

[Cite as *Weaver v. Pillar*, 2012-Ohio-33.]

COURT OF APPEALS  
TUSCARAWAS COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

BRIAN WEAVER, et al.

Plaintiffs-Appellants

-vs-

MILES PILLAR

Defendant-Appellee

JUDGES:

Hon. W. Scott Gwin, P. J.

Hon. John W. Wise, J.

Hon. Julie A. Edwards, J.

Case No. 2011 AP 03 0017

OPINION

CHARACTER OF PROCEEDING:

Civil Appeal from the Court of Common  
Pleas, Case No. 2010 CT 02 0247

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

January 4, 2012

APPEARANCES:

For Plaintiffs-Appellants

For Defendant-Appellee

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*Wise, J.*

{¶1} Plaintiffs-Appellants Brian Weaver and Jennifer Paisley appeal the February 28, 2011, decision of the Tuscarawas County Court of Common Pleas granting summary judgment in favor of Defendant-Appellee Miles Pillar.

STATEMENT OF THE FACTS AND CASE

{¶2} The docket in this case reflects the following procedural history:

{¶3} On February 23, 2010, Appellants Complaint was filed in this matter

{¶4} On March 6, 2010, Appellee filed an Answer.

{¶5} On February 11, 2011, Appellee filed a motion for summary judgment, with proof of service to Attorney Dan Guinn sent on February 10, 2011. No response was filed to the summary judgment motion.

{¶6} On February 28, 2011, the trial court issued a Judgment Entry granting Defendant-Appellee's motion for summary judgment.

{¶7} Plaintiffs-Appellants now appeal, raising the following assignment of error:

ASSIGNMENT OF ERROR

{¶8} "I. THE TRIAL COURT ERRED AS A MATTER OF LAW IN FINDING THAT THE DEFENDANT'S MOTION FOR SUMMARY JUDGMENT SHOULD BE GRANTED WHEN THE PLAINTIFF DID NOT RECEIVE PROPER NOTICE OF THE FILING OF THE MOTION."

I.

{¶9} In their sole assignment of error, Appellants argue that the trial court erred in granting Appellee's motion for summary judgment. Specifically, Appellants argue that they never received proper notice of the filing of the motion. We disagree.

{¶10} Appellants admit that a copy of Appellee's motion for summary judgment was served upon and received by Appellants' counsel but argue that such copy was not time-stamped and was therefore not proper.

{¶11} Appellants cite no authority for this proposition and this Court is aware of no rule which requires opposing counsel to serve time-stamped copies of pleadings and/or motions.

{¶12} This Court has also reviewed the docket in this matter which reflects that Appellee's Motion for Summary Judgment was filed, with a Proof of Service, on February 11, 2011. A trial court acts and speaks only through its journal and parties are expected to keep themselves informed of the progress of their case. *Savage v. Goda*, supra, citing *Weaver v. Colwell Financial Corp.* (1992), 73 Ohio App.3d 139, 144, 596 N.E.2d 617; *Ohio Valley Radiology Assoc., Inc. v. Ohio Valley Hosp. Assn.* (1986), 28 Ohio St.3d 118, 124, 502 N.E.2d 599.

{¶13} In the instant case, Appellants, as plaintiffs, were aware of what stage of discovery their case was in and further admitted receiving personal service of the summary judgment motion.

{¶14} Appellants also appear to raise other arguments in their brief such as excusable neglect for counsel's failure to timely respond to the summary judgment; however, Appellants have not assigned those issues as separate assignments of error, and we decline to address them. App.R. 12(A)(2); App.R. 16(A).

{¶15} Appellants' sole assignment of error is overruled.

{¶16} For the foregoing reasons, the judgment of the Court of Common Pleas, Tuscarawas County, Ohio, is affirmed.

By: Wise, J.

Gwin, P. J., and

Edwards, J., concur.

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JUDGES

