

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
JEFFERSON COUNTY

PORTFOLIO RECOVERY ASSOCIATES,

Plaintiff-Appellee,

v.

MATTHEW R. GALLABRESE,

Defendant-Appellant.

OPINION AND JUDGMENT ENTRY
Case No. 26 JE 0005

Civil Appeal from the
Steubenville Municipal Court of Jefferson County, Ohio
Case No. 25-CVH-156

BEFORE:

Cheryl L. Waite, Carol Ann Robb, Mark A. Hanni, Judges.

JUDGMENT:

Affirmed.

Atty. Roy J. Schechter, Weltman, Weinberg & Reis, Co., L.P.A., for Plaintiff-Appellee

Matthew R. Gallabrese, Pro se, Defendant-Appellant

Dated: October 7, 2026

WAITE, P.J.

{¶1} Pro se Appellant Matthew R. Gallabrese appeals the judgment of the Steubenville Municipal Court granting summary judgment to Appellee Portfolio Recovery Associates in a case involving the collection of credit card debt. Appellee presented evidence establishing the debt, that Appellant was in default, that the debt was assigned to Appellee, and the amount of the debt. Appellant failed to present any evidence opposing Appellee’s motion for summary judgment, and agrees that Appellee has presented a prima facie case for collection of a debt. Although he raises 12 assignments of error, few are supported by any argument and none are supported by evidence in the record. Appellant’s assignments of error are overruled and the judgment of the trial court is affirmed.

Facts and Procedural History

{¶2} Appellant had a Mastercard credit card account with Barclays Bank (“Barclays”). He defaulted on his payments, and the debt was sold to Portfolio Recovery Associates, LLC (Appellee). The amount due and owing was \$6,440.86. Appellee filed a complaint for collection of the debt in the Steubenville Municipal Court on March 26, 2025. Appellant represented himself in the matter. On November 19, 2025 Appellant filed a motion to compel discovery of documents relating to the terms of the sale of the debt to Appellee in a “forward flow” agreement. Appellee opposed the motion on the grounds that the amount Appellee paid for the assignment of the debt was irrelevant to the case and that the forward flow agreement contained proprietary information. The court denied the motion to compel.

{¶3} On December 4, 2025 Appellee filed a motion for summary judgment. Attached to the motion was an affidavit of Appellee's records custodian along with: the bill of sale of the Barclays account to Appellee; the assignment and assumption agreement; the amount of the debt; the record of the default; account information with Appellant's name, address, and account number; the last payment amount; the charge off amount; the balance due when Appellee assumed the debt; a letter notifying Appellant of the assignment; and three years of account statements.

{¶4} On December 31, 2025 Appellant filed a response to the motion for summary judgment, but he attached no evidence that could be considered in opposition to the motion pursuant to the rules of procedure. The court held a hearing on the motion on February 2, 2026 for the parties to make their arguments to the court. No witnesses were called, as it was a hearing only to offer argument in regard to summary judgment filings. The court granted Appellee's motion for summary judgment on February 4, 2026.

{¶5} On March 4, 2026 Appellant filed a motion for a "new trial." The court dismissed the motion the same day on the grounds that Civ.R. 59 was inapplicable, as there had been no trial and the case had been resolved in summary judgment.

{¶6} Appellant filed a timely appeal of the February 4, 2026 judgment on March 5, 2026. He has not filed an appeal of the denial of his motion for new trial. He attempts to raise 12 assignments of error on appeal. Appellant's brief does not comport with the appellate rules in almost any respect. As noted by Appellee, there are no specific arguments made relating to any particular assignment of error. For this reason, alone, we would be well within our discretion to dismiss this appeal. However, as the body of Appellant's argument section of his brief does mention issues that might pertain to

assignments of error ten and eleven, those will be reviewed below. The remaining assignments of error will be discussed summarily. The assignments of error are repeated below with spelling and grammatical errors as presented in Appellant's brief.

Summary Judgment Standard of Review

{¶7} An appellate court conducts a de novo review of a trial court's decision to grant summary judgment, using the same standards as the trial court set forth in Civ.R. 56(C). *Grafton v. Ohio Edison Co.*, 77 Ohio St.3d 102, 105 (1996). Before summary judgment can be granted, the trial court must determine that: (1) no genuine issue as to any material fact remains to be litigated, (2) the moving party is entitled to judgment as a matter of law, (3) it appears from the evidence that reasonable minds can come to but one conclusion, and viewing the evidence most favorably in favor of the party against whom the motion for summary judgment is made, the conclusion is adverse to that party. *Temple v. Wean United, Inc.*, 50 Ohio St.2d 317, 327 (1977). Whether a fact is "material" depends on the substantive law of the claim being litigated. *Hoyt, Inc. v. Gordon & Assoc., Inc.*, 104 Ohio App.3d 598, 603 (8th Dist. 1995).

