

No. 1-12-2237

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(3)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

MELVIN CORHN,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	
)	
JOHN C. GOODMAN and HOWARD POMPER,)	
)	
Defendants-Appellees,)	09 L 989
)	
<hr/> JOHN C. GOODMAN and HOWARD POMPER,)	
)	
Third Party Plaintiffs-Appellees,)	
)	
v.)	
)	
GINA L. REYNOLDS and KATZ LAW OFFICES, LTD.,)	Honorable
)	Kathy M. Flanagan,
Third Party Defendants-Appellees.)	Judge Presiding.

PRESIDING JUSTICE NEVILLE delivered the judgment of the court.
Justices Hyman and Pierce concurred in the judgment.

ORDER

¶ 1 *Held:* A second, successive post-judgment motion does not extend the time in which an appellant must file his notice of appeal. An untimely notice of appeal does not confer jurisdiction on the appellate court to review the order appealed. An appellant who moved to amend his pleadings forfeits review of an order denying the motion to amend when the appellant failed to include proposed amended pleadings in the record on review.

¶ 2 Melvin Corhn sued John Goodman for legal malpractice. The trial court granted Goodman's motion for summary judgment. Corhn, *pro se*, filed a post-judgment motion, which the trial court denied. Corhn then filed a motion to amend his pleadings. The trial court denied the motion and Corhn appealed, challenging the rulings on both the motion for summary judgment and the motion to amend the pleadings.

¶ 3 We find that this court lacks jurisdiction to review the order granting Goodman's motion for summary judgment. Corhn has not presented an adequate record for this court to review the order denying his motion to amend the pleadings. Accordingly, we affirm the trial court's judgment.

¶ 4 BACKGROUND

¶ 5 Corhn drove a shuttle bus for Aimbridge Employee Service Corporation, which managed the Wyndham O'Hare Hotel. On June 23, 2005, a taxi struck the bus while Corhn was driving the bus. In accord with Aimbridge's policy, an Aimbridge employee took a sample of Corhn's saliva for drug testing. On June 27, 2005, the laboratory reported that the saliva tested positive for cocaine. Corhn asked to have a new sample tested. Aimbridge offered to have the original sample retested by a different laboratory. Corhn declined the offer. Aimbridge fired Corhn on July 1, 2005.

¶ 6 In 2006, Corhn hired Goodman to help him sue Aimbridge for racial discrimination. Corhn, who is black, alleged that Aimbridge did not require on-site drug testing for a white shuttle bus driver who got into an accident in 2004. Aimbridge responded that it instituted new procedures in

January 2005, and since that date Aimbridge tested on-site every driver who got into an accident. Because Corhn failed to produce any contrary evidence, in January 2008, the trial court granted Aimbridge's motion for summary judgment on Corhn's complaint.

¶ 7 In 2009, Corhn hired a new attorney to help him sue Goodman. Corhn alleged that Goodman failed to depose some available witnesses. The new attorney sought leave to withdraw as counsel, due to irreconcilable differences. The trial court granted the attorney leave to withdraw in 2010, and Corhn proceeded *pro se*.

¶ 8 Goodman moved for summary judgment on the complaint. He supported the motion with a transcript of Corhn's deposition, in which Corhn admitted that he knew of no indication that Aimbridge had mistreated any of the other black drivers. Corhn admitted that he signed an agreement that permitted Aimbridge to fire him if he tested positive for narcotics, and, in November 2004, Aimbridge issued a notice of its new policy for on-site drug testing after accidents. Corhn did not know of any driver who had an accident after January 2005 and who did not undergo on-site drug testing just like Corhn's test. Corhn did not know of any such driver for whom Aimbridge tested a new sample, taken several days after the accident.

¶ 9 On February 1, 2012, the trial court granted Goodman's motion for summary judgment, finding that Corhn had not presented evidence to rebut Goodman's evidence that Corhn's suit against Aimbridge had no chance of success, regardless of Goodman's acts. Corhn filed a timely notice of appeal, but he voluntarily dismissed the appeal. On February 17, 2012, Corhn filed a post-judgment motion in the trial court objecting to the order granting Goodman summary judgment. The trial court denied the motion by order dated February 27, 2012.

