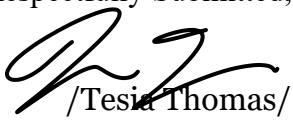
MOTION FOR SANCTIONS AND TO STRIKE UNETHICAL STATEMENTS

IN THE SUPREME COURT OF OHIO

Tesia Thomas Appellant v. Ghassan Salahaldin, et. al. Appellees	On Appeal from the Cuyahoga County Court of Appeals, Eighth Appellate District C.A. Case No.23-113234

Now comes the Plaintiff-Appellant, Tesia Thomas, and hereby moves this Court to strike Defendant-Appellees' Memorandum in Response for unethical statements pursuant to Ohio Rules of Professional Conduct, particularly Rule 3.4(e) and 4.4(a), and to impose sanctions on Defendant-Appelles' attorney for signing a pleading that contains information lacking good ground to support it pursuant to Civ.R. 11 and R.C. 2323.51.

Respectfully Submitted,



/Tesia Thomas/

Tesia Thomas (PRO SE)

8600 Tyler Blvd

#1481

Mentor, OH 44060

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing MOTION FOR SANCTIONS AND TO STRIKE UNETHICAL STATEMENTS was sent by electronic mail per established written consent on this 12th day of November, 2024 to:

MARK C. LINDSEY (0086249)
Attorney for Defendants Ghassan Salahaldin
And Mohammed Salahaldin
Progressive_OH_HC@progressive.com

/Tesia Thomas/
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Plaintiff Pro Se
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tesiathomas@pm.me

Sanctionable conduct under R.C. 2323.51 and Civil Rule 11

R.C. 2323.51(A)(2) defines "frivolous conduct" that may justify an award of sanctions to include conduct of the opposing party's counsel of record that consists of allegations or other factual contentions that have no supporting evidence. Sanctions an also be imposed for conduct that only serves to harass or maliciously injure the other party.

Civil Rule 11 is not as specific as R.C. 2323.51(A)(2) and only requires the following:

> The signature of an attorney . . . constitutes a certificate by the attorney . . . that the attorney . . . has read the document; that to the best of the attorney's . . . knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a document is . . . signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though the document had not been served. For a willful violation of this rule, an attorney . . ., upon motion of a party or upon the court's own motion, may be subjected to appropriate action, including an award to the opposing party of expenses and reasonable attorney fees incurred in bringing any motion under this rule.

Both statutes concern claims that are not supported by facts in which the person making the claim has a good faith belief. Jones v. Bellingham, 105 Ohio App. 3d 8,12 (2d Dist., 1995).

I. Attorney Lindsey Accuses Appellant Thomas of "Slander"

Appellant Thomas states in her Memorandum in Support that the trial judge hallucinates a date on an exhibit. This is a fact. Attorney Lindsey regards this as a "slanderous statement" while referencing non-record material of a transcript which should be stricken pursuant to Ohio Rules of Professional Conduct, Rule 3.4(e). Lindsey states on page 1 of Appellee Memorandum in Response, "In fact, had Appellant filed a transcript of the trial proceedings, what would be clear is that the photo in question was properly authenticated by the Appellees through testimony at trial." Not only is this a reference to a transcript, which is an unethical reference to irrelevant and non-record material, as Attorney Lindsey notes on that same page of the Memorandum in

Response but it also does not diminish the trial judge's hallucination. It does not matter why the magistrate hallucinated a physical date on Appellees exhibit as Attorney Lindsey writes on page 2 of his memorandum in response, "There is no requirement that photographic evidence must have a literal date written on the photo…"; all that matters is that the trial judge hallucinated something that wasn't required, and it is not slander because Appellant can prove it and will do so to provide support for these sanctions and the striking of this inflammatory accusation which should be stricken from Appellee memorandum pursuant to Ohio Rules of Professional Conduct, Rule 4.4(a) which is a rule to prevent disparaging or personally attacking opposing parties without evidence.