{¶8} "[T]he moving party bears the initial responsibility of informing the trial court of the basis for the motion, and identifying those portions of the record which demonstrate the absence of a genuine issue of fact on a material element of the nonmoving party's claim." (Emphasis deleted.) *Dresher v. Burt*, 75 Ohio St.3d 280, 296 (1996). If the moving party carries its burden, the nonmoving party has a reciprocal burden of setting forth specific facts showing that there is a genuine issue for trial. *Id.* at 293. In other words, when presented with a properly supported motion for summary judgment, the nonmoving party must produce some evidence to suggest that a reasonable factfinder

could rule in that party's favor. *Brewer v. Cleveland Bd. of Edn.*, 122 Ohio App.3d 378, 386 (8th Dist. 1997).

{¶19} The evidentiary materials to support a motion for summary judgment are listed in Civ.R. 56(C) and include the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact that have been filed in the case. In resolving the motion, the court views the evidence in a light most favorable to the nonmoving party. *Temple*, 50 Ohio St.2d at 327.

ASSIGNMENT OF ERROR NO. 1

THE TRIAL COURT ERRED BY AWARDING SUMMARY JUDGMENT TO THE PLAINTIFF APPELLE, AS DEFENDANT-APPELLANT PLED AND SHOWN “TRIABLE ISSUES OF FACT EXISTED.”

ASSIGNMENT OF ERROR NO. 2

THE TRIAL COURT ERRED BY (INCORRECTLY) DETERMINING STANDING.

ASSIGNMENT OF ERROR NO. 3

THE TRIAL COURT ERRED BY ABUSING ITS DISCRETION (IN ONE TO MANY INSTANCES (INCLUDING BUT NOT LIMITED TO): 1. TREATING THE BILL OF SALE AS CORRECT/VALID EVEN AFTER BEING SHOWN ITS DEFICIENCIES; 2. SIMILAR TO 1, TREATING THE AFFIDAVIT AS ADMISSIBLE EVEN AFTER BEING SHOWN ITS DEFICIENCIES (I.E. DEFENDANT NEVER RECEIVED THE FORWARD FLOW PURCHASE

AGREEMENT TO INSPECT AS REQUIRED BY THE RULES OF EVIDENCE, ETC.); 3. DENYING/ALLOWING PLAINTIFF-APPELLEE TO NOT PROVIDE SUFFICIENT DOCUMENTATION FROM DEFENDANT'S MOTION TO COMPEL DISCOVERY EVEN THOUGH JUST CAUSE AND NON-SPECIFIC OBJECTIONS BY PLAINTIFF-APPELLEE; 4. DENYING THE DEFENDANT-APPELLEE'S MOTION FOR NEW TRIAL, AS SUFFICIENT CAUSE WAS SHOWN; ETC.

ASSIGNMENT OF ERROR NO. 4

THE TRIAL COURT ERRED BY DECLARING A JUDGMENT CONTRARY TO LAW.

ASSIGNMENT OF ERROR NO. 5

THE TRIAL COURT ERRED BY DECLARING A JUDGMENT NOT SUSTAINED BY THE WEIGHT OF THE EVIDENCE.

ASSIGNMENT OF ERROR NO. 6

THE TRIAL COURT ERRED IN BY NOT DETERMINING THAT A DISPUTE WAS KNOWN BY THE PREVAILING PARTY. DEFENDANT-APPELLEE "DOES NOT DENY USING THE ACCOUNT IN QUESTION OR DISPUTE ANY BALANCE CLAIMED DUE," SAID THE COURT, YET THE DEFENDANT DID DISPUTE (SINCE 2024) AND PLAINTIFF-APPELLEE AND THEIR COUNSEL "WELTMAN" KNEW OF THE DISPUTE.

ASSIGNMENT OF ERROR NO. 7

THE PLAINTIFF-APPELLEE COMMITTED MISCONDUCT OF THE PREVAILING PARTY (IN THIS CASE PERJURY). PLAINTIFF-APPELLEE AND DEFENDANT-APPELLANT HAVE BEEN COMMUNICATING ABOUT THE ALLEGED DEBT THAT THE DEFENDANT-APPELLANT HAS DISPUTED SINCE 2024.

