

THIS OPINION IS NOT INTENDED  
FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

FILED

03 MAY 19 AM 10:56

U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
CLEVELAND

WILLIAM D. CAMPBELL,	)	Case No. 94-14704
	)	
Debtor.	)	Chapter 13
_____	)	
	)	Judge Pat E. Morgenstern-Clarren
	)	
WILLIAM D. CAMPBELL,	)	Adversary Proceeding No. 03-1012
	)	
Plaintiff,	)	
	)	
v.	)	<b><u>MEMORANDUM OF OPINION</u></b>
	)	<b><u>REGARDING MOTIONS FOR</u></b>
	)	<b><u>SUMMARY JUDGMENT</u></b>
ROBERT B. WELTMAN, et al.,	)	
	)	
Defendants.	)	

Plaintiff William Campbell moves for summary judgment against four of the defendants named in his complaint: Robert Weltman, Weltman, Weinberg & Reis Co., LPA, Craig Syby, and Tower City Title Agency, Inc. (Tower City Title).<sup>1</sup> (Docket 31). These parties oppose the motion. (Docket 57, 58, 59). Tower City Title and Craig Syby also filed cross-motions for summary judgment. (Docket 29, 51).

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<sup>1</sup> Mr. Campbell, who is not an attorney, is representing himself. The intended purpose and scope of his motion is not readily apparent from the document itself. At a February 27, 2003 hearing, however, Mr. Campbell stated on the record that he requests summary judgment only as to these four parties. See First Case Management Scheduling Order at ¶ 1. (Docket 46). The Court proceeds accordingly.

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**I. JURISDICTION**

The United States District Court for the Northern District of Ohio referred this adversary proceeding to this Court. It is a core proceeding under 28 U.S.C. § 157(b)(2). (Docket 24). *See also* 28 U.S.C. § 1334 and General Order No. 84 entered by the United States District Court for the Northern District of Ohio.

**II. SUMMARY JUDGMENT STANDARD**

Summary judgment is appropriate only where there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *See* FED. R. CIV. P. 56(c) (made applicable by FED. R. BANKR. P. 7056); *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986); *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574 (1986). The movant must initially demonstrate the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. at 323. Summary judgment “shall be rendered . . . if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show there is no genuine issue as to any material fact[.]” FED. R. CIV. P. 56(c). Affidavits submitted in support of a summary judgment motion must be based on personal knowledge and sworn or certified copies of all papers referred to must be filed. *See* FED. R. CIV. P. 56(e). Papers which do not satisfy these requirements may not be considered. *See, for example Logan v. Denny’s, Inc.*, 259 F.3d 558, 569-70 (6th Cir. 2001) (stating that the failure to attach or produce a document referred to by affidavit precluded its consideration); *Moore v. Holbrook*, 2 F.3d 697, 699 (6th Cir. 1993) (noting that unsworn and uncertified records do not satisfy the requirements of Rule 56(e)).

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Once the movant has met his burden, the burden shifts to the nonmoving party to show the existence of a material fact which must be tried. *Id.* The nonmoving party must oppose a proper summary judgment motion “by any of the kinds of evidentiary material listed in Rule 56(c), except the mere pleadings themselves . . . .” *Celotex Corp. v. Catrett*, 477 U.S. at 324. All reasonable inferences drawn from the evidence must be viewed in the light most favorable to the party opposing the motion. *Hanover Ins. Co. v. Am. Eng’g Co.*, 33 F.3d 727, 730 (6th Cir. 1994). The issue at this stage is whether there is evidence on which a trier of fact could reasonably find for the nonmoving party. *Street v. J.C. Bradford & Co.*, 886 F.2d 1472, 1477 (6th Cir. 1989).

