

No. 1-11-0547

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

ALY JIMENEZ,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	No. 09 M1 20103
)	
EDOM ABRAHAM,)	Honorable
)	Sidney A. Jones, III,
Defendant-Appellee.)	Judge Presiding.

JUSTICE ROCHFORD delivered the judgment of the court.
Presiding Justice Hoffman and Justice Karnezis concurred with the judgment.

ORDER

¶ 1 *Held:* Plaintiff's claim that the trial court erred in granting defendant a jury trial without his written consent is without merit where defendant made a timely jury demand in accordance with Illinois Supreme Court Rule 285; judgment entered on jury verdict in favor of defendant affirmed.

¶ 2 *Pro se* plaintiff, Aly Jimenez, appeals from a judgment of the circuit court of Cook County entered on a jury verdict finding that defendant was not liable for damages arising out of a car collision. On appeal, plaintiff contends the trial court erred in granting defendant a jury trial without his written consent. We affirm.

¶ 3 The common-law record filed in this case shows plaintiff filed a complaint in the circuit court of Cook County, alleging defendant "crashed" into his van and seeking damages of \$6,000 for repairs, towing, storing, and "other fees." Plaintiff initially obtained a default judgment against defendant. However, on March 3, 2010, the circuit court granted defendant's motion to vacate that

No. 1-11-0547

judgment and allowed him time "to appear, answer, file a jury demand and/or otherwise plead." On March 4, 2010, defendant filed an appearance and jury demand, and the case went to arbitration. The arbitration panel awarded plaintiff \$2,001.68, however, defendant rejected that award and a jury trial ensued. In that proceeding, the jury returned a verdict in favor of defendant, and the circuit court subsequently entered judgment on that verdict plus costs of \$190.50. This appeal followed.

¶4 We note, initially, plaintiff has failed to comply with Illinois Supreme Court rules governing an appellant's brief in numerous respects. Ill. S. Ct. R. 341(h) (1) (2) (eff. Jul. 1, 2008). Plaintiff's *pro se* status does not relieve him of the burden of complying with those rules. *Twardowski v. Holiday Hospitality Franchising, Inc.*, 321 Ill. App. 3d 509, 511 (2001). In fact, that failure alone, warrants dismissal of his appeal. *Epstein v. Galuska*, 362 Ill. App. 3d 36, 42 (2005). Notwithstanding, our jurisdiction to consider the appeal of a *pro se* plaintiff is unaffected by the insufficiency of his brief, as long as we understand the issue plaintiff intends to raise, and where, as here, we have the benefit of the cogent brief filed by the opposing party. *Twardowski*, 321 Ill. App. 3d at 511. We will, therefore, address the issue raised by plaintiff in this appeal.

¶5 Plaintiff contends, without citation of authority, the trial court erred in granting defendant a jury trial without his written consent. Defendant responds there was no error because he was entitled to a jury trial and timely demanded one. We note, because the amount of damages sought by plaintiff (\$6,000) in this civil tort action did not exceed \$10,000, this case falls into the category of a "small claim" and is governed by the corresponding supreme court rules. Ill. S. Ct. R. 281 (eff. Jan. 1, 2006).

¶6 Supreme Court Rule 285 provides, a small claim will be tried by the court unless plaintiff files a jury demand when the action is commenced, *or* defendant files a jury demand within prescribed time for filing his appearance. Ill. S. Ct. R. 285 (eff. Jan. 1, 1964). Thus, either party may demand a jury trial without the other's consent if it makes its demand within the prescribed time limits. Here, the record shows that on March 3, 2010, the court vacated the default judgment against

No. 1-11-0547

defendant and gave him six days to file an appearance and jury demand. Defendant filed his appearance and jury demand on March 4, 2010, well within the time prescribed, and, therefore, the trial court did not err in granting him a jury trial. *Laba v. Hahay*, 348 Ill. App. 3d 69, 72 (2004); Ill. S. Ct. R. 285 (eff. Jan. 1, 1964).

¶ 7 For the reasons stated, we affirm the judgment of the circuit court of Cook County.

¶ 8 Affirmed.