IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

SHARNEE WALKER,	:	APPEAL NO. C-260088 TRIAL NO. A-2505229
Plaintiff-Appellant,	:	
vs.	:	
FIDELITY INVESTMENTS INSTITUTIONAL OPERATIONS COMPANY, LLC,	:	*JUDGMENT ENTRY*
	:	
Defendant-Appellee.	:	

This cause was heard upon the appeal, the record, and the briefs.

For the reasons set forth in the Opinion filed this date, the judgment of the trial court is affirmed.

Further, the court holds that there were reasonable grounds for this appeal, allows no penalty, and orders that costs be taxed under App.R. 24.

The court further orders that (1) a copy of this Judgment with a copy of the Opinion attached constitutes the mandate, and (2) the mandate be sent to the trial court for execution under App.R. 27.

To the clerk:

Enter upon the journal of the court on 9/16/2026.

Pursuant to App.R. 30, the clerk is directed to send all parties, or their counsel if represented, a copy of the court's judgment and note such action on the docket.

By:___________________________
Administrative Judge

[Cite as ***Walker v. Fid. Invests. Inst. Operations Co., L.L.C.*****, 2026-Ohio-3616.]**

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SHARNEE WALKER,	:	APPEAL NO. C-260088 TRIAL NO. A 2505229
Plaintiff-Appellant,	:	
vs.	:	
FIDELITY INVESTMENTS INSTITUTIONAL OPERATIONS	:	*O P I N I O N*
COMPANY, LLC,	:	
Defendant-Appellee.	:	

Civil Appeal From: Hamilton County Court of Common Pleas

Judgment Appealed From Is: Affirmed

Date of Judgment Entry on Appeal: September 16, 2026

Sharnee Walker, pro se,

Taft Stettinius & Hollister LLP and *Timothy C. Sullivan* for Defendant-Appellee.

BOCK, Judge.

{¶1} Plaintiff-appellant Sharnee Walker appeals the trial court's judgment dismissing her amended complaint against defendant-appellee Fidelity Investments Institutional Operations Company, LLC, ("Fidelity"). In five assignments of error, Walker argues that she satisfied Ohio's notice-pleading standard, that the trial court relied on Fidelity's unsworn narrative, and that she should have been permitted to amend her amended complaint. Unconvinced, we overrule Walker's assignments of error and affirm the trial court's judgment.

I. Factual and Procedural History

{¶2} In 2025, Walker sued Fidelity for damages based on Fidelity's alleged breach of an implied-in-fact contract, unjust enrichment, breach of its fiduciary duty, constructive fraud, and conversion.[1] Walker's claims involve what she calls her "estate," which consists of her personal information that she provided to Fidelity.

{¶3} Walker provided her "estate" to Fidelity "for the limited purpose of evaluating it for a potential reciprocal exchange." It was a "prospective transaction" not intended for "independent benefit, monetization, or any other unauthorized purpose." Walker alleged that Fidelity accepted, retained, and "utilized [her] estate" and, in doing so, "deriv[ed] measurable commercial benefits for undisclosed business purposes." Walker demanded an "accounting" of the proceeds and benefits generated from Fidelity's retention of her "estate," but Fidelity ignored her demands.

{¶4} Fidelity moved to dismiss Walker's amended complaint under Civ.R. 12(B)(6). It argued that Walker had divulged her personal information as part of the hiring process and she failed to state claims for relief. The trial court granted Fidelity's

[1] Walker's original complaint alleged additional claims, but Walker's amended complaint, which is the complaint relevant to this appeal, contained only these claims.

motion and dismissed Walker's amended complaint with prejudice.

II. Analysis

{¶5} Walker raises five assignments of error, which collectively argue that the trial court erred in granting Fidelity's motion to dismiss her claims. Because some of Walker's assignments of error overlap in substance, we address them out of order for ease of analysis.

A. First and fourth assignments of error: The trial court properly dismissed Walker's amended complaint

{¶6} Walker argues that the trial court imposed a heightened pleading standard because it demanded "more factual and doctrinal precision" than Civ.R. 8 requires. In her view, her allegations were sufficient to establish claims for breach of an implied-in-fact contract, unjust enrichment, breach of an implied fiduciary duty, constructive fraud, and conversion.