I will list how this Honorable Court can see that Attorney Lindsey's personal comments are without evidence:

Step 1: Consult the Record on Appeal Pursuant to Ohio Appellate Rule 9(A):

> (A) Composition of the record on appeal; record of proceedings.
> (1) The original papers and **exhibits thereto filed in the trial court**…and **a certified copy of he docket and journal entries prepared by the clerk of the trial court** shall constitute the record on appeal in all cases. [emphasis added]

Step 2: See that the only two documents that Appellant claims are needed to see the plain error actually exist as the record on appeal.

From Appellant's Memorandum in Support, page 6:

> According to the Rocky River Municipal Court's docket, the exhibits submitted to and accepted by the trial judge became part of the docket on September 25, 2023, and thus part of the record on appeal, which was submitted to the appeals court on November 27, 2023. The final appealable order/judgment entry of the trial court was submitted to the appeals court by the Appellant on November 24, 2023, in order to perfect the appeal. These documents are the only two documents required to see the plain error that the Appellant describes, and these documents are in all instances of the court record at both the trial and appellate levels.

Step 3: View the Final Appelable Order/Judgment Entry and View Appellees Exhibits to See the Plain Error Hallucination and Juxtaposition Which Prejudiced Appellant

Exhibit R1 (attached below): Shows the portions of the judgment entry, highlighted/emphasis added by Appellant, (a sort of statement of the evidence approved by the court) which show that ***the trial judge did in fact require physical dates on exhibits to prove testimony***; the trial judge states that she does not find a physical date on Appellant's exhibits but does find (hallucinate) a physical date on Appellees Exhibit D photos of the car.

ROCKY RIVER MUNICIPAL COURT
21012 Hilliard Blvd., Rocky River, Ohio 44116-3398 www.rrcourt.net
(440) 333-0066 Fax (440) 356-5613

November 17, 2023

Tesia Thomas,
Plaintiff(s)

VS

Ghassan Salahaldin et al,
4789 Columbia Rd Apt 1
North Olmsted OH 44070
Defendant(s)

JOURNAL ENTRY

Case No. 23 CVI 1092

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FACTS

Case called for Small Claims Trial on 9/18/23. Plaintiff appeared, pro se. Defendants and counsel from their insurer, Progressive, appeared with witness Jolanda Abukhalil. The case had previously been set for Small Claims Trial on 8/21/23 and all parties appeared, however, Plaintiff stated that when she met the owner of the vehicle, Defendant Ghassan Salahaldin, at the Mediation hearing on 7/21/23, she realized he was not the driver of the vehicle at the time of the alleged incident. She stated that she had looked on Google and Facebook and found Defendant's son, who looked like the person driving the car. Therefore, the trial did not go forward on that day and the Court granted Plaintiff 30 days to amend her complaint, which she did that day, 8/21/23, adding Defendant's son Mohammad Ghassan to the complaint. Plaintiff filed a Motion for Discovery 8/25/23 as to the name and address of Mohammad Ghassan Salahadin, after she had already added him to her complaint, however this motion was moot as she had already amended the complaint and service was still pending. When the case was reset for Small Claims Trial on 9/18/23 Plaintiff did not file a continuance of that date and appeared with evidence to put on her case on the scheduled date. Prior to the Trial commencing when asked if settlement had been discussed, Defendant's counsel stated that Plaintiff's insurance claim had been denied by Progressive and their position was that an accident involving their insureds never occurred and they wished to proceed with the trial.

Plaintiff was prepared for the trial and proceeded to put on her case and, contrary to her statement in subsequent pleadings, did not request a continuance.

