In the Supreme Court of Ohio

APPEAL FROM THE COURT OF APPEALS
EIGHTH APPELLATE DISTRICT
CUYAHOGA COUNTY, OHIO
CASE NO. CA-21-111036

Appeal from the Cuyahoga County Court of
Common Pleas Case No. CV-19-923579

RNE ENTERPRISES, LLC

Plaintiff-Appellee,

-vs-

IMPERIAL KITCHEN CABINET FACTORY, LLC, *et al.*,

Defendants-Appellants.

NEW CHOICE HOME DECO, INC.'S MEMORANDUM IN SUPPORT OF JURISDICTION

Michael P. Harvey, Esq. (0039369)
Michael P. Harvey Co., L.P.A.
311 Northcliff Drive
Rocky River, Ohio 44116
Phone: (440) 356-9108
Mpharveyco@aol.com

Attorney for Defendant/Appellant New Choice Home Deco, Inc.

G. Brenda Coey (0075879)
5344 Limerick Avenue, NW
North Canton, Ohio 44720
Phone: (330)327-7349
bcoey@gmail.com

Stephen D. Dodd, Esq (0072658)
8440 Station Street
Mentor, Ohio 44060
Phone: (440)220-7457
sdodd@stephendoddllc.com

Attorneys for Plaintiff/Appellee

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I. INTRODUCTION AND OVERVIEW

This case raises substantial constitutional questions. Mootness does not exist in our Ohio Constitution. It does not exist in our laws enacted by our General Assembly. It is a legal fiction that cannot and does not supersede a lack of jurisdiction, a lack of standing, *res judicata*/collateral estoppel, or a factually devoid Record. The lower court abused its discretion by awarding $297,000.00 in discovery sanctions that permitted the lower court to then allow RNE Enterprises, Inc. ("RNE") to avoid a summary judgment motion with a Rule 56(F) response despite the burden of proof on fraud.

The United States Constitution requires a case or controversy. No such requirement is found in the Ohio Constitution. Ignoring or refusing the obligations of the Ohio Constitution to review a case before it, when New Choice took all the steps to contest what happened below, including contesting garnishments while the appeal was pending, but could not afford to pay the full judgment rather than a bond as ordered, does not make an appeal "moot" and it is an error of law and completely wrong Ohio jurisprudence.

Mootness is <u>not</u> an absolute principle in Ohio law. It is fact specific and inapplicable to this situation. Jurisdiction is an absolute Ohio principle.

II. MEMORANDUM IN SUPPORT

A. Overview.

In 2015, New Choice Home Deco, Inc. ("New Choice"), a Pennsylvania company having no relationship at all with RNE, then an owner of a building, bought some cabinets from a dissolving company for $100,000.00. These cabinets were driven out by Imperial to Pennsylvania where they were used in New Choice's business.

In 2016, RNE filed a civil case in Cuyahoga County against the dissolving company and its owner, but not New Choice. RNE apparently obtained a default judgment of $297,000.00. RNE also sold the property.

In 2019, RNE sued New Choice claiming fraudulent transfer on three different theories. All three theories were barred by the statute of limitations; there was no Ohio jurisdiction over New Choice; the lawsuit was barred by *res judicata*/collateral estoppel, lack of standing and lack of proof of fraud. The lower court never required RNE to respond to the Summary Judgment Motions. Instead, it improperly granted discovery sanctions for several Requests for Admissions that were objected to and denied. The lower court awarded RNE the entire default judgment from the 2016 case that New Choice was not involved with as discovery sanctions. New Choice believes this was an abuse of discretion.

Still pending below is an unscheduled hearing for attorney's fees that was never scheduled by the lower court. Meanwhile, RNE proceeded through an Ohio bank to garnish a Pennsylvania company, which New Choice objected to several times throughout, but this was also found to be moot.

