[Cite as *AultCare Corp. v. Roach*, 2009-Ohio-6186.]

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

AULTCARE CORPORATION, ET AL	:	JUDGES:
	:	Hon. W. Scott Gwin, P.J.
Plaintiffs-Appellees	:	Hon. John W. Wise, J.
	:	Hon. Patricia A. Delaney, J.
-vs-	:	
	:	
BRIAN N. ROACH	:	Case No. 2008CA00287
	:	
Defendant-Appellant	:	O P I N I O N

CHARACTER OF PROCEEDING:	Appeal from the Stark County Court of Common Pleas, Case No. 2006CV02407
JUDGMENT:	AFFIRMED
DATE OF JUDGMENT ENTRY:	November 16, 2009

APPEARANCES:

For Plaintiffs-Appellees	For Defendant-Appellant
RICHARD S. MILLIGAN PHILIP E. HOWES PAUL J. PUSATERI 4518 Fulton Drive N.W. Canton, Ohio 44735-5548	DONALD P. WILEY 400 South Main Street North Canton, Ohio 44720

Delaney, J.

{¶1} Defendant-Appellant Brian N. Roach appeals the November 18, 2008 judgment of the Stark County Court of Common Pleas granting a permanent injunction in favor of Plaintiffs-Appellees AultCare Corporation and McKinley Life Insurance Company and against Appellant. For the reasons that follow, we affirm.

STATEMENT OF THE FACTS AND THE CASE

{¶2} In 1997, Appellant, a health insurance broker, sued Appellees in the Stark County Court of Common Pleas, Case No. 1997CV02897, alleging breach of contract concerning commission payments and tortious interference with his business relationships. On January 12, 2000, the parties entered into a settlement agreement (the "Contract") and it was filed under seal.

{¶3} The Contract provided for the release of all claims made by Appellant and prohibited Appellant from engaging in certain conduct, including entering the premises of Aultman Hospital. It also terminated his ability to serve now or in the future as an AultCare agent. The Contract also contained the following mutual non-disparagement clause:

{¶4} "V. Agreement to Refrain

{¶5} "A. Roach will refrain from any efforts to harass, impugn or disparage Aultman. Roach shall provide no documents or materials of any kind concerning Aultman to anyone for any purpose. The administrators of AultCare and McKinley Life Insurance, Inc. will refrain from any efforts to harass, impugn or disparage Roach. Aultman shall provide no documentation or materials of any kind concerning Roach to anyone for any purpose.

{¶6} "B. Roach will neither participate in nor encourage the litigation of legal action against Aultman by third persons. Roach will not assist in the prosecution of a civil claim or lawsuit against Aultman by third persons."

{¶7} Appellees paid Appellant a substantial sum of money in consideration for the Contract.

{¶8} In 2003, Appellees were sued by Professional Claims Management, a third-party administrator of health insurance claims, in *Professional Claims Management v. AultCare Corp.*, *et al*., Stark County Common Pleas, Case No. 2003CV04327.[1] In the lawsuit, Professional Claims Management stated Appellees utilized a "Conversion Support Program," alleged to be an incentive and compensation program offered to insurance brokers for transferring customers to AultCare health insurance. Professional Claims Management claimed the use of the program resulted in tortious interference with Professional Claims Management's business contracts and civil conspiracy. On October 31, 2005, the parties settled the lawsuit when Appellees purchased Professional Claims Management.

{¶9} According to Appellees, in early 2006, Appellees discovered that Appellant had assisted in the lawsuit brought by Professional Claims Management. Appellees also alleged that Appellant had posted comments on a newspaper website that they claimed disparaged and impugned Appellees. On June 30, 2006, Appellees filed a complaint against Appellant for breach of the Contract, and requested a

[1] This suit proved to be the beginning of a legal battle over the health care insurance market in Stark County, now being waged by the county's two largest healthcare providers. See *CSAHS/UHHS-Canton, Inc. v. Aultman Health Foundation, et al*., Stark County Court of Common Pleas, Case No. 2007CV05277.

permanent injunction, compensatory damages and attorney's fees. Appellees made a jury demand in their complaint.

{¶10} Appellant filed a counterclaim against Appellees, alleging breach of the Contract, tortious interference with business relations, antitrust, and civil conspiracy. Appellant also made a jury demand. Appellant also sued several other insurance agencies, including Leonard Insurances Services, referring to them as "Chosen Brokers" who allegedly participated with Appellees in the Conversion Support Program.

