

IN THE SUPREME COURT OF OHIO

Case No. 2021-1371

MICHAEL ASAMOAH

v.

Capital One

No. 21 AP-499

Case No. 21cv005165

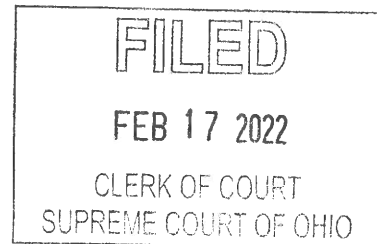
**Motion for Award of Court Costs, Attorney's
Fees and Expenses - Hauser Law LLC**

Michael Asamoah
2721 Woodcroft Road
Columbus, OH 43204

COUNSELS FOR APPELLEE
Laura A. Hauser (0041354)
Hauser Law LLC
3713 Longwood Court
Cleveland Heights, Ohio 44118
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Patrick A. Huber (Not Admitted to Practice in Ohio)
Pilgrim Christakis LLP
321 North Clark Street, 26th Floor
Chicago, Illinois 60654
(312) 379-8547



IN THE SUPREME COURT OF OHIO

Case No. 2021-1371

MICHAEL ASAMOAH

:

v.

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Capital One

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No. 21 AP-499

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:

:

Now comes the Plaintiff, Michael Asamoah, and hereby moves this Court for an award of court costs, reasonable attorney's fees and expenses pursuant to Ohio Revised Code Section 2323.51

Respectfully submitted,

/s/ Michael Asamoah

Michael Asamoah, *Pro Se*
2721 Woodcroft Road
Columbus, Ohio 43204

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was served upon Defendant by ordinary mail to the following addresses on February 1~~st~~st, 2022:

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/s/ Michael Asamoah
Michael Asamoah
Attorney for Plaintiff, *Pro Se*

2721 Woodcroft Road
Columbus, OH 43204

(614) 274 – 9446

IN THE SUPREME COURT OF OHIO

Case No. 2021-1371

MICHAEL ASAMOAH :

v. :

Capital One :

No. 21 AP-499 :

Case No. 21cv005165 :

**Memorandum in Support of Motion for Award of Court Costs,
Attorney's Fees and Expenses**

Michael Asamoah
2721 Woodcroft Road
Columbus, OH 43204

COUNSELS FOR APPELLEE
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STATEMENT OF THE CASE AND THE FACTS

Plaintiff filed a Complaint against Defendant Capital One Bank on August 17, 2021 in the Court of Common Pleas of Franklin County, Ohio. Plaintiff requested ordinary mail. Defendant was served on or about August 17, 2021. Summons was issued on or about August 18, 2021.

Defendant failed to answer Plaintiff's Complaint by the deadline. Plaintiff complied with all the court orders and rules. Service was proper. Defendant had up to September 17, 2021 to remove the case. Defendant failed to timely remove the case. Pursuant to the rules of the Franklin County Court of Common Pleas, Defendant Capital One had 28 days after the service of summons to answer. Defendant failed to answer. Defendant filed a Notice of Appearance on September 22, 2021. On the same day, September 22, 2021, the Court of Common Pleas moved the case to federal court. On September 22, 2021, A Notice of Filing was filed by Defendant. On September 22, 2021, the Court of Common Pleas of Franklin County removed the case to United States District Court violating Plaintiff's constitutional rights.

Defendant-Appellee's attorneys have asserted claims, filed motions and documents that no reasonable lawyer could or would argue under existing law in Ohio or federal courts. There were no good grounds supporting the documents they filed and submitted to the courts. They filed them with the purpose of delay.

Complaint was filed on August 17, 2021.
Defendant-Appellee did not file a Notice of Filing Removal until September 22, 2021. See Exhibits
Plaintiff-Appellant did not get any notice prior to removal.

ARGUMENTS

AN AWARD OF COURT COSTS, REASONABLE ATTORNEY'S FEES AND EXPENSES MUST BE AWARDED BECAUSE ATTORNEY LAURA A. HAUSER AND THE LAW FIRM OF HAUSER LAW LLC ACTIONS CONSTITUTE FRIVOLOUS CONDUCT UNDER OHIO LAW.

