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

TUA HELP SAVE EAST CLEVELAND PROJECT  
Plaintiff

Case No: CV-14-824122

Judge: CASSANDRA COLLIER-WILLIAMS

XEROX CORPORATION, ET AL  
Defendant

**JOURNAL ENTRY**

96 DISP.OTHER - FINAL

DEFENDANT XEROX-CORPORATION'S MOTION TO DISMISS, FILED 05/22/2014, IS GRANTED.

DEFENDANTS' ATS AND EAST CLEVELAND MOTION TO DISMISS, FILED 05/27/2014, IS GRANTED.

OPINION AND ORDER IS SIGNED AND ORDERED RECORDED. OSJ. FINAL.

COURT COST ASSESSED TO THE PLAINTIFF(S).

*OSJ*

Judge Signature

Date

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

TUA HELP SAVE EAST CLEVELAND )  
PROJECT, )

Plaintiff )

vs. )

XEROX CORPORATION, et al., )

Defendants. )

Case No. CV-14-824122

JUDGE CASSANDRA COLLIER-WILLIAMS

**OPINION AND ORDER**

CASSANDRA COLLIER-WILLIAMS, J:

This cause came for consideration upon Defendants Xerox Corporation (“Xerox”) and American Traffic Solutions’ (“ATS”) (hereinafter collectively referred to as “Defendants”), respective motions to dismiss Plaintiffs’ Complaint. Specifically, pursuant to Civ. R. 12(B)(6), Defendants move this Court to dismiss Plaintiff Tua Help Save East Cleveland Project’s (“Plaintiff”) state law claims under the Ohio Constitution and prayer for an injunction and restitution payments. The Court, having reviewed the entire record, hereby grants the Defendants’ motions to dismiss on all claims.

**I. PROCEDURAL HISTORY**

Plaintiff filed this Complaint on March 24, 2014. In its Complaint, it listed in the case caption the sole Plaintiff as “TUA Help Save East Cleveland Project (AKA Pastor, A.J. Thompson), and the Defendants as “Xerox Corporation” and “American Traffic Solutions.” The Complaint went on to list eight (8) different parties as “Joinder.” On April 22, 2014, pursuant to

Defendant Xerox's Notice of Removal, the case was transferred to the U.S. District Court. The District Court dismissed Plaintiff's Federal claims and remanded the case back to this Court to determine the remaining state law claims on May 15, 2014. Defendant Xerox filed their Motion to Dismiss on May 22, 2014, and Defendant ATS filed their Motion to Dismiss on May 27, 2014. Plaintiff filed its Brief in Opposition to said motions on June 2, 2014.

## **II. LAW AND ANALYSIS**

A motion to dismiss for failure to state a claim upon which relief can be granted is a procedural device which evaluates the adequacy of a complaint. *State ex rel. Hanson v. Guernsey Cty. Bd. Of Comm'rs.*, 65 Ohio St.3d 545, 548, 1992-Ohio-73. In ruling on a motion to dismiss for failure to state a claim, a court must take "all the factual allegations of the complaint as true" and draw "all reasonable inferences in favor of the non-moving party." *Byrd v. Faber*, 57 Ohio St.3d 56, 60, 565 N.E.2d 584 (1991). While factual allegations are assumed to be true, unsupported conclusory allegations "are not considered admitted and are not sufficient to withstand a motion to dismiss." *State ex rel. Hickman v. Capots*, 45 Ohio St.3d 324, 544 N.E.2d 639 (1989). Plaintiff must show some set of "facts" that would entitle it to relief. *O'Brien v. Univ. Cmty. Tenants Union*, 42 Ohio St.2d 242, 245, 327 N.E.2d 753 (1975).

