

OHIO COURT OF APPEALS, TENTH APPELLATE DISTRICT

Autovest, L.L.C. v. Ruff

2023-Ohio-2937 (Ohio Ct. App. 2023) · No. 23AP-29 · Decided August 22, 2023

SUMMARY

The Ohio Tenth District Court of Appeals affirmed summary judgment for Autovest, L.L.C. in an action to enforce a promissory note against Gerry Ruff. The court held that Ruff’s failure to respond to requests for admission conclusively established, among other matters, the authenticity of the note, his default, and the amount due, while an affidavit established Autovest’s assignment of the debt. The court rejected Ruff’s attempts to use a later-filed affidavit and his pro se status to avoid the consequences of the unanswered requests for admission.

CASE DETAILS

COURT	Ohio Court of Appeals, Tenth Appellate District
WRITING FOR THE COURT	Beatty Blunt, P.J.; Jamison, J.; Leland, J.
JURISDICTION	Ohio
DECIDED	August 22, 2023
DOCKET	23AP-29
DISPOSITION	affirmed
PROCEDURAL POSTURE	Gerry Ruff appealed the Franklin County Municipal Court's entry granting Autovest, L.L.C.'s motion for summary judgment in an action to enforce a promissory note.
STANDARD OF REVIEW	De novo review applies to summary-judgment decisions. Summary judgment is proper when there is no genuine issue of material fact, the moving party is entitled to judgment as a matter of law, and reasonable minds can reach only a conclusion adverse to the nonmoving party; doubts are resolved in favor of the nonmoving party.
PRECEDENTIAL VALUE	published
PARTIES	Gerry Ruff v. Autovest, L.L.C.

TOPICS

- summary judgment
- civil procedure
- standard of review
- breach of contract
- commercial litigation

PRACTICE AREAS

civil procedure

contracts

commercial litigation

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court properly granted summary judgment to Autovest on the promissory-note claim.
2. Whether Ruff's failure to respond to requests for admissions conclusively established facts concerning the note, his default, the balance due, and Autovest's entitlement to enforce the note.
3. Whether Autovest presented sufficient evidence of the assignment of the debt to establish its entitlement to enforce the note.

HOLDINGS

1. A party's failure to timely respond to requests for admissions results in conclusive admissions that the trial court must recognize as facts of record, including facts central to the merits of the case.
2. Autovest established its entitlement to summary judgment by combining the conclusive admissions concerning the note and Ruff's obligations with Julie Allen's affidavit providing evidence that the debt had been assigned to Autovest.
3. A pro se litigant is held to the same legal and procedural standards as a represented litigant and is not entitled to special treatment.

KEY QUOTATIONS

"Such an admission under Civ.R. 36 is made automatically, and the party requesting the admission is not required to take any further action." (§ 15)

"Pro se litigants are presumed to have knowledge of the law and legal procedures and are held to the same standard as litigants who are represented by counsel." (§ 18)

FACTUAL BACKGROUND

Autovest sued Gerry Ruff and Adrienne Ruff on a 2014 promissory note originally issued by First Investors Financial Services, Inc. Autovest attached the note, account records, correspondence, a bill of sale and assignment, and an affidavit asserting that the account had been assigned to Autovest. Autovest served requests for admissions, but Ruff did not respond or seek relief from the resulting admissions. The admissions established the note's authenticity, Ruff's execution and default, and the amount due, while Autovest's affidavit supplied evidence of the assignment.

PROCEDURAL HISTORY

Autovest sued Gerry Ruff and Adrienne Ruff on a promissory note and alleged that it had acquired the rights to enforce the note. The trial court denied Gerry Ruff's motion to dismiss for lack of standing, and Autovest later served requests for admissions. After Ruff failed to respond to those requests, the trial court granted Autovest summary judgment. Ruff appealed, challenging the sufficiency of the evidence establishing the note's authenticity, ownership, and enforceability.

DISPOSITION

affirmed

CASES CITED

- LRC Realty, Inc. v. B.E.B. Properties, 160 Ohio St.3d 218, 2020-Ohio-3196, ¶ 11
- Wiltshire Capital Partners v. Reflections II, Inc., 10th Dist. No. 19AP-415, 2020-Ohio-3468, ¶¶ 12-13
- State ex rel. Grady v. State Emp. Relations Bd., 78 Ohio St.3d 181, 183 (1997)
- Premiere Radio Networks, Inc. v. Sandblast, L.P., 10th Dist. No. 18AP-736, 2019-Ohio-4015, ¶ 6
- Dresher v. Burt, 75 Ohio St.3d 280, 293 (1996)
- Hall v. Ohio State Univ. College of Humanities, 10th Dist. No. 11AP-1068, 2012-Ohio-5036, ¶ 12
- Henkle v. Henkle, 75 Ohio App.3d 732, 735 (12th Dist. 1991)
- Progressive Direct Ins. Co. v. Harrison, 10th Dist. No. 17AP-344, 2017-Ohio-8981, ¶¶ 9-10
- Cleveland Trust Co. v. Willis, 20 Ohio St.3d 66, 67 (1985)
- R & J Solutions, Inc. v. Moses, 10th Dist. No. 19AP-703, 2021-Ohio-1315, ¶ 20
- Thomas v. Netcare Corp., 10th Dist. No. 17AP-705, 2018-Ohio-3462, ¶¶ 13-14
- LVNV Funding, LLC v. Kaminsky, 10th Dist. No. 10AP-1141, 2011-Ohio-3085, ¶ 14
- Johnson v. Levy, 10th Dist. No. 18AP-775, 2019-Ohio-3492, ¶ 22
- Rizzo-Lortz v. Erie Ins. Group, 10th Dist. No. 17AP-623, 2019-Ohio-2133, ¶ 18
- In re Application of Black Fork Wind Energy, LLC, 138 Ohio St.3d 43, 2013-Ohio-5478, ¶ 22
- Suon v. Mong, 10th Dist. No. 17AP-879, 2018-Ohio-4187, ¶ 26