

2011 IL App (1st) 101889-U
No. 1-10-1889

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

ANGELA JOHNSON,)	
)	Appeal from the
)	Circuit Court of
Petitioner-Appellant,)	Cook County
)	
v.)	Case No.: 08 M1 302453
)	
CITY OF EVANSTON and)	Honorable
ANDREW SPATZ,)	James E. Snyder,
Respondents-Appellees.)	Judge Presiding.

JUSTICE ROBERT E. GORDON delivered the judgment of the court.
Justices Cahill and McBride concurred in the judgment.

ORDER

- ¶1 **Held:** We cannot say that the trial court abused its discretion in barring plaintiff from rejecting an arbitration award when a plaintiff, who is subject to a 237 notice to appear, fails to check her mail, voicemail, or contact her attorney after being made aware that her attorney had continued a mandatory arbitration date and then fails to make an attempt to drive from Evanston to Chicago to arrive late after being notified 35-40 minutes before the scheduled hearing.
- ¶2 Plaintiff Angela Johnson brought this trip-and-fall action against defendants City of Evanston and Andrew Spatz in the Circuit Court of Cook County. The case was scheduled for mandatory arbitration and plaintiff failed to appear. The defendants had filed a Supreme Court

Rule 237(b) Notice to Produce requiring plaintiff's presence. Ill. Sup. Ct. R. 237(b) (effective July 1, 2005). The arbitrators found in favor of defendants, citing plaintiff's failure to appear. Plaintiff moved to reject the arbitration award in the Circuit Court of Cook County and requested a trial. Defendant City of Evanston then moved to bar plaintiff from rejecting the award under Supreme Court Rule 90(g). Ill. S. Ct. R. 90(g) (eff. July 1, 2008). The trial court granted defendant's motion and entered an order barring plaintiff from rejecting the arbitration award and dismissed the case with prejudice. Plaintiff appeals, arguing that her absence from the arbitration hearing was the result of reasonable and extenuating circumstances and neither plaintiff nor counsel exhibited a deliberate disregard for the arbitration process or the court rules. For the following reasons, we affirm.

¶3

I. BACKGROUND

¶4 Plaintiff's suit arose from a trip-and-fall accident allegedly occurring on City of Evanston property on August 25, 2007. According to her complaint, plaintiff tripped and fell over a tree stump and a hole in the ground created by a previous tree removal. Plaintiff alleged negligence on the part of City of Evanston and claimed injuries to her right ankle.

¶5 On April 23, 2009, the trial court assigned the cause for mandatory arbitration for June 4, 2009. On June 3, 2009, plaintiff presented an emergency motion to strike the arbitration date and filed an amended complaint, adding as an additional party defendant Andrew Spatz.¹ The trial court granted the motion and scheduled a new arbitration date for March 10, 2010. Both defendants filed a Supreme Court Rule 237 notice for plaintiff to appear at the hearing. Ill. S. Ct. R. 237 (eff. July 1, 2005).

¹ The record fails to clarify Andrew Spatz's direct relationship with the property where plaintiff tripped and fell, however we infer from the record that Spatz was the property owner.

¶6 Plaintiff's counsel filed an affidavit in response to defendant City of Evanston's motion to bar the arbitration award. The affidavit states that she sent plaintiff notice of the March 10, 2010 arbitration hearing date on January 27, 2010, by regular mail. The affidavit also states that upon receipt of the notice, plaintiff phoned counsel at counsel's office and confirmed her attendance. The notice stated that the arbitration was to be held at 222 N. LaSalle Street, Chicago.

¶7 Plaintiff counsel's affidavit also states that the following events took place on March 8, 2010. Upon anticipating a conflict with another trial scheduled on March 10, 2010, counsel phoned plaintiff at plaintiff's home and informed plaintiff that she intended to continue the arbitration hearing. Counsel then filed an emergency motion, requesting a second continuance of the arbitration hearing scheduled for March 10, 2010. The trial court granted a short continuance of the arbitration hearing to March 19, 2010. Counsel then attempted to phone plaintiff at plaintiff's home to inform plaintiff that the arbitration hearing had been continued. Unable to reach plaintiff directly, counsel left a message on plaintiff's home voicemail, informing plaintiff of the new date. That same day, counsel also mailed a written notice of the change of date to plaintiff's home address by regular mail.

