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**COURT OF COMMON PLEAS
CLERMONT COUNTY, OHIO**

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BARBARA A. WEINBERG
CLERK OF COMMON PLEAS COURT
CLERMONT COUNTY, OHIO

**CARESPRING D/B/A
EASTGATESPRING OF CINCINNATI**

Plaintiff

vs.

DAVID MEINEKE

Defendant

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CASE NO. 2016 CVH 01580

Judge McBride

DECISION/ENTRY

Jennifer A. Coy, counsel for the plaintiff Carespring d/b/a Eastgatespring of Cincinnati, 1426 North Third Street, Suite 200, P.O. Box 5400, Harrisburg, Pennsylvania 11710

Gary A. Rosenhoffer, counsel for the defendant David Meineke, 313 East Main Street, Batavia, Ohio 45103

This cause is before the court for consideration of the motion to dismiss filed by the defendant David Meineke on July 7, 2017. The court heard oral arguments with respect to the motion to dismiss on September 8, 2017. At the conclusion of that hearing, the court took the motion under advisement.

Upon consideration of the motion to dismiss, the record of the proceedings, the evidence submitted for the court's consideration, the oral and written arguments of counsel, and the applicable law, the court now renders this written decision.

FACTS OF THE CASE AND PROCEDURAL BACKGROUND

The present case stems from the unpaid invoices of a nursing home. The plaintiff Carespring d/b/a Eastgatespring of Cincinnati is a 24-hour skilled nursing facility.¹ The defendant David Meineke's father, Ralph Meineke, was admitted to the plaintiff's nursing facility to receive 24-hour skilled nursing care on August 28, 2014.²

Thereafter the defendant's father became insolvent and needed Medicaid benefits to pay for his care at the plaintiff's facility.³ The plaintiff submitted an application for Medicaid benefits on the defendant's father's behalf to the Ohio Department of Job and Family Services ("ODJFS").⁴ On January 13, 2015, ODJFS approved the application for Medicaid benefits effective November 1, 2014.⁵ Pursuant to the January approval from ODJFS, the defendant's father's monthly income was required to be remitted to the plaintiff as payment for his patient liability, which was determined to be \$1,076 per month.⁶

The plaintiff further alleges that Ohio Adm.Code 5160:1-3-04.3 required the defendant's father's income to be remitted to it for his care and assistance. The

¹ Am. Compl., ¶ 3.

² Am. Compl., ¶ 5.

³ Am. Compl., ¶ 6.

⁴ Am. Compl., ¶ 7.

⁵ Am. Compl., ¶ 8.

⁶ Am. Compl., ¶ 9.

defendant is alleged to have exerted control over his father's monthly income.⁷ However, the defendant did not remit his father's monthly income as and for patient liability to the plaintiff.⁸

The plaintiff suspected that the defendant was stealing his father's monthly income, and following an investigation by the Union Township Police Department, the defendant admitted that he had been stealing his father's social security checks and using them for his own personal needs.⁹

Additionally, the plaintiff alleges that the defendant's father owned property at 7879 Batavia Road, Cincinnati, Ohio 45244, and that the defendant resided there and refused to vacate the property.¹⁰ As a result, the plaintiff alleges that the defendant's father lost his Medicaid benefits which prevented the plaintiff from being paid Medicaid Vendor Payments for its services to the defendant's father.¹¹

The plaintiff alleges that the defendant's theft of his father's monthly income and failure to leave his property forced the plaintiff to discharge the defendant's father on December 11, 2014.¹² The defendant's father has since passed away and left an outstanding balance of \$16,452.68 owed to the plaintiff.

The plaintiff initially filed suit against the defendant on November 10, 2016. The plaintiff filed its first amended complaint on June 29, 2017. The amended complaint contains four causes of action for: (1) civil action for theft under R.C. 2307.60(A) and

⁷ Am. Compl., ¶ 11.

⁸ Am. Compl., ¶ 12.

⁹ Am. Compl., ¶¶ 13-16.

¹⁰ Am. Compl., ¶¶ 17-19.

¹¹ Am. Compl., ¶ 20.

¹² Am. Compl., ¶ 21.

R.C. 2913.02(B)(3); (2) civil action for failure to support an aged or infirm parent under R.C. 2307.60(A) and R.C. 2919.21(A); (3) unjust enrichment; and (4) conversion.

