[Cite as *Wells Fargo Bank, N.A. v. Reynolds*, 2026-Ohio-4288.]

COURT OF APPEALS OF OHIO

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

WELLS FARGO BANK, N.A., :

Plaintiff-Appellee, :

No. 116181

v. :

DAVID A. REYNOLDS JR., ET AL., :

Defendants-Appellants. :

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: October 29, 2026

Civil Appeal from the Cuyahoga County Court of Common Pleas
Case No. CV-24-998018

Appearances:

Hinshaw & Culbertson LLP, James W. Sandy, and Stefanie J. Deka; Sikora Law LLC and Alexander E. Goetsch, *for appellee*.

David A. Reynolds Jr., *pro se*.

KATHLEEN ANN KEOUGH, J.:

{¶ 1} Defendant-appellant David A. Reynolds, Jr. ("Reynolds") brings this appeal related to the foreclosure of the property located at 437 Rushmore Drive in Richmond Heights, Ohio ("the property"). After a thorough review of the facts and

law, this court does not find merit in any of Reynolds's assigned errors and affirms the judgment of the trial court.

{¶ 2} In May 2024, Wells Fargo Bank, N.A. ("Wells Fargo") filed a foreclosure complaint for the property alleging that Reynolds, the borrower, owed "$127,708.62, plus interest on the outstanding principal amount at the rate of 5.125% per annum from October 1, 2023, plus late charges and advances and all costs and expenses incurred for the enforcement of the Note . . . ." In June 2024, Reynolds filed an answer denying the validity of the signatures on the mortgage and note. Wells Fargo filed a motion for summary judgment in August 2024. In September 2024, Reynolds filed a counterclaim against Wells Fargo and the law firm representing Wells Fargo, asserting claims for libel, civil conspiracy, and abuse of process. The court set a new briefing schedule to allow Wells Fargo to file a supplemental motion for summary judgment based on Reynolds's counterclaim. After a discovery dispute where Reynolds repeatedly refused to appear for deposition or did appear but did not go forward with the deposition, the trial court sanctioned Reynold's noncompliance by dismissing his counterclaim in its entirety, finding that Reynolds was not allowing Wells Fargo to fairly investigate those claims.

{¶ 3} A magistrate subsequently issued a decision granting Wells Fargo's motion for summary judgment to which Reynolds timely filed objections. His objections were overruled, and the trial court adopted the magistrate's decision. Reynolds appealed, assigning the following errors for our review:

I. The Trial Court abused its discretion by granting Wells Fargo's Deposition Motion and issuing the resulting Deposition Order. Wells Fargo manufactured the underlying discovery dispute through deliberate misrepresentations and material omissions constituting fraud on the court; failed to satisfy the mandatory good faith prerequisites of Civ.R. 37(A)(1); and secured relief on a false record.

II. The Trial Court violated [Reynolds's] substantive rights—including my right to due process of law—by entering a punitive Sanction Order that unjustly struck my Counterclaim, eliminated my defenses, and precluded all evidence in support thereof. The Sanction Order is not narrowly tailored to any legitimate remedial purpose; it is outcome-determinative, constitutionally repugnant, and irreconcilable with Article IV, Section 5(B) of the Constitution.

III. The Trial Court erred in granting summary judgment to Wells Fargo because Wells Fargo failed to establish entitlement to judgment as a matter of law, and because the record on which the court acted was artificially emptied by the unconstitutional Sanction Order. That order nullified my ability to present evidence to oppose Wells Fargo's Summary Motion on the merits.

IV. The Trial Court erred as a matter of law by adopting the Magistrate's Decision and overruling my timely objections without conducting the independent review mandated by Civ. R. 53(D)(4)(d). The Trial Court examined neither the constitutional validity of the Sanction Order on which the Magistrate's Decision entirely depended nor the mandatory vacatur grounds under Civ.R. 60(B)(3) and (5) that my objections placed squarely before it.

{¶ 4} Reynolds's first assignment of error contests the court's decision compelling him to submit to a deposition with Wells Fargo. This order was necessitated after Wells Fargo filed many motions detailing their repeated efforts to depose Reynolds, and Reynolds either did not appear for the deposition or when he

did appear, did not ultimately participate in a deposition for reasons disputed by the parties.