{¶11} On October 10, 2006, Appellees filed a request for temporary restraining order and preliminary injunction to enjoin Appellant from continuing to violate the Contract. The trial court granted the temporary restraining order on October 12, 2006.

{¶12} On November 17, 2006, the trial court held a hearing on Appellees' motion for preliminary injunction. The trial court granted the motion for preliminary injunction on December 21, 2006. Appellant was enjoined from disparaging Appellees, from providing any documents concerning Appellees to anyone, and from assisting in the prosecution of any claims against Appellees by third persons. Appellant appealed the preliminary injunction to this Court, and we affirmed in part, and reversed on an unrelated issue in *AultCare Corporation v. Roach*, Stark App. No. 2007CA00009, 2007-Ohio-5686.

{¶13} On January 5, 2007 and October 2, 2007, Appellees filed show cause motions as to why Appellant should not be held in contempt for violating the temporary restraining order and/or the preliminary injunction. A hearing was held before the magistrate on Appellees' second motion to show cause.

{¶14} Appellees amended their complaint to allege breach of the Contract, permanent injunction, defamation and recoupment on October 17, 2007. Appellees requested a jury. Appellant filed an answer to Appellees' first amended complaint along with a counterclaim and requested a jury.

{¶15} On November 27, 2007, the magistrate issued a decision and found Appellant to be in contempt of the preliminary injunction. The magistrate found that, in the span of one month, Appellant had distributed 456,000 emails with a press release to subscribers of insurancebroadcasters.com; mailed 250 to 400 letters to employers in Stark, Tuscarawas, and Wayne Counties; mailed 150 to 275 letters to health care insurance agents throughout Northeast Ohio; sent 175 emails with a press release to friends, family, and business associates; sent 135 emails with a press release to reporters and media outlets throughout Ohio and the United States on two occasions; and made five internet postings of a press release on various internet websites. The press release and emails, which stated in part that Appellant was "exposing corruption in healthcare in our community" and made allegations regarding conspiratorial arrangements between an "insurance company" and brokers, did not refer to Appellees by name, but the Magistrate found that it would be clear to the recipients that Appellant was referring to Appellees. The magistrate found Appellant in contempt because Appellant was attempting to disseminate information that disparaged Appellees, in violation of the preliminary injunction.

{¶16} The trial court overruled Appellant's objections to the magistrate's decision and adopted it. Thereafter, the magistrate awarded Appellees $21,061.26 in attorney's fees. The trial court overruled Appellant's objections to the award of attorney's fees.

{¶17} Appellant appealed the decision to this Court in *AultCare Corporation v. Roach*, Stark App. No. 2008CA00051, 2009-Ohio-948. In our decision, we affirmed the decision of the trial court to find Appellant in contempt for his violation of the preliminary injunction. Upon our review of the record, we agreed the communications were intended to spread disparaging information about Appellees in violation of the preliminary injunction. Id. at ¶10.

{¶18} While Appellant's appeal was pending regarding the contempt motion, the underlying claims proceeded before the trial court. On April 15, 2008, the trial court bifurcated the trials on the parties' claims. Trial #1, scheduled for October 20, 2008, was to be on Appellees' complaint against Appellant alleging breach of the Contract and defamation and on Appellant's counterclaim against Appellees alleging breach of the Contract and tortious interference with business relations. Trial #2 was to be on Appellant's claim against Appellees for violation of the Valentine Act and civil conspiracy and on the allegation of Defendant/Counterclaimant Leonard Insurance Agency against Appellant for defamation.

{¶19} On August 15, 2008, Appellees moved for summary judgment on Count One of Appellant's counterclaim alleging breach of the Contract and Count Two of Appellant's counterclaim alleging tortious interference with business relations. The trial court granted summary judgment in favor of Appellees on September 26, 2008.

{¶20} Appellant filed a notice of voluntary dismissal of his remaining counterclaims on October 2, 2008. He dismissed Count Three alleging anti-trust violations against Appellees and "Chosen Brokers" and Count Four which alleged conspiracy against Appellees and "Chosen Brokers." Upon Appellant's dismissal of

Counts Three and Four of his counterclaims and the trial court's granting of summary judgment in favor of Appellees on Counts One and Two of Appellant's counterclaims, Appellant did not have any remaining counterclaims against Appellees. On October 16, 2008, Appellees filed a motion to amend their complaint to voluntarily dismiss their claims for breach of the Contract and defamation, leaving only their request for permanent injunction.