¶8 Plaintiff also filed an affidavit in response to defendant's motion to bar rejection of the arbitration award. Plaintiff's affidavit states that, sometime between March 10, 2010 and March 12, 2010, she learned of her grandmother's death in Bogalusa, Louisiana, and "immediately" traveled to Louisiana without checking her home voicemail or receiving the written correspondence from her counsel. Plaintiff's affidavit then states that she failed to inform counsel of her travel plans since she intended to be away for only a short time.

¶9 Plaintiff counsel's affidavit states that on March 18, 2010, she phoned plaintiff at plaintiff's home and left a second home voicemail stating that plaintiff would need to arrive at counsel's office by 9:30 a.m. on March 19, 2010.

¶10 Plaintiff's affidavit states that she returned home to Evanston, Illinois, either on the night of March 18, 2010 or in the early morning of March 19, 2010. Upon her return, she neither checked her mail nor listened to her home voicemails.

¶11 Plaintiff's affidavit states that, on March 19, 2010, she went to work without checking her mail or listening to her home voicemails. Plaintiff counsel's affidavit states that plaintiff worked at an elementary school in District 65 in Evanston, Illinois. Plaintiff counsel's affidavit also states that counsel tried to phone plaintiff at plaintiff's home at 9:40 a.m. on the arbitration date and, unable to reach plaintiff, left a third message on plaintiff's home voicemail. Counsel then tried to phone plaintiff at plaintiff's place of employment at 9:55 a.m. and was able to reach plaintiff. Counsel advised plaintiff that she needed to leave work immediately and travel to downtown Chicago at 222 N. LaSalle Street, the location of the arbitration hearing. Plaintiff informed her that she did not have an automobile at work and would not be able to go from the elementary school in Evanston, Illinois to 222 N. LaSalle Street in downtown Chicago within the hour. Counsel then searched traffic updates on Google.com and transportation options between the elementary school in Evanston, Illinois and 222 N. LaSalle Street in downtown Chicago and concluded that no options would be able to transport plaintiff in time for the hearing. Neither plaintiff's affidavit nor her counsel's affidavit indicates that either called a transportation service or that plaintiff made any attempt to travel to downtown Chicago. Further, plaintiff's affidavit does not state that plaintiff's counsel asked the arbitrators to wait for plaintiff's late arrival.

¶12 Plaintiff's counsel appeared at the arbitration hearing, but counsel's affidavit does not state that she informed the arbitrators the reason for plaintiff's absence, nor does it state that counsel requested the arbitrators to delay the arbitration hearing so that plaintiff would be able to attend at a later time. The arbitration hearing commenced at 10:35 a.m., 40 minutes after plaintiff learned of the hearing, and ended at 11:00 a.m, one hour and five minutes after plaintiff learned of the hearing. The arbitrators documented that both parties participated in good faith, but found in favor of defendants because "[p]laintiff . . . was not present at the arbitration hearing despite [an] Illinois Supreme Court Rule 237(b) Notice to Produce presented by both defendants."

¶13 On March 31, 2010, plaintiff timely filed a written rejection of the award. As noted, defendant City of Evanston then filed a motion to bar rejection of the award under Supreme Court Rule 90(g). Ill. S. Ct. R. 90(g) (eff. July 1, 2008).

¶14 On June 8, 2010, the trial court granted defendant's motion, entered an order barring plaintiff from rejecting the award, and dismissed the case with prejudice. This timely appeal followed.

¶15 **II. ANALYSIS**

¶16 On appeal, plaintiff claims that the trial court abused its discretion by barring plaintiff's rejection of the arbitration award. Plaintiff argues that a family emergency delayed plaintiff from learning of the newly scheduled arbitration date, after a short continuance of the arbitration, and that neither plaintiff nor her counsel exhibited a deliberate disregard for the arbitration process or the Supreme Court Rules.

