

**COURT OF APPEALS OF OHIO, EIGHTH APPELLATE DISTRICT,
CUYAHOGA COUNTY**

Siniscalchi v. K. Hovnanian Meadow Lakes, L.L.C.

2026-Ohio-1777 · No. 115700 · Decided May 14, 2026

SUMMARY

The Ohio Eighth District Court of Appeals reversed the dismissal of Buyers’ spoliation-of-evidence claim against K. Hovnanian Meadow Lakes, LLC and K. Hovnanian Companies, LLC. The court held that res judicata was not a proper basis for dismissal under Civ.R. 12(B)(6) and that the prior arbitration did not constitute a final judgment on a spoliation claim. The court also reversed the award of attorney fees and sanctions and remanded for further proceedings.

CASE DETAILS

COURT	Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County
WRITING FOR THE COURT	Eileen A. Gallagher, J.; Michelle J. Sheehan, A.J.; Anita Laster Mays, J.
JURISDICTION	Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County
DECIDED	May 14, 2026
DOCKET	115700
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs appealed from the Cuyahoga County Court of Common Pleas' dismissal of their amended complaint for spoliation of evidence under Civ.R. 12(B)(6) and res judicata, and from an award of sanctions and attorney fees under Civ.R. 11 and R.C. 2323.51.
STANDARD OF REVIEW	The court reviewed the Civ.R. 12(B)(6) dismissal de novo, accepting all factual allegations in the complaint as true and drawing all reasonable inferences in favor of the nonmoving party. Application of res judicata was also reviewed de novo as a question of law.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Shane Siniscalchi, Eric Velazquez v. K. Hovnanian Meadow Lakes, LLC, K. Hovnanian Companies, LLC

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QUESTIONS PRESENTED

1. Whether res judicata barred the buyers' separate spoliation-of-evidence claim.
2. Whether the trial court could dismiss the spoliation claim under Civ.R. 12(B)(6) for failure to state a claim.
3. Whether the buyers' amended complaint sufficiently pleaded the elements of a spoliation-of-evidence claim under Ohio law.
4. Whether the trial court properly awarded attorney fees and costs for frivolous conduct under R.C. 2323.51.

HOLDINGS

1. Res judicata is an affirmative defense and is not a proper basis for dismissal under Civ.R. 12(B)(6).
2. Res judicata did not bar the buyers' spoliation claim because the record did not establish a prior final judgment on the merits of a spoliation claim.
3. The amended complaint sufficiently pleaded a spoliation-of-evidence claim, and the claim could not be resolved on a Civ.R. 12(B)(6) motion.
4. The award of attorney fees and costs was erroneous because the buyers had not previously brought a spoliation claim as a matter of law, and filing the present action was therefore not frivolous on the stated basis.

KEY QUOTATIONS

“Res judicata is an affirmative defense. Civ.R. 8(C). It is not included in the list of defenses that may be raised in a Civ.R. 12(B) motion to dismiss. For this reason, we have held that res judicata is not a proper basis for dismissal under Civ.R. 12.”

“Upon review, we find that Buyer’s claim for spoliation of evidence complies with Civ.R. 8(A) in that it contains “a short and plain statement showing that [Buyers are] entitled to relief” and a demand for judgment.”

FACTUAL BACKGROUND

The buyers purchased a home from the builder and experienced backyard drainage and basement water-infiltration problems. After notifying the builder of potential litigation, the buyers pursued claims in a Lorain County action that proceeded to arbitration; the arbitrator awarded damages on the breach-of-contract claim but rejected other claims. The buyers then filed a separate Cuyahoga County complaint alleging that the builder had

intentionally deleted or destroyed emails and text messages that could have supported the rejected claims. The amended complaint alleged that the builder knew litigation was probable, willfully destroyed evidence, disrupted the buyers' case, and caused damages.

PROCEDURAL HISTORY

The buyers previously pursued claims concerning construction and water-infiltration problems in Lorain County Common Pleas Court, where the matter proceeded to binding arbitration. They later filed a separate Cuyahoga County action alleging that the builder had deleted or destroyed emails and text messages relevant to the earlier litigation. The trial court dismissed the spoliation claim based on res judicata and awarded the builder \$11,762.50 in attorney fees and costs for frivolous conduct. The Court of Appeals reversed both rulings and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case is remanded to the trial court for further proceedings consistent with the appellate opinion. The dismissal of the spoliation claim and the award of attorney fees and costs are reversed.

CASES CITED

- Hersh v. Grumer, 2021-Ohio-2582, ¶ 5
- NorthPoint Props. v. Petticord, 2008-Ohio-5996, ¶ 11
- Grey v. Walgreen Co., 2011-Ohio-6167, ¶ 3
- State ex rel. Scott v. Cleveland, 2006-Ohio-6573, ¶ 26
- Lycan v. Cleveland, 2022-Ohio-4676, ¶ 21
- Fast Tract Title Servs. v. Barry, 2024-Ohio-5216, ¶ 21
- Daniel v. Shorebank Cleveland, 2010-Ohio-1054, ¶ 13
- Jefferson v. Bunting, 2014-Ohio-3074, ¶¶ 10-11
- State ex rel. Freeman v. Morris, 62 Ohio St. 3d 107, 109 (1991)
- Smith v. Howard Johnson Co., 67 Ohio St. 3d 28, 29 (1993)