The defendant filed a motion to dismiss under Civ.R. 12(B)(3) and (B)(6) on July 7, 2017. The defendant posits that the court must dismiss the amended complaint for three reasons: (1) venue is improper in Clermont County, Ohio, (2) the statutes of limitation for the two civil actions for criminal acts have expired, and (3) the plaintiff does not have standing to bring any of the causes of action.

The plaintiff submitted a motion in opposition to the defendant's motion to dismiss on July 26, 2017. The defendant did not file a reply. The court held an evidentiary hearing on July 28th¹³ and heard oral arguments as to the motion on September 8th, and at the conclusion of the arguments, the court took the motion under advisement.

STANDARD OF REVIEW

The defendant's motion to dismiss is made pursuant to Civ.R. 12(B)(3) and (6), which provides that a party may move to dismiss an action on the basis of failure to state a claim upon which relief can be granted.

Civ.R. 12(B) provides, in pertinent part:

"Every defense, law or fact, to a claim of relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive

¹³ The court held an evidentiary hearing because the defendant submitted an affidavit from his attorney with documents attached that concerned the defendant's Civ.R. 12(B)(3) motion on improper venue. Neither party submitted evidence at the evidentiary hearing. The defendant's attachment to his motion to his dismiss was only considered in relation to his Civ.R. 12(B)(3) motion, and it was not considered with respect to his (B)(6) motion.

pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: * * * (3) improper venue, * * * (6) failure to state a claim upon which relief can be granted.”¹⁴

“A motion to dismiss for failure to state a claim upon which relief can be granted tests the sufficiency of the complaint.”¹⁵ “Thus, the movant may not rely on allegations or evidence outside the complaint; such matters must be excluded * * *.”¹⁶ “The factual allegations of the complaint and items properly incorporated therein must be accepted as true. Furthermore, the plaintiff must be afforded all reasonable inferences possibly derived therefrom.”¹⁷ “It must appear beyond doubt that the plaintiff can prove no set of facts entitling him to relief.”¹⁸

LEGAL ANALYSIS

I. VENUE

The defendant posits that venue is improper and that as a result the court should either dismiss the case or transfer it to Hamilton County. As an initial matter, “* * *

¹⁴ Civ.R. 12(B)(2).

¹⁵ *Volbers-Klarich v. Middletown Mgt., Inc.*, 125 Ohio St.3d 494, 2010-Ohio-2057, 929 N.E.2d 434, ¶ 11, citing, *Assn. for the Defense of the Washington Local School Dist. v. Kiger*, 42 Ohio St.3d 116, 117, 537 N.E.2d 1292 (1989).

¹⁶ *Volbers-Klarich*, 2010-Ohio-2057 at ¶ 11, citing Civ.R. 12(B).

¹⁷ *Volbers-Klarich*, 2010-Ohio-2057 at ¶ 12, quoting *Mitchell v. Lawson Milk Co.*, 40 Ohio St.3d 190, 192, 532 N.E.2d 753 (1988).

¹⁸ *Volbers-Klarich*, 2010-Ohio-2057 at ¶ 12, citing *Vail v. Plain Dealer Publishing Co.*, 72 Ohio St.3d 279, 280, 649 N.E.2d 182 (1995).

venue is never a ground for dismissing a lawsuit."¹⁹ Instead of dismissal, when the venue is improper the court must transfer the case to a county where venue is proper.²⁰

Civ.R. 3(B) governs venue,²¹ providing in relevant part:

"(B) Venue: Where Proper. Any action may be venued, commenced, and decided in any court in any county. When applied to county and municipal courts, 'county,' as used in this rule, shall be construed, where appropriate, as the territorial limits of those courts. Proper venue lies in any one or more of the following counties:

(1) The county in which the defendant resides;

* * *

(3) A county in which the defendant conducted activity that gave rise to the claim for relief;

* * *

(6) The county in which all or part of the claim for relief arose
* * *²²

The first nine provisions in Civ.R. 3(B), including the several quoted above, "are of equal status and any one may be a proper initial place of venue without preference or