¶ 10 On March 26, 2012, Corhn filed a second post-judgment motion, in which he sought leave to amend his pleadings. He did not file proposed amended pleadings. The trial court denied the motion on July 23, 2012. On August 2, 2012, Corhn filed the notice of appeal that brings this case before this court.

¶ 11 ANALYSIS

¶ 12 In his brief on appeal, Corhn primarily challenges the ruling on the motion for summary judgment. The notice of appeal does not confer jurisdiction on this court to review the trial court's ruling on that motion. Supreme Court Rule 303 grants this court authority to review a judgment if the appellant files a notice of appeal within 30 days of the disposition of the appellant's post-judgment motion. Ill. S. Ct. R. 303 (eff. June 4, 2008). But here, following the disposition of his post-judgment motion, Corhn filed a second post-judgment motion and not a notice of appeal.

¶ 13 Our supreme court addressed a similar circumstance in *Sears v. Sears*, 85 Ill. 2d 253 (1981), as the appellant in that case also filed a second post-judgment motion after the denial of his first post-judgment motion. The *Sears* court held:

"A second post-judgment motion (at least if filed more than 30 days after judgment) is not authorized by either the Civil Practice Act or the rules of this court and must be denied. [Citation.] There is no provision in the Civil Practice Act or the supreme court rules which permits a losing litigant to return to the trial court indefinitely, hoping for a change of heart or a more sympathetic judge. Permitting successive post-judgment motions would tend to prolong the life of

a lawsuit — at a time when the efficient administration of justice demands a reduction in the number of cases pending in trial courts — and would lend itself to harassment. There must be finality, a time when the case in the trial court is really over and the loser must appeal or give up. Successive post-judgment motions interfere with that policy. And justice is not served by permitting the losing party to string out his attack on a judgment over a period of months, one argument at a time, or to make the first motion a rehearsal for the real thing the next month. In the interests of finality, and of certainty and ease of administration in determining when the time for appeal begins to run, we reaffirm the rule *** that successive post-judgment motions are impermissible when the second motion is filed more than 30 days after the judgment or any extension of time allowed for the filing of the post-judgment motion." *Sears*, 85 Ill. 2d at 259.

¶ 14 Under *Sears*, the second post-judgment motion here did not extend the time for filing the notice of appeal. Because Corhn did not file a notice of appeal within 30 days of the February 27, 2012, order disposing of his post-judgment motion challenging the ruling on the motion for summary judgment, this court lacks jurisdiction to review the order granting the motion for summary judgment.

¶ 15 In his second post-judgment motion, Corhn requested leave to amend his pleadings. If we treat the motion as a post-judgment motion under section 2-1401 of the Code of Civil Procedure (735

ILCS 5/2-1401 (West 2012)), we have jurisdiction to review the order denying the motion. See *Sarkissian v. Chicago Board of Education*, 201 Ill. 2d 95, 101-02 (2002); Ill. S. Ct. R. 304(b)(3) (eff. February 26, 2010). However, that limited jurisdiction applies only to the issues raised by the 2-1401 motion, which initiated a new legal proceeding. See *Sarkissian*, 201 Ill. 2d at 102.

¶ 16 In the second post-judgment motion, Corhn asked the trial court for leave to amend his pleadings. However, he failed to present the trial court or this court with the proposed amendment to his pleadings. Accordingly, we find that he has forfeited review of the order and the issue of whether the trial court should have allowed him to amend his pleadings. *Beahringer v. Roberts*, 334 Ill. App. 3d 622, 630 (2002).

¶ 17

CONCLUSION

¶ 18 This court lacks jurisdiction to review the trial court's order granting summary judgment in favor of Goodman. Because Corhn has not presented any proposed amendment to any of his pleadings, he has forfeited review of the issue of whether the trial court erred when it denied him leave to amend his pleadings. Therefore, we affirm the trial court's judgment.

¶ 19 Affirmed.