

FIFTH DIVISION  
July 20, 2012

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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ESMERALDA HOLMAN,	)	Petition for Review
	)	of an Order of the
Petitioner-Appellant,	)	Illinois Department of
	)	Human Rights.
	)	
v.	)	No. 08 CF 2076
	)	
INDIVIDUAL ADVOCACY GROUP, ILLINOIS	)	
DEPARTMENT OF HUMAN RIGHTS, and LON D.	)	
MELTESEN, CHIEF LEGAL COUNSEL, ILLINOIS	)	
DEPARTMENT OF HUMAN RIGHTS,	)	
	)	
Respondents-Appellees.	)	
	)	

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JUSTICE HOWSE delivered the judgment of the court.  
Presiding Justice Epstein and Justice McBride concurred in the judgment.

**ORDER**

¶ 1     HELD:           Chief Legal Counsel's order affirmed where petitioner's brief failed to comply with Supreme Court Rule 341 concerning appellate

briefs and her arguments are waived.

¶ 2 This direct administrative review action arises as the result of an order of the Chief Legal Counsel of the Illinois Department of Human Rights (Chief Legal Counsel) which sustained the decision of the Illinois Department of Human Rights (Department) to dismiss petitioner Esmeralda Holman's discrimination charge because of a lack of substantial evidence to support the claim. On appeal, petitioner contends that: (1) the Department failed to request additional evidence from the Office of the Inspector General (OIG) to assist petitioner with providing evidence that she was similarly situated to her co-worker; (2) Individual Advocacy Group, Inc. intentionally withheld information from Michael Towles in an attempt to hide discrimination against the petitioner; and (3) Individual Advocacy Group, Inc. discriminated against petitioner based on her ancestry. For the following reasons, we affirm.

### ¶ 3 BACKGROUND

¶ 4 Briefly stated, the record reveals that plaintiff, who is Hispanic, is a former employee of Individual Advocacy Group, Inc. (IAGI), where she served as House Manager starting on June 4, 2003. IAGI is a non-profit organization which serves persons with developmental disabilities, mental illnesses, emotional disorders, or who have suffered a traumatic brain injury. Petitioner was subsequently terminated from her position on December 29, 2003. Petitioner filed a discrimination charge on April 15, 2004, with the Department, alleging that she was terminated because of her race, gender and national origin. Petitioner later added an additional claim of discrimination on the basis of her ancestry.

¶ 5 In her charge, petitioner alleged that despite IAGI's proffered justification of

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insubordination and poor job performance for her termination, she performed her duties well and that IAGI did not dismiss a similarly situated non-Hispanic employee when confronted with similar allegations regarding his employment. The Department investigated and dismissed petitioner's ancestry charge due to a lack of substantial supporting evidence.

¶ 6 During the investigation, it was established that petitioner worked for IAGI at the Pine Crest Home in Bolingbrook, Illinois where she supervised the facility's clients and staff members in her role as House Manager. On October 6, 2003, IAGI suspended petitioner without pay, and there was a disciplinary action memorandum which indicated that petitioner used verbal abuse consisting of profane language to two of the residents of the home. Another resident confirmed that petitioner yelled at the residents "all the time."

¶ 7 Several days before the suspension, petitioner received a written warning regarding her actions on September 30, 2003, which were recorded as insubordination. IAGI subsequently learned that an additional allegation of resident physical abuse also occurred on September 30, 2003, when it was alleged that petitioner choked a client. The day after learning of this incident, IAGI reported the incident to the Illinois Department of Human Services Office of the Inspector General (OIG). During a subsequent interview with a representative from the OIG, petitioner admitted that she grabbed food from the client's mouth with the aid of other staff members but denied choking or physically restraining the client. Petitioner's recitation of the events was contradicted by two staff members who witnessed the incident; both indicated that petitioner had physical contact with the client and used profane language.

¶ 8 On December 16, 2003, OIG reported that the allegations were unsubstantiated, meaning

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that client abuse could not be confirmed or denied. IAGI terminated petitioner based on its internal investigation of physical abuse against a client.

¶ 9 Petitioner argued to the Department that IAGI's approach to allegations of physical abuse was inconsistent, and alleged that she was informed by another employee that her predecessor, who was not Hispanic, had been investigated by OIG for locking a client in a bathroom, but was not discharged following a finding by OIG that the claim was unsubstantiated. IAGI had no record of an OIG investigation regarding the previous employee. IAGI subsequently introduced disciplinary action forms for two non-Hispanic employees that were dismissed for physically abusing a client after petitioner's termination, and noted that no employees were dismissed for physical abuse in the three years preceding petitioner's termination.