{¶ 5} A trial court has broad discretion in controlling the discovery process and absent an abuse of this discretion, appellate courts may not overturn the trial court's ruling on discovery matters. *Feichtner v. Cleveland*, 95 Ohio App.3d 388, 397 (8th Dist. 1994).

{¶ 6} Here, Wells Fargo noticed its first request to depose Reynolds in November 2024. Reynolds filed objections to this notice that were overruled by the court. Reynolds did not appear for this deposition. After conferring with Reynolds about a mutually agreeable date in January 2025, Wells Fargo issued another notice of deposition for the January date; the trial court also issued an order requiring Reynolds to appear for this deposition. According to the record, Reynolds appeared for his deposition but was not deposed. Wells Fargo subsequently filed a motion to compel Reynolds's appearance for deposition; the trial court granted it on February 4, 2025, and ordered Reynolds to appear for deposition on February 13, 2025. Reynolds did not appear for this deposition, and Wells Fargo filed a motion for sanctions.

{¶ 7} Reynolds argues that the order requiring him to sit for his deposition was obtained by fraud and is therefore a nullity. He disputes Wells Fargo's statement that he did not participate in the deposition that he appeared for, stating that it "deliberately omitted the absence of a court reporter, concealed its own counsel's role in cancelling the deposition, and presented a false, one-sided account

designed to manufacture the appearance of obstruction." We disagree and find that the record supports the trial court's decision to order Reynolds's appearance for deposition.

{¶ 8} Reynolds's deposition was first noticed in November 2024. The trial court was still considering motions pertaining to this issue until February 2025. Reynolds did not appear for the first noticed deposition, appeared but ultimately did not sit for the second noticed deposition, and once again failed to appear for the third noticed deposition. All notices were thoroughly litigated in the trial court and still the deposition did not go forward. Wells Fargo was forced to file numerous motions seeking Reynolds's submission to a deposition, and the court oversaw this discovery dispute for over four months. We do not agree that the order compelling Reynolds to submit to a deposition was obtained under fraud, especially where the docket is consistent with the narrative presented by Wells Fargo in attempting to obtain the deposition.

{¶ 9} The record indicates that Wells Fargo was unable to depose Reynolds without the court's involvement and remained unable to depose him even after the trial court became closely involved with this dispute. Under these facts, we do not find that the trial court abused its discretion in compelling Reynolds to submit to a deposition. Accordingly, Reynolds's first assignment of error is overruled.

{¶ 10} Wells Fargo sought sanctions against Reynolds pursuant to Civ.R. 37(D) following his failure to appear for his deposition in violation of the court's order. In the trial court, Reynolds never opposed the motion for sanctions but now

on appeal, his second assignment of error, he contests the trial court's chosen sanction for his conduct which was to dismiss his counterclaim in its entirety.

{¶ 11} Civ.R. 37(B) authorizes a court to issue sanctions when a party does not comply with an order. Under Civ.R. 37(B)(1)(e), these sanctions *may* include "[d]ismissing the action or proceeding in whole or in part." (Emphasis added.) Therefore, the court's chosen sanction was explicitly authorized by Civ.R. 37.

{¶ 12} Nonetheless, Reynolds's sole argument for this assigned error is that because the deposition order described in assignment of error No. 1 was procured by fraud, any ruling made by the court as a result therefrom is void. Having found that the deposition order was not procured via fraud, we reject this argument. Reynolds also advances several arguments related to the second noticed deposition where he appeared but ultimately, the deposition did not go forward. Reynolds, however, did not identify any reasons for not appearing for the first or third noticed depositions. Despite bringing claims against Wells Fargo, Reynolds was unwilling to allow Wells Fargo to investigate these claims through a deposition. Indeed, the trial court gave Reynolds three different opportunities to appear for deposition and he did not. We therefore find that the trial court did not abuse its discretion in ordering sanctions against Reynolds for his failure to appear for depositions, some of which were memorialized into written court orders. His second assignment of error is overruled.

