[Cite as *Pahoundis v. Beamer*, 2009-Ohio-6206.]

COURT OF APPEALS
COSHOCTON COUNTY, OHIO
FIFTH APPELLATE DISTRICT

GEORGE D. PAHOUNDIS

Plaintiff-Appellee

-vs-

DEBORAH LOU LEONARD BEAMER, ET AL.

Defendants-Appellants

JUDGES:
Hon. William B. Hoffman, P.J.
Hon. John W. Wise, J.
Hon. Patricia A. Delaney, J.

Case No. 08CA0027

O P I N I O N

CHARACTER OF PROCEEDING: Appeal from the Coshocton County Court of Common Pleas, Case No. 05CI703

JUDGMENT: Dismissed

DATE OF JUDGMENT ENTRY: November 20, 2009

APPEARANCES:

For Plaintiff-Appellee

JAMES R. SKELTON
Pomerene Burns & Skelton
309 Main Street
Coshocton, OH 43812

For Defendants-Appellants

DEBBIE LOU PAHOUNDIS BEAMER
756 Elm Street
Coshocton, OH 43812

JULIUS DEAN PAHOUNDIS
756 Elm Street
Coshocton, Ohio 43812

JEFFREY DEE PAHOUNDIS, SR.
756 Elm Street
Coshocton, Ohio 43812

JERRY D. PAHOUNDIS
421 South Seventh Street
Coshocton, Ohio 43812

JIMMY D. PAHOUNDIS
756 Elm Street
Coshocton, Ohio 43812

Hoffman, P.J.

{¶1} Defendants-appellants Deborah Lou Leonard Beamer, Julius Dean Pahoundis, Jeffrey Dee Pahoundis, Sr. and Jerry D. Pahoundis appeal the judgment of the Coshocton County Court of Common Pleas in favor of Plaintiff-appellee George D. Pahoundis.

{¶2} Initially, we note, a recitation of the facts and the procedural history are unnecessary to our disposition of the within appeal.

{¶3} Appellants assign forty-one errors on appeal:[1]

{¶4} "I. COSHOCTON COUNTY COURT OF COMMON PLEAS ERRED TO THE PREJUDICE OF APPELLANTS WHEN IT DETERMINED AS A MATTER OF LAW THAT PLAINTIFF'S ADDENDUM TO MOTION FOR SUMMARY JUDGMENT COULD BE CONSIDERED WITHOUT HAVING IT SERVED ON EACH DEFENDANT.

{¶5} "II. COSHOCTON COUNTY COURT OF COMMON PLEAS ERRED TO THE PREJUDICE OF APPELLANTS WHEN IT DETERMINED AS A MATTER OF LAW THAT PLAINTIFF'S ADDENDUM TO HIS MOTION FOR SUMMARY JUDGMENT COULD BE CONSIDERED EVEN THOUGH IT WAS NOT IN THE FORM OF AN AFFIDAVIT OR SIMILAR FORM PERMITTED BY THE OHIO RULES OF CIVIL PROCEDURE.

{¶6} "III. COSHOCTON COUNTY COURT OF COMMON PLEAS ERRED TO THE PREJUDICE OF THE APPELLANTS WHEN IT DETERMINED AS A MATTER OF LAW THAT NO HEARING WAS REQUIRED ON DEFENDANT'S MOTION FOR

[1] Appellants misnumbered their assignments of error after XXXVI.

RELIEF FROM JUDGMENT FILED PURSUANT TO RULE 60 OF THE OHIO RULES OF CIVIL PROCEDURE.

{¶7} "IV. COSHOCTON COUNTY COURT OF COMMON PLEAS ERRED TO THE PREJUDICE OF APPELLANTS WHEN IT DETERMINED AS A MATTER OF LAW THAT THE DOCTRINE OF RES JUDICATA APPLIED AND THAT AN UNRELATED CASE DETERMINED OWNERSHIP OF THE REAL PROPERTY AT ISSUE EVEN THOUGH THE TWO CASES AT ISSUE INVOLVED DIFFERENT PARTIES AND ISSUES OF FACT.

