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2016 JUL 14 PM 2:47

MARY L. SWAIN
BUTLER COUNTY
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
GENERAL DIVISION
BUTLER COUNTY, OHIO

DOREEN BARROW, et al.

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Case Number: CV2013 07 2047

Plaintiffs,

JUDGE MICHAEL A. OSTER, JR.

-V-

DECISION AND ENTRY AS TO
PLAINTIFF'S MOTION FOR
PREJUDGMENT ATTACHMENT
AND GARNISHMENT

VILLAGE OF NEW MIAMI, et al

Defendants.

This matter comes before the Court upon Plaintiff's Motion for Prejudgment Attachment and Garnishment. The matter being fully briefed, oral arguments were held on June 27, 2015 at 9:00AM.

This case is currently pending review before the Supreme Court of Ohio via Case number 2016-0703. While this Court does not decide the full breath of its potential jurisdiction, this Court finds that a ruling on the particular and limited issue currently before it will not affect the Supreme Court's ability to affirm, reverse, or modify the Twelfth District's decision if it so chooses to accept the case. *Rock v. Sch. Emp. Ret. Bd.*, 2002-Ohio-3957, ¶18, 96 Ohio St. 3d 206, 207, 772 N.E.2d 1197, 1198, citing *Howard v. Catholic Social Services of Cuyahoga County, Inc.* (1994), 70 Ohio St. 3d 141, 146, 637 N.E.2d 890, 895. Accordingly, for the reasons set forth below, Plaintiff's Motion is hereby **DENIED**.

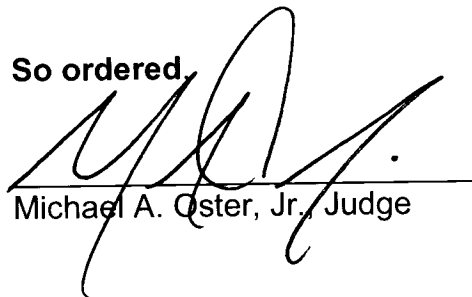
Judge
Michael A. Oster, Jr.
Common Pleas Court
Butler County, Ohio

This Court finds garnishment to be an extraordinary remedy under these circumstances, which should not be considered lightly. *Union Rolling Mill Co. v. Packard*, 1885 WL 4789, at *1 (Ohio Cir. Ct. May 1885); see also *Kreider v. Carson*, 94 N.E.2d 386. 388 (Ohio Ct. App. 1949). The Court has considered the facts presented by both parties and finds there to be no evidence of an intent to defraud by the Village of New Miami. The facts show that the Village of New Miami entered into a basic legal contract for services. Said contract contains nothing unusual— much less any intent to defraud. This contract is of public record, and was presented to the public at a public hearing. As such, the facts do not support anything exceptional or fraudulent in this case,¹ hence the elements of R.C. §2715.01 are not satisfied.

That being found, the Court acknowledges other issues have been raised, but declines to issue any further rulings as doing so would be unnecessary, potentially advisory, or go beyond the potential breadth of this Court's jurisdiction.

IT IS THEREFORE ORDERED, that Plaintiff's Motion for Prejudgment Attachment and Garnishment is hereby **DENIED**.

So ordered,



Michael A. Oster, Jr., Judge

¹ Additionally, the Village of New Miami has fully represented that the contract is being satisfied and complied with, and that the Village has \$1.2 million in funds set aside.

Judge
Michael A. Oster, Jr.
Common Pleas Court
Butler County, Ohio

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