1. Ohio's notice-pleading requirements

{¶7} We review a trial court's decision granting a motion to dismiss for failing to state a claim under Civ.R. 12(B)(6) de novo. *Brendamour v. City of the Village of Indian Hill*, 2022-Ohio-4724, ¶ 17 (1st Dist.). A motion to dismiss under Civ.R. 12(B)(6) tests the sufficiency of the complaint's allegations. *Id.* Dismissal is appropriate if we determine "that 'the plaintiff can prove no set of facts entitling [her] to recovery.'" *Id.*, quoting *O'Brien v. Univ. Community Tenants Union, Inc.*, 42 Ohio St.2d 242 (1975), syllabus. To make that determination, we must accept the complaint's allegations as true and draw all reasonable inferences from those allegations in the plaintiff's favor. *Id.*

{¶8} Walker is correct that Ohio's notice-pleading regime demands only that a "pleading [] sets forth a claim for relief" in the form of "'a short and plain statement of the claim showing that the party is entitled to relief.'" *Vandemark v. Reder*, 2026-Ohio-50, ¶ 10 (1st Dist.), quoting Civ.R. 8(A). Of course, a plaintiff is not required under notice pleading "'to prove . . . her case at the pleading stage.'" *Id.*, quoting *York v. Ohio State Hwy. Patrol,* 60 Ohio St.3d 143, 145 (1991).

{¶9} A well-pled complaint must include "'sufficient, operative facts to support recovery under her claims.'" *Torrance v. Rom*, 2020-Ohio-3971, ¶ 56 (8th Dist.), quoting *Moncrief v. Bohn*, 2014-Ohio-837, ¶ 22 (8th Dist.). Factual allegations must adequately give "'"the adverse party . . . fair notice of the claim and an opportunity to prepare his response thereto."'" *Wells Fargo Bank, N.A. v. Horn*, 2015-Ohio-1484, ¶ 13, quoting *Anderson v. BancOhio Natl. Bank*, 1985 Ohio App. LEXIS 9437, *1 (1st Dist. Nov. 27, 1985), quoting *Fancher v. Fancher*, 8 Ohio App.3d 79, 83 (1st Dist. 1982).

{¶10} Unlike factual allegations, conclusory allegations are not accepted as true and are insufficient to survive a motion to dismiss under Civ.R. 12(B)(6). *See Olthaus v. Niesen*, 2023-Ohio-4710, ¶ 8 (1st Dist.); *see also State ex rel. Hickman v. Capots*, 45 Ohio St.3d 324, 324 (1989). Indeed, courts have never construed Ohio's notice-pleading standard under "Civ.R. 12(B)(6) as permitting either speculation or complaints that are devoid of factual allegations supporting the legal claims." *Tuleta v. Med. Mut. of Ohio*, 2014-Ohio-396, ¶ 29 (8th Dist.).

2. Walker's amended complaint lacks operative facts to state a viable claim

{¶11} Walker's amended complaint largely consists of allegations that are conclusory in nature. Those facts can be reduced to the following: (1) Walker gave her "estate" to Fidelity to facilitate a "potentially reciprocal exchange"; (2) Fidelity told Walker that it would not use her information otherwise; (3) Walker trusted Fidelity; (4) Walker believed that Fidelity generated "measurable commercial benefit" from her personal information; (5) Walker expected compensation for, or notice of, the use of her information; (6) Fidelity did not provide compensation or notice; (7) Walker demanded information; and (8) Fidelity ignored Walker's demand. These allegations fail to state a claim upon which relief can be granted.

3. Walker failed to state a claim for breach of an implied-in-fact contract

{¶12} Beginning with her implied-in-fact-contract claim, a contract, in its most basic form, is a mutual exchange of promises. *See Walker v. JPMorgan Chase Bank*, 2026-Ohio-813, ¶ 11 (1st Dist.). Of course, a contract must be formed before it can be breached. A complaint sufficiently pleads the existence of an implied-in-fact contract when the allegations, accepted as true, would demonstrate "mutual assent, consideration, and bilateral promises." *Id.* at ¶ 13. Implied-in-fact contracts, as the name suggests, are inferred from the circumstances surrounding the parties' interactions. *See Legros v. Tarr,* 44 Ohio St.3d 1, 6 (1989). Walker's implied-in-fact claim fails on the assent and consideration elements.

