

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
TRUMBULL COUNTY**

VALLEY AUTO FINANCE, INC.,

Plaintiff-Appellant,

- vs -

SIX BROTHERS INVESTMENT
PROPERTIES, L.L.C.,

Defendant-Appellee.

CASE NO. 2026-T-0001

Civil Appeal from the
Court of Common Pleas

Trial Court No. 2025 CV 00107

OPINION AND JUDGMENT ENTRY

Decided: September 8, 2026
Judgment: Reversed and remanded

George V. Pilat, Gertsburg Licata Co., L.P.A., 600 Granger Road, Suite 200, Cleveland, OH 44131 (For Plaintiff-Appellant).

Scott C. Essad, 5500 Market Street, Suite 99, Youngstown, OH 44512 (For Defendant-Appellee).

MATT LYNCH, P.J.

{¶1} This matter involves multiple complaints and counterclaims in the Trumbull County Court of Common Pleas filed by plaintiff-appellant, Valley Auto Finance, Inc. (“Valley Auto”), and defendant-appellee, Six Brothers Investment Properties, L.L.C. (“Six Brothers”). The instant appeal is taken from a judgment entry issued by the trial court judge three months after an in-person eviction hearing was held before the magistrate. Because the trial court did not follow the procedure mandated under Civil Rule 53 and Valley Auto was prejudiced as a result, we must reverse the trial court’s judgment and remand for further proceedings.

{¶2} Six Brothers owns two commercial parcels of real estate; one is located in Warren, and the other in Girard. Valley Auto, under an agreement with Six Brothers, has used both properties to operate used car businesses since 2022.

{¶3} On January 15, 2025, Valley Auto filed a complaint against Six Brothers for declaratory judgment and breach of contract. Valley Auto alleged that in December 2024, the parties memorialized their arrangement for the two properties in two written lease agreements, which provide an effective date of January 1, 2024, and that two executed memorandums of lease were recorded with the Trumbull County Recorder on January 10, 2025. Valley Auto further alleged that Six Brothers breached the lease agreements by claiming they are not valid or enforceable and by harassing and threatening Valley Auto. Valley Auto submitted copies of the alleged lease agreements and sought a judgment declaring them to be valid, enforceable, and binding on the parties.

{¶4} On February 13, 2025, Six Brothers filed two complaints against Valley Auto for forcible entry and detainer; one in Girard Municipal Court, and one in Warren Municipal Court. Six Brothers alleged there are no valid written lease agreements and that Valley Auto occupies the properties as a month-to-month tenant. Six Brothers further alleged that Valley Auto failed to pay rent for the month of February 2025 and sought to evict Valley Auto from the properties.

{¶5} Eventually, the eviction cases were transferred to the Trumbull County Court of Common Pleas and consolidated with the declaratory judgment case.

{¶6} The magistrate held an in-person eviction hearing on July 31, 2025, which carried over to September 11, 2025. The parties presented multiple witnesses and

exhibits to the magistrate. Subsequently, in accordance with a magistrate's order, the parties submitted proposed findings of fact and conclusions of law.¹

{¶7} The magistrate never filed a written decision or report and recommendation.

{¶8} On December 10, 2025, the trial judge issued a Judgment Entry with findings of fact and conclusions of law. The trial judge held as follows: (1) the lease agreements are not enforceable because they were not properly signed and acknowledged; (2) the parties had an oral month-to-month lease agreement for the properties; (3) Six Brothers could not evict Valley Auto for the alleged failure to pay rent in February 2025; and (4) judgment is granted in favor of Valley Auto because Six Brothers failed to serve Valley Auto with a 30-day notice to terminate the tenancy. The Judgment Entry advises, "Nothing in this Magistrate's Decision bars Six [Brothers] from serving a 30-day notice and refiling a forcible entry and detainer action for the premises. IT IS SO ORDERED." The Judgment Entry is signed by the trial judge.

