

COURT OF APPEALS OF OHIO, FIFTH APPELLATE DISTRICT, STARK COUNTY

Law Offices of Robert E. Soles, Jr., Co., LPA v. Swinderman

2026-Ohio-730 · No. 2025CA00075 · Decided March 4, 2026

SUMMARY

The Fifth District Court of Appeals of Ohio affirmed the Canton Municipal Court's denial of Bradley Swinderman's motion to vacate a default judgment for unpaid legal fees. The court held that Swinderman failed to demonstrate a meritorious defense or excusable neglect under Civ.R. 60(B). The court also noted that his appellate brief failed to comply with App.R. 16 but reviewed the appeal in the interests of justice and finality.

CASE DETAILS

COURT	Court of Appeals of Ohio, Fifth Appellate District, Stark County
WRITING FOR THE COURT	William B. Hoffman; Andrew J. King; David M. Gormley
JURISDICTION	Ohio Court of Appeals, Fifth Appellate District, Stark County
DECIDED	March 4, 2026
DOCKET	2025CA00075
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed the Canton Municipal Court's denial of his Civ.R. 60(B) motion to vacate a default judgment entered against him for unpaid legal fees.
STANDARD OF REVIEW	Abuse of discretion
PRECEDENTIAL VALUE	Published Ohio appellate opinion
PARTIES	Bradley Swinderman v. Law Offices of Robert E. Soles, Jr., Co., LPA

TOPICS

- default judgment
- civil procedure
- appellate procedure
- standard of review
- pleadings

PRACTICE AREAS

- civil procedure
- appellate procedure
- contracts
- remedies

QUESTIONS PRESENTED

1. Whether the municipal court abused its discretion by denying Swinderman's Civ.R. 60(B) motion to vacate the default judgment.
2. Whether Swinderman demonstrated a meritorious defense or claim and excusable neglect sufficient to obtain relief under Civ.R. 60(B).
3. Whether the appellate court should dismiss the appeal because Swinderman's brief failed to comply with App.R. 16(A).

HOLDINGS

1. An appellant's failure to comply with the mandatory requirements of App.R. 16(A) may permit dismissal of the appeal, but the court may elect to review the appeal in the interests of justice and finality.
2. A Civ.R. 60(B) movant must establish a meritorious defense or claim, entitlement to relief under Civ.R. 60(B)(1) through (5), and a timely motion. Swinderman was not entitled to relief because he failed to show a meritorious defense and failed to establish excusable neglect.

KEY QUOTATIONS

"It is not the function of this court to construct a foundation for [an appellant's] claims; failure to comply with the rules governing practice in the appellate court is a tactic which is ordinarily fatal." (¶ 8)

FACTUAL BACKGROUND

The parties entered into a legal-services agreement under which the appellee represented Swinderman in a civil appropriation action in exchange for hourly fees. The appellee performed the legal services, but Swinderman did not pay the associated charges. After being served with the complaint and summons, Swinderman did not file a timely answer, and the municipal court entered default judgment for \$12,987. In seeking relief from judgment, he claimed he did not receive FedEx delivery notices, misunderstood the answer deadline, attempted to fax a partial answer, and had not received an invoice, but he submitted no sworn testimony or other evidentiary material supporting those assertions.

PROCEDURAL HISTORY

The appellee sued Swinderman in Canton Municipal Court for \$12,987 in unpaid legal fees. After Swinderman failed to file an answer, the municipal court entered default judgment on May 7, 2025. The court denied Swinderman's subsequent motion to vacate on June 10, 2025, and the Fifth District affirmed.

DISPOSITION

affirmed

CASES CITED

- Zanesville v. Robinson, 2010-Ohio-4843, ¶ 26 (5th Dist.)
- Musleve v. Musleve, 2008-Ohio-3961, ¶ 21 (5th Dist.)
- State v. Darby, 2019-Ohio-2186, ¶¶ 21-24

- GTE Automatic Electric, Inc. v. ARC Industries, Inc., 47 Ohio St. 2d 146, 150 (1976)
- Rose Chevrolet v. Adams, 36 Ohio St. 3d 17, 20 (1988)
- K. Ronald Bailey & Assocs. Co. v. Martin, 2009-Ohio-2932, ¶ 15 (6th Dist.)
- Nat'l City Bank v. Mulinex, 2005-Ohio-5460, ¶ 13 (6th Dist.)
- Syphard v. Vrable, 2001-Ohio-3229 (6th Dist.)
- Twymon v. Eagle Auto Parts, Inc., 2022-Ohio-2360, ¶ 51 (8th Dist.)
- Kay v. Marc Glassman, 76 Ohio St. 3d 18, 20 (1996)
- Dispatch Printing Co. v. Recovery Ltd. Partnership, 2015-Ohio-1368, ¶ 13 (10th Dist.)
- Stuller v. Price, 2003-Ohio-583, ¶ 52 (10th Dist.)
- Vanest v. Pillsbury Co., 124 Ohio App. 3d 525 (4th Dist. 1997)

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