{¶13} In express contracts, mutual assent is reflected by the parties' communication of an offer and acceptance of the offer's terms. *Id.* But even without an express offer and acceptance, a contractual relationship may exist because the law implies "an obligation on the part of a person who benefits from the services or materials received to pay for the services or materials." *AO Freight Corp. v. Snyder Computer Sys.*, 2010-Ohio-4778, ¶ 27 (7th Dist.). To establish an implied-in-fact contract, the plaintiff must demonstrate the parties' mutual assent to enter into a "contract and its terms are determined by viewing the 'surrounding circumstances which made it inferable that the contract exists as a matter of tacit understanding.'" *Walker* at ¶ 11, quoting *Legros* at 6-7.

{¶14} Consideration is "a detriment to the promisee or a benefit to the promisor." *Lake Land Emp. Group of Akron, LLC v. Columber*, 2004-Ohio-786, ¶ 16. The benefit or detriment "'must be "bargained for."'" *Bono v. McCutcheon*, 2005-Ohio-299, ¶ 9 (2d Dist.), quoting *Carlisle v. T & R Excavating,* 123 Ohio App.3d 277, 283 (9th Dist. 1997).

{¶15} Here, Walker alleged that she provided her "estate"—her personal information—to Fidelity "solely for the limited purpose of evaluating it for a potential reciprocal exchange" and Fidelity told her that the "information would be used only to assess and facilitate the prospective transaction, not for independent benefit, monetization, or any other unauthorized purpose."

{¶16} The amended complaint does not establish that Walker or Fidelity understood that she provided her "estate" to Fidelity in exchange for compensation. By alleging that she submitted her personal information to facilitate a potential transaction, her allegations directly contradict any such understanding.

{¶17} Walker failed to alleged a set of facts that would entitle her to relief on her claim for breach of an implied-in-fact contract.

4. <u>Walker failed to state an unjust-enrichment claim</u>

{¶18} Alternatively, Walker asserted that Fidelity was unjustly enriched because it retained her "estate."

{¶19} An unjust-enrichment claim is available in the absence of a contract. *Walker,* 2026-Ohio-813, at ¶ 21 (1st Dist.). A common-law claim for unjust enrichment prevents a party from possessing and retaining "'"'money or benefits which in justice and equity belong to another.'"'" *KN Excavation LLC v. Rockmill Brewery LLC*, 2022-Ohio-3414, ¶ 38 (5th Dist.), quoting *Aquatic Renovations Systems, Inc. v. Village of Walbridge*, 2018-Ohio-1430, ¶ 46 (6th Dist.), quoting *Johnson v. Microsoft Corp.*, 2005-Ohio-4985, ¶ 20, quoting *Keco Industries, Inc. v. Cincinnati & Suburban Bell Tel. Co.*, 166 Ohio St. 254, 256 (1957).

{¶20} A viable unjust-enrichment claim contains facts that establish """(1) a benefit conferred by a plaintiff upon the defendant, (2) knowledge by the defendant of the benefit, and (3) retention of a benefit by the defendant under circumstances where it would be unjust to do so without payment of its value.""" *Walker* at ¶ 21, quoting *Deffren v. Johnson*, 2021-Ohio-817, ¶ 10 (1st Dist.), quoting *Estate of Neal v. White*, 2019-Ohio-4280, ¶ 9 (1st Dist.). In *Walker,* we held that a complaint alleging a defendant's use and retention of Walker's personal information "for monetization" was conclusory and failed to sufficiently plead a claim for unjust enrichment. *Id.* So too here. Walker's amended complaint alleged that Fidelity "deriv[ed] measurable commercial benefit" from her "estate," but that conclusory statement is insufficient to satisfy Ohio's lenient notice-pleading standard.[2]

{¶21} Under *Walker,* Walker has failed to state a claim for unjust enrichment.

5. <u>Walker failed to state claims for breach of a fiduciary duty or constructive fraud</u>

{¶22} In Count 2, Walker sought damages under a theory of a breach of Fidelity's fiduciary duty. In the alternative, she sought to recover under a theory of constructive fraud. Walker's claim for constructive fraud is based on Fidelity's alleged violation of an alleged fiduciary duty, so we analyze these claims together. But we ultimately conclude that there are no set of facts that would establish a fiduciary relationship that gave rise to a fiduciary duty.