A claim is frivolous when it is absolutely clear that no reasonable lawyer could argue that claim under the existing law. See, *Riston v. Butler*, 149 Ohio App.3d at 399-400, 2002.

Defendant-Appellee and their attorneys have asserted claims, filed motions and documents that no reasonable lawyer could or would argue under existing law in Ohio or federal courts. Defendant-Appellee's arguments, claims and positions are not warranted under existing law(s). Nor are they any good faith argument for extension of any law. Thus, the court must impose sanctions.

In *Kozar v. Bio-Medical Applications of Ohio, Inc.*, No. 21949 (9th Dist., Ohio 4963, at p. 20. 2004) the Ohio court imposed sanctions and awarded fees, costs, and expenses because it determined that the conduct was frivolous, and it adversely affected the opposing party. Similarly, this court must impose sanctions and award fees, costs, and expenses because Defendant-Appellee's attorneys and the law firm's conduct are frivolous and adversely affected indigent Plaintiff-Appellant.

Defendant-Appellee's attorneys have failed and refused to comply with discovery requests without giving any explanation for noncompliance. Ohio courts have held that such conduct is an indication of willfulness and bad faith. *Russo v. Goodyear Tire & Rubber Co.* 36 Ohio App.3d 175, 178, 521 N.E.2d 1116 (1987).

Ohio Revised Code 2323.51 allows a court to award legal fees to a party who has been adversely affected by frivolous conduct in connection with a civil action.

Ohio courts have assessed sanctions against parties who commenced or persisted in maintaining a frivolous action. *Sigmon v. Southwest Gen. Health Ctr.*, No. 88276 (8th Dist., Ohio 2117, at p. 33. 2007). See also, *Kozar v. Bio-Medical Applications of Ohio, Inc.*, No. 21949 (9th Dist., Ohio 4963, at p. 20. 2004).

AWARD OF COURT COSTS, REASONABLE ATTORNEY FEES AND EXPENSES MUST BE AWARDED BECAUSE THE PLEADINGS, MOTIONS AND OTHER DOCUMENTS SIGNED BY THE ATTORNEYS WERE WILLFULLY FILED WITH THE PURPOSE TO DELAY PROCEEDINGS OF THE LITIGATION.

There were no good grounds for filing documents and motions and the purpose was to delay the proceedings and the proceedings and hoping that indigent Plaintiff with no resources and income will not respond to the frivolous pleadings, motions and other documents.

There were willful violations of Ohio Civil Rule 11 because the Defendant-Appellee's attorneys read and signed every document. Plaintiff repeatedly informed the attorneys and informed the courts through motions that defendant's filings were designed with the purpose to delay because there were no good grounds for filing.

Plaintiff filed several motion to disqualify the attorney. Plaintiff-Appellant filed several motions, briefs and documents informing Defendant-Appellee's attorneys that there were no good grounds to support their pleadings, motions and other documents.

Failing to respond or file to pleadings within the requisite period of time, failing to produce relevant non-privilege documents, misrepresenting facts to the courts and willful violations of Civil R. 11 are not merely negligent. Defendant-Appellee's attorneys read and signed all the documents that they filed with the courts. There were no good grounds supporting the documents they filed and submitted to the courts. They filed them with the purpose of delay. Simply put, Defendant-Appellee's attorneys believe that they are superior than Plaintiff and therefore they can file frivolous documents and deceive the courts and achieve their objectives.

Ohio courts have granted monetary sanctions in favor of Pro Se litigants. See, *Baryak v. Lange* 2017 Ohio 93448 (Ohio Ct. App 2017).

Compensation must be given to work performed and completed regardless of the status of the Performer. In the instance case, Plaintiff-Appellant must be compensated, and justice requires sanctions to be imposed.

CONCLUSION

This court must award court costs, reasonable attorney's fees and expenses because Defendant's attorney and the law firm of Hauser Law LLC engaged in frivolous conduct that adversely affected Plaintiff. Plaintiff is also requesting this court to order Defendant's attorney to pay for the cost of this motion and all the costs, legal fees, attorney fees and expenses in this civil action.

