

**IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

MAX THORNTON, et al.,

Case No. A 2304252

Plaintiffs,

Judge Tom Heekin¹
Judge Robert Ruehlman

vs.

PAUL WOESTE,

Defendant.

**BRIEF IN OPPOSITION TO
DEFENDANT -
COUNTERCLAIMANT PAUL
WOESTE'S OBJECTIONS TO AND
APPEAL FROM THE ENTRY
TRANSFERRING THIS CASE TO
THE COMMERCIAL DOCKET**

Pursuant to Loc.R. 48(E) of the Hamilton County Court of Common Pleas Local Rules, Plaintiffs moved the Court to transfer this case to the commercial docket. The Court properly granted Plaintiffs' Motion.

Defendant now appeals that Entry based on a futile journey down various esoteric rabbit holes. Defendant fails to cite any rule that prohibits the Court from granting the Motion to Transfer this case to the commercial docket; Defendant essentially argues that the rules permitting transfers to the commercial docket somehow preclude (silently) transfers not explicitly addressed.

In any event, Defendant's argument rests on a foundation of sand that the Court cannot use commonsense when interpreting local rules related to control of its own docket.

"A trial court has the inherent power to control its own docket and the progress of the proceedings in its court." *Morgan v. Jones*, 1st Dist. Hamilton No. C-210408, 2022-Ohio-1831, ¶ 20 (citation omitted). "Trial courts have great latitude in the enforcement of their own local rules, which 'are of the court's own making, generally administrative in nature, designed to facilitate

¹ Pursuant to Loc.R. 48(E)(1)(a), this appeal should be decided by the Administrative Judge.

case management and provide guidelines for orderly case administration, and do not involve substantive principles of law or implicate constitutional rights.” *Id.* “For this reason, a trial court has the discretion to deviate from its own local rules based on the circumstances before it.” *Id.* Indeed, Loc.R. 48 allows for *sua sponte* transfer of a case. Thus, the Court plainly has the power to transfer a case that was filed prior to the establishment of the commercial docket.

Here, this case fits comfortably within the description of a commercial case as set forth in the rules. Moreover, because of Judge Heekin’s leave, barring a transfer, the case will likely be litigated to different judges at different stages and will therefore require duplication of efforts that will be inefficient and raise the costs to the parties. A review of the docket shows that Judge Heekin’s entries thus far have been to sign off on a schedule and a protective order. Accordingly, Defendant’s argument, that this case has travelled “far enough down the road” that denying the Motion to Transfer is a good use of the Court’s discretion, is a visible fiction.

Further, Defendant states that “Judge Ruehlman is a highly-qualified jurist, having overseen the successful disposition of hundred (sic), if not thousands, of business-related cases during his thirty-six years on the Common Pleas bench.” Here, Judge Ruehlman exercised that wealth of knowledge and experience when deciding to transfer the case to the commercial docket. Defendant’s nitpicking at the rules *allowing certain transfers* as though they somehow preclude all other transfers is not a basis to second guess Judge Ruehlman’s sound judgment.

For these reasons, the Court should dispose of Defendant’s appeal of the Entry granting the Motion to Transfer and this case should be placed on the commercial docket in accordance with the Loc.R. 48 and Judge Ruehlman’s Entry.

Respectfully submitted,

/s/ Paul Kerridge

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served this 30th day of April 2024, via electronic mail upon the following:

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