{¶9} Valley Auto filed a timely appeal and asserts six assignments of error for review. We find the first assignment of error has merit; as a result, the remaining assignments of error are not ripe for review.

{¶10} In their first assignment of error, Valley Auto contends that the trial court committed reversible error by failing to comply with Civil Rule 53; because the magistrate never issued a decision or report and recommendation, Valley Auto was not provided with an opportunity to submit objections, and the trial judge did not conduct an independent

1. The document electronically filed by Six Brothers on November 10, 2025, is captioned, "Proposed Findings of Fact and Conclusions of Law," but includes neither. Valley Auto's electronic filing, dated November 12, 2025, includes extensive proposed findings of fact and conclusions of law.

review of any evidence. Because the in-person eviction hearing was held before the magistrate, not the trial judge, we agree.

{¶11} Civ.R. 53(D)(3)(a)(i) provides that “a magistrate shall prepare a magistrate’s decision respecting any matter referred under Civ.R. 53(D)(1).” Civ.R. 53(D)(3)(a)(iii) requires the following:

A magistrate’s decision shall be in writing, identified as a magistrate’s decision in the caption, signed by the magistrate, filed with the clerk, and served by the clerk on all parties or their attorneys no later than three days after the decision is filed. A magistrate’s decision shall indicate conspicuously that a party shall not assign as error on appeal the court’s adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D)(3)(b).

The parameters for filing objections to a magistrate’s decision are set forth in Civ.R. 53(D)(3)(b)(i)-(iv). Civ.R. 53(D)(4)(a)-(e) governs the actions of the trial court on a magistrate’s decision and on any objections thereto.

{¶12} As this court has explained, “Civ.R. 53 contemplates that the magistrate’s decision will include a statement of the basis of his or her findings and recommendations in order to provide the trial court with sufficient information to make its own independent analysis of the decision’s validity.” *In re Bortmas*, 1999 WL 959842, *2 (11th Dist. Oct. 15, 1999). “Without the decision, the trial court is barred from adopting the recommendation as an order of the court because there is, then, a lack of information upon which it can perform an independent analysis of the questions of law.” *Id.* “Finally, the failure to comply with Civ.R. 53 will permit an appellate court to reverse the judgment of the trial court in situations where there was a deviation from the rule and the deviation prejudiced the appellant.” *Id.* See also *Erb v. Erb*, 65 Ohio App.3d 507, 509 (9th

Dist.1989); *Eisenberg v. Peyton*, 56 Ohio App.2d 144, 151 (8th Dist.1978); *Coronet Ins. Co. v. Richards*, 76 Ohio App.3d 578, 582 (10th Dist.1991).

{¶13} “The case law discussing prejudice based upon a trial court’s violation of Civ.R. 53 focuses on two issues: (1) whether the violation prevented the appellant the opportunity of filing objections to the magistrate’s decision; and (2) whether the trial court was able to conduct an independent analysis of the magistrate’s decision. The clear import of current Civ.R. 53(D) is to provide litigants with a meaningful opportunity to register objections to the magistrate’s decision and the failure to provide such an opportunity to object is prejudicial error.” *DeMarco v. Pace*, 2019-Ohio-3727, ¶ 58 (11th Dist.), quoting *Dixon v. O’Brien*, 2011-Ohio-3399, ¶ 32 (7th Dist.).

{¶14} Valley Auto is correct that this matter is strikingly similar to the situation addressed by this court in *Bortmas*. In *Bortmas*, “there was a deviation from the Civ.R. 53 procedure when the magistrate failed to file a ‘magistrate’s decision’ of record. Also, appellant was prejudiced by this failure, because it denied him an opportunity to file objections with the trial court. In addition, there is no evidence that the trial court was supplied with a transcript of the hearing or that it conducted its own hearing. Consequently, . . . the trial court was precluded from making an independent analysis of the magistrate’s recommendations.” *Id.* at *4. Thus, the decision of the trial court was reversed. *Id.*

