

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

ERIC C. DETERS, : APPEAL NO. C-240259
 : TRIAL NO. A-2305226

Plaintiff-Appellant, :

vs. : *JUDGMENT ENTRY*

HON. JOSEPH F. NICHOLAS, JR., :
HON. ELIZABETH D. GENTILE, :
and MAZANEC, RASKIN & RYDER :
CO. L.P.A., :

Defendants-Appellees.

This court sua sponte removes this cause from the regular calendar and places it on the court's accelerated calendar, Loc.R. 11.1(C)(1), and this judgment entry is not an opinion of the court. See Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

On December 4, 2023, appellant filed a complaint against appellees in the Hamilton County Court of Common Pleas. The complaint sets forth claims for breach of contract, declaratory and injunctive relief, violation of Ohio Adm.Code 3901-1-54 and R.C. 3901.21, and fraud. On April 1, 2024, the trial court dismissed appellant's complaint under Civ.R. 12(B)(6), finding that appellant's complaint "lack[ed] any factual allegations that would entitle him to recovery."

On appeal, appellant raises three assignments of error, all of which take issue with the trial court's decision to recast his complaint as an action for legal malpractice. But the trial court took no such action. Instead, the trial court dismissed the complaint because it did not plead the existence of a contract between appellant and appellees,

OHIO FIRST DISTRICT COURT OF APPEALS

see Iannetta v. Amazon, Inc., 2023-Ohio-3980, ¶ 15 (8th Dist.), because Ohio Adm.Code 3901-1-54 and R.C. 3901.21 do not state causes of action, *see Furr v. State Farm Mut. Auto. Ins. Co.*, 128 Ohio App.3d 607, 616 (6th Dist. 1998) (holding that Adm.Code 3901-1-54 does not create private cause of action), *Strack v. Westfield Cos.*, 33 Ohio App.3d 336, 337 (9th Dist. 1986) (holding that R.C. 3901.21 does not create a private cause of action), and because the complaint did not plead fraud with particularity as required by Civ.R. 9(B), *see Meehan v. Mardis*, 2019-Ohio-4075, ¶ 18-20 (1st Dist.).

We review a trial court’s decision to grant a motion to dismiss under Civ.R. 12(B)(6) de novo. *State ex rel. Ames v. Portage Cty. Bd. of Revision*, 2021-Ohio-4486, ¶ 8. Having conducted a de novo review of the trial court’s order, we find no error in the judgment below.

Appellant’s assignments of error are therefore overruled, and the judgment of the trial court is affirmed. The court further orders that 1) a copy of this Judgment constitutes the mandate, 2) the mandate be sent to the trial court for execution under App.R. 27, and 3) costs shall be taxed under App.R. 24.

BOCK, P.J., ZAYAS and KINSLEY, JJ.

To the clerk:

Enter upon the Journal of the Court on 11/6/2024 per Order of the Court.

By: _____
Administrative Judge