{¶21} On October 20, 2008, the parties appeared before the trial court on Appellees' complaint, the only remaining matter pending in the case.[2] Before the hearing commenced, Appellant objected to Appellees' motion to amend their complaint arguing that by allowing Appellees to dismiss their claims of breach of contract and defamation and going forward only on the permanent injunction, the trial court would be depriving Appellant of his right to a jury trial. The trial court granted Appellees' motion to amend their complaint and the matter proceeded on Appellees' claim for permanent injunction. The trial court memorialized its decision to allow Appellees to amend their complaint by judgment entry on November 18, 2008.

{¶22} At the hearing, the trial court discussed the issues with the parties and heard arguments regarding the permanent injunction. The trial court determined that the testimony and evidence from the preliminary injunction hearing and contempt hearing would become part of the record for the permanent injunction hearing. (T. 94). The trial court allowed the parties to submit additional evidence and proffer evidence on the record for the trial court's consideration. (T. 94, 96). Finally, the trial court ordered the parties to submit proposed findings of fact and conclusions of law. (T. 96).

[2] Defendant/Counterclaimant Leonard Insurance Services dismissed its claim against Appellant for defamation pursuant to Civ.R. 41(A).

{¶23} On November 18, 2008, the trial court adopted the findings of fact and conclusions of law submitted by Appellees and granted Appellees a permanent injunction. The permanent injunction ordered Appellant to cease and desist and be permanently enjoined from:

{¶24} "1) any and all efforts to harass, impugn or disparage AultCare Corporation, McKinley Life Insurance Company, Aultman Health Foundation, Aultman Hospital and their affiliated organizations (collectively "AultCare");

{¶25} "2) providing any documents of any kind, no matter when or by whom they were created, concerning AultCare to anyone for any purpose. Roach may communicate with his named attorneys and any identified expert witnesses concerning AultCare where necessary to prosecute any civil claim against AultCare he may have. If Roach files a claim against AultCare, he may not communicate with any other third party regarding the merits, substance, or subject of the claim; and

{¶26} "3) any acts of encouraging, participating or assisting in the prosecution of any civil claim or lawsuit against AultCare by third parties at any time regardless of the subject matter or date of accrual of such claim, and never to instigate, promote, or encourage any governmental investigation of AultCare."

{¶27} It is from this decision Appellant now appeals.

ASSIGNMENTS OF ERROR

{¶28} Appellant raises four Assignments of Error:

{¶29} "I. THE TRIAL COURT ERRED IN PERMITTING THE PLAINTIFFS TO AMEND THEIR COMPLAINT ON THE DAY OF TRIAL IN SUCH A WAY THAT DEPRIVED THE DEFENDANT OF HIS CONSTITUTIONAL RIGHT TO A JURY TRIAL

{¶30} "II. THE TRIAL COURT ERRED AS A MATTER OF LAW IN GRANTING EQUITABLE RELIEF TO THE PLAINTIFFS IN THE FORM OF A PERMANENT INJUNCTION, WHEN THERE WAS EVIDENCE PRESENTED THAT THE PLAINTIFFS VIOLATED THE 'CLEAN HANDS' DOCTRINE.

{¶31} "III. THE COURT ERRED IN RULING THAT DEFENDANT ROACH WAS IN BREACH OF CONTRACT AS A MATTER OF LAW.

{¶32} "IV. THE COURT ABUSED ITS DISCRETION IN MAKING NUMEROUS RULINGS ON DISCOVERY AND OTHER ISSUES TO THE PREJUDICE OF APPELLANT.

I.

{¶33} Appellant argues in his first Assignment of Error that the trial court erred in granting Appellees' motion to amend their complaint to dismiss their claims of breach of the Contract and defamation. Appellant states that by allowing Appellees to dismiss their claims so that only their request for equitable relief remained prejudiced Appellant and took away his right to a trial by jury. We disagree.

{¶34} Appellees' first amended complaint requested a jury and alleged claims of breach of the Contract, defamation, permanent injunction and recoupment. Appellant filed his answer and counterclaims and also requested a jury. The trial court granted summary judgment in favor of Appellees on Counts One and Two of Appellant's counterclaims and Appellant voluntarily dismissed Counts Three and Four of his counterclaims, so that no counterclaims remained against Appellees. On October 16, 2008, Appellees filed their motion to amend their complaint to dismiss the claims of

breach of the Contract and defamation to pursue only their claim for permanent injunction.