B. No Final Appealable Order Exists.

The Appellee claimed there was no final appealable order because the issue of attorney fees, costs, and expenses had not been determined. The appeal was permitted to proceed. The Appellee claimed that Article IV, Section 3(B)(2) of the Ohio Constitution restricts an appellate role to the review of final orders which is disposing of the whole case or some separate distinct branch thereof. *See, Noble v. Colwell* (1989), 44 Ohio St.3d 92, 94 "if an order is not final, an appealable order, the Appellate Court lacks jurisdiction, and the appeal must be dismissed." *K.B. v. Columbus* (10th Dist. 2014), 2014-Ohio-4027 at ¶ 8.

The lower court Ordered sanctions against New Choice in the full amount of a 2016 case Default Judgment. The Order did not say anything about interest. The Appellee claims that interest is an inherent part of that Judgment.

A party who cannot even bring a case in the Ohio courts because of *res judicata*, collateral estoppel, or standing, cannot be in the Appellate Court arguing that it has the right to enforce an unconstitutional and illegal order that was issued in a case that never should have been filed

New Choice has raised these questions from the beginning of the case, not just on the appeals. The lower court ignored it and permitted the Appellee to file a 56(F) Motion in response to our summary judgment motions despite a fraud burden of proof.

In *Davis v. Nathaniel* (2022), 2022-Ohio-751 The Ohio Supreme Court, on March 16, 2022 vacated the Court of Appeals Judgment for lack of a final appealable Order and remanded to the trial court. As in *Davis*, we believe the Order immediately and definitively affects our rights because the trial court decided the entire case based on an incorrect assessment and the facts of law on a discovery issue and ignored the summary judgment motions pending, ignored standing, jurisdiction, *res judicata*, collateral estoppel and a complete lack of evidence of fraud and fraudulent transfer.

C. The Trial Court Had No Jurisdiction.

The trial court had no jurisdiction. All decisions flowing from that decision are wrong. New Choice is a Pennsylvania company that bought cabinets from a now dissolved Ohio entity in 2015, pursuant to a one-page Chinese contract. Cabinets were delivered to Pennsylvania by that company. Those cabinets were not used in Ohio, nor sold in Ohio. New Choice below filed a Motion to Dismiss for Lack of Jurisdiction which the trial court denied without explanation.

New Choice, as an out-of-state Defendant, was not subject to jurisdiction in Ohio courts. The conduct falls outside the long-arm statute or any Civil Rule. New Choice was deprived of due process of law under the Fourteenth Amendment to the United States Constitution. A 2015 one-time purchase of cabinets by New Choice from a dissolved Ohio company is not a continuing obligation that connects a nonresident defendant for personal jurisdiction under the long-arm statute. Even if it did, there is no minimum contacts with Ohio such that the maintenance of the lawsuit in 2019 by RNE does not offend judicial notions of fair play and substantial justice. In other words, there is no specific or general jurisdiction.

New Choice and RNE had no relationship. A lawsuit four years after purchase by a Pennsylvania company who bought these cabinets from a distressed company that had already been the target of this 2016 lawsuit, of which New Choice was not a part, is astounding. No proof of fraudulent transfer under any theory, even if it was timely, exists. There was no standing by RNE because it sold the building in 2016. So, there was no proper jurisdiction, there is *res judicata*/collateral estoppel and no standing, yet it got a sanctions judgment because New Choice objected to 126 Requests for Admission while denying them.

LG Chem, Ltd. V. Goulding (2022), 2022-Ohio-2065 affirms that the defendant must have had contacts such that the maintenance of the lawsuit is reasonable and does not offend judicial notions of fair play and substantial justice. Fraudulent transfer is a theory by RNE that somehow New Choice got a better deal than they should have. New Choice had no connection at all with the State of Ohio and/or RNE. RNE's theory was untimely, unsupported and improper.

D. The Decision Contravenes Controlling Ohio Law Regarding Mootness.

New Choice filed this appeal on the garnishments undertaken by RNE. New Choice challenged how a 2019 case could be filed when it did not bring New Choice into a 2016 case

which reached a final decision; how RNE having sold its business and property in 2016, had standing to even bring this lawsuit; and the statute of limitations as well as the elements of the alternative fraudulent transfers.

