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

BEDFORD ASSOCIATES - ET AL.
Plaintiff

Case No: CV-16-869226

2017 JUN 28 P 2:52

Judge: SHANNON M GALLAGHER

WILLIE COLEMAN A.K.A. ETC. - ET AL
Defendant

WINDOW 7
CLERK OF COURTS
CUYAHOGA COUNTY

JOURNAL ENTRY

98 DISPOSED - FINAL

JUDGMENT ENTRY AND OPINION. O.S.J.
COURT COST ASSESSED TO THE DEFENDANT(S).
PURSUANT TO CIV.R. 58(B), THE CLERK OF COURTS IS DIRECTED TO SERVE THIS JUDGMENT IN A MANNER
PRESCRIBED BY CIV.R. 5(B). THE CLERK MUST INDICATE ON THE DOCKET THE NAMES AND ADDRESSES OF ALL
PARTIES, THE METHOD OF SERVICE, AND THE COSTS ASSOCIATED WITH THIS SERVICE.

O.S.J.

Judge Signature

Date

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY

BEDFORD ASSOCIATES, et al.,)	CASE NO. CV-16-869226
)	
Plaintiffs,)	
)	JUDGE SHANNON M. GALLAGHER
vs.)	
)	<u>JUDGMENT ENTRY AND OPINION</u>
WILLIE COLEMAN)	
a/k/a WILLIE COLEMAN-ALI EL, et al.)	
)	
Defendants.)	
)	

Shannon M. Gallagher, J.:

This matter is before the Court on the Plaintiffs' claims against Defendants in the Verified Complaint, the evidence from the preliminary injunction hearing, the motion for summary judgment, the court's entry granting judgment in part on summary judgment and the trial on the merits. Based on the evidence presented, exhibits entered into the record, admissions by Defendant Willie Coleman, and the testimony from Plaintiffs Larry Coven and Steven Coven the Court enters judgment for the Plaintiffs and against the Defendants.

On March 29, 2017, the Court found Defendants liable on Count I: Permanent Injunction and Count IV: Slander of Title, and granted a permanent injunction. The Court reserved its ruling on damages and Plaintiffs' remaining claims until a full bench trial. On 6/8/2017, the Court held a full bench trial on Plaintiffs' remaining claims and damages.

The Court finds that Plaintiffs failed to prove their prima facie case for Count II: Menacing by Stalking, Count III: Malicious Prosecution, and Count V: Fraud.¹ These claims are dismissed with prejudice.

The Court finds in favor of Plaintiffs and against the Defendants, jointly and severally on Count VI: Violating Section 1309.625(B) of the Uniform Commercial Code and Count VII: Defamation Per Se. The Court finds the Defendants acted knowingly, maliciously, falsely, frivolously, willfully, wantonly and with bad faith. The Court further finds that Defendants Willie Coleman and John Doe d/b/a Moabite International Group² are liable, jointly and severally, for damages, including attorneys' fees and costs of removing the UCC liens, in the amount of \$48,008.50, statutory damages of \$1,500.00, and punitive damages in the amount of \$1,000.

I. FINDINGS OF FACT

Defendants claim that Plaintiffs owe Defendants a debt. Defendants' belief in this debt is based upon Defendants sending "affidavits of truth" to Plaintiff Larry Coven. Defendant Willie Coleman argued at the hearing that the affidavits of truth, if unrebutted, are legally binding. However, there is no such document or thing in law or fact. It is a fiction and a nullity. No debt or money is or was ever owed by Plaintiffs to Defendants.

Defendants presented no evidence demonstrating that any Plaintiff owes a debt to the Defendant Willie Coleman or John Doe d/b/a Moabite International Group. Defendants have never entered into a note, mortgage or loan of any kind with Plaintiffs. Defendants have never

¹ Plaintiffs attempted to dismiss these counts without prejudice pursuant to Civ. R. 41(A)(1)(a). Pursuant to Civ. R. 41(A)(1)(a), a plaintiff without order of court may dismiss all claims asserted by that plaintiff against a defendant. The rule applies to discreet parties, not discrete causes of action. *Pattison v. W.W. Granger, Inc.*, 120 Ohio St.3d 142, 2008-Ohio-5276. Plaintiffs' attempt to dismiss some, but not all, of their claims without prejudice is a nullity. *Kosut v. First energy corp.*, 7th Dist. Jefferson No. 12 JE 8, 2013-Ohio-2876.

