

No. 1-11-3055

**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

CLIFFORD V. TOMB III,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	No. 10 L 4361
	)	
STEVEN R. DECKER and JOHN J. RICCI,	)	Honorable
	)	James D. Egan,
Defendants-Appellees.	)	Judge Presiding.

JUSTICE ROCHFORD delivered the judgment of the court.  
Presiding Justice Hoffman and Justice Cunningham concurred in the judgment.

**ORDER**

¶ 1 *Held:* Appeal dismissed for lack of jurisdiction.

¶ 2 Plaintiff, Clifford V. Tomb, *pro se*, filed an action in the circuit court of Cook County alleging tortious conduct by defendants, John J. Ricci and Steven R. Decker. On November 18, 2010, the circuit court dismissed the action with prejudice. We dismiss this appeal for lack of jurisdiction.

¶ 3 On October 17, 2011, plaintiff filed a notice of appeal. Plaintiff contends the circuit court denied his seventh amendment right to a fair and impartial jury trial. Plaintiff also contends defendants failed to timely respond to plaintiff's December 30, 2011, request to admit facts, which was filed and served upon defendants more than 12 months after plaintiff's case was dismissed with prejudice by the circuit court. Plaintiff also requests this court remand the cause for a jury trial with a change of venue.

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¶ 4 The common law record shows in relevant part that on April 13, 2010, plaintiff *pro se* filed a motion for a jury trial, which alleged tortious conduct by defendants during and after their representation of plaintiff's former live-in girlfriend in a previous action brought by plaintiff. Defendants subsequently filed a motion to dismiss plaintiff's complaint with prejudice pursuant to section 2-619 of the Code of Civil Procedure. 735 ILCS 5/2-619 (West 2010). On November 18, 2010, the circuit court granted defendants' motion.

¶ 5 On December 1, 2010, plaintiff filed a motion for change of venue in which he sought leave of court to file his claims outside of Cook County, and to have his \$559 filing fee returned. On January 4, 2011, that motion was denied by the circuit court. However, plaintiff continued litigating the case in the months that followed and filed *inter alia* a request to admit facts on October 3, 2011. Defendants moved to strike that request and did not substantively respond to it. On October 17, 2011, plaintiff filed notice of appeal from a judgment/order entered in July 2011, and sought a jury trial as relief.

¶ 6 We note, initially, that plaintiff has failed to comply in numerous respects with Illinois Supreme Court Rule 341 (Ill. S. Ct. 341 *et seq.* (eff. Jul. 1, 2008)) which governs appellate court briefing and, for that reason, defendants have requested that plaintiff's brief and argument be stricken and that his appeal be dismissed.

¶ 7 It is well-settled that plaintiff's *pro se* status does not relieve him of the burden of complying with the supreme court rules (*Twardowski v. Holiday Hospitality Franchising, Inc.*, 321 Ill. App. 3d 509, 511 (2001)), and that his failure to do so may warrant dismissal of his appeal. *Epstein v. Galuska*, 362 Ill. App. 3d 36, 42 (2005).

¶ 8 That said, we must first address our jurisdiction to consider the appeal. Defendants assert plaintiff's notice of appeal was untimely where the circuit court dismissed his case with prejudice on November 18, 2010, and denied his post-dismissal motion on January 4, 2011, where plaintiff filed his notice of appeal on October 17, 2011. An appeal filed more than 30 days after the entry of

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a final and appealable order (Ill. S. Ct. R. 301 (eff. Feb. 1, 1994)), or order disposing of a post-trial motion (Ill. S. Ct. R. 303(a) (eff. June 4, 2008)), does not invoke the jurisdiction of this court to consider the appeal. *Lowenthal v. McDonald*, 367 Ill. App. 3d 919, 925 (2006).

¶ 9 Moreover, Rule 303 further provides that a notice of appeal must specify the judgment or order appealed from and the relief sought from the reviewing court. Ill. S. Ct. R. 303(b)(2) (eff. June 4, 2008)). The notice of appeal confers jurisdiction on the reviewing court to consider only the judgment, or part thereof, specified in the notice of appeal. *People v. Smith*, 228 Ill. 2d 95, 104 (2008). However, the notice is sufficient when, considered as a whole and liberally construed, it fairly and adequately identifies the challenged judgment. *People v. Lewis*, 234 Ill. 2d 32, 37 (2009).

¶ 10 Here, plaintiff filed his notice of appeal on October 17, 2011, stating that he was appealing from a judgment/order entered in July 2011, and that he was seeking a jury trial as relief. Our thorough review of the record shows that the only order entered by the circuit court during that designated month is a briefing-schedule order entered on July 11, 2011, for an unidentified motion filed by plaintiff. There is no indication in the notice of appeal that this is the order plaintiff desires to appeal from, however, given that his brief makes no mention of the order and cites numerous alleged errors which are unrelated to the briefing schedule, we find it unlikely that is the case. In any event, no matter how liberally construed, we find plaintiff's notice of appeal does not adequately set out the judgment/order of which he complains (*Smith*, 228 Ill. 2d at 105), nor allows this court to determine its timeliness. As such, plaintiff's notice of appeal fails to confer jurisdiction on this court to hear his appeal and we are required to dismiss it. *Id.* at 104.

¶ 11 Appeal dismissed for lack of jurisdiction.