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[2] We do not suggest that private data never has value. *See Davis v. Facebook, Inc. (In re Facebook Inc. Internet Tracking Litigation)*, 956 F.3d 589, 600 (9th Cir. 2020) (former Facebook users had standing to sue for statutory violations of the Wiretap Act); *see also In re Marriott Internatl., Inc.*, 440 F.Supp.3d 447, 461 (D.Md. 2020) (plaintiff-customers sufficiently pleaded a concrete injury, and therefore had standing to sue Marriot, for claims involving a data breach).

{¶23} A breach-of-fiduciary-duty claim requires proof of (1) a fiduciary relationship creating a fiduciary duty, (2) a breach of that duty, (3) proximate causation, and (4) an injury. *See Maas v. Maas*, 2020-Ohio-5160, ¶ 16 (1st Dist.).

{¶24} A constructive fraud is the "breach of a legal or equitable duty, which, irrespective of moral guilt of the fraud feasor, the law declares fraudulent, because of its tendency to deceive others, to violate public or private confidence, or to injure public interests." *Downing v. Downing*, 2023-Ohio-2673, ¶ 33 (1st Dist.), quoting *Cohen v. Estate of Cohen*, 23 Ohio St.3d 90, 91 (1986), quoting *Stanley v. Sewell Coal Co.*, 169 W.Va. 72, 76 (1981). Unlike actual-fraud claims, a constructive-fraud claim "does not require fraudulent intent." *Kobal v. Edward Jones Secs.*, 2021-Ohio-1088, ¶ 20 (8th Dist.). Instead, constructive fraud "'is dependent on a special confidential or fiduciary relationship, thereby giving rise to a duty to disclose.'" *Id.*, quoting *Schmitz v. NCAA*, 2016-Ohio-8041, ¶ 63 (8th Dist.).

{¶25} In a fiduciary relationship, "'special confidence and trust is reposed in the integrity and fidelity of another and there is a resulting position of superiority or influence, acquired by virtue of this special trust.'" *Kobal* at ¶ 20, quoting *Federated Mgmt. Co. v. Coopers & Lybrand*, 137 Ohio App.3d 366, 384 (10th Dist. 2000). A fiduciary relationship may arise out of a formal agreement or "from an informal relationship if both parties understand that a special trust or confidence has been reposed." *Hoyt v. Nationwide Mut. Ins. Co.*, 2005-Ohio-6367, ¶ 30 (10th Dist.). The existence of a fiduciary relationship is a case- and fact-specific determination. *Id.*

{¶26} Walker's allegations are both vague and conclusory. She alleged that she "reposed a high degree of trust and confidence" in Fidelity when she provided her "highly valuable and confidential information." That information, or her "estate," was delivered to facilitate "a potential reciprocal exchange" and "prospective transaction."

She alleged that Fidelity had to provide a full disclosure and accounting, and that it breached that duty when it allegedly "conceal[ed] material information regarding its true intentions" and refused to provide Walker a full disclosure and complete accounting. As far as we can tell, and based on all reasonable inferences construed in Walker's favor, Walker and Fidelity had no formal agreement or existing relationship at the time Walker provided Fidelity her name, social security number, and signature. Walker alleges only that she provided her "estate" to facilitate an unspecified and uncertain transaction.

{¶27} But "a business transaction where the parties deal at arm's length does not create a fiduciary relationship." *Hoyt* at ¶ 30. Walker's allegations contradict any notion of a fiduciary relationship between her and Fidelity.

{¶28} The nonexistence of a fiduciary relationship is fatal to Walker's claims for breach of a fiduciary duty and constructive fraud.

6. Walker failed to state a claim for conversion

{¶29} Alleging that she maintained ownership and exclusive rights over her "estate," Fidelity received her "estate" for limited purposes, and Fidelity wrongfully asserted dominion over her "estate," Walker sued Fidelity for conversion. Walker alleged that she made no demand to Fidelity to return her "estate" because doing so "would have been futile."

{¶30} In Ohio, conversion is "the wrongful exercise of dominion over property to the exclusion of the rights of the owner or the withholding of the property from the owner's possession under a claim inconsistent with the owner's rights." *Bunta v. Superior VacuPress, LLC*, 2022-Ohio-4363, ¶ 20, citing *Zacchini v. Scripps-Howard Broadcasting Co.*, 47 Ohio St.2d 224, 226 (1976). A successful conversion claim requires proof of the plaintiff's "own ownership or right to possession of the property at the time that it was converted, the defendant's conversion of the property by a wrongful act, and damages." *Casciani v. Critchell*, 2015-Ohio-977, ¶ 26 (1st Dist.).