¶17 Supreme Court Rule 90(g) states, in relevant part:

“The provisions of Rule 237, herein, shall be equally applicable to arbitration hearings as they are to trials. The presence of a party may be waived by

stipulation or excused by court order for good cause shown not less than seven days prior to the hearing. Remedies upon a party's failure to comply with notice pursuant to Rule 237(b) may include an order barring that party from rejecting the award.” Ill. S. Ct. R. 90(g) (eff. July 1, 2008).

Additionally, Rule 90(g) states, “A party who fails to comply with a Rule 237(b) notice to appear at a trial is subject to sanctions pursuant to Rule 219(c). Those sanctions may include an order barring that party from maintaining a claim, counterclaim, etc.” Ill. S. Ct. R. 90(g) (eff. July 1, 2008).

¶18 Supreme Court Rule 237(b) provides:

“The appearance at the trial or other evidentiary hearing of a party or a person who at the time of trial or other evidentiary hearing is an officer, director, or employee of a party may be required by serving the party with a notice designating the person who is required to appear . . . Upon a failure to comply with the notice, the court may enter any order that is just, including any sanction or remedy provided for in Rule 219(c) that may be appropriate.” Ill. S. Ct. R. 237(b) (eff. July 1, 2005).

¶19 The decision whether to bar a party from rejecting an arbitration award rests with the sound discretion of the trial court and will not be disturbed on appeal absent an abuse of discretion. *Williams v. Dorsey*, 273 Ill. App. 3d 893, 901 (1995); *Gore v. Martino*, 312 Ill. App. 3d 701, 704 (2000). An abuse of discretion “occurs when the court rules arbitrarily or when its ruling ‘exceed[s] the bounds of reason.’” *Williams*, 273 Ill. App. 3d at 901 (quoting *In re Marriage of Malter*, 133 Ill. App. 3d 168, 180 (1985)); *Johnson v. Saenz*, 311 Ill. App. 3d 693, 697 (2000). The burden is on the offending party to show that its noncompliance was reasonable

or the result of extenuating circumstances. *Williams*, 273 Ill. App. 3d at 901; *Saenz*, 311 Ill. App. 3d at 697; *Kubian v. Labinsky*, 178 Ill. App. 3d 191, 197 (1988). When deciding what is reasonable or of extenuating circumstances, Illinois courts consider whether a party's conduct was characterized as a "deliberate and pronounced disregard" for the rules and the court. *Gore*, 312 Ill. App. 3d at 704; *State Farm Insurance Co. v. Kazakova*, 299 Ill. App. 3d 1028, 1034 (1998).

¶20 Plaintiff argues that her absence from the arbitration hearing was the result of reasonable or extenuating circumstances. To support her contention, plaintiff first cites *Johnson v. Saenz*, 311 Ill. App. 3d 693 (2000). In that case, defendant's vehicle rear-ended plaintiff's vehicle which was stopped at a red light. *Saenz*, 311 Ill. App. 3d at 694. After a continuance, the trial court scheduled a final mandatory arbitration date. *Saenz*, 311 Ill. App. 3d at 695. Plaintiff filed a Supreme Court Rule 237 notice for defendant to appear at the arbitration hearing. *Saenz*, 311 Ill. App. 3d at 695. On the date of the hearing, defendant arrived at the courthouse instead of the arbitration center. *Saenz*, 311 Ill. App. 3d at 695. Defendant did not speak or read English fluently, and court personnel directed her to a courtroom instead of the arbitration center. *Saenz*, 311 Ill. App. 3d at 695. Her lawyer attended the arbitration hearing, although defendant did not, and the panel of arbitrators found in favor of the plaintiff, specifically noting that defendant was not in attendance. *Saenz*, 311 Ill. App. 3d at 695. After the hearing, defendant's lawyer went to the county courthouse on an unrelated matter and found defendant sitting in a courtroom. *Saenz*, 311 Ill. App. 3d at 695. Defendant later filed a notice of rejection of the award, which was followed by plaintiff filing a motion to bar defendant from rejecting the award claiming defendant violated Supreme Court Rule 237. *Saenz*, 311 Ill. App. 3d at 695. The trial court barred defendant from rejecting the award, and defendant appealed. *Saenz*, 311 Ill. App. 3d at

695-96. On appeal, the appellate court found defendant's failure to appear was reasonable and the result of extenuating circumstances. *Saenz*, 311 Ill. App. 3d at 698. The court noted that defendant traveled to the county courthouse on the date of the arbitration hearing at the proper time and, due to confusion and miscommunication, she was directed to a courtroom in the wrong building. *Saenz*, 311 Ill. App. 3d at 699.