These threshold questions should have been addressed by the lower court. But, the lower court permitted RNE to succeed on motions to compel. It ignored all of the responses, ignored the discovery, and concluded that the so-called "sanctionable" behavior should be rewarded with a $300,000 judgment, which while "final," New Choice still has the issue of attorney fees, costs, and expenses.

The lower court's decision, appealed within days of the decision, was an abuse of discretion. It was an aberration of law and one that New Choice had hoped would forestall the many garnishments that were done between August and December 2021. That did not happen because of the delays caused by RNE in seeking extra time for their motions and their briefing. In that same time period, they were garnishing through PNC Bank in Cleveland which New Choice objected to the Administrative Judge and filed an appeal.

The Sixth District Court of Appeals cited to *Tschantz v. Ferguson* (1991), 57 Ohio St.3d 131, 133 in which the Supreme Court of Ohio set forth the following definition of "moot:"

> Ohio courts have long exercised judicial restraint in cases which are not actual controversies. *Fortner v. Thomas* (1970), 22 Ohio St.2d 13, 14, No actual controversy exists where a case has been rendered moot by an outside event. "It is not the duty of the court to answer moot questions, and when, pending proceedings in error in this court, an event occurs without the fault of either party, which renders it impossible for the court to grant any relief, it will dismiss the petition in error." *Miner v. Witt* (1910), 82 Ohio St. 237, 92 N.E. 21, (syllabus).

So, according to the Sixth Circuit Court of Appeals and Ohio case law, an event may not be rendered moot as a result of the fault of a party to the litigation. So, as applied to this situation, not only did New Choice file an immediate appeal from a sanctions determination or contempt

proceeding below which ended up terminating the litigation, despite the fact that the Court has not yet held a Hearing on attorney fees, costs, and expenses related to the Motion to Compel, but New Choice filed our main brief to this Court immediately.

Between COVID-19 and other issues, this appeal went on for months. In that time, RNE involuntarily garnished monies through PNC in Cleveland, Ohio against a foreign, for-profit company located in Pennsylvania, which New Choice objected to at every stage. The lower court docket demonstrates not only our numerous motions to stay, but also our objections to the garnishment proceedings of RNE and eventually, our appeal which was pending below was also dismissed as moot.

According to the Sixth Circuit Decision in *Roberts*, though under different facts, this is not New Choice's fault. To argue that it was voluntary because New Choice could not afford a $350,000.00 payment is not appropriate. It also robbed New Choice of the opportunity for a proper review.

In *Haueisen v. City of Worthington* (10th Dist. 2019), 2019 WL 6717099, the Haueisens, in that unsuccessful appeal, argued that their appeal should not be moot because it involved a matter of great public interest and importance. The Tenth District stated in quoting to the Ohio Supreme Court in *State ex rel White v. Koch* (2002), 96 Ohio St.3d 395, also quoting *Franchise Developers, Inc. v. Cincinnati* (1997), 30 Ohio St.3d 28 (paragraph one of the syllabus) that "although a case may be moot with respect to one of the litigants, this court may hear the appeal where there remains a debatable constitutional question to resolve, or where the matter appealed is one of great public or general interest." *Haueisen, Id.* citing *Nextel W. Corp v. Franklin County Board of Zoning Appeals* (10th Dist. 2004), 2004-Ohio-2943 at ¶ 13.

E. Mootness is Not Found in the Ohio Constitution, Nor in the Ohio Revised Code.

Mootness is not found in the Ohio Constitution, nor in the Ohio Revised Code. It is a legal fiction. This Appellant sought review of an abuse of discretion sanction decision. It could not afford to deposit $350,000.00. This does not make the Appellee's improper garnishment of monies, that were inappropriately assessed as a penalty, a "voluntary" act, thus depriving **any** Court of the opportunity to review the abuse of discretion, lack of jurisdiction, lack of standing *res judicata* and other legal questions. New Choice, a Pennsylvania company, has been deprived of its constitutional right to a review of the lower court's decision.

