[Cite as *Wiltz v. Clark Schaefer Hackett & Co.*, 2011-Ohio-6664.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Cassandra Wiltz,	:	
Plaintiff-Appellant,	:	Nos. 11AP-64 and 11AP-282
v.	:	(C.P.C. No. 10CVH-08-11570)
Clark Schaefer Hackett & Co. et al.,	:	(REGULAR CALENDAR)
Defendants-Appellees.	:	

D E C I S I O N

Rendered on December 22, 2011

Cassandra Wiltz, pro se.

Pyper Alexander & Nordstrom, LLC, and *Thomas H. Pyper*, for appellees Clark Schaefer Hackett & Co., and Kent D. Pummel.

Porter, Wright, Morris & Arthur, LLP, *David S. Bloomfield, Jr.*, and *Ryan P. Sherman*, for appellees Schneider Downs and Co., Inc., Joseph Patrick, Roy Lydic, and Bradley P. Tobe.

ON MOTION FOR RECONSIDERATION

KLATT, J.

{¶1} Plaintiff-appellant, Cassandra Wiltz, has filed an App.R. 26(A) application requesting that this court reconsider our decision in *Wiltz v. Clark Schaefer Hackett & Co.*, 10th Dist. No. 11AP-64 and 11AP-282, 2011-Ohio-5616. For the following reasons, we grant in part and deny in part Wiltz's application for reconsideration.

{¶2} When presented with an application for reconsideration filed pursuant to App.R. 26, an appellate court must determine whether the application calls to the court's attention an obvious error in its decision or raises an issue that the court should have, but did not, fully consider. *Columbus v. Hodge* (1987), 37 Ohio App.3d 68, 69. An appellate court will not grant an application for reconsideration merely because a party disagrees with the logic or conclusions of the underlying decision. *Callander v. Callander*, 10th Dist. No. 07AP-746, 2008-Ohio-3128, ¶2; *Bae v. Dragoo and Assoc., Inc.*, 10th Dist. No. 03AP-254, 2004-Ohio-1297, ¶2.

{¶3} In her application, Wiltz challenges our rulings in appeal No. 11AP-64, the appeal from the grant of defendants' motions for judgment on the pleadings and summary judgment, and appeal No. 11AP-282, the appeal from the denial of Wiltz's post-judgment motion. In appeal No. 11AP-64, Wiltz first argued that the trial court erred in not giving her notice of the date defendants' motions were deemed submitted to the court. We held that Loc.R. 21.01 of the Franklin County Court of Common Pleas provided Wiltz with adequate notice of that date. Wiltz now contends that Loc.R. 21.01 cannot apply to this case because defendants failed to serve her with their motions. This contention relies on Wiltz's averment, first made in her post-judgment motion, that she did not receive either of defendants' motions. As we held in our decision, we cannot decide the appeal of the judgment granting defendants' motions based on evidence that Wiltz added to the record after the trial court entered judgment. *Wiltz* at ¶13. Thus, in resolving appeal No. 11AP-64, our decision appropriately ignored Wiltz's post-judgment averments regarding the alleged failure of service.

{¶4} Wiltz next argues that Loc.R. 21.01 cannot apply to her case because Judge Beverly Y. Pfeiffer, who later recused herself, was the judge on the date that the motions were deemed submitted. We cannot determine how Wiltz's argument on reconsideration differs from the argument in her appellate brief. Therefore, we direct Wiltz to paragraph 20 of our decision, in which we rejected this argument.

{¶5} Wiltz also takes issue with our determination that no law mandated that the court clerk notify her of the entry of recusal and transfer. Wiltz points to Civ.R. 58(B), and she asserts that that rule required the clerk to serve the entry on her. Pursuant to Civ.R. 58(B), the clerk must serve a "judgment" on the parties in the manner prescribed by Civ.R. 5(B) within three days of entering the judgment upon the journal. As used in Civ.R. 58(B), "judgment" means "a decree and any order from which an appeal lies as provided in section 2505.02 of the Revised Code." Civ.R. 54(A). The order at issue here does not qualify as a final appealable order under R.C. 2505.02. *Grogan v. T.W. Grogan Co. Inc.* (2001), 143 Ohio App.3d 548, 557. Consequently, Civ.R. 58(B) does not apply. See *FIA Card Servs., N.A. v. Marshall*, 7th Dist. No. 10 CA 864, 2010-Ohio-4244, ¶30 (holding that Civ.R. 58(B)'s service requirement did not apply to an interlocutory order).

{¶6} In resolving Wiltz's second assignment of error in appeal No. 11AP-64, we held that a presumption of proper service arose because defendants complied with Civ.R. 5 when serving their motions. Wiltz now contends that defendants failed to sign the proofs of service attached to the motions in accordance with Civ.R. 11, as required by Civ.R. 5(D). Civ.R. 11 states that:

> Every pleading, motion, or other document of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address, attorney registration number, telephone number,

> telefax number, if any, and business e-mail address, if any, shall be stated. * * *

Here, all the necessary information appeared on the face of each motion. We thus conclude that the proofs of service substantially satisfied the requirements of Civ.R. 5(D) and 11.

{¶7} Wiltz also argues that we should have reversed the trial court's judgment because defendants made false and intentionally misleading claims about the contents of her complaint and concealed the true content of the complaint. Wiltz's complaint is part of the record, and thus the trial court could, and did, rely on it. Assuming defendants mischaracterized Wiltz's complaint in their motions, those mischaracterizations could not prejudice Wiltz because the trial court could evaluate the allegations in the complaint for itself.

{¶8} With regard to her third assignment of error in appeal No. 11AP-64, Wiltz merely repeats the argument she made in her brief. We direct her to paragraphs 31 through 34 of our decision. We decline to reconsider our analysis merely because Wiltz disagrees with it.

{¶9} Turning to appeal No. 11AP-282, Wiltz requests that this court explain why we overruled part of her first assignment of error. We rejected the portion of her assignment of error that contended that the trial court was biased because we lacked the authority to address it. The Chief Justice of the Supreme Court of Ohio has exclusive jurisdiction to determine a claim that a common pleas court judge is biased or prejudiced, and common pleas litigants must bring any challenge to a judge's objectivity via the procedure set forth in R.C. 2701.03. *Discover Bank v. Schiefer*, 10th Dist. No. 09AP-1178, 2010-Ohio-2980, ¶16; *Ford Motor Credit Co. v. Ryan & Ryan, Inc.*, 10th Dist. No.

09AP-809, 2010-Ohio-2905, ¶16. We rejected the portion of the assignment of error that alleged a due process violation because Wiltz premised the violation on the trial court's refusal to hear her request for Civ.R. 60(B) relief. The trial court could not hear Wiltz's request because it lacked jurisdiction to consider it. Thus, no due process violation occurred.

{¶10} Finally, Wiltz asks that we remand this case to the trial court. Pursuant to App.R. 12(D), we grant Wiltz the relief that she requests.

{¶11} For the foregoing reasons, we grant in part and deny in part Wiltz's application for reconsideration. After reconsidering our disposition of appeal No. 11AP-282, we remand this matter to the Franklin County Court of Common Pleas for proceedings consistent with law and our earlier decision.

Application granted in part, denied in part; cause remanded.

BRYANT, P.J., and TYACK, J., concur.

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