¹⁹ *Emming v. Evans*, 12th Dist. Warren No. CA97-05-039, 1997 WL 539997, *1 (Sep. 2, 1997), citing *Janet's Reporting and Video Service v. Ranchman*, 12th Dist. Butler No. CA89-10-150 (May 29, 1990); See *Palmer v. O'Brien*, 5th Dist. Richland No. 04CA 38, 2004-Ohio-5365, ¶ 11, quoting *State ex rel. Ohio State Racing Comm. v. Welton*, 37 Ohio St.3d 246, 247, 525 N.E.2d 756 (1988) ("Indeed, the law in Ohio is quite clear that if a case is maintained in an improper venue, the appropriate judicial response is to transfer the action to the correct forum; not an outright dismissal of the complaint."); *Wilson v. Chatman*, 3d Dist. Crawford No. 3-02-38, 2003-Ohio-2818, ¶ 8, quoting *Price v. Wheeling Dollar Savings & Trust*, 9 Ohio App.3d 315, 316, 460 N.E.2d 264 (12th Dist. 1983) ("* * * 'improper venue is never a ground for dismissal of a lawsuit.'").

²⁰ Civ.R. 3(C)(1): "(1) When an action has been commenced in a county other than stated to be proper in division (B) of this rule, upon timely assertion of the defense of improper venue as provided in Civ.R. 12, the court shall transfer the action to a county stated to be proper in division (B) of this rule."

²¹ *Clermont County Adamh Boards v. Hogan*, 12th Dist. Clermont No. CA94-09-074, 1995 WL 631641, *3 (Oct. 30, 1995).

²² Civ.R. 3(B).

priority.”²³ If more than one provision applies in Civ.R. 3(B)(1) through (9), then the plaintiff is not restricted to filing suit in one specific county, but may choose the most preferable county in which to file.²⁴

In the present case, the defendant argues that venue in Clermont County is improper because the defendant lived in Hamilton County, and the property that the plaintiff alleges that the defendant improperly lived at (belonging to his father) was also in Hamilton County.²⁵ The plaintiff contends that venue is proper in Clermont County because the actions that gave rise to this suit occurred in Clermont County, namely the plaintiff is located in Clermont County.

The plaintiff’s claims for theft, failure to support an aged or infirm parent, unjust enrichment, and theft arose when the defendant allegedly failed to remit his father’s social security check, received in Hamilton County, to the plaintiff, located in Clermont County. The court and the parties have not identified any cases directly on point with the case at bar. However, the court has examined situations involving breaches of contract where the defendant breached by failing to make a payment. In those cases, courts have found that under Civ.R. 3(B)(6) venue is proper in the county where the payment should have been received.²⁶

In the instant case, one of the alleged wrongdoings by the defendant was that he received his father’s social security check, which would have been in Hamilton County, but he failed to remit it to the plaintiff in Clermont County. As such, the court finds that

²³ *Clermont County Adamh Boards*, 1995 WL 631641 at *4, citing *Morrison v. Steiner*, 32 Ohio St.2d 86, 89 (1972).

²⁴ *Clermont County Adamh Boards*, 1995 WL 631641 at *4, citing *Beraducci v. State Teachers Retirement Syst.*, 21 Ohio App.3d 195, 197 (8th Dist. 1984).

²⁵ See Attachments to *G. Rosenhoffer Aff.*

²⁶ *Emming*, 1997 WL 538997 at *1. See *Thompson v. G & D Transport, Inc.*, 4th Dist. Gallia No. 88-CA-12, 1989 WL 98506, *3 (Aug. 22, 1989) (holding same).

"all or part of the claim for relief arose" in Clermont County, which is where the payment should have been received. Hence, under Civ.R. 3(B)(6) venue is proper in this court.

Although venue is also proper in Hamilton County, as discussed, the plaintiff can pick among multiple proper venues and file the case in the venue of its preference. As such, the court need not transfer this case to Hamilton County.

II. STATUTES OF LIMITATION

The defendant next argues that the court should dismiss the plaintiff's claims for (1) civil action for theft under R.C. 2307.60(A) and R.C. 2913.02(B)(3) and (2) civil action for failure to support an aged or infirm parent under R.C. 2307.60(A) and R.C. 2919.21(A) on the basis that the statutes of limitation have expired as to those two claims.

