis can be raised—if at all—only in the juvenile court. The Court should therefore dismiss this action for lack of jurisdiction.

The Amended Complaint also fails to state a claim against Defendants ODJFS and Hall for which relief can be granted. The Amended Complaint presents conclusory statements unsupported by any factual allegations—it lists myriad violations of law that ODJFS and Director Hall have allegedly committed, without identifying facts that support the basic elements for any of the claims or that identify any impropriety on the part of ODJFS or Director Hall. The Court should therefore dismiss the claims against ODJFS and Director Hall for failure to state a claim, if not for lack of jurisdiction.

## II. LAW AND ARGUMENT

### A. Standard of Review

The standard of review for a dismissal pursuant to Civ. R. 12(B)(1) is “whether any cause of action cognizable by the forum has been raised in the complaint.” *State ex rel. Bush*, 42 Ohio St.3d 77, 80, 537 N.E.2d 641 (1989). A court is under a mandatory duty to dismiss a suit over which it has no jurisdiction. *Sizemore v. Smith*, 6 Ohio St.3d 330, 336, 453 N.E.2d 632 (1983) (superseded by statute on other grounds).

When a court is reviewing a motion to dismiss under Civ.R. 12(B)(6), it must accept the well-pleaded, material factual allegations in the Complaint as true and draw all reasonable inferences in favor of the non-moving party. *See, e.g., Schmitz v. NCAA*, 155 Ohio St.3d 389, 2018-Ohio-4391, 122 N.E.3d 80, ¶ 3. The Court need not accept unsupported conclusions, and unsupported conclusions alone are not sufficient to withstand a motion to dismiss. *See, e.g., State ex rel. Hickman v. Capots*, 45 Ohio St.3d 324, 544 N.E.2d 639 (1989) (per curiam). A complaint should be dismissed if, based on the factual allegations in the complaint, it appears beyond doubt that the plaintiff could prove no set of facts entitling him to relief. *See, e.g., Schmitz* at ¶ 10.

A complaint cannot survive a motion to dismiss under Civ.R. 12(B)(6) if it does not contain allegations of the basic operative facts that would satisfy the elements of the claim(s) being brought. *See, e.g., Godwin v. Facebook, Inc.*, 8th Dist. Cuyahoga No. 109203, 2020-Ohio-4834, ¶ 37; *Armstrong v. Chesapeake Exploration, L.L.C.*, 5th Dist. Tuscarawas No. 2014 AP 12 0056, 2015-Ohio-3310, ¶ 14; *Jones v. Nichols*, 12th Dist. Warren No. CA2012-02-009, 2012-Ohio-4344, ¶¶ 10-14. A complaint must, at a minimum, give “fair notice of the nature of the action” by containing either “direct allegations on every material point necessary to sustain a recovery on any legal theory,” or “allegations from which an inference fairly may be drawn that

evidence on these material points will be introduced at trial.” *Killilea v. Sears, Roebuck & Co.*, 27 Ohio App.3d 163, 165, 499 N.E.2d 1291 (10th Dist. 1985) (citation omitted).

**B. This Court lacks jurisdiction over the Amended Complaint.**

This Court lacks subject matter jurisdiction because this case does not fall within the ambit of its original jurisdiction and because the juvenile court has exclusive jurisdiction over this matter.

1. The Court lacks original jurisdiction.

The original jurisdiction of the Ohio Supreme Court is established—and limited—by the Ohio Constitution. The Court has original jurisdiction in the following matters: quo warranto, mandamus, habeas corpus, prohibition, procedendo, any cause on review as may be necessary to its complete determination, and all matters relating to the practice of law. *See* Ohio Constitution, Article IV, Section 2(B)(1). No civil rule or statute can expand the Court’s original jurisdiction. *State ex rel. New Wen, Inc. v. Marchbanks*, Oh. Sup. Ct. No. 2017-0813, 2020-Ohio-4865, ¶ 13 (citations omitted). The Court specifically lacks jurisdiction to hear an action for damages.<sup>1</sup> *Id.*