² Plaintiffs note in their complaint that Defendant Moabite International Group is believed to be a fictional, unincorporated entity used as an alias or cover by Defendant Willie Coleman.

obtained a judgment against Plaintiffs. Plaintiffs Larry Coven, Steven Coven, Mercantile Associates, LLC, and Bedford Associates, LLC had no business, banking or secured relationship with Defendants Willie Coleman, a/k/a Willie Coleman-Ali El or Moabite International Group.

Plaintiffs presented evidence demonstrating how from October 2015 through the present, Defendants frivolously and in bad faith pursued claims against Plaintiffs in an exhausting, non-stop effort to collect upon a non-existent and fictitious debt. Defendants sent numerous letters and affidavits of truth threatening, with no right to do so, among other things, to take Plaintiffs' property, foreclose and levy. Defendants filed a frivolous Federal lawsuit and liens against Plaintiffs in an effort to extort money from the Plaintiffs.

On February 2, 2016, Defendant Willie Coleman filed a UCC Financing Statement with the Ohio Secretary of State, instrument number 201608229006. Financing Statement 201608229006 was filed against Plaintiff Larry Coven, claiming a security interest over proceeds from Coven Goldman Associates, Bedford Associates, and ADV New Bedford Associates, LLC. On August 22, 2016, Defendants filed a UCC Financing Statement with the Cuyahoga County Fiscal Office, instrument number 201603601368. Financing Statement 201603601368 was filed against Plaintiffs Bedford Associates, Steven Coven, and Steven Coven's wife, non-party Melissa Coven, claiming a broad security interest over property owned by Plaintiff Mercantile Associates, LLC.³

Plaintiffs initiated this case on September 19, 2016. On October 3, 2016, this Court granted Plaintiffs a preliminary injunction, enjoining Defendants from, in pertinent part, filing additional liens against the Plaintiffs. On February 16, 2017, Defendants filed a UCC Financing Statement with the Summit County Fiscal Office, instrument number 56278150. Financing

³ Plaintiff Steven Coven and non-party Melissa Coven have no ownership interest in Bedford Associates. Neither are they employed with Bedford Associates.

Statement 56278150 was filed against Plaintiffs Larry and Steven Coven, as well as non-party Melissa Coven, and claims a security interest over Steven and Melissa Coven's residential property.⁴ The Court has previously found that these three UCC Financing Statements described above were filed fraudulently and are therefore void and unenforceable.

Defendant Willie Coleman also filed a Federal Court action against Plaintiff Larry Coven in the United States District Court, Northern District of Ohio, Case No. 1:16 CV 902. United States District Court Judge Patricia Gaughan dismissed this case for Mr. Coleman's refusal to either pay a filing fee or file an Application to Proceed *In Forma Pauperis*.

Plaintiffs sent a series of letters to Defendants forewarning them to stop or they would be held liable. Defendants stubbornly and willfully continued their illegal, bad faith actions. On March 16, 2017, during an emergency contempt hearing against Defendant Willie Coleman, Defendant Coleman admitted that he violated the Court's Preliminary Injunction Order, dated October 3, 2016, when he filed Financing Statement 56278150 on February 16, 2017.

II. CONCLUSIONS OF LAW

At the outset of trial, Plaintiffs advised the Court of their intent to abandon and dismiss their Count II: Menacing. This claim therefore fails and is dismissed with prejudice.⁵

The Court finds that Plaintiffs failed to prove their claims for Count III: Malicious Prosecution and Count V: Fraud. In order to prove a claim for malicious prosecution, a plaintiff must establish the following elements: (1) malice in instituting or continuing the prosecution, (2) lack of probable cause, (3) termination of the prosecution in favor of the accused, and (4) seizure

⁴ The Court previously found Defendant Willie Coleman in contempt for violating the Court's October 3, 2016 order, fining him \$250 a day until the lien was removed from the Summit County Fiscal Office's website. Defendant cured his contempt as of June 2, 2017 by removing Financing Statement 56278150.

⁵ Plaintiffs filed a motion to correct judgment entry, filed 6/20/2017, asking the Court to dismiss Count II without prejudice. However, as discussed above in FN 1, Plaintiffs' attempt to dismiss only one of its claims without prejudice is a nullity. Plaintiffs' motion to correct judgment entry is denied.

of plaintiff's person or property during the course of the prior proceedings. *Jacob v. Fadel*, 8th Dist. Cuyahoga No. 86920, 2006-Ohio-5003. Plaintiffs failed to establish that their persons or property were seized in the course of the prior Federal proceeding instituted by Defendant Willie Coleman. Plaintiffs also cannot show that the prior case was terminated in the Plaintiffs' favor. Rather, the case was dismissed for Defendant Coleman's failure to pay the requisite filing fee.