ASSIGNMENT OF ERROR NO. 8

THE TRIAL COURT ERRED BY DETERMINING EXCESSIVE DAMAGES.

ASSIGNMENT OF ERROR NO. 9

THE TRIAL COURT ERRED BY NOT DETERMINING AN ERROR IN THE AMOUNT OF RECOVERY.

ASSIGNMENT OF ERROR NO. 12

THE TRIAL COURT ERRED IN A WAY NOT EXPLICITLY MENTIONED SO FAR.

{¶10} Appellant has not raised arguments to specifically support each assignment of error. App.R. 16(A)(7) requires that the brief of the appellant must contain an argument pertaining to each assignment of error, reasons supporting the argument, and citations to legal authorities in support of the argument. “These omissions clearly violate App.R. 16(A)(7) and are reason enough to overrule the assignment of error.” *Givens v. Longwell*, 2023-Ohio-4516, ¶ 24 (7th Dist.). “[I]t is not the job of this court to find errors and make

arguments for [the Appellant].” *Midkiff v. Kuzniak*, 2006-Ohio-6243, ¶ 11 (7th Dist.). “It is not the function of this court to construct a foundation for a party's claims; failure to comply with the rules governing practice in the appellate courts is a tactic which is ordinarily fatal.” *Kremer v. Cox*, 114 Ohio App.3d 41, 60 (9th Dist. 1996). A pro se appellant is held to the same standards as one represented by counsel. *State ex rel. Fuller v. Mengel*, 2003-Ohio-6448, ¶ 10. “It is well established that pro se litigants are presumed to have knowledge of the law and legal procedures and that they are held to the same standard as litigants who are represented by counsel.” *Id.* Again, although we could end our review here, and dismiss Appellant’s brief due to his violation of App.R. 16(A)(7), in the interest of fairness and justice we will discuss the few arguments we have been able to glean from his brief.

{¶11} In assignment of error one, Appellant contends he presented triable issues of fact that precluded summary judgment. On review, it is apparent Appellant failed to offer any evidence in support of his response to Appellee’s motion for summary judgment that could be relied on by the trial court. The documents he attached to his response were not supported and authenticated by any affidavits. “The proper method for introducing evidentiary materials not specifically authorized by Civ.R. 56(C) is to incorporate them by reference into a properly framed affidavit.” *Ryan v. Huntington Tr.*, 2015-Ohio-1880, ¶ 23 (7th Dist.). “Any evidentiary matter not specifically authorized by Civ.R. 56(C) must be incorporated by reference in a properly framed affidavit.” *In re Estate of Beatley v. Fisher*, 2024-Ohio-5109, ¶ 46 (10th Dist.). Once Appellee presented evidence supporting its claim to collect the debt owed by Appellant, it was Appellant’s duty to provide proper evidence disputing those facts in a way that would establish that there was a genuine issue for trial. *Dresher* at 293; *Brewer* at 386. Appellant completely

failed to meet his burden of proof in summary judgment, and therefore, his first assignment of error is overruled.

{¶12} The record reveals that at the February 2, 2026 hearing on the motion for summary judgment, Appellant admitted that Appellee had presented a prima facie case to collect the debt. (Tr. 5.) “To establish a prima facie case for money owed on an account, a plaintiff must demonstrate the existence of an account, including that the account is in the name of the party charged, and it must also establish (1) a beginning balance of zero, or a sum that can qualify as an account stated, or some other provable sum; (2) listed items, or an item, dated and identifiable by number or otherwise, representing charges, or debits, and credits; and (3) summarization by means of a running or developing balance, or an arrangement of beginning balance and items that permits the calculation of the amount claimed to be due.” *Dept. Stores Natl. Bank v. McGee*, 2013-Ohio-894, ¶ 16 (7th Dist.).

{¶13} Appellant also confirmed to the judge at the February 2, 2026 hearing that Appellee provided evidence by means of a bill of sale which showed that it purchased Appellant’s debt from Barclays:

THE COURT: Well, they do present a bill of sale where they bought
this account from --

[APPELLANT]: Correct. But --

THE COURT: -- Barclays.

[APPELLANT]: -- the bill -- sorry.

THE COURT: And it does incorporate the affidavit that I just went through with you.