A statute of limitations refers to the time limit that the General Assembly has placed on various claims that may be asserted in Ohio courts.²⁷ "These statutes of limitations serve a gatekeeping function for courts by (1) ensuring fairness to the defendant, (2) encouraging prompt prosecution of causes of action, (3) suppressing stale and fraudulent claims, and (4) avoiding the inconveniences engendered by delay—specifically, the difficulties of proof present in older cases."²⁸

²⁷ *Doe v. Archdiocese of Cincinnati*, 109 Ohio St.3d 491, 2006-Ohio-2625, 849 N.E.2d 268, ¶ 10, citing *Vaccariello v. Smith & Nephew Richards, Inc.*, 94 Ohio St.3d 380, 391-392, 763 N.E.2d 160 (2002) (Stratton, J., concurring in part and dissenting in part).

²⁸ *Doe*, 2006-Ohio-2625 at ¶ 10, citing *Vaccariello*, 94 Ohio St.3d at 391-392.

Theft and failure to support an aged or infirm parent are criminal charges found under the criminal statutes of R.C. 2913.02(B)(3) and R.C. 2919.21(A), respectively. Although these are criminal statutes, the Ohio Supreme Court has explained that a separate statute, "R.C. 2307.60(A)(1), by its plain and unambiguous terms, creates a statutory cause of action for damages resulting from a criminal act."²⁹ R.C. 2307.60(A)(1) provides:

"Anyone injured in person or property by a criminal act has, and may recover full damages in, a civil action unless specifically excepted by law, may recover the costs of maintaining the civil action and attorney's fees if authorized by any provision of the Rules of Civil Procedure or another section of the Revised Code or under the common law of this state, and may recover punitive or exemplary damages if authorized by section 2315.21 or another section of the Revised Code."³⁰

However, R.C. 2307.60 does not identify its applicable statute of limitations. The defendant argues that the statute of limitations identified in R.C. 2305.11, which is a one-year limit, applies. It reads, in pertinent part, as follows: "(A) An action * * * upon a statute for a penalty * * * shall be commenced within one year after the cause of action accrued * * *."³¹

The plaintiff counters that it timely filed the complaint because the appropriate statute of limitations was not one year but was instead four years. The statute of limitations the plaintiff argues applies is found in R.C. 2305.09, which reads, in relevant part, as follows:

"Except as provided for in division (C) of this section, an action for any of the following causes shall be brought within four years after the cause thereof accrued:

²⁹ *Jacobson v. Kaforey*, 149 Ohio St.3d 398, 2016-Ohio-8434, 75 N.E.3d 203, ¶ 10.

³⁰ R.C. 2307.60(A)(1).

³¹ R.C. 2305.11(A).

* * *

(D) For an injury to the rights of the plaintiff not arising on contract nor enumerated in sections 1304.35, 2305.10 to 2305.12, and 2305.14 of the Revised Code * * *."³²

Courts that have examined the issue of which statute of limitations to apply to civil cases brought under R.C. 2307.60 for criminal acts have concluded that the proper limitation is one-year, as provided for in R.C. 2305.11(A). Most recently, the Eighth District Court of Appeals examined this issue in *State ex rel. County of Cuyahoga v. Jones Lang Lasalle Great Lakes Co.*, 8th Dist. Cuyahoga No. 104157, 2017-Ohio-7727. In that case the plaintiff had asserted a claim for civil liability for criminal acts pursuant to R.C. 2307.60(A)(1).³³ The court reasoned: "R.C. 2307.60 contemplates a penalty, therefore it is subject to the one-year statute of limitations in R.C. 2305.11(A)."³⁴ This court has not located any case law that has applied the four-year statute of limitations that the plaintiff suggests applies in cases brought under R.C. 2307.60. Therefore, the court finds that the applicable statute of limitations is the one-year period identified in R.C. 2305.11(A).

In the instant case the plaintiff alleges that the defendant's father was admitted to its residence on August 28, 2014, and the plaintiff discharged him on December 11, 2014. The plaintiff alleges that during this time period the defendant was refusing to vacate his father's property as well as stealing his father's monthly social security checks. Because of the defendant's alleged conduct in 2014, the plaintiff maintains that it did not receive the defendant's father's social security checks and the defendant's

³² R.C. 2305.09(D).

³³ *State ex rel. County of Cuyahoga v. Jones Lang Lasalle Great Lakes Co.*, 8th Dist. Cuyahoga No. 104157, 2017-Ohio-7727, ¶ 130.