Plaintiff testified that she was driving out of Target in North Olmsted at 6pm on 4/8/23 with a friend. She stated that a car behind her honked at her when she did not turn and then when she did start turning a car passed her quickly on the driver's side and she felt the car swipe the bumper of her car. She testified that as the driver passed, she got a look at him and he appeared to be a young male and she took a picture of the car and plate as it pulled in front of her. She introduced a picture of the vehicle and plate into evidence but it was not dated nor was a location of the photo provided. During trial she then did find a picture of Defendant's car on her phone that appeared to be dated 4/8/23. She did not print the dated photo. She stated she did not pull over but called the North Olmsted police and

went into the police station later and made a "self-report" drawing a picture of the driver from memory. Plaintiff introduced a picture of the scuff on her bumper into evidence and two estimates for repair to the car. She testified that she had the scuff fixed but did not have the receipt. Plaintiff testified that her witness lives in Texas so was not available but she had an email from him she wished to introduce into evidence to which Defendant's objection was sustained. Plaintiff did state when asked by the Court that her witnesses' testimony confirmed her testimony, that the witness observed a young man driving the car that sideswiped them. Plaintiff then testified that owner of the car, Ghassan Slahaldin,who was in the Courtroom, was not the driver but identified his son, Mohammed, who was also in the Courtroom, as the driver.

Defendant Ghassnan, the vehicle owner, testified that he and his car were never in an accident. He said he was called by North Olmsted Police at around 8 pm and went in and made a self-report as well, denying the incident occurred. He stated there was no damage to the car and had photos of the car dated the morning after the alleged incident and no damage is shown, which were introduced into evidence. He testified that his son was home with home at that time because he had a broken ankle and they were fasting for the holiday.

Defendant Mohammad Ghassan testified that he was not driving the vehicle at the time of the alleged incident. He testified that he is 15 years old and did not get his temporary license until June of 2023 and that he never drove until he got his temps. He also testified that he broke his right ankle in a basketball game on 4/5/23 and therefore would not even be able to drive on 4/8/23 because his right leg was in a boot.. His license was introduced into evidence. Witness, Jolanda Abukhalil, his mother, testified as to his injury and to the fact that he was in a boot from 4/5/23 until June.

At the conclusion of the Trial, Plaintiff submitted her exhibits but forgot include the #20, the estimate she introduced in trial and a Police Flock photo of Defendant's car in North Olmsted taken 1.5 hours before the incident which she did not introduce at trial but submitted with her Objections.

CONCLUSIONS OF LAW

Plaintiff has brought this claim alleging negligence on the part of Defendants. The essential elements for a negligence claim consist of duty, breach of duty, and damage or injury that is proximately caused by the breach. *Winkle v. Zettler Funeral Homes, Inc.*, 182 Ohio App.3d. 195, 2009. The failure of any elements will defeat the action. *Lawson v. Mercy Hosp. Fairfield*, 12th Dist..No. CA2010-12-240, 2011-Ohio-4471. Plaintiff has established the last element, damage to her vehicle, but has not proven that either Defendant was involved in the incident so the other elements cannot be considered and her claim for relief is defeated.

Defendants deny all knowledge of the incident so the credibility of the witnesses is key. Plaintiff has shown damage to her car and has a printed a photo of Defendant's vehicle showing the license plate but the time and location of the photo is not noted. She did locate a photo on her phone dated the day of the incident which she presented in Court but did not print out for evidence. The photo on her phone did not show a location.

The Flock photo Plaintiff submitted post-trial which puts Defendant's car in North Olmsted, 1.5 hours

Exhibit R2 (attached below): Exhibit D are the car photos of Appellees submitted at trial and to the appeals court as part of the record on appeal which do not have any sort of date on them, unlike the trial judge claims. ***Notice how Attorney Lindsey still does not mention that the exhibits he filed to the trial court are dated. Clearly, Lindsey knows that would be a losing, sanctionable argument because it is false.*** **This proves Attorney Lindsey does not have a good faith belief in his words but strives to misrepresent the issues. The transcript issue is a *red herring*.**