This Court lacks original jurisdiction here. The Amended Complaint seeks a jury trial and raises several causes of action, including a “tort claim,” constitutional violations (including due process, involuntary servitude, violation of the right to travel, and violation of religious freedoms), treaty violations, trespass, breach of contract, violation of the Fair Debt Collections Practices Act (“FDCPA”) and the Fair Credit Reporting Act (“FCRA”), and copyright

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<sup>1</sup> The Amended Complaint asserts that the Court’s “single task” is “to issue A Settlement to the Claimant.” Amended Complaint at 2. To the extent the Complaint is seeking money damages, the Court lacks jurisdiction over the claims. *State ex rel. Cleveland Municipal Court v. Cleveland City Council*, 34 Ohio St.2d 120, 122, 296 N.E.2d 544 (1973) (“Section 2(B) (1) of Article IV of the Ohio Constitution, which prescribes the original jurisdiction of this court, does not include original actions for money judgment.”).

infringement. *See, e.g.*, Amended Complaint at caption, 1, 2, 4.<sup>2</sup> These claims do not fall within the Court’s limited original jurisdiction.<sup>3</sup> The Amended Complaint cannot reasonably be construed as a request for any of the writs that this Court is authorized to issue. It is not a request for mandamus, because it does not seek an order that the Defendants perform a required act. It is not a request for an order that a lower court proceed to judgment (procedendo) or stop abusing or usurping judicial functions (prohibition). It is not a request for a writ of habeas corpus, and it does not challenge a Defendant’s right to hold public office (quo warranto).

Nor does the Amended Complaint present to the Court a “cause on review as may be necessary to its complete determination.” This provision authorizes judgments “necessary to achieve closure and complete relief in actions pending before the court.” *State v. Steffen*, 70 Ohio St.3d 399, 407, 639 N.E.2d 67 (1994). Such cases present requests for relief that are “unprecedented and extraordinary” and contain “compelling” reasons to grant the relief. *Id.* For example, this Court has invoked this jurisdiction when (1) ordering a city council to correct an initiative proposition to allow its inclusion on the ballot because existing procedures did not allow the board of elections to make corrections, (2) prohibiting further stays of execution, and (3) ordering the release of a prisoner. *See id.* at 407-408 (citations omitted). No such a circumstance exists here. The Court therefore lacks original jurisdiction.

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<sup>2</sup> Because the Amended Complaint does not contain numbered paragraphs, citations will be to the page number.

<sup>3</sup> In arguing that the Court does have jurisdiction, Mr. Addis invokes various federal statutes, including 15 U.S.C. §§ 1681p(1), (2) (pertaining to jurisdiction of federal district courts over consumer credit protection actions); 28 U.S.C. § 2201 (authorizing federal courts to issue declaratory judgments); 28 U.S.C. § 1367(a) (providing federal district courts with supplemental jurisdiction over state-law claims); and 28 U.S.C. § 1331 (establishing federal-question jurisdiction in federal district courts). Amended Complaint at 3. But none of those statutes apply to state courts, nor could they establish jurisdiction in this Court regardless. As mentioned above, this Court’s original jurisdiction is determined only by the Ohio Constitution.

2. The juvenile court has exclusive jurisdiction over this matter.

A juvenile court has *exclusive* original jurisdiction over a child-support issue if “the request is not ancillary to an action for divorce, dissolution or marriage, annulment, or legal separation . . .” *Id.*, quoting R.C. 2151.23(A)(11). *See also In re S.H.O.*, 2d Dist. Montgomery No. 28072, 2019-Ohio-645, ¶ 13. Therefore, even if the Ohio Constitution granted this Court original jurisdiction over this cause of action, which it does not, the Court would still lack jurisdiction here because exclusive original jurisdiction over this matter lies with the juvenile court. Mr. Addis is contesting a child support order. Amended Complaint at 4-5, 8, 13-14. The exhibits filed by Mr. Addis demonstrate that the child support action is not part of or ancillary to a divorce or similar action. *See* Amended Complaint at 4 (“The case and account in question is Case Number 7032394590, Order number CU0110538800 . . .”); Exhibits<sup>4</sup> at 6 (motion for child support in Case No. CU01105388, SETS No. 7032394590; case caption does not reflect divorce proceeding). Accordingly, Mr. Addis must raise any challenge to the support order in the juvenile court. *See* R.C. 2151.23(A)(11); *In re O.M., supra*; *In re S.H.O., supra*.