{¶15} Similarly, here, without having had the benefit of hearing any of the evidence or seeing any of the witnesses, and without the opportunity to review any findings by the magistrate, since none existed, the trial judge made his own findings of fact and conclusions of law. As this court held in another similar case, “This is

unacceptable. It is crucial that at some point in the proceedings, a neutral magistrate actually hear the evidence, determine the credibility of the witnesses, and render findings of fact and conclusions of law. That did not happen in this case. Until that happens, this court has nothing to review.” *Frohman v. Frohman*, 2000 WL 522337, *2-3 (11th Dist. Mar. 31, 2000). Accordingly, we conclude the trial court erred in issuing findings of fact and conclusions of law when the trial judge did not hear the evidence and the magistrate never filed a decision that would have enabled the trial judge to conduct an independent analysis.

{¶16} Six Brothers argues that any error was harmless because Valley Auto “lost no rights.” We disagree. The trial judge seemingly had no evidence or report before him to decide the contested issues. Although the judge referenced the parties’ exhibits, the transcript of the eviction hearing was not even part of the record when the judge issued his decision. Consider the following explanation from the Eighth District Court of Appeals:

When the court does not take evidence in addition to that taken by the referee, the referee is the sole trier of fact. Absent a report from the referee in such a case, the trial court has no visible means of gaining an evidentiary basis on which to render judgment. A substantial procedural due process question exists where the decision maker (here the trial court) has no evidentiary basis whatever on which to render a judgment. Construing former R.C. 2315.31, a predecessor to Civil Rule 53, the court in *Glasser v. Glasser*, 5 Ohio App.2d 37 (1st Dist. 1965), discussed a similar situation where no referee’s report was filed.

“This procedure [filing a report] was not followed in regard to any of the references made in this case and, consequently, the lower court was not empowered by law to make any orders respecting matters placed before its referees for lack of any evidence relative thereto. To hold otherwise would be to subject the trial process and the litigants to the worst features of star-chamber proceedings, because the court arrives at judgments and makes orders without affording the parties any knowledge of or possible objection to the findings, which become, if they exist at all, secret. The practice of *sub rosa*

or private reports to a court for use as evidence in determining issues between litigants is contrary to every concept of Anglo-American jurisprudence and in this case clearly constitutes error prejudicial to the rights of the appellant.”

Graham v. Graham, 1977 WL 201491, *2-3 (8th Dist. July 7, 1977). See also *Andres v. Andres*, 1993 WL 155631, *3 (6th Dist. May 14, 1993).

{¶17} Because this matter involved a contested issue that was tried before a magistrate, the magistrate was required to issue a decision pursuant to Civ.R. 53(D)(3)(a)(i). Under these circumstances, we are compelled to reverse the trial court’s judgment. See, e.g., *Bortmas*, 1999 WL 959842, at *3-4 (11th Dist.); *Davis v. Reed*, 2000 WL 1231462, *3 (8th Dist. Aug. 31, 2000); *Frase v. Frase*, 2024-Ohio-2481, ¶ 10 (9th Dist.).

{¶18} Valley Auto’s first assignment of error has merit.

{¶19} Until Civ.R. 53 is properly complied with, it would be premature to address any of Valley Auto’s other assignments of error, which challenge the trial judge’s findings of fact and conclusions of law.

{¶20} The trial court’s judgment is hereby reversed. This matter is remanded to the point of error for further proceedings consistent with this opinion. The magistrate shall proceed to issue a decision as required by Civ.R. 53(D)(3)(a) based on the eviction hearing that was held before the magistrate on July 31 and September 11, 2025.

JOHN J. EKLUND, J.,

ROBERT J. PATTON, J.,

concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this court, it is the judgment and order of this court that the judgment of the Trumbull County Court of Common Pleas is reversed, and this matter is remanded to the trial court for further proceedings consistent with the opinion.

Costs to be taxed against appellee.

PRESIDING JUDGE MATT LYNCH

JUDGE JOHN J. EKLUND,
concur

JUDGE ROBERT J. PATTON,
concur

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY

A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.
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