{¶35} Civ.R. 15(A) provides:

{¶36} "A party may amend his pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, he may so amend it at any time within twenty-eight days after it is served. Otherwise a party may amend his pleading only by leave of court or by written consent of the adverse party. Leave of court shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within fourteen days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders."

{¶37} The Ohio Supreme Court has held "it is an abuse of discretion for a court to deny a motion, timely filed, * * *, where it is possible that plaintiff may state a claim upon which relief may be granted and no reason otherwise justifying denial of the motion is disclosed." *Peterson v. Teodosio* (1973), 34 Ohio St.2d 161, 297 N.E.2d 113, paragraph six of the syllabus. Civ.R. 15(A) allows for liberal amendment, and the trial court does not abuse its discretion if it denies a motion to amend pleadings if there is a showing of bad faith, undue delay or undue prejudice to the opposing party. *Hoover v. Sumlin* (1984), 12 Ohio St.3d 1, 465 N.E.2d 377, paragraph two of syllabus; *Turner v. Cent. Local School Dist.,* 85 Ohio St.3d, 95, 99, 1999-Ohio-207, 706 N.E.2d 1261.

{¶38} As the trial court discussed during the October 20, 2008 hearing, Appellees did not seek to amend their complaint to add a new cause of action, but

rather to dismiss two causes of action. Appellant is correct that it could be considered prejudicial to a defendant if a plaintiff were permitted to amend their complaint to add new causes of action close to the date of trial. However, in the present case Appellees sought to dismiss two causes of action. We find no prejudice to Appellant in that regard.

{¶39} Appellant also argues that he was prejudiced by the trial court's decision to allow Appellees to dismiss their legal claims because it took away Appellant's right to a jury trial. It is well settled that a suit for injunctive relief is an action in equity; in equity actions, there is no right to a trial by jury. *Converse v. Hawkins* (1877), 31 Ohio St. 209; *Pyromatics, Inc. v. Petruziello* (1983), 7 Ohio App.3d 131, 7 OBR 165, 454 N.E.2d 588; *Huntington Natl. Bank v. Heritage Investment Group* (1983), 12 Ohio App.3d 113, 12 OBR 420, 467 N.E.2d 564. Appellant states that Appellees' sole reason for dismissing their legal claims was to eliminate Appellant's right to a jury trial.

{¶40} Based upon the record, we can find no evidence that Appellees conspired to take away Appellant's right to a jury trial by pursuing only their claim for equitable relief. As such, we cannot find the trial court abused its discretion by permitting Appellees to dismiss their legal claims and pursue their request for equitable relief for which there exists no right to a jury trial.

{¶41} Appellant's first Assignment of Error is overruled.

II.

{¶42} Appellant states in his second Assignment of Error that Appellees were not entitled to injunctive relief because they had "unclean hands." We disagree.

{¶43} The standard of review regarding the granting of an injunction by a trial court is whether the trial court abused its discretion. *City of Canton v. Campbell*, Stark App. No. 2001CA00205, 2002-Ohio-1856 citing *Mechanical Contractors Association of Cincinnati, Inc. v. University of Cincinnati* (2001), 141 Ohio App.3d 333, 338, 750 N.E.2d 1217. The terms abuse of discretion connotes more than an error of law or judgment. It applies that the court's attitude is unreasonable, arbitrary or unconscionable. Id.

{¶44} The "clean hand doctrine" states that, "[h]e who seeks equity must come with clean hands. Equity is based upon what is perceived as fair under the circumstances of each case and, when both parties are guilty of injustice, a court of equity will leave them as they are." *Patterson v. Blanton* (1996), 109 Ohio App.3d 349, 354, 672 N.E.2d 208. Appellant argues that Appellees were not entitled to equitable relief against Appellant for breach of the Contract because of Appellees' use of the "Conversion Support Program," which is the subject of the lawsuits in *Professional Claims Management v. AultCare Corp.* and *CSAHS/UHHS-Canton, Inc. v. Aultman Health Foundation, et al*. At the hearing, Appellant submitted evidence to support his position that Appellees established a secret arrangement, termed the "Conversion Support Program," with insurance brokers to take away business from insurers, third-party administrators, hospitals, and brokers. Appellant states that his conduct that gave rise to the present lawsuit were his attempts to uncover and expose the "Conversion Support Program."

