

CLEVELAND MUNICIPAL COURT  
CUYAHOGA COUNTY, OHIO  
HOUSING DIVISION

Cuyahoga Metropolitan  
Housing Authority

Date: January 27, 2006

Plaintiff

Case No.: 2005 CVG 22841

-vs-

Marcia Jenkins

JUDGMENT ENTRY

Defendant

This matter is before the Court on the *Motion to Dismiss Counterclaim* filed by Plaintiff Cuyahoga Metropolitan Housing Authority ("CMHA"). Plaintiff argues that the Housing Court lacks subject matter jurisdiction over Defendant Jenkins' counterclaim.

Defendant Jenkins' counterclaim is brought pursuant to 42 U.S.C. § 1983 for alleged violations of her rights under 42 U.S.C. § 1437a(a)(3) and 24 C.F.R. § 5.630(b). Essentially, CMHA argues that this Court does not have jurisdiction to hear a counterclaim based on federal law. For the following reasons, CMHA's *Motion to Dismiss* is denied.

I. Incidental jurisdiction – R.C. § 1901.131

This Court clearly has jurisdiction over Jenkins' counterclaim based on R.C. § 1901.131. It provides: "Whenever an action or proceeding is properly brought in the housing or environmental division of a municipal court, the division has jurisdiction to determine, preserve, and enforce all rights involved in the action or proceeding, **to hear and determine all legal and equitable remedies necessary or proper for a complete determination of the rights of the parties**, including, but not limited to, the granting of temporary restraining orders and temporary and permanent injunctions, to render personal judgment irrespective of amount in favor of any party, and to render any judgments and make any findings and orders in the same matter and to the same extent that the court of common pleas can render a judgment or make a finding or order in similar action or proceeding." R.C. § 1901.131 (emphasis added).

Thus, subject matter jurisdiction is a two part test. First, the case must be "properly brought" in the housing division. Second, the Housing Court's jurisdiction cannot be greater than that of the common pleas court.

A. Properly brought before the Housing Court

CMHA, as the party who initiated this action, does not argue that the present suit was improperly brought. Neither would such an argument have any merit because of R.C. § 1901.181. That section provides that this Court has *exclusive* jurisdiction "...in any civil action commenced pursuant to Chapter 1923 or 5321 or sections 5303.03 to 5303.07 of the

Revised Code....” R.C. 1901.181(A)(1). Chapter 1923 governs forcible entry and detainer actions, Sections 5321 and 5303 govern the landlord-tenant relationship and actions connected to realty. Because this is a forcible entry and detainer action, this Court has exclusive jurisdiction; accordingly, the action was properly brought.

#### B. Jurisdiction of the common pleas court

Secondly, case law is clear that courts of common pleas have jurisdiction over federal claims, specifically § 1983 claims. *State ex rel. Carter v. Schotten* (1994), 70 Ohio St.3d 89, 92, 637 N.E.2d 306, fn 2 (state courts have concurrent subject-matter jurisdiction with federal courts over § 1983 claims); *Christian v. Dayton* (1990), 67 Ohio App.3d 669, 670-671, 588 N.E.2d 174 (Ohio Ct. App. 2<sup>nd</sup> Dist) (reversal of trial court dismissal based on lack of jurisdiction to hear a § 1983 claim).<sup>1</sup>

The concurrent jurisdiction of state courts over federal claims is supported by decisions of federal courts as well: “State courts possess the authority, absent a provision for exclusive federal jurisdiction, to render binding judicial decisions that rest on their own interpretation of federal law.” *Bar-Tec, Inc. v. Akrouche* (1997), 959 F.Supp. 793, 797 (S.D. Ohio) (citing *ASARCO, Inc. v. Kadish* (1989), 490 U.S. 605, 109 S.Ct. 2037). Courts of common pleas plainly have the authority to hear claims based on federal law generally, and claims based on 42 U.S.C. § 1983 specifically. Therefore, pursuant to R.C. § 1901.131, this Court also has jurisdiction to hear such claims.

#### II. Case law

CMHA relies primarily on two cases: *Cleveland v. A.J. Rose Mfg. Co.* (1991), 89 Ohio App.3d 267, 624 N.E.2d 245 (Ohio Ct. App. 8<sup>th</sup> Dist) and *White v. Chambers*, unreported, 2002-Ohio-2733 (Ohio Ct. App. 3<sup>rd</sup> Dist).

Firstly, as a decision from the Third District Court of Appeals, *White* it is not binding upon this Court. Secondly, *White* can be distinguished on its facts. At issue in that case were original complaints filed by the plaintiff based on 42 U.S.C. § 1983. This Court has jurisdiction over the present case based on the incidental jurisdiction granted in R.C. § 1901.131, even if it does not based on R.C. § 1901.18 (outlining the jurisdiction of municipal courts generally), which was the basis of the *White* court’s analysis.