Because this Court lacks original jurisdiction under the Ohio Constitution, and further because the juvenile court has exclusive jurisdiction over this matter, the Court should dismiss the Amended Complaint.

**C. If the Court does not dismiss this case for lack of jurisdiction, it should dismiss the claims against ODJFS and Director Hall for failure to state a claim for which relief can be granted.**

The Amended Complaint asserts causes of action without any factual support. The Amended Complaint alleges an unspecified “tort claim”; various constitutional violations, including due process, the right to travel, the right to religious freedom, and the right to be free

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<sup>4</sup> On October 26, 2020, a document titled “Exhibits” was docketed.

from involuntary servitude; breach of contract and breach of private contract; trespass; treaty violations; failure to respond to discovery requests; issuance of a fraudulent child support order; copyright infringement; violations of the FDCPA and the FCRA; violation of an injunction; and “acquiescence by failure to answer affidavit.” *See, e.g.*, Amended Complaint at 1, 2, 3, 4. The Amended Complaint does not contain the required allegations of basic operative facts comprising the elements of any valid cause of action. *See Godwin, supra; Armstrong, supra; Jones, supra.* Nor does the Amended Complaint give “fair notice of the nature of the action,” as it does not contain “either direct allegations on every material point necessary to sustain a recovery on any legal theory” or allegations suggesting “that evidence on these material points will be introduced at trial.” *See Killilea, supra.* Instead, the Amended Complaint relies upon conclusory statements that various violations of law occurred.

For example, the Amended Complaint contains no factual allegations regarding copyright infringement or breach of contract, mentioning those terms only as part of a list of claims. Amended Complaint at 2, 4. Similarly, though the Amended Complaint alleges that R.C. 3121.36, 3121.03, and 5101:12<sup>5</sup> are unconstitutional, it simply states that Mr. Addis is “inform[ing] the court of constitutional violations” and is challenging the constitutionality of those provisions. Amended Complaint at 15. It then recites part of the Ohio Constitution without offering any explanation or factual support. *Id.* at 15-17. The Amended Complaint also claims a violation of the right to travel, but it merely puts forth propositions of law and does not actually allege that Mr. Addis’s right to travel has been limited in any way. *Id.* at 17-18. Additionally, the Amended Complaint alleges that there has been a trespass on the property of the trust, but it

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<sup>5</sup> This citation actually references the Ohio Administrative Code, rather than the Ohio Revised Code. Ohio Adm.Code Chapter 5101:12 pertains to child support.

simply asserts—without explanation—that “Defendant intentionally trespassed on Real trust property without consent.” Amended Complaint at 8. In making this statement, the Amended Complaint mentions an “injunction,” which it identifies as part of the “Exhibit FOLDER,” but no injunction is attached to the Amended Complaint or is part of the Exhibits that were separately filed. *Id.*; *see also* Exhibits. And the Amended Complaint’s description of the injunction implies that it was issued by Mr. Addis, not by a court. Amended Complaint at 8 (regarding “the injunction (SEE Exhibit FOLDER) dated May 3rd 2017 Certified mail 701635600008048476 received into Court records” and “sent to the Cuyahoga County of Job and family Services Cuyahoga County Director and Also Sent to the ODJFS DIRECTOR”). This does not state a valid claim for trespass.