[APPELLANT]: But the bill of sale is subject to the forward flow, which they don't produce.

(Tr., p. 9.)

{¶14} Appellant's objection to Appellee's evidence was not to the bill of sale, but to Appellee's failure to provide a "forward flow" document that, as will be discussed below, is irrelevant to this case and to this appeal. Appellant apparently believed that a prima facie case did not provide a sufficient basis for the trial court to grant summary judgment. Appellant was mistaken in this belief. Once a creditor has established a prima facie case of money owed on an account, if this evidence is un rebutted, the court may grant summary judgment.

The evidence proffered by Discover was sufficient to establish a prima facie case for money owed on an account. Thereupon, the burden shifted to Paoletta to affirmatively demonstrate the existence of genuine issues of material fact. . . . Paoletta failed to do so . . . he presented no evidence whatsoever that the entirety of the claimed debt is not his, or that interest was not properly and legally calculated Paoletta was required to come forth with some evidence, either in his motion for summary judgment or in his reply to Discover's motion, that judgment should not be granted against him. This he wholly failed to do and accordingly, summary judgment was appropriately granted to Discover and denied to Paoletta.

Discover Bank v. Paoletta, 2010-Ohio-6031, ¶ 14-15 (8th Dist.).

{¶15} As pointed out by Appellee, most of Appellant's assignments of error are directed at the trial court's March 4, 2026 judgment overruling Appellant's motion for new trial. This judgment has not been appealed. Further, as the trial court correctly stated, there was no trial in this case. The case was resolved in summary judgment, and a motion for new trial is inapplicable to summary judgment. "The flaw in appellant's argument is engulfed in the belief that a summary judgment proceeding is a trial and that the logical procedural flow would allow a motion for a new trial after a summary judgment had been rendered." *A. & D., Inc. v. Bd. of Lake Cty. Commrs.*, 67 Ohio St.2d 384, 386 (1981). Civ.R. 56(A) clearly separates summary judgment proceedings from trial proceedings. *Id.* Summary judgment is a hearing upon a motion, rather than a hearing constituting a trial. *Id.* at 387. "The legal conclusion in the instant cause is that the motion for a new trial which questions the granting of a summary judgment is a nullity and not proper." *Id.* Thus, all the assignments of error that relate to the court's ruling on Appellant's motion for new trial are also a nullity and must be overruled. This includes assignments of error two through eleven.

{¶16} For the reasons stated, we overrule assignments of error one through nine. Assignment of error twelve does not allege any error, and for that reason it is also overruled.

ASSIGNMENT OF ERROR NO. 10

THE TRIAL COURT ERRED BY NOT DETERMINING ANY PART OF THE
VARIOUS CONTRACTS TO BE UNCONSCIONABLE.

{¶17} Most of the argument section of Appellant's brief asserts that some contract was unconscionable. It is not clear what contract Appellant believes is unconscionable. The basis of Appellant's appeal is that the assignment of the Barclays credit debt to Appellee somehow invalidates his credit card debt, although there is no evidence or legal authority offered to support this assertion. The assignment is an agreement between Barclays and Appellee, not between Appellant and Appellee. Appellant argued to the trial court that the assignment was not valid because Appellee failed to produce a document he calls a "forward flow" agreement. Appellant attempted to compel discovery of this document, but the trial court denied his motion. At the hearing on the motion for summary judgment, Appellee's counsel described the "forward flow" document as an agreement between Barclays and Appellee describing the terms of the manner in which Appellee buys debt from Barclays. (Tr. 11.) It does not describe the purchase of any specific debt, but rather, contains ongoing terms as to how debt will be purchased between the two businesses. Counsel argued at various points in this litigation that the agreement contained proprietary information and was not relevant to collection of the specific debt owed by Appellant. The trial judge noted that while Appellant was interested in finding out how much Appellee paid for Appellant's debt to Barclays, this detail of the forward flow agreement was not relevant to this case. "I would agree with counsel that that is proprietary and really none of your business." (Tr. 13.) The court explained that if Appellee paid ten cents for the debt and collected more, then it was a good deal for them, but if the debt was uncollectible, it was a bad deal. (Tr. 13.) Either way, it had nothing to do with whether Appellant borrowed money from Barclays, defaulted on the debt, and whether Appellee could collect the debt based on a valid assignment. The assignment

and the bill of sale of debt were contained in separate documents that were attached to Appellee's motion for summary judgment and were verified by two affidavits. These documents proved that Appellee now owned Appellant's debt. It is unclear what any of this has to do with unconscionability.