³⁴ *State ex rel. County of Cuyahoga*, 2017-Ohio-7727 at ¶ 131, citing *Steinbeck v. Cleveland Elec. Illuminating Co.*, 8th Dist. Cuyahoga No. 66035, 1994 WL 463817, *2 (Aug. 25, 1994).

father was unable to maintain Medicaid eligibility, which ultimately resulted in the defendant's father leaving an unpaid balance of \$16,452.68 when he passed away. These allegations form the basis for the plaintiff's civil causes of action for theft and failure to support an aged or infirm parent, brought under R.C. 2307.60(A).

As discussed, claims brought under R.C. 2307.60(A) have a one-year statute of limitation. Based upon the facts alleged in the complaint, the one-year statute of limitation lapsed in December of 2015. However, the plaintiff did not file this action until November 10, 2016. As such, the court finds that the plaintiff's two causes of action for civil claims for theft and failure to support an aged or infirm parent must be dismissed under Civ.R. 12(B)(6).

III. STANDING

Lastly, the defendant argues that the plaintiff's claims must be dismissed because it lacks standing to bring them. Most of the defendant's argument centers upon the two civil actions for theft and failure to support an aged or infirm parent. Since those actions are not maintainable because the statute of limitations has expired for them, the court need not address those two claims. The defendant included in his memorandum of support a small paragraph regarding the two remaining claims, those of unjust enrichment and conversion. He posits that the defendant's father's estate has standing as to those claims, and that unless the plaintiff has been assigned those claims or is an intended third party beneficiary, it lacks standing as it is not a real party in interest.

The plaintiff replies that it has standing because all of the basic requirements for standing are met, and the plaintiff had a right to the defendant's father's income under Ohio Adm.Code 5160:1-3-03.1 and Ohio Adm.Code 5160:1-3-04.4.³⁵

The "question of standing to sue" is a question of whether "a party has a sufficient stake in an otherwise justiciable controversy to obtain judicial resolution of that controversy * * *."³⁶ "Traditional standing 'require[s] litigants to show, at minimum, that they have (1) suffered an injury that is (2) fairly traceable to the defendant's allegedly unlawful conduct, and (3) likely to be redressed by the requested relief.'"³⁷ A party's standing is not contingent upon the merits of its claims.³⁸ "Rather, standing depends upon whether the plaintiffs have alleged such a personal stake in the outcome of the controversy that they are entitled to have a court hear their case."³⁹

In examining the case at bar, the court finds that the defendant has not shown that the plaintiff lacks standing for its unjust enrichment and conversion claims. The first requirement for standing is that the plaintiff has suffered an injury.⁴⁰ Here, the plaintiff

³⁵ Of note for the parties, effective September 1, 2017 Ohio Adm.Code 5160:1-3-04.4 was repealed and its provisions are now contained in Ohio Adm.Code 5160:1-6-07.1.

³⁶ *Federal Home Loan Mortg. Corp. v. Schwartzwald*, 134 Ohio St.3d 13, 2012-Ohio-5017, 979 N.E.2d 1214, ¶ 21, citing *Cleveland v. Sharker Hts.*, 30 Ohio St.3d 49, 51, 507 N.E.2d 323 (1987).

³⁷ *State ex rel. Ullmann v. Husted*, 148 Ohio St.3d 255, 2016-Ohio-5584, 70 N.E.3d 502, ¶ 8, quoting *ProgressOhio.org, Inc. v. JobsOhio*, 139 Ohio St.3d 520, 2014-Ohio-2382, 13 N.E.3d 1101, ¶ 7. See *Beaver Excavating Co. v. Testa*, 134 Ohio St.3d 565, 2012-Ohio-5776, 983 N.E.2d 1317, ¶ 8, citing *Cuyahoga Bd. of Commrs. v. State*, 112 Ohio St.3d 59, 2006-Ohio-6499, 858 N.E.2d 330, ¶ 22 ("Standing exists only when (1) the complaining party has suffered or has been threatened with direct and concrete injury in a manner or degree different from that suffered by the public in general, (2) the law in question caused the injury, and (3) the relief requested will redress the injury.").

³⁸ *State ex rel. Ullmann*, 2016-Ohio-5584 at ¶ 8, quoting *ProgressOhio.org, Inc.*, 2014-Ohio-2382 at ¶ 7.