To prevail on a claim for fraud, Plaintiffs must prove (a) a representation, (b) which is material to the transaction at hand, (c) made falsely, with knowledge of its falsity, or with such utter disregard and recklessness as to whether it is true or false that knowledge may be inferred, (d) with the intent of misleading another into relying upon it, (e) justifiable reliance upon the representation or concealment, and (f) a resulting injury proximately caused by the reliance. *Universal Coach, Inc. v. New York City Transit Auth.*, 90 Ohio App. 3d 284, 291-292, 629 N.E.2d 28 (8th Dist. 1993). Plaintiffs failed to establish that they justifiably relied upon any false representation of the Defendants, or that they suffered injury as a result of any reliance. Therefore, Plaintiffs Count III and Count V fail and are dismissed with prejudice.

The Court previously granted Plaintiffs' Motion for Summary Judgment as to Plaintiffs' claim for Slander of Title. The Court reserved its ruling on damages until the bench trial.

Plaintiffs in slander-of-title cases may recover actual damages as well as damages for "special pecuniary loss." *Childers v. Commerce Mtge. Investments*, 63 Ohio App.3d 389, 392, 579 N.E.2d 219 (9th Dist. 1989). "Recoverable pecuniary loss" is defined as "(a) the pecuniary loss that results directly and immediately from the effect of the conduct of third persons, including impairment of vendibility or value caused by disparagement, and (b) the expense of measures reasonably necessary to counteract the publication, including litigation to remove the doubt cast upon vendibility or value by disparagement." *Id.* at 393, quoting Restatement of the

Law 2d, Torts (1977) 355, Sections 633(1)(a) and (b). "Therefore, we think, in a proper case, a party could recover the attorney fees incurred in removing a cloud on title as "special damages," and could also recover attorney fees for prosecuting a slander of title action...." *Id.* Attorneys' fees may be awarded as either special damages or under a finding of bad faith. In this case the attorneys' fees are awardable under either standard.

Plaintiffs' expenses in prosecuting Defendants' fraudulent UCC financing statements, whether filing fees, expenses or attorneys' fees, were to clear the title to their property. It was apparent and proven that no other step or method stopped the Defendants from their bad acts. In fact, Defendants still violated this Court's order by continuing to file liens after the preliminary injunction order was in place. Thus, all Plaintiffs' expenses and attorneys' fees are recoverable as damages.

Plaintiffs offered clear and convincing evidence that Defendants acted in bad faith by continuing to file fictional liens with no basis in law or fact. Plaintiffs repeatedly warned Defendants to stop their bad acts or they would be held liable. But Defendants continued to frivolously file bad faith liens, including liens against Steve Coven and his wife, neither of whom had ever met or talked to Defendants. As discussed above, Defendants had no basis for filing the Federal Lawsuit or the UCC Financing Statements against the Plaintiffs.

All the costs, expenses and attorneys' fees incurred by Plaintiffs in discharging these bad faith and fictitious liens, including filing and prosecuting this lawsuit, were actual and compensatory damages incurred by Plaintiffs to clear title to their property. Plaintiffs incurred \$48,008.50 in damages and costs, which the Court finds reasonable and customary, including \$3,800.78 of direct costs in challenging the UCC Financing Statements.

Plaintiffs are also entitled to damages for Defendants' violations of Article 9 of the Uniform Commercial Code as codified in Ohio Revised Code 1309. Pursuant to R.C. 1309.625(B), "a person is liable for damages in the amount of any loss caused by a failure to comply with this chapter." In addition to any damages recoverable under division (B) of this section, the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred dollars in each case from a person that: "[f]iles a record that the person is not entitled to file under division (A) of section 1309.509 of the Revised Code." Defendants violated this section and Chapter 1309. Defendants had no legal authority to file the UCC Financing Statements and were not authorized to do so.

Section 1309.625(F) entitles Plaintiffs to an additional five hundred dollars for each violation of Article 9. Plaintiffs are entitled to statutory damages in the amount of \$1,500.00 for Plaintiffs' claim for UCC Violations, allocated as follows: \$500 awarded jointly to Plaintiffs Larry Coven and Bedford Associates for Financing Statement 201608229006, filed February 2, 2016; \$500 awarded jointly to Plaintiffs Bedford Associates, Steven Coven, and Mercantile Associates for Financing Statement 201603601368, filed August 22, 2016; and \$500 awarded jointly to Plaintiffs Larry Coven and Steven Coven for Financing Statement 56278150, filed February 16, 2017.