{¶45} "The 'clean hands doctrine' of equity requires that whenever a party takes the initiative to set into motion the judicial machinery to obtain some remedy but has

violated good faith by [his or] her prior-related conduct, the court will deny the remedy." *Keystone Drilling Co. v. General Excavator Co.* (1933), 290 U.S. 240, 54 S.Ct. 146, 78 L.Ed. 293; *Kinner v. Lake Shore & MSR Co. (1904), 69 Ohio St. 339, 69 N.E. 614*. "The plaintiff must not be guilty of reprehensible conduct with respect to the subject-matter of his suit." *Kinner*, supra, paragraph one of the syllabus.

{¶46} The subject matter of the suit in the present case is Appellant's alleged breach of the Contract in which Appellant agreed to refrain from:

{¶47} "* * * any efforts to harass, impugn or disparage Aultman. Roach will provide no documents or materials of any kind concerning Aultman to anyone for any purpose. * * *

{¶48} "* * * participat[ing] [or] encourag[ing] the litigation of legal action against Aultman by third persons. Roach will not assist in the prosecution of a civil claim or lawsuit against Aultman by third persons."

{¶49} Appellees brought the suit because of Appellant's alleged communication of information to parties involved in the Professional Claims Management suit and Appellant's other communications regarding Appellees for which Appellant was later to be found in contempt of the preliminary injunction. We find that the allegations of Appellees' use of the "Conversion Support Program" to demonstrate their reprehensible conduct as a bar to equitable relief is beyond the subject matter of the instant suit. The present case involves the question of whether Appellant breached the Contract by harassing, impugning or disparaging Appellees or by providing documentation or materials of any kind concerning Appellees to anyone for any purpose.

{¶50} Further, the unclean hands doctrine should not be used where a party has legal remedies to address the opposing party's alleged misconduct. *Safranek v. Safranek*, Cuyahoga App. No. 80413, 2002-Ohio-5066, ¶ 20. Appellant had initially brought counterclaims of breach of the Contract, tortious interference with business contracts, civil conspiracy, and anti-trust violations. While the trial court granted summary judgment in favor of Appellees on Appellant's claims of breach of the Contract and tortious interference with contracts (which Appellant does not appeal), Appellant voluntarily dismissed without prejudice his remaining legal claims against Appellees. Further, the permanent injunction issued by the trial court on November 18, 2008 states that Appellant is not barred by the Contract from bringing any new claim he may have against Appellees.

{¶51} We find Appellant's allegations of unclean hands as a bar to equitable relief to be unsupported by the law and record and we therefore find the trial court did not abuse its discretion in granting Appellees equitable relief.

{¶52} Appellant's second Assignment of Error is overruled.

III.

{¶53} Appellant's third Assignment of Error states that the trial court erred when it found that Appellant breached the Contract. We disagree.

{¶54} Appellant argues the correct interpretation of the Contract does not limit conduct, statements or litigation which occurred after January 12, 2000, the date of the Contract. Therefore, if Appellant communicates any information regarding Appellees that he received after January 12, 2000 (such as the Conversion Support Program), he is not barred from releasing such information pursuant to the terms of the Contract.

{¶55} We find this Court has previously had the opportunity to address Appellant's arguments regarding the interpretation of the Contract in *AultCare v. Roach*, Stark App. No. 2007CA00009, 2007-Ohio-5686. Appellant raised the identical argument as to whether the Contract applied to future conduct by Appellant. In affirming the trial court's decision to grant a preliminary injunction, we found that the preliminary injunction "only ordered the continuation of the restrictions entered into voluntarily by appellant." Id. at ¶39. We also subsequently found in *AultCare v. Roach*, Stark App. No. 2008-CA-00051, 2009-Ohio-948, that Appellant's conduct occurring after the granting of the preliminary injunction violated the preliminary injunction, thus applying the Contract to future conduct.

{¶56} "The test for the granting or denial of a permanent injunction is substantially the same as that for a preliminary injunction, except instead of the plaintiff proving a 'substantial likelihood' of prevailing on the merits, the plaintiff must prove that he *has* prevailed on the merits." *Miller v. Miller*, Trumbull App. No. 2004-T-0150, 2005-Ohio-5120, ¶10-11, citing *Ellinos, Inc. v. Austintown Twp.* (N.D.Ohio 2002), 203 F.Supp.2d 875, 886; *Edinburg Restaurant, Inc. v. Edinburg Twp.* (N.D.Ohio 2002), 203 F.Supp.2d 865, 873. A party seeking a preliminary injunction bears the burden of establishing, by clear and convincing evidence, that "(1) there is a substantial likelihood that the plaintiff will prevail on the merits; (2) the plaintiff will suffer irreparable injury if the injunction is not granted; (3) no third parties will be unjustifiably harmed if the injunction is granted; and (4) the public interest will be served by the injunction." *Keefer v. Ohio Dept. of Job and Family Servs.,* 10th Dist. No. 03AP-391, 2003-Ohio-6557, at ¶ 14 citing *Procter & Gamble v. Stoneham* (2000) 140 Ohio App.3d 260, 267, 747 N.E.2d

268. No one factor in the analysis is dispositive, but the four factors must be balanced as is characteristic of the law of equity. Id.