The excerpt of the *A.J. Rose* decision offered by CMHA must be read in conjunction with the relevant statutory provisions. As CMHA points out, the *A.J. Rose* court states that “There is no authority for maintaining a 1983 action or an aviation case, as proposed, in the municipal courts because they are not courts of general jurisdiction.” *A.J. Rose* at 273. As explained above, R.C. § 1901.131 grants this Court jurisdiction in the proper type of actions, to the same extent as that of the court of common pleas. It is firmly established that the common pleas court is a court of general jurisdiction. *State ex rel. Ruessman v. Flanagan* (1992), 65 Ohio St.3d 464, 466, 605 N.E.2d 31, 1992-Ohio-79.

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<sup>1</sup> State courts have jurisdiction over other types of federal claims as well, for example, actions based on the Americans with Disabilities Act (“ADA”) 42 U.S.C. §§ 12101 et seq. *Hapgood v. City of Warren* (1997), 127 F.3d 490 C.A.6 (Ohio) (citing *Lillback v. Metropolitan Life Ins. Co.*, (1994), 94 Ohio App.3d 100, 640 N.E.2d 250).

CMHA also argues that R.C. § 1901.131 does not apply to the present case on the authority of *State ex rel. McGraw v. Gorman* (1985), 17 Ohio St.3d 147, 149-150, 478 N.E.2d 770. As CMHA itself states in its motion, the jurisdictional limit at issue in *Gorman* was monetary, a limit which was "removed by subsequent legislation" (CMHA's *Motion to Dismiss Counterclaim*, page 6). Since that monetary limit no longer exists, and in any event, because the issue CMHA is presently contesting is subject matter jurisdiction, and not a jurisdictional money limit, this Court is hard pressed to see how *Gorman* is applicable. Furthermore, the legislation which removed the monetary limit is contained in R.C. § 1901.17, not R.C. § 1901.131.

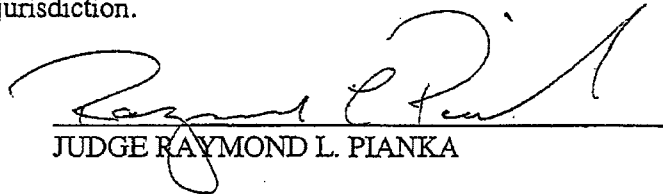
CMHA also argues that there is a distinction for purposes of determining subject matter jurisdiction between affirmative defenses and counterclaims. However, the jurisdiction granted by R.C. § 1901.131 does not make such a distinction and is not limited to adjudicating any affirmative defenses. This Court's incidental jurisdiction is "to hear and determine all legal and equitable remedies necessary or proper for a complete determination of the rights of the parties...." R.C. § 1901.131.

Finally, CMHA contends that the fact that a § 1983 claim is not founded upon contract robs this Court of jurisdiction. This argument is also without merit. In *State, ex rel. J.K. & E. Auto Wrecking v. Trumbo* (1992), 64 Ohio St.3d 73, 591 N.E.2d 1238, the Ohio Supreme Court affirmed a court of appeals decision granting a writ prohibiting a general division municipal court judge from proceeding in a damage action because of the housing division's exclusive jurisdiction over forcible entry and detainer actions. The appellant-judge argued that because the action involved a tort, trespass, the housing division did not have jurisdiction. In affirming the court of appeals, the Supreme Court states that "a municipal court's housing division has exclusive jurisdiction over forcible entry and detainer actions...and the housing division has full power to render a complete determination of the rights of the parties." *Id.* at 76.

### III. Conclusion

As set forth in R.C. § 1901.131, for all matters property brought, such as eviction actions, this Court's jurisdiction extends the same as the court of common pleas, and this Court may adjudicate all of Jenkins' counterclaims. Jurisdiction of this Court over such counterclaims, even if based on federal law, is clearly contemplated by both the statutory scheme and state and federal case law. This statutory scheme reduces the likelihood that judicial resources are applied to multiple lawsuits all spawning from the same landlord-tenant dispute. Multiple lawsuits in different fora could also lead to inconsistent verdicts, increasing the risk of harm to the integrity of the judicial process.

For the foregoing reasons, this Court denies Plaintiff CMHA's *Motion to Dismiss Counterclaim* for lack of subject matter jurisdiction.

  
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JUDGE RAYMOND L. PIANKA

SERVICE

A copy of this entry was sent via regular US mail to the following on 2/6/06.

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Attorney for Plaintiff

Timothy A. Marcovy, Esq.  
Willacy, LoPresti, & Marcovy  
1468 West Ninth Street  
Suite 700 Western Reserve Building  
Cleveland, OH 44113

Attorney for Defendant

Edward G. Kramer, Esq.  
Fair Housing Law Clinic  
3214 Prospect Ave, East  
Cleveland, OH 44115