{¶31} Traditionally, conversion involves a "'taking of identifiable, tangible personal property.'" *Landskroner v. Landskroner*, 2003-Ohio-5077, ¶ 27 (8th Dist.), quoting *Wiltberger v. Davis*, 110 Ohio App.3d 46, 55 (10th Dist. 1996). We have recognized that "the law has changed, and courts have held that identifiable intangible property rights can also be converted." *Eysoldt v. Imaging*, 2011-Ohio-2359, ¶ 24 (1st Dist.). Fidelity does not argue that personal information[3] cannot be converted.

{¶32} Walker's amended complaint alleges she provided Fidelity with her "estate" to facilitate a "potential reciprocal exchange" before Fidelity allegedly converted the property. In other words, Fidelity lawfully came into possession of Walker's "estate." When a conversion claim involves property that came into the defendant's possession lawfully, "the plaintiff must additionally establish that he or she demanded that the defendant return the property after the defendant had exercised dominion or control over it, and that the defendant refused to do so." *Casciani* at ¶ 26. Here, Walker alleged that she did not demand the return of her property. Walker's failure to demand that Fidelity return her property is fatal to her conversion claim.

{¶33} Walker failed to state a claim upon which relief can be granted. The trial court appropriately dismissed Walker's amended complaint because it alleged no set of facts that could entitle Walker to recover on her claims for breach of an implied-in-

[3] Common sense dictates that personal identifying information has value "in our increasingly digital economy" considering that information "is key to unlocking many parts of the financial sector for consumers." *In re Marriott Internatl.*, 440 F.Supp.3d at 462.

fact contract, unjust enrichment, breach of a fiduciary duty, constructive fraud, and conversion. We overrule Walker's first and fourth assignments of error.

B. Second assignment of error: the trial court's consideration of matters outside of Walker's amended complaint was harmless

{¶34} Walker argues that the trial court relied on Fidelity's factual narrative, which characterized her transaction with Fidelity as a "routine" delivery of personal information for an ordinary purpose. We agree with Walker that the trial court incorrectly considered allegations outside of Walker's amended complaint, which is improper when reviewing a motion to dismiss under Civ.R. 12(B)(6).

{¶35} But we may not reverse a trial court's error unless we find that the error was prejudicial and not harmless. *See Davis v. Widman*, 2009-Ohio-5430, ¶ 16 (3d Dist.). A trial court's erroneous consideration of matters outside of a complaint "for purposes of a Civ.R. 12(B)(6) ruling constitutes harmless error when the complaint should have been dismissed as a matter of law regardless of the inappropriately considered evidence." *Id.*

{¶36} Our consideration of Walker's first and fourth assignments of error required us to review her amended complaint de novo. We analyzed only the allegations contained in Walker's amended complaint and held that Walker failed to state a claim upon which relief could be granted. Therefore, the trial court's error did not prejudice Walker, and we overrule her second assignment of error.

C. Third assignment of error: Walker did not file for leave to amend the amended complaint

{¶37} Walker contends that the trial court should have dismissed her amended complaint without prejudice to allow her to cure any defects in her pleadings. But Walker did not move to amend her complaint, so she forfeited this argument on appeal. *See Olthaus v. Niesen*, 2023-Ohio-4710, ¶ 27 (1st Dist.). We overrule Walker's third assignment of error.

D. Fifth assignment of error: Pro se litigants are presumed to know the law

{¶38} In her final assignment of error, Walker contends, without citing to any legal authority, that pro se litigants' filings should receive less scrutiny than those drafted by attorneys. But it is well established that "'"[p]ro se litigants are presumed to have knowledge of the law and legal procedures, and are held to the same standard as litigants who are represented by counsel."'" *In re Application of Black Fork Wind Energy, L.L.C.*, 2013-Ohio-5478, ¶ 22, quoting *State ex rel. Fuller v. Mengel*, 2003-Ohio-6448, ¶ 10, quoting *Sabouri v. Ohio Dept. of Job & Family Servs.*, 145 Ohio App.3d 651, 654 (10th Dist. 2001). We overrule Walker's fifth assignment of error.

III. Conclusion

{¶39} The trial court properly dismissed Walker's amended complaint. We overrule Walker's assignments of error and affirm the trial court's judgment.

Judgment affirmed.

KINSLEY, P.J., and **NESTOR, J.,** concur.