{¶57} While we review the trial court's granting of the permanent injunction pursuant to the above-stated standard, Appellant's argument raises the matter of contract construction. If the contract is clear and unambiguous, its interpretation is a matter of law, and there is no issue of fact to determine. *Inland Refuse Transfer Co. v. Browning-Ferris Industries of Ohio, Inc.* (1984), 15 Ohio St.3d 321, 322, 15 OBR 448, 474 N.E.2d 271, citing *Alexander v. Buckeye Pipe Line Co.* (1978), 53 Ohio St.2d 241, 7 O.O.3d 403, 374 N.E.2d 146. However, where the contract language is reasonably susceptible of more than one interpretation, the meaning of the ambiguous language is a question of fact. *Ohio Historical Soc. v. Gen. Maint. & Eng. Co.* (1989), 65 Ohio App.3d 139, 146, 583 N.E.2d 340.

{¶58} The provision of the Contract at issue is "V. Agreement to Refrain," the terms of which we have stated above. We find the language of this provision to be clear and unambiguous that in exchange for valuable consideration and for the release of all claims, Appellant and Appellees voluntarily agreed *to refrain* from engaging in certain conduct. Thus, it applies to future conduct. The Contract does not bar, and the permanent injunction further clarifies, that Appellant is permitted to pursue any new cause of action against Appellees, albeit within the bounds of the Contract.

{¶59} We further find the trial court did not abuse its discretion in finding that Appellant's actions in disseminating information about Appellees was not in pursuit of a new cause of action against Appellees. Our review of the record supports the trial

court's findings of facts and conclusions of law that Appellant's conduct was in violation of the terms of the Contract.

{¶60} Appellant's third Assignment of Error is overruled.

IV.

{¶61} Appellant argues in his final Assignment of Error that the trial court abused its discretion in its rulings on discovery during the pendency of this matter. Appellant states that the trial court's decisions affected Appellant's ability to pursue his case and forced Appellant to voluntarily dismiss his remaining counterclaims. While we question whether Appellant can appeal discovery orders once a case is voluntarily dismissed, we will nonetheless address Appellant's claimed error.

{¶62} A decision regarding the disposition of discovery issues is reviewed under an abuse of discretion standard. *Contini v. Ohio State Bd. of Edn*., Licking App. No. 2007CA0136, 2008-Ohio-5710, ¶46 citing *State ex rel. The v. Cos. v. Marshall* (1998), 81 Ohio St.3d 467, 469, 692 N.E.2d 198. Upon our review of the record, we cannot say the trial court abused its discretion in managing the discovery of this case. We have recognized that a trial court has the inherent authority to manage its own proceedings and control its own docket. *Love Properties, Inc. v. Kyles,* Stark App.No.2006CA00101, 2007-Ohio-1966, ¶ 37, citing *State ex rel. Nat. City Bank v. Maloney,* Mahoning App.No. 03 MA 139, 2003-Ohio-7010, ¶ 5. We find no reversible error.

{¶63} Appellant's fourth Assignment of Error is overruled.

{¶64} The judgment of the Stark County Court of Common Pleas is affirmed.

By: Delaney, J.

Gwin, P. J. and

Wise, J. concur.

HON. PATRICIA A. DELANEY

HON. W. SCOTT GWIN

HON. JOHN W. WISE

PAD:kgb

IN THE COURT OF APPEALS FOR STARK COUNTY, OHIO

FIFTH APPELLATE DISTRICT

AULTCARE CORPORATION, ET AL	:	
Plaintiffs-Appellees	:	
-vs-	:	JUDGMENT ENTRY
BRIAN N. ROACH	:	
Defendant-Appellant	:	Case No. 2008CA00287

For the reasons stated in our accompanying Memorandum-Opinion, the judgment of the Stark County Court of Common Pleas is affirmed.

Costs to Appellant.

HON. PATRICIA A. DELANEY

HON. W. SCOTT GWIN

HON. JOHN W. WISE