

[Please see original opinion at 2011-Ohio-178.]

IN THE COURT OF APPEALS FOR STARK COUNTY, OHIO

FIFTH APPELLATE DISTRICT

ANTHONY SYLVESTER, ET AL	:	
	:	
Plaintiff-Appellee	:	
	:	
-vs-	:	JUDGMENT ENTRY
	:	
AARON M. KEISTER	:	Filed: February 10, 2011
	:	
Defendant-Appellant	:	CASE NO. 2010-CA-00078

{¶ 1} “App. R. 26 provides a mechanism by which a party may prevent miscarriages of justice that could arise when an appellate court makes an obvious error or renders an unsupportable decision under the law.” *State v. Owens* (1997), 112 Ohio App. 3d 334, 336, 678 N.E. 2d 956, dismissed, appeal not allowed, 77 Ohio St. 3d 1487, 673 N.E. 2d 146.

{¶ 2} In *Matthews v. Matthews* (1981), 5 Ohio App. 3d 140, 143, 450 N.E. 2d 278, the Franklin County Court of Appeals states, “[t]he test generally applied is whether the motion for reconsideration calls to the attention of the court an obvious error in its decision or raises an issue for our consideration that was either not considered at all or was not fully considered by us when it should have been.”

{¶ 3} Appellant’s Application for Reconsideration correctly brings to our attention that our opinion in the within, filed January 18, 2011, omitted the issue of excessive damages, and this issue was not made moot by our decision on the default judgment. Accordingly, Appellant’s Application is granted as to the issue of damages.

{¶ 4} IT IS SO ORDERED.

HON. W. SCOTT GWIN

HON. WILLIAM B. HOFFMAN

HON. JULIE A. EDWARDS

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Defendant-Appellant	:	CASE NO. 2010-CA-00078

{¶ 5} Our opinion in the within, filed January 18, 2011, is vacated. The case is hereby re-opened and a new opinion and judgment entry will be filed.

{¶ 6} IT IS SO ORDERED.

HON. W. SCOTT GWIN

HON. WILLIAM B. HOFFMAN

HON. JULIE A. EDWARDS