{¶8} "V. COSHOCTON COUNTY COURT OF COMMON PLEAS ERRED TO THE PREJUDICE OF APPELLANTS IN THAT ITS DECISION IS NOT SUPPORTED BY APPLICABLE LEGAL AUTHORITY AND SAID DECISION IS NOT BASED ON RELEVANT, CREDIBLE AND RELIABLE FACTS.

{¶9} "VI. COSHOCTON COUNTY COURT OF COMMON PLEAS ERRED TO THE PREJUDICE OF APPELLANTS IN THAT ITS DECISION IS UNREASONABLE, ARBITRARY, CAPRICIOUS, EXCEEDS ITS POWER, AND IS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.

{¶10} "VII. COSHOCTON COUNTY COURT OF COMMON PLEAS ERRED TO THE PREJUDICE OF APPELLANTS IN THAT ITS DECISION IS AN ABUSE OF ITS DISCRETION.

{¶11} "VIII. COSHOCTON COUNTY COURT OF COMMON PLEAS ERRED TO THE PREJUDICE OF THE APPELLANTS WHEN IT DETERMINED, AS A MATTER OF LAW, THAT EVIDENCE IN THE RECORD ESTABLISHED THAT THERE WAS NO GENUINE ISSUE AS TO ANY MATERIAL FACT REGARDING OWNERSHIP OF THE

REAL ESTATE AT ISSUE, DAMAGES TO THE DEFENDANTS, AND LIABILITY OF PLAINTIFF TO DEFENDANTS AS A RESULT OF THEIR EVICTION OR ATTEMPTED EVICTION.

{¶12} "IX. COSHOCTON COUNTY COURT OF COMMON PLEAS ERRED TO THE PREJUDICE OF THE APPELLANTS WHEN IT DETERMINED, AS A MATTER OF LAW, THAT BASED ON EVIDENCE IN THE RECORD PLAINTIFF IS ENTITLED TO SUMMARY JUDGMENT AS A MATTER OF LAW AS TO OWNERSHIP OF REAL ESTATE AT ISSUE, DAMAGES TO DEFENDANTS, AND LIABILITY OF PLAINTIFF TO DEFENDANTS FOR DAMAGES SUFFERED AS A RESULT OF THEIR EVICTION OR ATTEMPTED EVICTION.

{¶13} "X. COSHOCTON COUNTY COURT OF COMMON PLEAS ERRED TO THE PREJUDICE OF THE APPELLANTS WHEN IT DETERMINED, AS A MATTER OF LAW, THAT BASED ON THE EVIDENCE BEFORE THE COURT REASONABLE MINDS CAN COME TO BUT ONE CONCLUSION: THAT PLAINTIFF OWNED THE PREMISES, DEFENDANTS SUFFERED NO DAMAGES, AND PLAINTIFF HAD NO LIABILITY FOR DAMAGES SUFFERED BY DEFENDANTS AS A RESULT OF THEIR EVICTION OR ATTEMPTED EVICTION.

{¶14} "XI. THE COSHOCTON COUNTY COURT OF COMMON PLEAS ERRED TO THE PREJUDICE OF THE APPELLANTS WHEN IT DETERMINED, THAT BASED ON THE EVIDENCE BEFORE THE COURT PLAINTIFF WAS ENTITLED TO SUMMARY JUDGMENT AS A MATTER OF LAW.

{¶15} "XII. THE COSHOCTON COUNTY COMMON PLEAS COURT, IN ITS JANUARY 9, 2006 JUDGMENT ENTERED IN CASE NO. 05-CI-703 DENYING

DEFENDANTS' MOTION FOR TEMPORARY RESTRAINING ORDER, ERRED TO THE PREJUDICE OF APPELLANTS AND ITS DECISION IS AN ABUSE OF DISCRETION IN FINDING THAT DEFENDANTS DID NOT SHOW, AND COULD NOT SHOW, A LIKELIHOOD OR PROBABILITY OF SUCCESS ON THE MERITS, IRREPARABLE HARM, POTENTIAL INJURY THAT MAY BE SUFFERED BY DEFENDANTS OUTWEIGH ANY POTENTIAL INJURY TO PLAINTIFF IF AN INJUNCTION WAS GRANTED; AND THE PUBLIC INTEREST WAS NOT SERVED BY ISSUING AN INJUNCTION.

