



**IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO**

|   |   |                                  |
|---|---|----------------------------------|
| <b>JERRY M STERN VICTIM<br/>OF NAZI PERSECUTION</b> | ) | CV-19-917105                     |
|   | ) |                                  |
| Plaintiff,  | ) | JUDGE CASSANDRA COLLIER-WILLIAMS |
|   | ) |                                  |
| v.  | ) |                                  |
|   | ) |                                  |
| <b>ROB OLDHAM PROPERTIES<br/>LLC, ET AL.</b>        | ) |                                  |
|   | ) |                                  |
| Defendant.  | ) | <b><u>JUDGMENT ENTRY</u></b>     |
|   | ) |                                  |

**JUDGE C. COLLIER-WILLIAMS:**

This matter came before the Court on June 5, 2023 for a bench trial on Counts Four and Seven of Defendants' Counterclaim. Based upon the testimony and evidence presented during this matter, the Court finds in favor of Plaintiff and against Defendant, as follows:

**I. Findings of Fact**

In March of 2018, Oldham Properties entered into a short-term loan agreement with Plaintiff Jerry M. Stern Victim of Nazi Persecution Successor Trust ("the Trust"). The Trust loaned Oldham Properties \$750,000 for funding the purchase of rental properties. The loan was secured by a mortgage on ten properties owned by Oldham Properties. The loan required interest-only payments for a one-year period, with a balloon payment of \$750,000.00 due in April 2019. Defendants made the monthly payments but failed to pay the final balloon payment by April 2019.

After Defendants failed to make the final payment on the loan, the Trust hired a

management company, Gentile Management, to manage the properties and collect rents pursuant to the mortgage agreement.

The Trust filed the instant litigation in June of 2019, seeking judgment on the note, attorney fees, late fees, costs, and interest pursuant to the terms of the loan. Defendants filed a counterclaim asserting claims for a restraining order and equitable relief, fraud, breach of contract, tortious interference with business and contractual relationships, unjust enrichment, assault, defamation, and violation of the Fair Debt Collections Practices Act.

The matter proceeded through litigation. In February of 2021, the Court entered an Order rendering judgment in favor of the Plaintiff and against the Defendants, jointly and severally, in the amount of \$750,000, plus \$30,000 in late fees, plus interest at the contract rate of 18% per annum from the date of default, plus attorney fees in the amount of \$139,417.74. The Court credited the Defendants with \$48,728.23 for rents collected from the properties. The court dismissed Defendants' counterclaims prior to the trial on this matter.

After an appeal, this case was remanded for a trial on the following Counterclaims of Defendants: Count One (injunctive relief), Count Four (tortious interference), and Count Seven (defamation). Defendants voluntarily dismissed Count One with prejudice, leaving only Counts Four and Seven for trial. This matter proceeded to a bench trial. The Court finds that Defendants/Counterclaim Plaintiffs failed to prove by a preponderance of the evidence their case for both Count Four and Count Seven, and hereby dismisses them both with prejudice.

## II. Conclusions of Law

Count Four of Defendants' Counterclaim states the following:

17. Without default and without notice, Plaintiff coerced under threat to personal safety the rendering of rents from the tenants of Rob Oldham Properties LLC to Gentile Property Management beginning in June 2019.

...

62. Counterclaimants maintain contractual leases with third party tenants and has a business relationship with them.

63. The Trust has knowledge of Counterclaimants' leases, and, has pursued evictions and threatened Counterclaimants' tenants.

64. The Trust's (sic) intentionally and improperly took actions to procure contractual breaches and terminations of business relationships with no privilege to do so.

65. Counterclaimants have been harmed by this violation in an amount according to proof.

The elements of tortious interference with business relationship or contract are: (1) the existence of a business relationship or a contract; (2) the wrongdoer's knowledge of the relationship or contract; (3) an intentional interference causing breach or termination of the relationship; (4) lack of justification, and (5) damages resulting therefrom. *Fred Siegal Co., L.P.A. v. Arter & Hadden*, 85 Ohio St.3d 171 (1999), paragraph one of the syllabus. The Defendants failed to prove, by a preponderance of the evidence, the elements of tortious interference with a business relationship or contract.