¶21 By contrast, in the case at bar, plaintiff's lack of communication was a direct result of her failure to check both her mail and home voicemails and not due to either a language barrier or miscommunication by court personnel. Plaintiff failed to remain in touch with her counsel, even though plaintiff knew that her counsel had requested a continuance and that a new date would be forthcoming. The affidavit of plaintiff's counsel states that she successfully contacted plaintiff on March 8, 2010, to inform plaintiff of a possible continuance of the arbitration hearing. Later that day, plaintiff's counsel left a home voicemail notifying plaintiff of the new arbitration date. This was between two and four days prior to plaintiff's discovery of her grandmother's death in Louisiana. Although plaintiff was aware on March 8, 2010, of a possible continuance, plaintiff failed to check her home voicemail on that day and in the days after and she failed to contact her counsel. Plaintiff failed to inform her counsel that she was leaving the state nor did plaintiff leave a forwarding telephone phone number or cellular telephone number where she might be reached. While attending her grandmother's funeral in Louisiana, plaintiff also failed to check her home voicemails for the duration of her travel. Plaintiff also failed to check either her mail or home voicemails upon her return to Illinois, and also failed to check her mail and home voicemails the following day prior to leaving for work.

¶22 In *Saenz*, the misinformation by court personnel, combined with the language barrier, led to the defendant's inability to attend the arbitration, whereas in the instant case it is the plaintiff's

personal failure to check either her mail, home voicemails, or with her counsel that led to the breakdown in communication.

¶23 Additionally, when plaintiff's counsel informed her at work that she was required to be at the arbitration hearing within the hour, plaintiff made no attempt to travel by taxi from Evanston to Chicago when she had 35-40 minutes to do so, nor did her counsel ask the arbitrators to wait for plaintiff's late arrival. We take judicial notice of the fact that plaintiff's place of work in Evanston was approximately 15 miles from the arbitration location in downtown Chicago. We also take judicial notice of the fact that transportation options from Evanston to downtown Chicago include the subway, a commuter rail line and taxis. We have sympathy for plaintiff and her recent loss and we understand the confusion that immediate grief can cause. However, there was no excuse for plaintiff's failure to try to travel downtown or for her counsel's failure to try to delay the proceedings to accommodate the short travel time. We cannot say that plaintiff's failure to check her home voicemails for at least two full days prior to her departure to Louisiana, her failure to check either her mail or home voicemails upon her return to Illinois, and her failure to attempt to travel downtown upon learning of the hearing constituted reasonable or extenuating circumstances in this case.

¶24 The second case plaintiff cites is *Schmidt v. Joseph*, 315 Ill. App. 3d 77 (2000). In that case, plaintiff filed a complaint against defendant for personal injuries resulting from an automobile collision. *Schmidt*, 315 Ill. App. 3d at 78. After the trial court scheduled a mandatory arbitration hearing, plaintiff's counsel sent notice of the date and time of the hearing to plaintiff. Upon receipt of notice, plaintiff mistakenly noted the date of the arbitration hearing for December 28 and not the actual date of December 23. Plaintiff requested that she be allowed to take December 28th off from her supervisor. At the arbitration hearing on December 23, the

arbitrators entered an award in favor of defendant when plaintiff did not appear. *Schmidt*, 315 Ill. App. 3d at 78. Plaintiff filed a notice of rejection of the award and defendant then filed a motion to bar the rejection of the award. *Schmidt*, 315 Ill. App. 3d at 78. The trial court granted defendant's motion and plaintiff's case was dismissed with prejudice, which she appealed. *Schmidt*, 315 Ill. App. 3d at 78. On appeal, we found that plaintiff's failure to appear was the result of inadvertent, reasonable extenuating circumstances in that she not only misdiaried the date of the scheduled hearing, but also requested to have the day off on the incorrect date. *Schmidt*, 315 Ill. App. 3d at 83.

