

[Cite as *Griffin v. Ohio Dept. of Rehab. and Corr.*, 2004-Ohio-5926.]

IN THE COURT OF CLAIMS OF OHIO

MARK GRIFFIN :

Plaintiff :

v.

CASE NO. 2004-06283
Judge Fred J. Shoemaker
Magistrate Steven A. Larson

DEPARTMENT OF REHABILITATION :
AND CORRECTION :

ENTRY GRANTING DEFENDANT’S
MOTION FOR SUMMARY JUDGMENT

Defendant

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{¶ 1} On September 7, 2004, defendant filed a motion to dismiss plaintiff’s case for failure to state a claim upon which relief can be granted pursuant to Civ.R. 12(B)(6). On September 14, 2004, the court converted defendant’s motion to one for summary judgment. On October 1, 2004, defendant filed a brief in support of the motion. Plaintiff has not responded. The case is now before the court for a non-oral hearing on the motion for summary judgment. Civ.R. 56(C) and L.C.C.R. 4.

{¶ 2} Civ.R. 56(C) states, in part, as follows:

{¶ 3} “*** Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. No evidence or stipulation may be considered except as stated in this rule. A summary judgment shall not be rendered unless it appears from the evidence or stipulation, and only from the evidence or stipulation, that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence or stipulation construed most strongly in the party’s favor. ***” See, also, *Williams v. First United Church of Christ* (1974), 37 Ohio St.2d 150; *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317.

{¶ 4} Defendant has attached to its motion an unauthenticated document entitled “Full and Final Release.” (Exhibit A.) Defendant’s brief in support of the motion includes an affidavit of one Cindy Kelly, an employee of the Office of Risk Management, Ohio Department of Administrative Services. (Exhibit B.) However, while her affidavit purports to authenticate the release with a copy of the front face of a check issued by the State of Ohio, payable to plaintiff in the amount of \$700.00, the copy is not referenced in her affidavit nor does it show the back face of the check to demonstrate that it was negotiated by plaintiff.

{¶ 5} In its brief, defendant states that “Subsequent to the settlement [agreement], Mr. Griffin confirmed the agreement in a letter to the Office of Risk Management. See Exhibit C attached, paragraph 2.”

{¶ 6} Paragraph 2 of said letter reads, in part:

{¶ 7} “2. I was forwarding this letter in hopes of reaching an out of court negotiated settlement on my personal injuries due to (2) two motor vehicle accidents dated January 24th 2003 and July 2nd 2003 in which the *Office of Risk Management has settled* the January accident for a sum of \$700.00 dollars. ****” (Emphasis added.) (The July 2, 2003, accident to which plaintiff makes reference is the subject of a separate lawsuit currently pending in this court under Case No. 2004-05007.)

{¶ 8} Inasmuch as plaintiff has not responded to the motion for summary judgment, the court finds that, pursuant to Civ.R. 56, and based upon plaintiff’s statement in the above-referenced letter that his claim has been settled, defendant has demonstrated that there is no genuine issue as to any material fact and that it is entitled to judgment as a matter of law. In this instance, reasonable minds can come to but one conclusion and that conclusion is adverse to plaintiff against whom the motion for summary judgment was made.

{¶ 9} The court finds that plaintiff is barred by the terms of the release from any further recovery against defendant. Consequently, there are no genuine issues of material fact for trial and defendant is entitled to judgment as a matter of law.

{¶ 10} Defendant's motion for summary judgment is GRANTED. Judgment is rendered in favor of defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

FRED J. SHOEMAKER
Judge

Entry cc:

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