In *Tschantz v. Ferguson* (1991), 57 Ohio St.3d 131, 133, the Court noted that Ohio recognizes exceptions to the mootness doctrine for constitutional questions or a matter of great public or general interest. *Tschantz, Id.* citing *Franchise Developers, Inc.* v. *Cincinnati* (1987), 30 Ohio St.3d 28, 31; *State ex rel White v. Koch* (2002), 96 Ohio St.3d 395 and *Franchise Developers, Inc. v. Cincinnati* (1997), 30 Ohio St.3d 28 found that "although a case may be moot with respect to one of the litigants, this court may hear the appeal where there remains a debatable constitutional question to resolve, or where the matter appealed is one of great public or general interest."

In *Atlantic Veneer Corp. v. Robbins* (4th Dist. 2004), 2004 WL 1563389, the Court noted that the Appellant "paid the judgment in full" and the parties through counsel executed a Satisfaction and Release of the Judgment and filed it with the court. The Appellee in that case cited to *Blodgett v. Blodgett* (1990), 29 Ohio St.3d 243 for the claim that satisfaction of a judgment renders the appeal moot.

In *Lynch v. Lakewood City School Board of Education* (1927), 116 Ohio St. 361 stated that where a party pays a judgment after the issuance of an execution, payment is not voluntary. In *Lynch*, the Supreme Court noted: "The Attorney General has cited cases upon the proposition that a judgment can be set aside even though the judgment has been paid."

What the *Blodget* Court noted is that "where the court rendering judgment has jurisdiction of the subject matter of the actions of the parties, **and fraud has not intervened**, and the judgment is voluntarily paid and satisfied, such payment puts an end to the controversy and takes away from the defendant the right to appeal or prosecute error or even move for vacation of judgment . . .." (*Emphasis added*.) Abuse of discretion here may be fraud -- something very wrong happened by overlooking jurisdiction and leaving a judgment for Admissions objections.

The Supreme Court in *Blodgett* noted that it is important to determine whether the satisfaction of the judgment was voluntary. The *Blodgett* Court looked to the law of economic duress. The Court noted, "[A] person who claims to have been a victim of economic duress must show that he or she was subjected to . . . a wrongful or unlawful . . . and that it . . . deprived the victim of his unfettered will."

New Choice was economically coerced by the lower court. The Court assessed the full amount of a previous default as a discovery sanction against New Choice. The lower court then rendered the whole case "decided" ignoring New Choice's summary judgment motions. That is not a full faith and credit judgment. New Choice did not "voluntarily" pay anything. New Choice opposed every Order and every garnishment at every stage.

New Choice sought several stays, in the lower court and in the Court of Appeals. The *Atlantic Veneer Corp.* case, the Fourth District noted the following, "In that case (*Slovak v. University Off Campus Housing* (4th Dist. 2000), Athens App. No. 99CA50) New Choice relied upon the Supreme Court's holding in *Blodgett*, and further noted the Appellant could have preserved her appeal rights by seeking stay of execution pending the appeal." The lower court did not allow New Choice to get a bond. It required a full payment of the sanction, which New Choice did not have the resources to do at one time.

Additionally, the Fourth District Court of Appeals in *Atlantic Veneer Corp.* noted that its previous decision in *Federal Land Bank of Louisville v. Wilcox* (4th Dist. 1991), 74 Ohio App. 3rd 474 the Court held that the mere payment of a judgment in the absence of other evidence indicating that the Appellant intended to abandon an appeal did not result in an automatic dismissal as a matter of law and while that case may have been considered aggregating based on the *Blodgett* Decision, that *Blodgett* Decision is not indisputable, incontrovertible law and, in fact, is improperly based upon the Supreme Court decision in *Lynch*, despite cases from the Ohio Attorney General that it is not "voluntary."