{¶16} "XIII. THE COSHOCTON COUNTY COMMON PLEAS COURT, IN ITS JANUARY 9, 2006 JUDGMENT ENTERED IN CASE NO. 05-CI-703 DENYING DEFENDANTS' MOTION FOR TEMPORARY RESTRAINING ORDER, ERRED TO THE PREJUDICE OF APPELLANTS IN THAT ITS DECISION IS UNREASONABLE, ARBITRARY, CAPRICIOUS, EXCEEDS ITS POWER, AND IS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.

{¶17} "XIV. THE COSHOCTON COUNTY COMMON PLEAS COURT, IN ITS JANUARY 9, 2006 JUDGMENT ENTERED IN CASE NO. 05-CI-703 DENYING DEFENDANTS' MOTION FOR TEMPORARY RESTRAINING ORDER, ERRED TO THE PREJUDICE OF APPELLANTS IN THAT ITS DECISION IS AN ABUSE OF DISCRETION.

{¶18} "XV. THE COSHOCTON MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS, IN THE OCTOBER 13, 2005 JUDGMENT ENTERED IN CASE NO. CVG00660A DENYING DEFENDANTS' MOTION REQUESTING A STAY OF WRIT OF RESTITUTION, WHEN IT DETERMINED THAT THE COURT HAD

JURISDICTION OF THE ACTION EVEN THOUGH THE ISSUE OF OWNERSHIP OF THE REAL ESTATE WAS AT ISSUE IN AN UNRELATED PROBATE COURT CASE.

{¶19} "XVI. THE COSHOCTON MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS, IN THE OCTOBER 13, 2005 JUDGMENT ENTERED IN CASE NO. CVG00660A DENYING DEFENDANTS' MOTION REQUESTING A STAY OF WRIT OF RESTITUTION, WHEN IT DETERMINED THAT ALL NECESSARY AND INDISPENSABLE PARTIES WERE PARTIES TO THE ACTION EVEN THOUGH THE REAL ESTATE AT ISSUE WAS LISTED AS PART OF THE PROBATE ESTATE OF AN INDIVIDUAL NOT NAMED AS A PARTY IN CASE NUMBER CVG 0500660A.

{¶20} "XVII. THE COSHOCTON MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS, IN THE OCTOBER 13, 2005 JUDGMENT ENTERED IN CASE NO. CVG00660A DENYING DEFENDANTS' MOTION REQUESTING A STAY OF WRIT OF RESTITUTION, WHEN IT DETERMINED THAT THE PLAINTIFF HAD STANDING TO BRING THE ACTION EVEN THOUGH PLAINTIFF OWNERSHIP INTEREST IN THE REAL ESTATE AT ISSUE IN CASE NUMBER CVG0500660A.

{¶21} "XVIII. THE COSHOCTON MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS, IN THE OCTOBER 13, 2005 JUDGMENT ENTERED IN CASE NO. CVG00660A DENYING DEFENDANTS' MOTION REQUESTING A STAY OF WRIT OF RESTITUTION, WHEN IT DETERMINED THAT PLAINTIFF DULY SERVED UPON DEFENDANTS, THE NOTICE REQUIRED BY OHIO REVISED CODE § 1923.04 TO VACATE THE PREMISES, EVEN THOUGH PLAINTIFF FAILED TO SATISFY ALL OF THE STATUTORY REQUIREMENTS OF THIS STATUTE.