### **A. Pastor A.J. Thompson Cannot Represent Plaintiff**

As a preliminary matter, this Court notes that the Plaintiff in this case is named as "Tua Help Save East Cleveland Project (AKA) Pastor, A.J. Thompson". No attorney has entered an appearance as counsel for the Plaintiff. All pleadings and motions filed by the Plaintiff have been filed and signed by Pastor A.J. Thompson. Pursuant to Ohio Revised Code Section

4705.01, Pastor A.J. Thompson (“Thompson”) cannot represent Plaintiff, as he has not been admitted to the bar by order of the Supreme Court in compliance with its prescribed and published rules. While it is not clear what type of organization TUA was at the time of filing, it is clear that Pastor Thompson cannot bring this action on behalf of TUA. Therefore, it is the Order of this Court that Pastor Thompson can no longer file any pleadings on behalf of the Plaintiff, TUA.

**B. Plaintiff Does Not Have Standing to Bring a Claim**

As indicated previously, the Plaintiff is stated as including, “(AKA) Pastor A.J. Thompson.” However, TUA and Pastor Thompson do not have standing to pursue a claim in this matter. To have standing to pursue a claim, a plaintiff must have a personal stake in the outcome of the controversy and have suffered some concrete injury that is capable of resolution by the court. *Middletown v. Ferguson*, 25 Ohio St.3d 71, 495 N.E.2d 380 (1986). It is not sufficient for the individual to have a general interest in the subject matter of the action. The plaintiff must be the party who will be directly benefitted or injured by the outcome of the action. *Shealy v. Campbell*, 20 Ohio St.3d 23, 24, 485 N.E.2d 701 (1985).

TUA and Thompson are not a concerned party because it is not alleged in the Complaint that either TUA or Thompson ever received a citation from an automated traffic enforcement program. Therefore, they have suffered no injury.

Plaintiff also does not meet the necessary requirements for third-party standing in this matter. As a general rule, a plaintiff “must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties.” *Warth v. Seldin*, 422 U.S. 490, 499, 95 S. Ct. 2197 (1975). A narrow exception to this general rule exists when a plaintiff

(i) suffers its own injury in fact; (ii) possesses a sufficiently "close" relationship with the person who possesses the right'; and (iii) shows some 'hindrance' that stands in the way of the [plaintiff] seeking relief. *N. Canton v. Canton*, 2007-Ohio-4005, quoting *Kowalski v. Tesmer*, 543 U.S. 125, 129.

In this case, TUA and Thompson do not meet any of the above criteria in relationship to the named Plaintiff. Therefore, Plaintiff's claims are dismissed.

**C. No Other Outstanding Plaintiffs Have Brought Claims in this Action**

Numerous other individuals have filed pleadings and motions during the pendency of this case. However, pursuant to the Complaint, TUA is the only party bringing this action. As outlined above, Thompson is not the Plaintiff and cannot bring a claim on behalf of the only named Plaintiff. The Pro Se individuals who have filed notices of joinder, motions for default and motions to deny Defendants' motions to dismiss are not parties to this case. Therefore, the pleadings and motions filed pro se by Delena Warr, Frederick Warr, Beverly Moore, Derryl Frazier and Jarvis E. Cooper are hereby stricken from the record of this case. The decision on these individuals' motions does not preclude these individuals from bringing a separate cause of action for any injury which he or she personally suffered.

**III. CONCLUSION AND ORDER**

Based on the preceding findings, Defendants' motions to dismiss are hereby granted on all remaining state law claims. Therefore, taking all of the allegations in Plaintiff's Complaint as true, pursuant to Civ. R. 12(B)(6), Plaintiff's claims are hereby dismissed with prejudice for failure to state a claim upon which relief can be granted. This Order would not preclude Pastor

Thompson from bringing an unrelated claim in the future were he to suffer an injury in the form of a citation from an automated traffic enforcement program. If TUA files a Complaint in the future, it must be represented by counsel. All future filings from Thompson in which he attempts to represent an organization will not be considered and will be stricken from the record.

In finding for Defendants' on this threshold issue of standing, this Court refrains from deciding any other issues raised in Defendants' motions to dismiss.

**IT IS SO ORDERED.**

July 3, 2014  
DATE

Cassandra Collier Williams  
JUDGE CASSANDRA COLLIER-WILLIAMS

RECEIVED FOR FILING

JUL 3 2014

CUYAHOGA COUNTY CLERK OF  
THE COURT OF COMMON PLEAS  
By [Signature] Deputy