In *Federal Land Bank of Louisville, Id.,* the Fourth District Court of Appeals stated, "Appellees payment of judgment without more is not sufficient to automatically dismiss an appeal as moot." The Fourth District stated that its recent decision in *Arledge v. Braun* (4th Dist. 1989), 1989 WL 145620 the court held that a party may indicate an intention to voluntarily abandon an appeal by accepting the benefits of the judgment but that payment of judgment without more is not sufficient to automatically dismiss an appeal.[1]

F. The Garnishments/Attachments were Improper.

First, RNE is not the correct Plaintiff. RNE sold the building in 2016. The 2019 litigation, against a former tenant's buyer of cabinets, to whom RNE had no relationship, was improper. The over $300,000.00 in penalties assessed by the Trial Court was the result RNE's calculation of "lost profits" from the 2016 lawsuit. RNE claimed that they had a certain amount of lost rent which, itself, was false. **Second**, the information used to pursue garnishments/attachments against New Choice through PNC Bank in Cleveland, were improperly obtained. New Choice did not give

[1] It is worth noting that the Fourth District did not render either the *Arledge* Decision or any other decision by an en banc decision of the entire court, nor was either one of those decisions appealed to the Supreme Court.

RNE any financial information. The information used was from the 2016 litigation to which New Choice was not a party. This permitted them to jump ahead without doing a debtor's exams or proper post-judgment activities. **Third**, New Choice and its principal officers live and work in Pennsylvania. RNE should have been brought the case in Pennsylvania, not in Ohio. **Fourth**, the scope of the bank sweep/attachment/garnishment was improper. The sanction judgment was against New Choice, not its officers, directors or agents. The bank sweep of monies out of any and all accounts of all monies did not take into consideration that restriction. RNE should have been limited to any monies that were from New Choice and no one else, but that is not what they did. **Fifth**, the 2019 lawsuit was barred by merger of judgment, *res judicata*, collateral estoppel statute of limitations and lack of standing. None of these issues have been addressed. **Sixth**, *res judicata* and collateral estoppel barred the 2019 lawsuit because it should have been brought in 2016, with all the other alleged claims that RNE had. RNE's failure to do so is a bar to the 2019 lawsuit. **Seventh**, RNE brought three alternative theories of fraudulent transfer in its Complaint. RNE never had to decide what theory of recovery to proceed on. **Eighth**, the statute of limitations for fraudulent transfers, not regular fraud is two years. RNE was still required to prove fraud with particularity, and with proper evidence. There was no evidence of fraud. The allegations were rank speculation. **Ninth**, much of the money that was swept out of New Choice's bank account was money that was either exempt or was for exempt payments.

Some of the money that was swept out of New Choice's bank accounts were for workers' compensation benefits in the amount of $4,289.90 per month; unemployment compensation payments of $1,630.04 per month; Pennsylvania payroll taxes of $10,746.54 per month; payroll of $69,454.00 per month; and similar monies. RNE has taken the money that it needed to pay its taxes, its unemployment, its workers' comp, and its payroll.

G. The Garnishment by RNE was Improper.

PNC Bank apparently assumed that jurisdiction was proper, and it was not. The bank sweep should only have been New Choice, not against its officers, employees, vendors, or anyone else. The money that was in the account that was frozen and then swept by PNC to the Clerk of Courts was monies for a variety of taxing authorities, legal obligations, payroll, payroll taxes, sales taxes, and a variety of other priority obligations.

Not only did New Choice make a Motion to Stay the day after the Order came out, but the garnishment went on in violation of Revised Code §2716.02 which requires that a demand be made after judgment is obtained and at least 15 days or not more than 45 days before the Order is sought by delivering it to the judgment debtor by personal service, through the Court by sending it to the judgment debtor by certified mail, return receipt requested, and a form permitted by Revised Code §2716.02. That was not done.

Also Revised Code §2716.02 requires the creditor to send a notice of avoiding garnishment by permitted by the judgment debtor to apply for a trustee, receiver, or to get a bond, which was not permitted because they did not do these things.