{¶18} Whether a contract is unconscionable is an affirmative defense to a breach of contract action. *Deutsche Bank Natl. Trust Co. v. Pevarski*, 2010-Ohio-785, ¶ 29 (4th Dist.). It involves a factual inquiry into the circumstances of the contract. *Eagle v. Fred Martin Motor Co.*, 2004-Ohio-829, ¶ 13 (9th Dist.). Appellant offered no evidence supporting this defense. Therefore, he has provided no basis for arguing on appeal that some act of Appellee was unconscionable.

{¶19} Assignment of error ten is overruled.

ASSIGNMENT OF ERROR NO. 11

THE TRIAL COURT ERRED BY NOT DETERMINING THE CONTRACT
AND AFFIDAVITS INVALID (BECAUSE OF NON-PRESENTING OF THE
FORWARD FLOW PURCHASE AGREEMENT, ETC.)

{¶20} Appellant argues that the assignment of his debt from Barclays to Appellee was invalid because Appellee did not produce a forward flow agreement as part of discovery. This issue was raised to the trial court, and Appellant's argument was rejected because the forward flow agreement contained proprietary information and was irrelevant to this matter.

{¶21} Appellant cites one case to support his argument: *Portfolio Recovery Assocs., L.L.C. v. VanLeeuwen*, 2016-Ohio-2962, ¶ 2 (2d Dist.). This case involved

Portfolio's attempt to collect credit card debt that it purchased from U.S. Bank. The trial court granted Portfolio judgment on the pleadings, but the decision was reversed on appeal because the pleadings did not establish as a matter of law that the debt was assigned to Portfolio and what the amount of the debt was. This case is not relevant to Appellant's argument because the instant appeal involves summary judgment, not judgment on the pleadings. Judgment on the pleadings is based solely on the allegations contained in the pleadings and any documents attached to the pleadings. *Offill v. State Farm Fire & Cas. Co.*, 2012-Ohio-6225, ¶ 14 (2d Dist.). In *VanLeeuwen*, Portfolio did not attach the assignment documents to the pleadings. Therefore, judgment on the pleadings was not appropriate. *Id.* at ¶ 9. In the instant matter, Appellee attached all of the necessary documentation to its motion for summary judgment. We note that *VanLeeuwen* does not discuss forward flow agreements or their relevance to the collection of debt via an assignment of the debt.

{¶22} Appellant clearly disagrees with the trial court's decision to overrule his motion to compel discovery of the forward flow agreement. "The trial court has inherent power to control discovery." *Whitacre v. Nationwide Ins., Co.*, 2012-Ohio-4557, ¶ 6 (7th Dist.), citing Civ.R. 26(C). "A trial court's decision concerning discovery will not be disturbed on review absent an abuse of discretion." *Id.* Although Appellant does state that, in general, the trial court abused its discretion, there is no attempt to establish why the denial of the motion to compel was an abuse of discretion. As it is clear from the record that the forward flow agreement is irrelevant, here, there was no abuse of discretion and no basis for asserting error.

{¶23} Appellant's eleventh assignment of error is overruled.

Conclusion

{¶24} Appellant appeals the trial court's decision to grant summary judgment in favor of Appellee regarding the collecting of his credit card debt. Appellee presented a prima facie case establishing that it was entitled to collect the debt. Appellant agreed that Appellee established its prima facie case, and he did not rebut the evidence. Appellant relies instead, on his belief that Appellee's failure to provide a forward flow agreement invalidated its claim to collect. The trial court correctly held that the forward flow agreement was not necessary or relevant to this case. Appellant has wholly failed to specifically raise arguments in support of any of his assignments of error, which is a violation of App.R. 16(A)(7). The assignments of error are overruled, and the judgment of the trial court is affirmed.

Robb, J., concurs

Hanni, J., dissents without dissenting opinion.

For the reasons stated in the Opinion rendered herein, Appellant's assignments of error are overruled and it is the final judgment and order of this Court that the judgment of the Steubenville Municipal Court of Jefferson County, Ohio, is affirmed. Costs to be taxed against the Appellant.

A certified copy of this opinion and judgment entry shall constitute the mandate in this case pursuant to Rule 27 of the Rules of Appellate Procedure. It is ordered that a certified copy be sent by the clerk to the trial court to carry this judgment into execution.

NOTICE TO COUNSEL

This document constitutes a final judgment entry.