Appellant has attached the first photo of the Appellees trial exhibits starting with A and then one of the exhibits of the Appellee's car, the first exhibit of the photos of the car, which is labeled "D." If you cannot see a date on these car photos then the magistrate hallucinated it. It doesn't matter why she hallucinated a date, just that she did and so prejudiced Appellant. **These documents are part of the trial court and appeals court record and are readily viewable by anyone who wishes to inquire about such public information.**

CLEVELAND MUNICIPAL COURT
Cuyahoga County, OH
Earle B. Turner, Clerk of Court
Small Claims Division

2020 OCT -7 P 12:03 #1

EARLE B. TURNER, CLERK
CLEVELAND MUNICIPAL COURT

State of Ohio
County of Cuyahoga } ss.

20 CVI 009036

Tesia Thomas
8600 Tyler Blvd #1481
Mentor, Ohio 44060
440-622-0718 Plaintiff

Plaintiff

-vs-

Complaint for Money Only

Craig A. Zidow
38085 Avala Drive
North Ridgeville, OH 44039
804-263-5676 Defendant

Defendant

STATEMENT OF CLAIM

property damage motor vehicle accident

RECEIVED PAYMENT

OCT 07 2020

EARLE B. TURNER, Clerk

By _____ Deputy

Wherefore, plaintiff prays judgment against defendant in the sum of 2321.95 plus interest from the 15 day of September, 20 20, at the rate of 5 %, together with costs of this action.

Plaintiff

Attorney for Plaintiff

(Must submit military affidavit with each filing)

DEFENDANT'S EXHIBIT
tabbies
A-E

R2

A

R2

D

Step 4: Read the Above Court Documents that Show How the Magistrate's Hallucination Prejudices Appellant as she Juxtaposes Exhibits to Deny Defendant Car Involvement in Car Accident

From Appellant's Memorandum in Support, page 8-9:

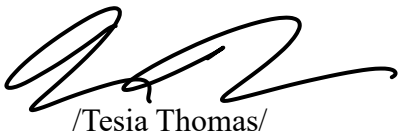
> The Magistrate clearly writes in her findings of fact adopted by the Judge: "She [Thomas] **introduced a picture of the vehicle and plate into evidence, but it was not dated** nor was a location of the photo provided. **During trial she then did find a picture of Defendant's car on her phone that appeared to be dated 4/8/23. She did not print the dated photo.**" The Magistrate also writes, "He [Appellee] stated there was no damage to the car and **had photos of the car dated the morning after the alleged incident and no damage is shown, which were introduced into evidence.**"
>
> The trial court judge even writes that Appellant showed a dated photo on her phone which signifies Appellant was also testifying to and supporting the authenticity of her exhibits just as Attorney Lindsey claims his clients did. So, his client's testimonies are not a point which supports Lindsey's inflammatory statements about Appellant slandering the trial judge and should be stricken from the record.

CONCLUSION

Impugning the character of a judge is a highly offensive, sanctionable conduct for both bar licensed attorneys and Pro Se litigants pursuant to Rule 8.2(a) of the Ohio Rules of Professional Conduct for all who come before this Court. Attorney Lindsey misrepresents that Appellant did such a thing in order to continue his misapprehension of the facts of this appeal. There is no relevancy as to who testified what during trial beyond what is detailed in the

judgment decision and all of Attorney's words pertaining to a cited transcript. non-record evidence, should be stricken from his memorandum. Appellant is not trying to file a reply memorandum so sticks to exactly what is necessary to prove that she is not slandering the trial judge and cites from her memorandum in support; as you can see there is no mention of Constitutional Rights which is what a brief or reply would be predicated on. Attorney Lindsey should be sanctioned for making such an inflammatory, false statement about opposing counsel/pro se litigant.

Respectfully submitted,



/Tesia Thomas/
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Plaintiff Pro Se
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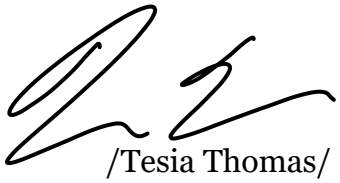

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