The information RNE had was not information obtained from New Choice. That information was confidential, private information of New Choice that RNE was not privy to and should not have had in its possession.

Additionally, RNE did not give notice to New Choice about the different requirements of Revised Code §2716.03. As far as New Choice knows, they did not file an Affidavit of Balance pursuant to Revised Code §2716.031, nor provide a notice to the judgment debtor regarding the balance, or the judgment debtor's right to request a Hearing, or address our concerns or objections. RNE did not do a proof of service of written demand pursuant to Revised Code §2716.04. New

Choice did not have an opportunity to take out monies for exemptions under Pennsylvania or Ohio law or to note the kinds of money that are exempt by statute. New Choice did not get a notice pursuant to Revised Code §2716.06 regarding this whole process which is why it was a surprise to New Choice. New Choice also did not receive a Revised Code §2716.02 Formal Notice to Collect a Debt.

At a minimum, New Choice should not have been treated any different than any garnished debtor. Creditors cannot garnish more than 25% of disposable earnings or disposable earnings 30 times the current federal minimum wage; there are limits for child support due to loans and taxes; and there are exemptions for social security, disability, retirement, child support, alimony.

Because garnishment are purely statutory proceedings, a Court can grant garnishment relief only in accordance with the terms and upon the grounds set forth in the garnishment statutes. *See, Dyer v. Schwan's Home Service, Inc.* (10th Dist. 2017), 2017-Ohio-4139; citing *Doss v. Thomas* (10th Dist. 2009), 183 Ohio App.3d 795; citing *Rice v. Wheeling Dollar Savings and Trust Co.* (1955), 163 Ohio St. 606. Accordingly, pursuant to Revised Code §2716.01, a judgment creditor who has obtained a judgment may garnish property other than personal earnings only through a proceeding in garnishment and only in accordance with Revised Code §2716 if it is in Ohio properly.

H. The Lower Court's Sanction Decision Was An Abuse Of Discretion And Should Not Be Ignored by Mootness.

An abuse of discretion implies that the trial court's attitude was unreasonable, arbitrary, or unconscionable. See *U.S. Bank, N.A. v. Jeffers*, 8th Dist. (2017), 2017-Ohio-9153. Furthermore, an abuse of discretion means that the result is so palatably and grossly violative of fact or logic that it evidences not the exercise of will but perversity of will, not the exercise of judgment but

defiance of judgment, not the exercise of reason but instead passion or bias. See *State v. Landers*, 4th Dist. (2010), 188 Ohio App.3d 786.

While it is beyond doubt that a trial court has discretion to ensure that its docket and cases are moving forward, it does not have the right to award a party approximately $350,000.00 for Request for Admissions objections added to denials because the Plaintiff had three alternative fraudulent transfer theories, all of which the owner of RNE had no idea about and yet proceeded with 126 Requests for Admissions in order to continually harassment New Choice with Motions to Compel. Unfortunately, the lower court decided that one or more of these Motions to Compel were valid, which itself was in error. But then awarded a 2016 default judgment as a sanction or penalty which is so grossly devoid of fact or logic that it is an abuse of discretion.

New Choice respectfully requests that this Court take this matter to consider it and define in the context of discovery sanctions the limits of a Court's discretion to award such grossly inequitable amounts of money that they also include attorney's fees, costs and expenses that have yet to be determined merely for adding objections to Requests for Admissions that have already been denied.

III. CONCLUSION

The Appellant, New Choice, is a Pennsylvania company that bought cabinets in 2015. It was improperly sued in Ohio on an improper basis in violation of jurisdiction, *res judicata*/collateral estoppel and a lack of standing all of which the lower court ignored in an abuse of discretion award to RNE of over $300,000.00 in discovery sanctions, factually and legally erroneous. No voluntariness or mootness of the underlying problems exists.

Article III of the United States Constitution is where the doctrine of mootness derives. Ohio has no constitutional counterparts to Section 2, Article III. Mootness should be a case-by-case

analysis, not an across-the-board termination because someone could not afford to pay a full cash Judgment as Ordered.