¶25 In the case at bar, plaintiff's mistake was not the result of plaintiff incorrectly logging the date of her hearing, but rather in failing to check either her mail or home voicemail so that she could discover the date of the hearing. In *Schmidt*, we found that such an oversight was not a case where a party "deliberately disregarded the rules by making no attempt to participate in the arbitration hearing in a meaningful manner." *Schmidt*, 315 Ill. App. 3d at 82. Although in the instant case, we cannot say that plaintiff deliberately disregarded the rules, we do find that she failed to make a reasonable effort to stay in communication with her counsel so that she could discover the scheduled date and time. Plaintiff's counsel informed her on March 8 of counsel's intention to request a continuance, and upon receipt of that continuance, counsel called plaintiff back at the same phone number and left a home voicemail and did so three times over an 11 day period. Plaintiff was not given an incorrect date, nor did she misunderstand the scheduled date or incorrectly diary it, instead plaintiff failed to check her home voicemail for at least two days and up to four days prior to leaving for Louisiana. Plaintiff also failed to check her messages in the week leading up to the hearing, and upon her return she failed to check both her home voicemails

and regular mail or call her counsel to find out the new date. We cannot find that plaintiff's own conduct created reasonable or extenuating circumstances.

¶26 The third case plaintiff cites is *Gore v. Martino*, 312 Ill. App. 3d 701 (2000). In that case, plaintiff filed a complaint for personal injury against defendant after an automobile collision. *Gore*, 312 Ill. App. 3d at 702. After the trial court scheduled a mandatory arbitration hearing, defendant filed a Supreme Court Rule 237 notice for plaintiffs to appear at the arbitration hearing. The hearing was scheduled for 10 a.m., however plaintiffs did not arrive until 10:40 a.m. due to heavy traffic. *Gore*, 312 Ill. App. 3d at 702-03. The arbitrators were present and refused to allow plaintiffs to testify, finding in favor of plaintiffs, but awarded no damages. *Gore*, 312 Ill. App. 3d at 702. Plaintiffs filed a notice to reject the award, but the trial court barred plaintiffs from rejecting the award. *Gore*, 312 Ill. App. 3d at 702-03. Plaintiffs appealed, and we reversed, finding that plaintiffs did not show a deliberate or pronounced disregard for the rules or the court, since they were ready to proceed when they arrived. *Gore*, 312 Ill. App. 3d at 705.

¶27 By contrast, in the case at bar, plaintiff never made any attempt to arrive at the arbitration location. Plaintiff's counsel stated in her affidavit that no attempt was made because no options were available to transport plaintiff in time for the hearing, yet she also does not show that any attempt was made to have the arbitrators hold the case while plaintiff took a taxi from Evanston to Chicago. We cannot say that such a lack of effort rises to the level of extenuating circumstances.

¶28 The fourth case plaintiff cites is *GEICO v. Campbell*, 335 Ill. App. 3d 930 (2002). In that case, defendant sustained personal injuries in an automobile collision. *Campbell*, 335 Ill. App. 3d at 931. After the trial court set a mandatory arbitration hearing date, defendant filed a Supreme

Court Rule 237 notice for the claims adjuster to appear and for the entire claim file to be produced at the arbitration hearing. At the hearing, neither the claims adjuster nor the claim file was produced. The arbitrators entered an award in favor of plaintiff, but awarded no damages, finding that plaintiff “failed to produce file and agent pursuant to Rule 237.” *Campbell*, 335 Ill. App. 3d at 932. Plaintiff rejected the award, and defendant presented a motion to bar. The trial court barred plaintiff from rejection as a sanction under Supreme Court Rule 237. *Campbell*, 335 Ill. App. 3d at 932. On appeal, we found that defendant filed a proper Rule 237 notice with which plaintiff failed to comply, and that plaintiff made light of the noncompliance by referring to it as a “mere failure” and “an oversight.” *Campbell*, 335 Ill. App. 3d at 934. We noted, “plaintiff would not have proceeded to trial without a witness or documents which would serve as a foundation for its damage claim.” *Campbell*, 335 Ill. App. 3d at 934-35. We found that the sanction imposed by the trial court was not an abuse of discretion, nor was the sanction unduly harsh in light of the circumstances. *Campbell*, 335 Ill. App. 3d at 934.