**III. DISCUSSION**

**A. Defendants Craig Syby and Tower City Title**

Mr. Campbell moves for summary judgment against Tower City Title and Mr. Syby; they, in turn, move for summary judgment against him. Mr. Syby and Tower City Title also filed motions to dismiss the complaint. By separate order, the Court granted the motions to dismiss, with leave given to Mr. Campbell to file an amended complaint that meets the pleading requirements of Federal Rule of Civil Procedure 8. *See* FED. R. CIV. P. 8 (made applicable by FED. R. BANKR. P. 7008). As a result, there are no claims pending against either Mr. Syby or Tower City Title and the motions for summary judgment filed by and against them are denied as moot for that reason.

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**B. Defendants Robert Weltman and Weltman, Weinberg, Reis Co., LPA**

Mr. Campbell also moves for summary judgment against Robert Weltman and Weltman, Weinberg & Reis. Both defendants oppose the motion.

According to Mr. Campbell's complaint, "he signed for [an] 'Accounts Receivable' business loan from First Bank National Association for Ten Thousand Dollars . . ." in July 1977. One of his claims is that attorney Robert Weltman and the law firm of Weltman, Weinberg & Reis (representing Cadle Co., the assignee of First Bank), attempted to collect this debt after it was paid in full in December 1977. Mr. Campbell also makes claims related to his 1994 Chapter 13 bankruptcy case. He alleges that he filed the case to save his home from being sold at foreclosure, made payments under his Chapter 13 plan to Cadle Co. over the years, and obtained a discharge in June 1999. Mr. Campbell further states that he applied for a bill consolidation loan through Mortgage Placement Services, Inc. but the loan did not close because Robert Weltman provided documents indicating that Mr. Campbell still owed money to Cadle Co. Mr. Campbell also alleges that Robert Weltman gave documents to Craig Syby of Tower City Title in 2001 which stopped other loans from closing and that Mr. Weltman made another payment demand in August 2002. This conduct is alleged to have violated the Bankruptcy Code.

For relief, Mr. Campbell asks (1) that he be "free[d] . . . from any future obligations of this alleged debt;" and (1) for judgment against Robert Weltman and Weltman, Weinberg & Reis for "humiliation, hurt and pain, suffering and financial loss . . ." in the amount of \$5 million compensatory and \$10 million punitive damages. He also asks to be served with all documents under certain Bankruptcy Rules.

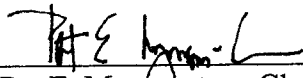
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Mr. Campbell appends various documents to his motion for summary judgment. The documents do not meet the requirements of Rule 56 because they are not sworn or certified. Similarly, the factual statements cannot be considered in support of his motion because they are not sworn statements. Consequently, Mr. Campbell has not demonstrated the absence of a genuine issue of material fact and summary judgment may not be granted. Mr. Campbell's motion is denied.

**IV. CONCLUSION**

For the reasons stated, the Motions for Summary Judgment filed by William Campbell, Craig Syby, and Tower City Title are denied. A separate Order will be entered reflecting this decision.

Date: 19 May 2003

  
\_\_\_\_\_  
Pat E. Morgenstern-Clarren  
United States Bankruptcy Judge

Served by mail on: Mr. William Campbell  
Craig Syby, Esq.  
Harry Greenfield, Esq.

By: Joyce L. Gordon, Secretary  
Date: 5/19/03

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Plaintiff,	)	
	)	
v.	)	<b><u>ORDER</u></b>
	)	
ROBERT B. WELTMAN, et al.,	)	
	)	
Defendants.	)	

For the reasons stated in the Memorandum of Opinion filed this same date, the Motions for Summary Judgment filed by William Campbell, Craig Syby, and Tower City Title Agency, Inc. are denied. (Docket 29, 31, 51).

IT IS SO ORDERED.

Date: 19 May 2003

  
 Pat E. Morgenstern-Clarren  
 United States Bankruptcy Judge

Served by mail on: Mr. William Campbell  
Craig Syby, Esq.  
Harry Greenfield, Esq.

By: Joyce L. Gordon, Secretary

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