

Plaintiffs' Exhibit 3

STATE OF INDIANA

SUPERIOR COURT

COUNTY OF LAKE

) SS:
)

COUNTY DIVISION III
2293 MAIN STREET
CROWN POINT INDIANA

FILED IN OPEN COURT

RODNEY LOGAL
Plaintiff/Counter Defendant

SEP 15 2015

v.

CAUSE NO.: 45D09-1501-SC-00040

JUDGE LAKE COUNTY
COURT #3

RICHARD WILSON AND PEGGY WILSON
Defendants/Counter Plaintiff



ORDER DENYING MOTION TO CORRECT ERROR AND GRANTING WILSONS' MOTION TO STRIKE

This matter is before the court upon receipt of the Logals' Motion to Correct Error, filed on September 2, 2015 and the Wilsons' response thereto, filed on September 10, 2015. The Logals Motion is DENIED, without hearing. The Wilsons' Motion to Strike the Motion to Correct in so far as the Motion to Correct pertains to Ms. Crenshaw-Logal, who was found to be without standing, is meritorious; thus, the court GRANTS the Wilsons' Motion to Strike, in this regard. This court would add the following:

First, Lake Superior Court, County Division 3 is not subject, via mandate, to the Lake Circuit Court. Rather, both are courts of equivalent authority. See I.C. Sec. 33-33-45-17. Thus, reviewing authority over this court is properly with the Court of Appeals or the Supreme Court and not the Lake Circuit Court. As such, there was no procedural bar to this matter going to trial on August 3, 2015 despite the filing in Circuit Court under cause number 45C01-1507-PL-00063 of a purported "mandate" action.¹ Moreover, this court would point out that service of the Circuit Court case was not perfected prior to the trial in the present matter.²

Second, any issue regarding recusal and/or bias is meritless and, regardless, has been waived by Mr. Logal as it was not raised prior to the present Motion to Correct Errors. The court would further point out that, in the County Division, litigants can choose their court when filing a civil action. See LR45-AR1 Rule 01-15(A). The fact that this case was filed here, by Mr. Logal, belays any suggestion that he was concerned with potential bias following the trial in the *Wiley* matter.³

In light of the above, there is no sufficient basis presented to set aside the default judgment that entered on August 3, 2015. By purposefully choosing not to attend the trial, especially after it became clear that the Circuit Court had not granted an immediate stay as was requested, Mr. Logal effectively waived any claims of error.

SO ORDERED


MICHAEL N. PAGANO
MAGISTRATE, DIVISION III

¹ Regardless, this court has not received an order from Circuit Court directing a stay of these proceedings.

² This court takes judicial notice of the Circuit Court action.

³ The court would further note that Mr. and Mrs. Logal were granted a judgment in the *Wiley* case.