¶29 In the case at bar, plaintiff argues that where *Campbell* could provide no excuse for the absence of the claims adjuster and claim file other than “an oversight,” the unfortunate death of her grandmother, her attendance at the funeral in Louisiana, and her late return just prior to the arbitration hearing should provide a satisfactory excuse to meet the reasonable and extenuating circumstance requirement. However, as we noted, this argument fails to acknowledge that her counsel left a notice of the arbitration hearing date on her home voicemail between two and four days prior to plaintiff becoming aware of her grandmother’s death. Plaintiff also failed to check her home voicemail while in Louisiana, upon her return to Illinois, and yet again prior to leaving for work the day of the arbitration hearing. Plaintiff also made no attempt to travel from Evanston to Chicago, and plaintiff’s counsel made no attempt to delay the arbitration to allow

plaintiff time to travel there. Plaintiff must be responsible for her own actions or omissions, and therefore we cannot say that plaintiff's conduct rises to the level of reasonable or extenuating circumstances in this case.

¶30 The fifth case plaintiff cites is *Williams v. Dorsey*, 273 Ill. App. 3d 893 (1995), where a plaintiff filed a complaint for injuries sustained in an automobile collision in which she was the passenger. *Williams*, 273 Ill. App. 3d at 895. Although plaintiffs unsuccessfully attempted to serve defendants with process several times, defendants filed their answer, counterclaim, and jury demand. *Williams*, 273 Ill. App. 3d at 895. The trial court transferred the case for mandatory arbitration, and plaintiff filed a Supreme Court Rule 237 notice to appear requiring defendants' presence at the arbitration hearing. Defendants' counsel sent notice to defendants at an incorrect address which defendants never received. *Williams*, 273 Ill. App. 3d at 896. At the arbitration hearing, defense counsel attended although defendants did not. The arbitrators found in favor of plaintiff and noted on the award that defendants violated Rule 237 by failing to appear at the hearing. *Williams*, 273 Ill. App. 3d at 895. Defendants filed a notice of rejection, plaintiff filed a motion to bar defendants' rejection of the award, and the trial court barred defendants. *Williams*, 273 Ill. App. 3d at 896.

¶31 On appeal, we found defendants' argument not persuasive, stating: "it is well-settled that 'notice to an attorney is notice to the client and knowledge of an attorney is knowledge of, or imputed to the client, notwithstanding whether the attorney has actually communicated such knowledge to the client.'" *Williams*, 273 Ill. App. 3d at 898 (quoting *Eckel v. Bynum*, 240 Ill. App. 3d 867, 865 (1992)). We found that regardless of whether the attorney sent the notice to the wrong address, the attorney had knowledge of the arbitration date and that notice was imputed to the defendants. *Williams*, 273 Ill. App. 3d at 898. We also noted that a defendant may not excuse

himself for failing to appear even if defendant had not been informed of the date of the hearing when represented by an attorney. *Williams*, 273 Ill. App. 3d at 898. Defendants had appeared for their deposition 17 days prior to the arbitration hearing and had been in direct contact with their attorney. *Williams*, 273 Ill. App. 3d at 898. Defendants also presented no excuse for their attorney's failure to request a continuance or seek a waiver of their appearance at the arbitration proceeding. *Williams*, 273 Ill. App. 3d at 901. Therefore, we could not find that the trial court abused its discretion in barring defendants from rejecting the award. *Williams*, 273 Ill. App. 3d at 901.