The Amended Complaint also fails to establish how ODJFS or Director Hall would be subject to the FDCPA or the FCRA. Only “debt collectors” are subject to liability under the FDCPA. *RBS Citizens, N.A. v. Zigdon*, 8th Dist. Cuyahoga No. 93945, 2010-Ohio-3511, ¶¶ 41-43. A “debt collector” is “any business the principle [sic] purpose of which is the collection of any debts.” *Id.* at ¶ 42. ODJFS and Director Hall are not alleged to be “debt collectors.” And not all obligations to pay are considered “debts” subject to the FDCPA; rather, the FDCPA may be triggered only when an obligation to pay arises out of a consumer transaction. *Cawrse v. Melvin Bancheck Co., L.P.A. (In re Apelt)*, 8th Dist. Cuyahoga No. 102765, 2015-Ohio-5149, ¶ 22, citing *Bloom v. I.C. Sys., Inc.*, 972 F.2d 1067, 1068 (9th Cir.1992). *See also* 15 U.S.C. § 1691a(5) (portion of FDCPA defining “debt” as an obligation of a consumer arising out of a transaction in which the money is primarily for personal, family, or household purposes). Similarly, only consumer reporting agencies are subject to the FCRA (which regulates the communication of consumer reports by credit reporting agencies), and ODJFS and Director Hall

are not alleged to be consumer reporting agencies. *Lewis v. Ohio Prof'l Elec. Network LLC*, 190 F.Supp.2d 1049, 1055-1056 (S.D. Ohio 2002).

Furthermore, the Amended Complaint fails to allege any specific action or inaction by ODJFS or Director Hall such that a claim would lie against either. It asserts that Mr. Addis sent out various “notices” and affidavits, but it does not state to whom the notices and affidavits were sent. Amended Complaint at 6-7. Moreover, the Amended Complaint identifies no authority establishing a legal obligation that ODJFS or Director Hall respond to any “notice” sent to them. *Id.* Nor does the Amended Complaint identify any legal authority for the proposition that, if ODJFS and Director Hall did not respond to a “notice,” it means they necessarily agreed with Mr. Addis’s contention that there is no lawful child support order against him. *Id.* at 13-15. Similarly, the Amended Complaint states that various discovery requests were mailed, but it does not identify any case in which Mr. Addis and ODJFS or Director Hall were parties, such that discovery would be available to Mr. Addis, and the Amended Complaint does not actually allege that any discovery request was sent to ODJFS or Director Hall. *Id.* at 6-7.<sup>6</sup>

Importantly, the Amended Complaint does not allege that ODJFS and Director Hall issued the child support order being contested. Indeed, it is clear that the child support order was sought by the Cuyahoga County Child Support Enforcement Agency and issued by the Cuyahoga County Juvenile Court. *See* Amended Complaint at 4-5; Exhibits at 6-7. Neither ODJFS nor Director Hall is alleged to have played any role in the child support proceeding. The Amended Complaint likewise does not identify any action on the part of ODJFS or Director Hall that led to a breach of contract (the parties and terms of which are unspecified), limited Mr.

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<sup>6</sup> Regardless, the failure to respond to discovery is not a cause of action, and any challenge or complaint related to discovery should be directed to the court presiding over the matter for which discovery was requested. *See* Civ.R. 37.

Addis's ability to travel, violated his religious freedom, violated his right to due process, subjected him to involuntary servitude, or violated a copyright.

Finally, the Amended Complaint's invocation of the Articles of Confederation and the Treaty of Tripoli is illogical in this context, as neither of those documents governs the conduct of ODJFS or Director Hall. Moreover, the Amended Complaint simply recites excerpts of the Articles of Confederation and the Treaty of Tripoli without any accompanying factual allegations. Amended Complaint at 18-19.

The Amended Complaint fails to state a valid claim against ODJFS or Director Hall.

### **III. CONCLUSION**

For the foregoing reasons, the Court should either dismiss the Amended Complaint for lack of jurisdiction or dismiss the claims against ODJFS and Director Hall for failure to state a valid claim. *See* Civ. R. 12(B)(1), (6).

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that, on November 17, 2020, pursuant to Civ.R. 5(B)(2)(c), a true and accurate copy of the foregoing Motion to Dismiss was sent by regular U.S. mail, postage prepaid, to the following:

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Riverdale, Georgia 30296

and

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