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JPMorgan Beats 'Frivolous' Suit Claiming Trust Fraud

By **Nathan Hale**

Law360 (December 3, 2021, 8:37 PM EST) -- A federal judge has tossed a Florida man's suit accusing JPMorgan Chase and an Ohio law firm of fraudulent trust administration and defrauding the court, and ordered him and his attorney to cover the defendants' attorney fees and costs as a sanction for filing the "frivolous" suit.



A Florida federal judge ruled Thursday the district court lacked the authority to overturn a 2008 ruling in Ohio state court and a tax judgment against the plaintiff in a suit against JPMorgan Chase, a law firm and two of its attorneys. (AP Photo/Richard Drew)

U.S. District Judge Roy B. Dalton Jr. in Orlando said in his order Thursday that he agreed with the bank and the firm Zeiger Tigges & Little LLP that the district court lacks the authority to overturn an earlier ruling in Ohio state court and a tax judgment against plaintiff Ronald E. Scherer.

"Here, for nearly 20 years, plaintiff has repeatedly brought the same claims despite numerous warnings that his arguments against JPMC and ZTL were objectively not well-taken," Judge Dalton said, referring to the bank and the law firm.

"Even though the style of the action has changed, the issue has not; plaintiff has alleged — and courts have rejected — defendants' purported misrepresentations and fraud from the first action," the judge said. "And a simple search would have revealed to plaintiff's counsel that these claims have been litigated and rejected."

The court concluded that the complaint was frivolous and that sanctions were appropriate to deter Scherer and his counsel from filing "further meritless litigation." The order gave the defendants a Dec. 30 deadline to move to collect reasonable fees and costs.

Barry W. Rigby, the Winter Park, Florida, attorney who is representing Scherer, declined to comment Friday, telling Law360 that he needed more time to review the order and discuss it with his client.

Scherer initiated the present case in January against JPMorgan and against attorneys Steven Tigges and Stuart Parsell and their firm, which represented Bank One Trust Co. in an underlying proceeding involving a trust for Scherer's late father.

Scherer contended that Zeiger Tigges and JPMorgan — which acquired Bank One — made misrepresentations to the courts concerning his father's trust that led to a 2008 ruling by an Ohio probate court that he had misappropriated more than \$6 million in trust assets.

Scherer alleges that later rulings against him in federal court stem from those misrepresentations, leading him to ultimately face a tax liability settlement of more than \$5 million.

JPMorgan **moved for sanctions** in early September, saying the claims are "objectively frivolous" as well as similar to two of Scherer's previous actions, which were voluntarily dismissed. The bank argued that Rigby should not have asked the court to review matters that were already resolved or to vacate the Ohio state court's 2008 ruling.

Zeiger Tigges and the two defendant attorneys also sought sanctions against Scherer, making similar arguments to JPMorgan's in their own motion for sanctions in July.

Judge Dalton agreed with the defendants that Scherer's 2021 lawsuit runs counter to the Rooker-Feldman doctrine, a civil procedure doctrine based on 1923 and 1983 rulings by the U.S. Supreme Court that generally bars lower federal courts from reviewing state court rulings.

"Here, plaintiff expressly seeks to vacate the Ohio probate action, but there is no question that was a final state-court judgment, as it was affirmed on appeal and the Ohio Supreme Court denied further review," Judge Dalton said. "So plaintiff's own pleading shows it is an inappropriate appeal of a state court judgment."

The judge also agreed with the defendants that Scherer's effort to vacate the tax judgment should be dismissed based on collateral estoppel, which prevents parties from relitigating issues that have already been decided by a competent court.

In **response** to the sanctions motions, Scherer told the court that JPMorgan was trying to keep hidden new evidence and expert analysis reports that came out in 2017 and that "unravel nearly 30 years of fraud perpetrated by JPMC."

It would have been impossible for Scherer's previous actions against the bank to have pled fraud on the court because the expert reports detailing the bank's fraudulent activities came out only in 2017, Rigby wrote.

But Judge Dalton said the only new fact alleged was a tax error that would have been "cumulative to the other facts — not a change in evidence essential to the judgment. And plaintiff could have discovered and raised it previously."

Counsel and a representative for JPMorgan declined to comment. Counsel for the Zeiger Tigges defendants did not immediately respond to a request for comment Friday.

Scherer is represented by Barry Rigby of the Law Offices of Barry Rigby PA.

JPMorgan Chase Bank NA is represented by Derek E. León and Andrew B. Boese of León Cosgrove LLP.

Steven Tigges, Stuart Parsell and Zeiger Tigges & Little LLP are represented by Jeffrey M. Partlow of Cole Scott & Kissane PA.

The case is Scherer v. JPMorgan Chase Bank NA et al., case number 6:21-cv-00119, in the U.S. District Court for the Middle District of Florida.

--Additional reporting by Hannah Albarazi. Editing by Robert Rudinger.