Respectfully submitted,

/s/ Michael Asamoah

Michael Asamoah

Attorney for Plaintiff, *Pro Se*

Exhibit

IN THE COURT OF COMMON PLEAS
CIVIL DIVISION
FRANKLIN COUNTY, OHIO

MICHAEL ASAMOAH,

Plaintiff,

v.

CAPITAL ONE,

Defendant.

Case No.: 21CV-08-5165

NOTICE OF FILING NOTICE OF REMOVAL TO
THE UNITED STATES DISTRICT COURT

TO: THE CLERK OF THE COURT OF FRANKLIN COUNTY COURT OF COMMON
PLEAS, OHIO

PLEASE TAKE NOTICE that on September 22, 2021, Defendant Capital One Bank
(USA), N.A. ("Capital One"), filed its Notice of Removal in the United States District Court for
the Southern District of Ohio, a copy of which is attached as Exhibit A.

PLEASE TAKE FURTHER NOTICE that, pursuant to 28 U.S.C. § 1446, the filing of
that Notice of Removal in the United States District Court for the Southern District of Ohio,
together with the filing of a copy of the Notice of Removal with this Court, effects the removal
of this action and this Court may proceed no further unless and until this case is remanded.

Respectfully submitted,

/s/ Laura A. Hauser

Laura A. Hauser (0041354)

Hauser Law LLC

3713 Longwood Court

Cleveland Heights, Ohio 44118

Ph: (216) 536-8810

Laura@HauserLawLLC.com

Attorney for Capital one Bank (USA), N.A.

E3329 - E21

MARYELLEN O'SHAUGHNESSY
CLERK OF THE FRANKLIN COUNTY COMMON PLEAS COURT, COLUMBUS, OHIO 43215
CIVIL DIVISION

MICHAEL ASAMOAH
2721 WOODCROFT ROAD
COLUMBUS, OH 43204,

PLAINTIFF,

VS.

CAPITAL ONE
1680 CAPITAL ONE DRIVE
MCLEAN, VA 22102,

DEFENDANT.

21CV-08-5165
CASE NUMBER

CLERK OF COURTS
2021 AUG 18 PM 3:14
COMMON PLEAS COURT
FRANKLIN CO. OHIO

**** SUMMONS ****

08/17/21

TO THE FOLLOWING NAMED DEFENDANT:

CAPITAL ONE
PO BOX 30285
SALT LAKE CITY, UT 84130

YOU HAVE BEEN NAMED DEFENDANT IN A COMPLAINT FILED IN FRANKLIN COUNTY
COURT OF COMMON PLEAS, FRANKLIN COUNTY HALL OF JUSTICE, COLUMBUS, OHIO,
BY: MICHAEL ASAMOAH
2721 WOODCROFT ROAD
COLUMBUS, OH 43204,

PLAINTIFF(S).

A COPY OF THE COMPLAINT IS ATTACHED HERETO. THE NAME AND ADDRESS OF
THE PLAINTIFF'S ATTORNEY IS:

MICHAEL ASAMOAH
2721 WOODCROFT ROAD
COLUMBUS, OH 43204

YOU ARE HEREBY SUMMONED AND REQUIRED TO SERVE UPON THE PLAINTIFF'S
ATTORNEY, OR UPON THE PLAINTIFF, IF HE HAS NO ATTORNEY OF RECORD, A COPY
OF AN ANSWER TO THE COMPLAINT WITHIN TWENTY-EIGHT DAYS AFTER THE SERVICE
OF THIS SUMMONS ON YOU, EXCLUSIVE OF THE DAY OF SERVICE. YOUR ANSWER
MUST BE FILED WITH THE COURT WITHIN THREE DAYS AFTER THE SERVICE OF A
COPY OF THE ANSWER ON THE PLAINTIFF'S ATTORNEY.

IF YOU FAIL TO APPEAR AND DEFEND, JUDGMENT BY DEFAULT WILL BE RENDERED
AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

MARYELLEN O'SHAUGHNESSY
CLERK OF THE COMMON PLEAS
FRANKLIN COUNTY, OHIO

BY: BROOKE ELLIOTT, DEPUTY CLERK

(CIV370-S03)

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was served upon Defendant by ordinary mail to the following addresses on February 15, 2022:

Laura A. Hauser (0041354)
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/s/ Michael Asamoah
Michael Asamoah
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