{¶ 13} We address assignments of error Nos. 3 and 4 out of order and review them temporally. Reynolds takes issue with the trial court's alleged failure to

independently review the magistrate's decision and with the trial court's decision adopting the magistrate's decision.

{¶ 14} Reynolds's fourth assignment of error argues that the trial court did not perform an independent review of his timely filed objections. Civ.R. 53 requires the trial court to independently review the objected matters. Civ.R. 53(D)(4)(d). We must "'presume that a trial court has performed an independent review of the magistrate's recommendation unless the appellant affirmatively demonstrates the contrary.'" *Walpole v. Walpole*, 2015-Ohio-3238, ¶ 63 (8th Dist.), quoting *Barrientos v. Barrientos*, 2011-Ohio-5734, ¶ 5 (3d Dist.). "Simply because a trial court adopted the magistrate's decision does not mean that it did not exercise its independent judgment." *Van Dress Law Offices Co. v. Dawson*, 2017-Ohio-8062, ¶ 17 (8th Dist.). We have stated that the trial court is not required to comment or reference the record in undertaking this independent review. *Ernsberger v. Ernsberger*, 2014-Ohio-4470, ¶ 21 (8th Dist.).

{¶ 15} We cannot find that Reynolds has rebutted the presumption that the trial court conducted an independent review. Reynolds's only support for this argument is to once again cite the allegedly corrupt causal chain of events and argue that the court could not have independently reviewed the claims and signed off on them because it should have been apparent that they were part of the alleged fraudulent scheme. Having overruled the prior assignments of error and finding that the deposition order was not fraudulently obtained, we cannot find merit in Reynolds's argument.

{¶ 16} Similarly, in his third assignment of error, Reynolds argues that summary judgment should not have been granted in favor of Wells Fargo for the same reasoning already discussed herein relating to the alleged fraud.

{¶ 17} Under Civ.R. 56(C), summary judgment is appropriate when (1) there is no genuine issue of material fact, (2) the moving party is entitled to judgment as a matter of law, and (3) after construing the evidence most favorably to the party against whom the motion is made, reasonable minds can only reach a conclusion that is adverse to the nonmoving party. *Zivich v. Mentor Soccer Club, Inc.*, 82 Ohio St.3d 367, 369-370 (1998); *Temple v. Wean United, Inc.*, 50 Ohio St.2d 317, 327 (1977).

{¶ 18} The moving party bears the initial burden of setting forth specific facts that demonstrate its entitlement to summary judgment. *Dresher v. Burt*, 75 Ohio St.3d 280, 292-293 (1996). If the moving party fails to meet this burden, summary judgment is not appropriate. *Id.* at 293. If the moving party meets this burden, the nonmoving party has a reciprocal burden of setting forth specific facts using evidence permitted by Civ.R. 56(C) to show that there is a genuine issue for trial. *Id.* Summary judgment is appropriate if the nonmoving party fails to meet this burden. *Id.*

{¶ 19} Reynolds argues that the sanctions ordered "established the absence of any genuine issue of material fact" and that he should be entitled to judgment as a matter of law. Reynolds again argues that the sanction for his failure to sit for a deposition unfairly prohibited him from introducing evidence. He also specifically

notes that "Wells Fargo's *own* interrogatory responses [would have] established the absence of any genuine issue of material fact." (Emphasis sic.) First, we have already found that the sanctions order was a valid use of judicial discretion. Second, aside from affirmatively asserting as much, Reynolds does not articulate the specific evidence that these interrogatories may show, does not provide further arguments, and asks us to consider his self-serving statements that he is entitled to judgment as a matter of law and that he has pointed out an issue of fact. Accordingly, we cannot say that Reynolds has met his reciprocal burden of demonstrating that Wells Fargo was not entitled to summary judgment as a matter of law.

{¶ 20} Assignments of error Nos. 3 and 4 are without merit and overruled.

{¶ 21} Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

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

KATHLEEN ANN KEOUGH, JUDGE

EMANUELLA D. GROVES, P.J., and
MARY J. BOYLE, J., CONCUR