{¶22} "VIX. THE COSHOCTON MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS, IN THE OCTOBER 13, 2005 JUDGMENT ENTERED IN CASE NO. CVG00660A DENYING DEFENDANTS' MOTION REQUESTING A STAY OF WRIT OF RESTITUTION, WHEN IT DETERMINED THAT DEFENDANTS HAD NO AUTHORITY TO REMAIN ON THE PREMISES, EVEN THOUGH PLAINTIFF OWNERSHIP INTEREST IN THE REAL ESTATE AT ISSUE WAS IN DISPUTE.

{¶23} "XX. THE COSHOCTON MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS, IN THE OCTOBER 13, 2005 JUDGMENT ENTERED IN CASE NO. CVG00660A DENYING DEFENDANTS' MOTION REQUESTING A STAY OF WRIT OF RESTITUTION, WHEN IT DETERMINED THAT DEFENDANTS BY REASON OF THEIR REFUSAL TO RELINQUISH THE PREMISES WERE IN VIOLATION OF PLAINTIFF'S RIGHTS, EVEN THOUGH PLAINTIFF'S RIGHTS WERE AT ISSUE.

{¶24} "XXI. THE COSHOCTON MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS, IN THE OCTOBER 13, 2005 JUDGMENT ENTERED IN CASE NO. CVG00660A DENYING DEFENDANTS' MOTION REQUESTING A STAY OF WRIT OF RESTITUTION, WHEN IT DETERMINED THAT DEFENDANTS UNLAWFULLY AND BY FORCE DETAIN FROM PLAINTIFF THE PREMISES, EVEN THOUGH PLAINTIFF'S INTEREST IN THE REAL ESTATE AT ISSUE WAS DISPUTED.

{¶25} "XXII. THE COSHOCTON MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS, IN THE OCTOBER 13, 2005 JUDGMENT ENTERED IN CASE NO. CVG00660A DENYING DEFENDANTS' MOTION REQUESTING A

STAY OF WRIT OF RESTITUTION, WHEN IT DETERMINED THAT PLAINTIFF'S NOTICE TO LEAVE PREMISE WAS IN THE PROPER FORM, EVEN THOUGH IT FAILED TO NAME ALL THE PARTIES HAVING AN INTEREST IN THE REAL ESTATE AT ISSUE.

{¶26} "XXIII. THE COSHOCTON MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS, IN THE OCTOBER 13, 2005 JUDGMENT ENTERED IN CASE NO. CVG00660A DENYING DEFENDANTS' MOTION REQUESTING A STAY OF WRIT OF RESTITUTION, ERRED TO THE PREJUDICE OF APPELLANTS IN THAT ITS DECISION IS UNREASONABLE, ARBITRARY, CAPRICIOUS, EXCEEDS IT POWER, AND IS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.

{¶27} "XXIV. THE COSHOCTON MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS, IN THE OCTOBER 13, 2005 JUDGMENT ENTERED IN CASE NO. CVG00660A DENYING DEFENDANTS' MOTION REQUESTING A STAY OF WRIT OF RESTITUTION, ERRED TO THE PREJUDICE OF APPELLANTS IN THAT ITS DECISION IS AN ABUSE OF ITS DISCRETION.

{¶28} "XXV. THE COSHOCTON MUNICIPAL COURT HAD JURISDICTION OF THE COMPLAINT FILED IN CASE NO. CVG00660A.

{¶29} "XXVI. THE COSHOCTON MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS IN THAT ITS DECISION GRANTING THE WRIT OF RESTITUTION IN THE OCTOBER 6, 2005 JUDGMENT ENTERED IN CASE NO. CVG00660A IS AN ABUSE OF DISCRETION.

{¶30} "XXVII. THE COSHOCTON MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS IN THAT ITS DECISION GRANTING THE WRIT OF

RESTITUTION IN THE OCTOBER 6, 2005 JUDGMENT ENTERED IN CASE NO. CVG00660A IS UNREASONABLE, ARBITRARY, CAPRICIOUS, EXCEEDS ITS POWER, AND IS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.

