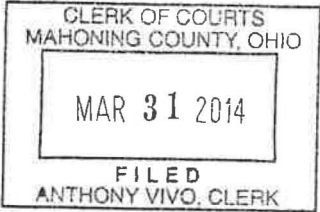


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IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO

ALAN K. HINTON,)	CASE NO. 13 CV 3004
)	
APPELLANT,)	JUDGE JAMES C. EVANS
)	
v.)	<u>JUDGMENT ENTRY</u>
)	
STATE OF OHIO UNEMPLOYMENT)	
REVIEW COMMISSION, <i>et al.</i> ,)	
)	
APPELLEES.)	

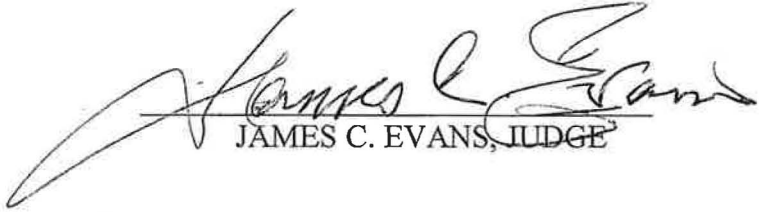
This matter came on to be considered on the Magistrate's Decision filed February 5, 2014.

After review pursuant to Civil Rule 53(E)(4)(a), the Court finds that no written objections have been filed and that no error of law or other defect appears on the face of the Magistrate's Decision.

Therefore, the Magistrate's Decision is hereby adopted and made the action and judgment of this Court as follows: It is Ordered that the motion to dismiss filed by the Director, Ohio Department of Job and Family Services is granted and that this appeal is dismissed for lack of jurisdiction, by reason that Appellant Alan K. Hinton failed to name an interested party, namely The Schwebel Baking Company.

ALL THIS UNTIL FURTHER ORDER OF THIS COURT.

March 27, 2014

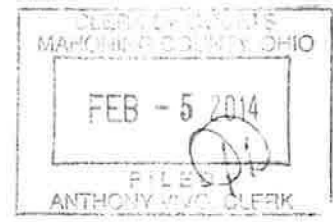

JAMES C. EVANS, JUDGE

Clerk: copies to all parties and counsel of record

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IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO

ALAN K. HINTON,)	CASE NO. 13 CV 3004
)	
APPELLANT,)	JUDGE JAMES C. EVANS
)	
v.)	
)	
STATE OF OHIO UNEMPLOYMENT)	
REVIEW COMMISSION, <i>et al.</i> ,)	MAGISTRATE'S DECISION
)	
APPELLEES.)	

Appellee Director of the Ohio Department of Job & Family Services filed a motion to dismiss alleging Appellant failed to name all interested parties¹ to his appeal of the decision of the Unemployment Compensation Review Commission, dated October 16 2013. R.C. 4141.282(D) states: "The commission shall provide on its final decision the names and addresses of all interested parties. The appellant shall name all interested parties as appellees in the notice of appeal. The director of job and family services is always an interested party and shall be named as an appellee in the notice of appeal." Mr. Hinton failed to name The Schwebel Baking Company, his former employer, as a party to his appeal, despite the naming of the employer as a party within the Review Commission decision.

In *Zier v. Bur. of Unemp. Comp.*, 151 Ohio St. 123, 84 N.E.2d 746 (1949), para. 1 of the syllabus, the Supreme Court of Ohio held: "An appeal, the right to which is conferred by statute, can be perfected only in the mode prescribed by statute. The exercise of the right conferred is conditioned upon compliance with the accompanying mandatory requirements." The court also held: "[c]ompliance with these specific and mandatory requirements governing the filing of such notice is essential to invoke jurisdiction of a Court of Common Pleas. * * * *Id.*, at para. 2 of the syllabus.

Mr. Hinton's failure to name The Schwebel Baking Company as a party to this appeal as required by R.C. 4141.282(D) means this Court lacks jurisdiction and this

¹ The Director, ODJFS, alleged that Appellant failed to the Director. Mr. Hinton did name Michael B. Colbert, Director, as a party, although no address was provided in his Notice of Appeal and the record does not reflect service upon the Director. Michael Colbert served as Director from February 2011 until October 18 2013. The Notice of Appeal was filed October 22 2013.

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appeal, accordingly, must be dismissed. See *Luton v. State Unemployment Revision Comm'n*, 2012-Ohio-3963, (8th Dist. App., Cuyahoga Co., Aug. 30, 2012); *Sydenstricker v. Donato's Pizzeria*, 2010 Ohio 2953, (11th Dist. App., Lake Co. June 25, 2010).

It is therefore Ordered that the motion to dismiss filed by the Director, Ohio Department of Job and Family Services is granted and that this appeal is dismissed for lack of jurisdiction, by reason that Appellant Alan K. Hinton failed to name an interested party, namely The Schwebel Baking Company.

Dated: February 4th 2014



EUGENE J. FEHR, MAGISTRATE

The parties shall have fourteen (14) days from the filing of this Decision to file written objections with the Clerk of this Court. Any such objections shall be served upon all parties to this action and a copy must be provided to the Court. Except for a claim of plain error, a party shall not assign as error on appeal of the Court's adoption of any finding of fact or conclusion of law, whether or not specifically designated as a finding of fact or conclusion of law, under Civ. R. 53(D)(3)(a)(ii), unless the party, as required by Civil Rule 53(E)(3)(b), timely and specifically objects to that finding or conclusion and supports any objection to a factual finding with a transcript of all evidence submitted to the magistrate relevant to that finding or an affidavit of that evidence if a transcript is not available. Any party may request the magistrate to provide written findings of fact and conclusions of law. In accordance with Civ. R. 53(D)(3)(a)(ii), this request must be made within seven (7) days from the filing of this Decision.

This is an appealable order and the Clerk of Courts shall serve copies of this Decision upon all counsel and unrepresented parties, including Appellant Alan K. Hinton, 278 Crandall Avenue, Youngstown, Ohio 44504, within three (3) days of the filing hereof.

**THE CLERK SHALL SERVE NOTICE
OF THIS ORDER UPON ALL PARTIES
WITHIN THREE (3) DAYS PER CIV.R.5.**

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