Finally, Plaintiffs are entitled to damages from Defendants for defamation per se. Defamation is the unprivileged publication of a false and defamatory matter about another. *Whitt Sturtevant, LLP v. NC Plaza LLC*, 10th Dist. Franklin No. 14AP-919, 2015-Ohio-3976, P71. To succeed on a defamation claim, a plaintiff must establish: (1) a false statement; (2) about the plaintiff; (3) published without privilege to a third party; (4) with fault of at least negligence on

the part of the defendant; and (5) the statement was either defamatory per se or caused special harm to the plaintiff. *Id.*

Defamation per se, involves: (1) the imputation of a charge of an indictable offense involving moral turpitude or infamous punishment; (2) the imputation of some offensive or contagious diseases calculated to deprive the person of society; or (3) having the tendency to injure the plaintiff in his trade or occupation. *Id.* at P72. In cases of defamation per se, damages are presumed. A statement is defamatory per se, if, on its face, "it reflects upon a person's character in a manner that will injure him in his trade or profession." *Gosden v. Louis*, 116 Ohio App.3d 195, 206-207, 687 N.E.2d 481 (9th Dist. 1996), citing *Becker v. Toulmin*, 165 Ohio St. 549, 553, 138 N.E.2d 391 (1956). When a statement is defamatory per se, both damages and actual malice are presumed to support a judgment for plaintiff. *Miller v. Cent. Ohio Crime Stoppers, Inc.*, 2008-Ohio-1280, 2008 Ohio App. LEXIS 1110 (Ohio Ct. App., Franklin County Mar. 20, 2008) citing *Westropp v. E.W. Scripps Co.*, 148 Ohio St. 365, 74 N.E.2d 340 (1947), paragraph four of the syllabus.

Plaintiffs have established the above elements by clear and convincing evidence. Defendants made false statements about Plaintiffs (i.e. that a debt was owed when nothing was owed and filing fraudulent liens for these made-up, fictitious debts). Defendants knew these statements were false and were repeatedly advised that no valid debt existed. The statements were published without privilege.

The statements constitute defamation per se because the UCC Financing Statements had a clear tendency to affect Plaintiffs in their business. The defamatory statements attempt to establish debts, where none exist; affect Plaintiffs' credit; show a lawsuit (frivolous as it may be), where there was no claim; and show liens on real and personal property impairing title,

where there were no liens. All of these actions affect the Plaintiffs in their business. This is especially true in the Plaintiffs' business of real estate, where clear title and the ability to transfer clear title in sales and transactions is required. The Court finds the Defendants liable for Defamation Per Se, as these statements injured Plaintiffs in their business. The Court awards punitive damages in the amount of \$1,000.

Accordingly, judgment is entered in favor of Plaintiffs and against Defendants, jointly and severally, on Counts I, IV, VI and VII of the complaint in the amount of \$48,008.50, plus additional statutory damages of \$1,500.00 under Count VI, and punitive damages in the amount of \$1,000 under Count VII.

Plaintiffs' Counts II, III, and V are dismissed with prejudice.

The UCC Financing Statements filed by Defendants against the Plaintiffs are void, fraudulent and of no force and affect, and title to all personal and real property of the Plaintiffs is cleared of any such lien, claim or cloud by Defendants. This judgment and any former entries may be filed with the respective governmental offices and this Court directs the fiscal officers, government officers and clerks to remove any and all liens.

Defendants acted maliciously, wantonly, willfully, obdurately, oppressively, and in bad faith and therefore this judgment and all amounts due and owing are non-dischargeable under the bankruptcy code.

Defendant Willie Coleman was previously found in contempt of court on March 16, 2017. This Court imposed a fine of \$250 per day until Defendant cured the contempt by removing the UCC Financing Statement, filed on February 16, 2017. The Court imposes the fine of \$250 per day, accruing from March 16, 2017 until March 29, 2017, for a total of \$3,250, payable to the Cuyahoga County Clerk of Courts.

This Court shall retain jurisdiction over this case in the event of any further violations or actions by the Defendants. No just cause for delay.

IT IS SO ORDERED.

June 28, 2017
Date

Shannon M Gallagher
Judge Shannon Gallagher

CERTIFICATE OF SERVICE

A copy of this journal entry was sent by email and/or regular mail, this 28th day of June,

2017 to the following:

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