Defendants called three witnesses to testify at trial: Rob Oldham, Felicia Price, a tenant, and Terry Higbee, a plumber. Mr. Oldham testified that Defendants had plans to obtain financing from a lender to refinance the mortgage, and that the Trust was aware of this plan. He further testified that the Trust intentionally withheld payoff information and purposely added Defendant Oldham's wife to this instant lawsuit to interfere with their ability to obtain the funding to refinance. As a result, Defendants have allegedly lost a \$2.2 million dollar real estate portfolio. Defendants provided no documentation to substantiate that the Plaintiff withheld payoff

information and that Oldham's wife was added as a party for the sole reason to prevent any refinancing to pay off the Plaintiffs. These assertions are speculative and the evidence at trial failed to substantiate by a preponderance of the evidence, the validity of these allegations.

Furthermore, in regard to the alleged interference by Gentile Property Management, the loan documents specifically empowered the Trust to collect rents from tenants of the mortgaged properties in the event of a default by Defendants. Communications with tenants were necessary to effect this right. The alleged interferences were attempts by the Trust to enforce its assignment of rents. Finally, there was no evidence of a contractual breach of the leases by the tenants. There must be evidence that the Trust induced the tenants to breach their contracts with Defendants. Instead, the evidence presented shows that the Trust was enforcing the contracts by collecting the rents from the tenants.

Consequently, Defendants/Counterclaimants failed to prove by a preponderance of the evidence the allegations contained in Count Four of Defendants' Counterclaim, and therefore Count Four is dismissed with prejudice.

Count Seven of Defendants' Counterclaim for defamation states the following:

...  
76. The Trust's communications to tenants and others were defamatory and published and spoken to others.

The elements of a defamation claim under Ohio law are: (1) a statement of fact; (2) the statement must be false; (3) the statement must have a defamatory meaning toward the plaintiff; (4) publication of the statement by the defendant; (5) the publication must be the proximate cause of the injury to the plaintiff; and (6) the defendant must have acted with the requisite degree of fault in publishing the statement. *Am. Chem. Soc'y v. Leadscope, Inc.*, 133 Ohio St.3d 366, 2012-Ohio-4193, 978 N.E.2d 832, 77.; *Celebrezze v. Dayton Newspapers, Inc.*, 41 Ohio App.3d 343,

346-47, 535 N.E.2d 755 (8th Dist. 1988). “Defamation can take the form of libel or slander. Libel refers to written or printed defamatory words and slander generally refers to spoken defamatory words.” *Matikas v. Univ. of Dayton*, 2nd Dist. Montgomery No.19476, 152 Ohio App.3d 514, 2003-Ohio-1852, 788 N.E.2d 1108, ¶27.

The evidence presented at the trial on the defamation claim was that tenants received communications that Defendants had defaulted on the loan and that the tenants were to pay their rents to Gentile Property Management going forward. These statements were true and were simply a lawful exercise of the Trusts right to enforce its Assignment of Rents. Furthermore, Defendants indicated that the Trust called Oldham a deadbeat owner and manager to his tenants. Defendants claim that this statement caused injury to Oldham’s business and adversely affected him in his profession. Oldham also claimed that Gentile Management represented to tenants that Oldham was no longer the owner of the properties. Even if those statements were made and were false, this Court cannot find by the greater weight of the evidence that Defendants have met their burden to succeed on a defamation claim.

Consequently, the Defendants/Counterclaimants failed to prove by a preponderance of the evidence the allegations contained in Count Seven of Defendants’ Counterclaim and Count Seven is hereby dismissed with prejudice.

**III. Conclusion**

Because Defendants did not prove their claims for defamation and tortious interference by a preponderance of the evidence, judgment is hereby granted in favor of the Plaintiff on both claims. Hearing set for September 27 at 9:00 AM on attorney's fees and set-offs. Hearing to be held via Zoom. All documents pertaining to damages, attorney's fees, set-offs, etc. must be provided to the Court by no later than September 22, 2023.

**IT IS SO ORDERED.**

8/25/2023  
DATE

  
**JUDGE CASSANDRA COLLIER-WILLIAMS**