³⁹ *State ex rel. Ullmann*, 2016-Ohio-5584 at ¶ 8, quoting *ProgressOhio.org, Inc.*, 2014-Ohio-2382 at ¶ 7.

⁴⁰ *State ex rel. Ullmann*, 2016-Ohio-5584 at ¶ 8, quoting *ProgressOhio.org, Inc.*, 2014-Ohio-2382 at ¶ 7.

alleges that it has suffered monetary loss by not receiving the defendant's father's Medicaid and social security payments. The second requirement is that the injury is fairly traceable to the defendant's allegedly unlawful conduct.⁴¹ The plaintiff alleges that it (1) did not receive the defendant's father's social security paychecks because the defendant stole them, and (2) it did not receive Medicaid payments because the defendant's father no longer qualified for Medicaid due to the defendant's refusal to vacate the defendant's father's property. These alleged injuries are fairly traceable to the defendant's alleged conduct. Finally, the injuries must be likely to be redressed by the requested relief.⁴² The plaintiff has requested a money judgment against the defendant, which would redress its injury, at least in part, in not having received the defendant's father's benefits to pay for his outstanding balance.

Furthermore, the defendant's argument that the plaintiff does not have standing because it is not the real party in interest is unpersuasive because “* * * the real-party-in-interest rule concerns only proper party joinder. Civ.R. 17(A) [requiring a claim be brought by the real-party-in-interest] does not address standing.”⁴³ Moreover, two of the three cases that the defendant cited in support do not deal with standing at all.⁴⁴ The third case the defendant cited is uninformative, aside from general standing principles, as it dealt with whether a company holding a promissory note and mortgage had standing in a foreclosure action against the homeowners when it had not held the

⁴¹ *State ex rel. Ullmann*, 2016-Ohio-5584 at ¶ 8, quoting *ProgressOhio.org, Inc.*, 2014-Ohio-2382 at ¶ 7.

⁴² *State ex rel. Ullmann*, 2016-Ohio-5584 at ¶ 8, quoting *ProgressOhio.org, Inc.*, 2014-Ohio-2382 at ¶ 7.

⁴³ *Federal Home Loan Mortg. Corp.*, 2012-Ohio-5017 at ¶ 33, citing *Lincoln Property Co. v. Roche*, 546 U.S. 81, 90, 126 S.Ct. 606, 163 L.Ed.2d 415 (2005).

⁴⁴ See *Grant v. Thornton v. Windsor House, Inc.*, 57 Ohio St.3d 158, 566 N.E.2d 1220 (1991); *Mickey v. Denk*, 8th Dist. Cuyahoga No. 90484, 2008-Ohio-3983.

instruments before initiating its foreclosure action.⁴⁵ Based on the arguments before it and the citations of legal support provided by counsel, the court finds that the defendant has not shown that the plaintiff lacks standing to pursue its unjust enrichment and foreclosure claims.⁴⁶


CONCLUSION

For the foregoing reasons, the court grants the defendant's motion to dismiss in part and denies it in part.

The court dismisses the plaintiff's first and second causes of action for civil action for theft under R.C. 2307.60(A) and R.C. 2913.02(B)(3) and civil action for failure to support an aged or infirm parent under R.C. 2307.60(A) and R.C. 2919.21(A). The court declines to dismiss the plaintiff's remaining two causes of action for unjust enrichment and conversion.

IT IS SO ORDERED

DATED: 3-5-18




Judge Jerry R. McBride

⁴⁵ See *Federal Home Loan Mortg. Corp.*, 2012-Ohio-5017.

⁴⁶ Of note, standing is an issue that " * * * may be raised at any time during the pendency of the proceedings[.]" See *Federal Home Loan Mortg. Corp.*, 2012-Ohio-5017 at ¶ 22, quoting *New Boston Coke Corp. v. Tyler*, 32 Ohio St.3d 216, 218, 513 N.E.2d 302 (1987). As such, if the parties have additional, meritorious arguments as to whether the plaintiff does or does not have standing on the two remaining claims, this issue could be raised again and reexamined.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were served on this 7th day of March 2018 by e-mail to Jennifer A. Coy at jcoy@s-b-b.com and Mary Pisciotta at mpisciotta@s-b-b.com, Attorneys for the Plaintiff, and to Gary Rosenhoffer, at garyrlaw@hotmail.com, Attorney for the Defendant.



Judicial Assistant to Judge McBride