¶ 10 The Department concluded that there was no substantial evidence to support petitioner's charge, and found that she was discharged because of substantial evidence of client abuse on September 30, 2003, rather than her ancestry.

¶ 11 On January 26, 2011, petitioner filed a request for review of the Department's decision by the Chief Legal Counsel. On July 25, 2011, the Chief Legal Counsel entered an order sustaining the dismissal of petitioner's charge, finding that there was a lack of substantial evidence to support her claim of ancestry discrimination. On August 15, 2011, petitioner filed a petition for review of the Chief Legal Counsel's order with this court.

#### ¶ 12 ANALYSIS

¶ 13 On appeal, petitioner contends that: (1) the Department failed to request additional evidence from the Office of the Inspector General (OIG) to assist petitioner with providing

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evidence that she was similarly situated to her co-worker; (2) IAGI intentionally withheld information from Michael Towles in an attempt to hide discrimination against the petitioner; and (3) IAGI discriminated against petitioner based on her ancestry.

¶ 14 The Attorney General responds that petitioner's brief does not comply with Supreme Court Rule 341(h) and should result in a waiver of the issues and arguments she has raised. We agree.

¶ 15 Illinois Supreme Court Rule 341(h) (eff. July 1, 2008), governs the content of an appellant's brief. The rules of procedure concerning appellate briefs are rules and not mere suggestions. *Niewold v. Fry*, 306 Ill. App. 3d 735, 737 (1999). The purpose of the rules is to require parties before a reviewing court to present clear and orderly arguments so that the court can properly ascertain and dispose of the issues involved. *Hall v. Naper Gold Hospitality LLC*, 2012 IL App (2d) 111151, ¶ 7.

¶ 16 We first note that petitioner's brief does not contain a points and authorities section in violation of Rule 341(h)(1), which requires that:

"[a] summary statement, entitled "Points and Authorities," of the points argued and the authorities cited in the Argument. This shall consist of the headings of the points and subpoints as in the Argument, with the citation under each heading of the authorities relied upon or distinguished, and a reference to the page of the brief on which each heading and each authority appear." Ill. S. Ct. R. 341(h)(1) (eff. July 1, 2008).

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¶ 17 Next, we note that petitioner's nature of the case section does not comply with Rule 341(h)(2), which requires: "[a]n introductory paragraph stating (i) the nature of the action and of the judgment appealed from and whether the judgment is based upon the verdict of a jury, and (ii) whether any question is raised on the pleadings, and, if so, the nature of the question."

Despite an example contained in the rule, plaintiff's nature of the case contains a conclusory and argumentative narrative which violates the rule.

¶ 18 Rule 341(h)(4)(ii) requires a statement of jurisdiction as follows:

"[i]n a case appealed to the Appellate Court, a brief, but precise statement or explanation under the heading 'Jurisdiction' of the basis for appeal including the supreme court rule or other law which confers jurisdiction upon the reviewing court; the facts of the case which bring it within this rule or other law; and the date that the order being appealed was entered and any other facts which are necessary to demonstrate that the appeal was timely. In appeals from a judgment as to all the claims and all the parties, the statement shall demonstrate the disposition of all claims and all parties. All facts recited in this statement shall be supported by page references to the record on appeal." Ill. S. Ct. R. 341(h)(4)(ii) (eff. July 1, 2008).

Petitioner has not included a statement of jurisdiction in her brief.

¶ 19 Finally, and most importantly, petitioner's argument section does not contain any citations

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to authority or refer to any pages of the record, in violation of Rule 341(h)(7). At best, petitioner's argument section consists of conclusory statements. An appellant's failure to cite to legal authority in support of his arguments in his appellate brief results in waiver of those arguments. *Krklus v. Stanley*, 359 Ill. App. 3d 471, 488 (2005). While this court is not bound to enforce strict, technical compliance with the rules where, despite minor inadequacies in an appellate brief, the basis for an appeal is fairly clear, a party's failure to comply with basic rules is grounds for disregarding his or her arguments on appeal. *Epstein v. Galuska*, 362 Ill. App. 3d 36, 42 (2005). Here, plaintiff's brief does not comply with the basic rules for appellate briefs in many respects, as indicated above. Accordingly, plaintiff's arguments are waived for review.

#### ¶ 20 CONCLUSION

¶ 21 For the foregoing reasons, we find that petitioner waived (forfeited) our review of the merits of her appeal and we affirm the decision of the Chief Legal Counsel.

¶ 22 Affirmed.