{¶31} "XXVIII. THE COSHOCTON COUNTY MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS IN THE OCTOBER 6, 2005 JUDGMENT ENTERED IN CASE NUMBER CVG0500660A GRANTING A WRIT OF RESTITUTION WHEN IT DETERMINED THAT THE COURT HAD JURISDICTION OF THE ACTION EVEN THOUGH THE ISSUE OF OWNERSHIP OF REAL PROPERTY WAS AT ISSUE IN AN UNRELATED CASE FILED IN THE COSHOCTON COUNTY PROBATE COURT.

{¶32} "XXIX. THE COSHOCTON COUNTY MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS IN THE OCTOBER 6, 2005 JUDGMENT ENTERED IN CASE NUMBER CVG0500660A GRANTING A WRIT OF RESTITUTION WHEN IT DETERMINED THAT ALL NECESSARY AND INDISPENSABLE PARTIES WERE NAMED IN CASE NO. CVG0500660A EVEN THOUGH THE REAL ESTATE AT ISSUE WAS LISTED AS PART OF THE PROBATE ESTATE OF AN INDIVIDUAL WHO WAS NOT NAMED AS A PARTY IN CASE NO. CVG 0500660A AND THE ADMINISTRATOR OF THAT ESTATE WAS NOT NAMED AS A PARTY IN CASE NO. CVG0500660A.

{¶33} "XXX. THE COSHOCTON COUNTY MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS IN THE OCTOBER 6, 2005 JUDGMENT ENTERED IN CASE NUMBER CVG0500660A GRANTING A WRIT OF RESTITUTION WHEN IT DETERMINED THAT PLAINTIFF DULY SERVED UPON DEFENDANTS,

THE NOTICE REQUIRED BY OHIO REVISED CODE § 1923.04 TO VACATE THE PREMISES, ALTHOUGH NOT ALL OF THE STATUTORY REQUIREMENTS WERE SATISFIED.

{¶34} "XXXI. THE COSHOCTON COUNTY MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS IN THE OCTOBER 6, 2005 JUDGMENT ENTERED IN CASE NUMBER CVG0500660A GRANTING A WRIT OF RESTITUTION WHEN IT DETERMINED THAT DEFENDANTS HAD NO AUTHORITY TO REMAIN ON THE PREMISES, EVEN THOUGH OWNERSHIP OF THE PREMISES WAS DISPUTED IN AN UNRELATED CASE THE MERITS OF WHICH HAD NOT BEEN DECIDED.

{¶35} "XXXII. THE COSHOCTON COUNTY MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS IN THE OCTOBER 6, 2005 JUDGMENT ENTERED IN CASE NUMBER CVG0500660A GRANTING A WRIT OF RESTITUTION WHEN IT DETERMINED THAT DEFENDANTS, BY REASON OF THEIR REFUSAL TO RELINQUISH THE PREMISES WERE IN VIOLATION OF PLAINTIFF'S RIGHTS, EVEN THOUGH PLAINTIFF'S OWNERSHIP OF THE PREMISES WAS DISPUTED IN AN UNRELATED CASE THE MERITS OF WHICH HAD NOT YET BEEN DECIDED.

{¶36} "XXXIII. THE COSHOCTON COUNTY MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS IN THE OCTOBER 6, 2005 JUDGMENT ENTERED IN CASE NUMBER CVG0500660A GRANTING A WRIT OF RESTITUTION WHEN IT DETERMINED THAT DEFENDANTS UNLAWFULLY AND BY FORCE DETAIN FROM PLAINTIFF THE PREMISES, EVEN THOUGH PLAINTIFF'S

OWNERSHIP OF THE PREMISES WAS DISPUTED IN AN UNRELATED CASE THE MERITS OF WHICH HAD NOT BEEN DECIDED.

