

No. 1-11-3442

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

LINDA REED,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	No. 09 M1 301249
)	
DARLENE MOORE,)	Honorable
)	Sidney A. Jones, III,
Defendant-Appellee.)	Judge Presiding.

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

ORDER

¶ 1 *Held:* Judgment entered on jury verdict in favor of defendant affirmed over challenge to the circuit court's subject matter jurisdiction; plaintiff did not show court abused its discretion in removing prior discovery sanctions and allowing both parties to conduct discovery.

¶ 2 Plaintiff, Linda Reed, appeals *pro se* from a judgment entered in the circuit court on a jury verdict finding that defendant was not liable for damages arising out of an altercation that occurred at defendant's residence. On appeal plaintiff contends the circuit court lost subject matter jurisdiction over the proceedings where defendant allegedly filed a fraudulent application to sue or defend as an indigent person and that the circuit court abused its discretion in removing discovery sanctions against defendant. We affirm.

¶ 3 The common law record shows, in relevant part, that on April 30, 2009, plaintiff filed a *pro se* complaint seeking damages for injuries that she allegedly suffered as a result of an attack by

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defendant's daughter that occurred at defendant's residence. Plaintiff then filed an amended complaint alleging a single count of negligence against defendant for breaching the duty of care she owed to plaintiff as a guest in her home.

¶ 4 Plaintiff sent interrogatories to defendant and, on November 30, 2009, the circuit court entered an order requiring defendant to answer all written discovery by December 18, 2009. The court further ordered:

"Failure to comply with the specific terms of this order will result in [defendant] being barred from testifying and presenting any evidence at the arbitration and/or trial of this matter.

The above stated sanction shall remain in effect until removed by Order of Court upon motion by the party against whom the sanction applies." (Underline in original.)

The record does not show that defendant responded to plaintiff's interrogatories prior to that deadline.

¶ 5 On February 24, 2010, an arbitration hearing was held and an award in the amount of \$20,000 was entered in favor of plaintiff and filed with the circuit court. The award included a finding by the arbitrators that all parties had participated in good faith. The award also provided that "[p]ursuant to [a] court order, [the] panel found that defendant's failure to comply with a barring order prevented her from testifying. Defendant participated by cross examin[ation] only." That same day, defendant filed a notice of rejection of the arbitration award, and her fees—including the fee required to reject the award—were waived after the court granted her application and her affidavit pursuant to Supreme Court Rule 298 (Ill. S. Ct. R. 298 (eff. Nov. 1, 2003)) to sue or defend as an indigent person.

¶ 6 Plaintiff subsequently filed a motion to bar defendant from rejecting the arbitration award pursuant to Supreme Court Rule 91(b). Ill. S. Ct. R. 91(b) (eff. June 1, 1993). Alluding to defendant's fee waiver petition, plaintiff alleged she "ha[d] knowledge that the defendant owns a

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home worth \$200,000 free and clear[] of a mortgage and was awarded \$250,000 [on] July 25, 2008[,] from a lawsuit. Plus the [d]efendant has an income of \$1,640.00 per month." The court denied plaintiff's motion.

¶ 7 On May 21, 2010, counsel filed a motion requesting leave to appear on behalf of defendant and to vacate "any and all technical defaults," which the court granted. Defendant then filed a jury demand and an answer and affirmative defense to plaintiff's amended complaint. The parties conducted additional discovery in preparation for trial pursuant to a case management order. Following a trial, the jury returned a verdict finding in favor of defendant and against plaintiff. This appeal followed.

¶ 8 Plaintiff first contends the circuit court lost subject matter jurisdiction because defendant's fees, including the fee for filing a notice of rejection of the arbitration award, were waived based on false information in her application and her Rule 298 affidavit to sue or defend as an indigent person. Defendant had averred that she did not own any real estate, but later admitted during discovery that she owns property located at 9860 South Winston Avenue, in Chicago. Therefore, plaintiff argues, defendant should have paid the required fees for rejection of the award.