New Choice filed this appeal immediately. Between COVID and RNE's delays, RNE garnished, via an Ohio bank, a Pennsylvania company of the monies that the lower court awarded for a discovery sanction. The lower court did not rule on the Summary Judgment Motion, but it erroneously avoided jurisdiction, standing and *res judicata*/collateral estoppel issues.

New Choice has asserted no jurisdiction and no right to bring the case let alone maintain it. The egregious abuse of discretion of granting the entire judgment of a previous default as a discovery sanction erroneously is one the lower court should never have gotten to.

The lower court erred in finding jurisdiction; erred in permitting RNE to avoid its burden of proof on fraudulent transfer; erred in finding discovery sanctions; erred in the amount of the discovery sanctions; erred in avoiding *res judicata*/collateral estoppel raised in New Choice's summary judgment motion; and erred in finding that there was a final judgment because it deemed the Requests for Admissions decided, meaning that there was fraudulent transfer by the fiction created by the lower court over a case that it had no jurisdiction.

RNE claimed earlier on in this appeal that because New Choice had not had a hearing on the attorney fees that are still in question both as to the extent and the amount, that the full amount of the garnishments has not been taken, therefore it cannot be moot. Yes, this Court could have remanded for that determination and did not. So, finding that New Choice's Appeal is moot when it possibly still could come back on the extent and nature of attorney fees on a case that has already been deemed moot, is inappropriate.

New Choice believes that this Court should remand for a dismissal of the case and vacate oall of the inappropriate abuse of discretion fines and judgment. Or, it should remand for a

determination of attorney fees so that it can be appealed on the entire case, so that New Choice can get the issue decided on the merits rather than on a legal fiction that is not found in the Ohio Constitution or the Ohio Revised Code.

The concept of mootness cannot and does not supersede lack of jurisdiction, lack of standing, *res judicata*/collateral estoppel, or a factually devoid record, none of which the lower court got to because this was a sanctions process which, while erroneous, was one that the lower court permitted over many objections over many months. Yet, the lower court permitted RNE to avoid even a basic response to the summary judgment motion and supplemental motion for summary judgment because it did a Rule 56(F) response, which itself should have been a "red flag" for the lower court that there was no jurisdiction, standing or even basis to bring the lawsuit.

Appellate Courts cannot ignore or refuse its obligations under the Ohio Constitution in a case where the Appellant took all the steps to contest what happened below, including contesting garnishments while the appeal was pending, and could not afford to pay the full judgment rather than a bond, which is what the lower court required. This is not "voluntary."

This Court should not ignore the delays caused by RNE itself; ignore the COVID delaying of the appeal process; or overlooked the fact that the lower court required the entire judgment to be paid rather than a bond, in finding mootness when New Choice has contested every aspect of every part of this case, which is an over $350,000.00 sanction for objections to Requests for Admissions denials.

Respectfully submitted,

MICHAEL P. HARVEY CO., L.P.A.

/s/ Michael P. Harvey
Michael P. Harvey, Esq. (0039369)
311 Northcliff Drive
Rocky River, Ohio 44116
Office: (440) 356-9108
Cell: (440) 570-2812
Email: MPHarveyCo@aol.com

Attorney for New Choice Home Deco, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 1, 2022 a copy of the foregoing *NEW CHOICE HOME DECO, INC.'S MEMORANDUM IN SUPPORT OF JURISDICTION* has been forwarded via the Court's electronic filing system and/or electronic mail to:

G. Brenda Coey (0075879)
5344 Limerick Avenue, NW
North Canton, Ohio 44720
Phone: (330)327-7349
bcoey@gmail.com

Stephen D. Dodd, Esq (0072658)
8440 Station Street
Mentor, Ohio 44060
Phone: (440)220-7457
sdodd@stephendoddllc.com

Attorneys for Plaintiff/Appellee

/s/ Michael P. Harvey
Michael P. Harvey, Esq. (#0039369)

Attorney for New Choice Home Deco, Inc.