{¶37} "XXXIV. THE COSHOCTON COUNTY MUNICIPAL COURT ERRED TO THE PREJUDICE OF APPELLANTS IN THE OCTOBER 4, 2005 DECISION IN CASE NUMBER CVG0500660A TO HEAR THE FED ACTION WHEN PLAINTIFF HAD JUST DISMISSED IN FEBRUARY 2005 THE SAME FED ACTION AGAINST THEM THAT HAD BEEN PENDING AT COSHOCTON COUNTY COMMON PLEAS COURT.

{¶38} "XXXV. THE COSHOCTON COUNTY MUNICIPAL COURT ERRED TO THE PREJUDICE OF DEBBIE LOU PAHOUNDIS BEAMER IN THE OCTOBER 4, 2005 DECISION IN CASE NUMBER CVG0500660A TO INCLUDE DEBORAH LOU PAHOUNDIS BEAMER EVEN THOUGH SHE WAS NOT NAMED AS A DEFENDANT IN THE COMPLAINT.

{¶39} "XXXVI. THE COSHOCTON COUNTY COMMON PLEAS COURT ERRED TO THE PREJUDICE OF THE DISABLED DEFENDANTS WHO WERE NOT APPOINTED LEGAL REPRESENTATION AFTER ATTORNEY JOHN WOODARD DIED IN MARCH 2006.

{¶40} "XXXX. THE COSHOCTON COUNTY COMMON PLEAS COURT ERRED TO THE PREJUDICE OF DEBORAH LOU PAHOUNDIS BEAMER WHEN IT DETERMINED THAT THE MANSION MOBILE HOME WAS NO LONGER ON THE PREMISES AS OF DECEMBER 1, 2005.

{¶41} "XXXXI. THE COSHOCTON COUNTY MUNICIPAL COURT ERRED TO THE PREJUDICE OF DEFENDANTS WHEN IT FAILED TO REQUIRE PLAINTIFF TO DETERMINE OWNERSHIP OF THE FIVE MOBILE HOMES OR DISCLOSE THE 2004

APPRAISALS: MARLETTE MOBILE HOME; THE PONTIAC MOBILE HOME; STAR MOBILE HOME; MANSION MOBILE HOME; OR THE CAMPER PURCHASED FROM JUDGE EVANS' MOTHER.

{¶42} "XXXXII. JUDGE WEIR AND JUDGE HOSTETLER ERRED WHEN THEY FAILED TO RECUSE THEMSELVES DUE TO CONFLICT OF INTEREST.

{¶43} "XXXXIII. JUDGE EVANS ERRED WHEN HE FAILED TO RECUSE HIMSELF FROM THE CASE AFTER THE GRAND JURY INVESTIGATION INTO THE DEATH OF DANIEL RAY PAHOUNDIS IN 2003 IF IT INCLUDED INFORMATION ABOUT THE CONSTRUCTION OF THE WATER WELL, SEWER SYSTEM, UNDERGROUND STORAGE, OR E. COLI CONTAMINATION.

{¶44} "XXXIV. JUDGE EVANS ERRED WHEN HE FAILED TO RECUSE HIMSELF FROM THE CASE AFTER HEARING WHY A PROTECTION ORDER WAS NECESSARY TO PROTECT JOSEPH D. PAHOUNDIS, AMANDA STARNER AND HER FIVE YEAR OLD SON DUE TO CRIMINAL ACTIVITY BY THREE OF PLAINTIFF'S SONS AND NOT ORDERING A GRAND JURY INVESTIGATION INTO THE SHOTS FIRED AT JOSEPH D. PAHOUNDIS AND JERRY D. PAHOUNDIS."

{¶45} Upon review of the filings in this matter, we find Appellant's brief not to be in compliance with the Appellate Rules.

{¶46} Ohio Rule of Appellate Procedure 16 requires:

{¶47} "The appellant shall include in its brief, under the headings and in the order indicated, all of the following:

{¶48} "(1) A table of contents, with page references.

{¶49} "(2) A table of cases alphabetically arranged, statutes, and other authorities cited, with references to the pages of the brief where cited.

{¶50} "(3) A statement of the assignments of error presented for review, *with reference to the place in the record where each error is reflected.*

{¶51} "(4) A statement of the issues presented for review, with references to the assignments of error to which each issue relates.