¶ 9 Defendant responds that she complied with the requirements of Illinois Supreme Court Rule 93 (Ill. S. Ct. R. 93 (eff. Jan. 1, 1997)) in rejecting the arbitration award and requesting a trial. Defendant also responds that plaintiff's challenge to her fee waiver is without merit.

¶ 10 We observe that the circuit court generally has original jurisdiction over all justiciable matters. *Crossroads Ford Truck Sales, Inc. v. Sterling Truck Corp.*, 2011 IL 111611, ¶ 27 (citing Ill. Const. 1970, art. VI, § 9). A matter is justiciable if it involves the adverse legal interests of the parties. *Health Cost Controls v. Sevilla*, 307 Ill. App. 3d 582, 587 (1999). The filing of a complaint invokes the circuit court's authority to exercise its jurisdiction and resolve a justiciable question and, so long as the complaint states a case belonging to a general class over which the authority of the court extends, jurisdiction attaches. *Id.* However, subject matter jurisdiction may be challenged at

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any time (*Catom Trucking, Inc. v. City of Chicago*, 2011 IL App (1st) 101146, ¶ 27), and such a challenge presents a legal question which we review *de novo*. *Millennium Park Joint Venture, LLC v. Houlihan*, 241 Ill. 2d 281, 294 (2010).

¶ 11 In this case, there is no doubt the circuit court had subject matter jurisdiction over the negligence action filed by plaintiff. *Health Cost Controls*, 307 Ill. App. 3d at 588. That said, plaintiff claims the circuit court lost subject matter jurisdiction because defendant filed a notice of rejection of the arbitration award entered in plaintiff's favor, and had her costs waived by providing false information.

¶ 12 Defendant complied with Supreme Court Rules governing the filing of a notice of rejection of an arbitration award. Supreme Court Rule 93(a) provides:

"Within 30 days after the filing of an award with the clerk of the court, *** any party who was present at the arbitration hearing, [upon paying the required costs,] may file with the clerk a notice of rejection of the award and request to proceed to trial." Ill. S. Ct. Rule 93(a) (eff. Jan. 1, 1997).

Further, upon proper application of a poor person, the court, in its discretion, may waive the costs due upon rejection of the award. Ill. S. Ct. R. 93(c) (eff. Jan. 1, 1997).

¶ 13 Here, the arbitration award in favor of plaintiff was filed with the clerk of the circuit court on February 24, 2010. Defendant filed her notice of rejection of the award that same day and had her filing costs waived upon applying to sue or defend as an indigent person, thus complying with the timing and cost provisions of Supreme Court Rule 93. Ill. S. Ct. R. 93(a), (c) (eff. Jan. 1, 1997).

¶ 14 Plaintiff, nonetheless, maintains that because defendant allegedly provided false information on her application to sue or defend as an indigent person, the court was deprived of jurisdiction over the cause. Although the record shows a discrepancy between the information on defendant's fee waiver application, averring that she does not own real estate (January 23, 2010), and her admission during discovery that she owns a parcel of property located at 9860 South Winston Avenue, in

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Chicago (August 27, 2010), plaintiff has cited no authority to support her claim that this adversely affected the jurisdiction of the circuit court to consider the case. We observe to the contrary that once a court acquires jurisdiction, it retains jurisdiction to issue all necessary orders, and the subsequent occurrence of fraud, concealment, or perjury does not render its order void. *Vulcan Materials Co. v. Bee Construction*, 96 Ill. 2d 159, 165 (1983). Thus, we find no merit to plaintiff's claim regarding the circuit court's jurisdiction in this case.

¶ 15 Plaintiff next contends the circuit court abused its discretion in allowing discovery after the rejection of the award because of the earlier order barring defendant from conducting discovery. We disagree.

¶ 16 After the mandatory arbitration process was completed, this case returned to the trial call. On August 5, 2010, the circuit court entered a case management order setting forth a time line for the parties' discovery so that the case could proceed to a jury trial. Such an order was fully within the circuit court's discretion. The prior order, which was entered before mandatory arbitration, was subject to review and could be vacated by its own terms. Plaintiff has not demonstrated that the circuit court abused its discretion.

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

¶ 18 Affirmed.