¶32 Similar to her comparison of *Campbell*, plaintiff here argues that where the defendants in *Williams* provided no excuse for their attorney's failure to request a continuance or seek a waiver of their appearance at the arbitration hearing, plaintiff in the instant case should be excused due to the immediacy of her grandmother's death and her travel to Louisiana. Contrary to *Williams*, however, plaintiff's counsel sent notice to plaintiff's correct address and also notified her by leaving a message on her home voicemail. It was she who failed to check either her mail or home voicemail prior to the date of the hearing. Plaintiff knew the case would be scheduled immediately since her counsel informed plaintiff of her intentions to request a continuance earlier that same day. Plaintiff's counsel telephoned and left a voicemail message by the same phone she had successfully reached plaintiff earlier.

¶33 Additionally, we found in *Williams* that an attorney's knowledge of an arbitration date is imputed to the client, and the client is not excused for failing to appear by claiming he did not receive the notice. Here, plaintiff's counsel received notice between two and four days prior to plaintiff learning of her grandmother's death, which would be imputed to plaintiff at that time. Further, the defendants in *Williams* presented no excuse for their attorney's failure to request a

continuance or to seek a waiver of their appearance at the arbitration. Similarly, in the instant case, there is nothing in the record showing that plaintiff's counsel requested the arbitrators to hold the arbitration hearing for a sufficient time to allow plaintiff's late arrival. We cannot say that plaintiff's conduct in not checking her mail or voicemail and not making an attempt to arrive late rises to the level of reasonable or extenuating circumstances.

¶34 The sixth case plaintiff cites is *Smith v. Johnson*, 278 Ill. App. 3d 387 (1996). In that case, plaintiff sued defendants for injuries and damage sustained during an automobile collision. *Johnson*, 278 Ill. App. 3d at 387. The trial court set a mandatory arbitration date and plaintiff filed a Supreme Court Rule 237 notice for defendants to appear. *Johnson*, 278 Ill. App. 3d at 388. Defendants' attorneys moved to excuse one of the defendants, who was incarcerated in a Wisconsin penal institution, and the unexcused defendant was notified of the hearing. *Johnson*, 278 Ill. App. 3d at 388. The trial court excused the incarcerated defendant, but at the arbitration hearing only the defendants' attorneys were present. *Johnson*, 278 Ill. App. 3d at 388. The arbitrators unanimously found in favor of the plaintiff, noting that the unexcused defendant failed to appear pursuant to notice. *Johnson*, 278 Ill. App. 3d at 388. Both defendants filed a notice rejecting the arbitration award, and the trial court denied the rejection for the unexcused defendant only and entered judgment against the unexcused defendant only. *Johnson*, 278 Ill. App. 3d at 388. The unexcused defendant appealed, and we found that the trial court did not abuse its discretion in barring the unexcused defendant from rejecting the award. *Johnson*, 278 Ill. App. 3d at 388, 391. We found that the unexcused defendant was given a notice to appear, promised to attend the hearing, did not seek to be excused from the hearing, and then failed to comply with the notice. *Johnson*, 278 Ill. App. 3d at 391. Defendant argued that she had problems with her mail service and did not receive the notice. We found as in *Williams* that

“notice to an attorney is notice to his client, and knowledge of an attorney is imputed to the client.” *Johnson*, 278 Ill. App. 3d at 391.

¶35 In the case at bar, plaintiff argues that, in *Johnson*, the trial court found the unexcused defendant responsible for “willfully” failing to comply with Rule 237, whereas here plaintiff did not deliberately disregard the arbitration process and her failure to appear was the result of extenuating circumstances. We found in *Johnson* that a possible failure of mail service would not constitute a reasonable excuse as “notice to an attorney is notice to his client, and knowledge of an attorney is imputed to the client.” *Johnson*, 278 Ill. App. 3d at 391. Plaintiff’s counsel in the instant case received notice on March 8, 2010, which notice was imputed to plaintiff at that time as well. Therefore, we cannot say that plaintiff’s conduct rises to the level of reasonable or extenuating circumstances.

¶36

III. CONCLUSION

¶37 We cannot say that the trial court ruled arbitrarily or that its ruling exceeded the bounds of reason when plaintiff failed to show reasonable or extenuating circumstances for failing to appear at the scheduled mandatory arbitration hearing date.

¶38 Affirmed.