{¶52} "(5) A statement of the case briefly describing the nature of the case, the course of proceedings, and the disposition in the court below.

{¶53} "(6) A statement of facts relevant to the assignments of error presented for review, with appropriate references to the record in accordance with division (D) of this rule.

{¶54} "(7) *An argument containing the contentions of the appellant with respect to each assignment of error presented for review and the reasons in support of the contentions, with citations to the authorities, statutes, and parts of the record on which appellant relies. The argument may be preceded by a summary.*

{¶55} "(8) A conclusion briefly stating the precise relief sought."

{¶56} (Emphasis added.)

{¶57} Ohio Appellate Rule 12 reads:

{¶58} "(A) Determination

{¶59} "***

{¶60} "(2) The court may disregard an assignment of error presented for review if the party raising it fails to identify in the record the error on which the assignment of

error is based or fails to argue the assignment separately in the brief, as required under App.R. 16(A)."

{¶61} Compliance with the above-stated rule is mandatory. Also, an appellate court may rely upon App.R. 12(A) in overruling or disregarding an assignment of error because of "the lack of briefing" on the assignment of error. *Henry v. Gastaldo*, 5th Dist. No. 2005-AP-03-0022, 2005-Ohio-4109, citing *Hawley v. Ritley* (1988), 35 Ohio St.3d 157, 159, 519 N.E.2d 390, 392-393; *State v. Watson* (1998) 126 Ohio App.3d, 316, 710 N.E.2d 340, discretionary appeal disallowed in (1998), 82 Ohio St.3d 1413, 694 N.E.2d 75.

{¶62} The document filed purporting to represent Appellant's brief does not comply in any substantial fashion whatsoever with the Ohio Rules of Appellate Procedure and the Local Rules of the Fifth Appellate Judicial District.

{¶63} Appellant's brief improperly sets forth and misnumbers forty-one separate assignments of error. Appellants then submit 19 pages of improperly spaced and marginalized argument captioned ARGUMENT AND LAW. The brief disjunctively enumerates facts and allegations with no attempt to relate the arguments to the individual errors assigned. Neither do Appellants set forth their rationale in support of their contentions, or cite to authorities, statutes and parts of the record relating to the arguments.

{¶64} This court will not assume the role of advocate for Appellants in attempting to organize and prosecute the arguments on appeal. Recently, this Court observed in *Musleve v. Musleve* 5th Dist. No. 2007CA00314, 2008-Ohio-3961, "It is not a function of this Court to construct a foundation for claims; failure to comply with the rules governing

practice in the appellate court is a tactic which is ordinarily fatal." Appellants' failure to comply with Ohio Appellate Rule 16 is tantamount to failing to file a brief in this matter.

{¶65} "Errors not specifically pointed out in the record and separately argued by brief may be disregarded." Id.

{¶66} While we find merit in Appellee's arguments asserted in moving for summary judgment, we find it unnecessary to discuss the same for the reasons set forth above.

{¶67} Accordingly, the within appeal is dismissed for want of prosecution.

By: Hoffman, P.J.

Wise, J. and

Delaney, J. concur

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ John W. Wise
HON. JOHN W. WISE

s/ Patricia A. Delaney
HON. PATRICIA A. DELANEY

IN THE COURT OF APPEALS FOR COSHOCTON COUNTY, OHIO
FIFTH APPELLATE DISTRICT

GEORGE D. PAHOUNDIS	:	
	:	
Plaintiff-Appellee	:	
	:	
-vs-	:	JUDGMENT ENTRY
	:	
DEBORAH LOU LEONARD BEAMER, ET AL.	:	
	:	
Defendants-Appellants	:	Case No. 08CA0027

For the reason stated in our accompanying Opinion, the within appeal is dismissed for want of prosecution.

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ John W. Wise
HON. JOHN W. WISE

s/ Patricia A. Delaney
HON. PATRICIA A. DELANEY