

Supreme Court

No. 2012-98-Appeal.
(WC06-132)

Joseph Chen :
v. :
Subaru of America. :

ORDER

This case came before this Court in conference pursuant to Article I, Rule 12A(3)(b) of the Supreme Court Rules of Appellate Procedure. After reviewing the record and the parties' prebriefing statements, we proceed to decide the case at this time without further briefing or argument.

The plaintiff Joseph Chen appeals pro se from a post-judgment order that revokes his in forma pauperis status and orders repayment of costs incurred since July 1, 2010. Several months after judgment had been entered in the case at bar, the plaintiff herein appeared as a party-defendant in an unrelated case before the same hearing justice as had presided over the case at bar. Based on information that came out at that hearing about a bank account which the plaintiff said was earmarked for rent, the judge sua sponte revoked the plaintiff's in forma pauperis status retroactively in the case at bar and ordered the plaintiff to repay court costs incurred while this case was pending. We are concerned that this action was taken without notice to either side and without a hearing, and we are further concerned that no substantial findings were made. While generally a trial justice has discretionary authority to formulate an appropriate sanction, due process requires that the offender be given notice and an opportunity to be heard before sanctions are imposed. Michalopoulos v. C & D Restaurant, Inc.,



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TITLE OF CASE: Joseph Chen v. Subaru of America.

CASE NO: No. 2012-98-Appeal
(WC 06-132)

COURT: Supreme Court

DATE ORDER FILED: May 14, 2013

JUSTICES: Suttell, C.J., Goldberg, Flaherty, Robinson, and Indeglia, JJ.

WRITTEN BY: N/A – Court Order

SOURCE OF APPEAL: Washington County Superior Court

JUDGE FROM LOWER COURT:

Associate Justice Jeffrey A. Lanphear

ATTORNEYS ON APPEAL:

For Plaintiff: Joseph Chen, Pro se

For Defendant: Gerald C. DeMaria, Esq.
Kelly A. Kincaid, Esq.