

2013 IL App (2d) 121353-U
No. 2-12-1353
Order filed June 11, 2013

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
SECOND DISTRICT

HOWARD E. LEVENTHAL,)	Appeal from the Circuit Court of
)	Lake County.
Plaintiff-Appellant,)	
)	
v.)	No. 11-L-596
)	
GENE BYRON SCHENBERG and SUSAN)	
SCHENBERG,)	Honorable
)	Margaret J. Mullen,
Defendants-Appellees.)	Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Justices Hutchinson and Schostok concurred in the judgment.

ORDER

¶ 1 *Held:* Plaintiff's claim that the trial court erred in denying his request for sanctions and awarding sanctions to defendants was not well founded in that defendant failed to prove plaintiff's exhibits were fabricated and, moreover, plaintiff's claims were forfeited by his failure to comply with applicable Supreme Court Rules.

¶ 2 Plaintiff, Howard E. Leventhal, proceeding *pro se*, appeals an order awarding defendants, Gene Byron Schenberg and Susan Schenberg, sanctions under Illinois Supreme Court Rule 137 (eff. Feb. 1, 1994) and denying him Rule 137 sanctions against defendants. We affirm.

¶ 3 The record on appeal consists of the common-law record and a report of the hearing of August 28, 2012, on the parties' cross-petitions for Rule 137 sanctions. The first entry in the common-law record, an order dated June 19, 2012, recites that the parties had appeared in court that day; that defendants had filed a Rule 137 petition on March 29, 2012; that plaintiff had filed a Rule 137 petition on May 9, 2012; and that a hearing on the petitions was set for July 24, 2012. From the rest of the record, we can state that plaintiff's complaint, filed July 11, 2011, sought to recover "wages" that defendants allegedly owed him for the time that he spent litigating various actions that in some way involved defendants. The trial court entered a judgment of some sort on the complaint, adverse to plaintiff, sometime before June 19, 2012.¹ On August 28, 2012, after an evidentiary hearing, the trial court awarded defendants \$6,727.17 and denied sanctions to plaintiff. Later, the court denied plaintiff's motion to reconsider, and he timely appealed.

¶ 4 We note first that plaintiff's appellant's brief violates the applicable rules for briefing, in two respects. The statement of facts does not set out "the facts necessary to an understanding of the case *** fairly and without argument" (Ill. S. Ct. R. 341(h)(6) (eff. July 1, 2008)) but consists almost entirely of argument with next to no facts. Second, the argument section generally fails to cite to the pages of the record on which the contentions of error are based (see Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2008)). We admonish plaintiff that proceeding *pro se* does not relieve him of his obligation to

1

Plaintiff's brief sheds no light on the underlying litigation. Defendants' brief states that plaintiff voluntarily dismissed his complaint on May 17, 2012, after the parties had filed their cross-petitions for Rule 137 sanctions. However, this statement is improper because it is not supported by anything in the record on appeal. See *In re J.S.*, 267 Ill. App. 3d 145, 151 (1994).

follow the supreme court rules. See *Coleman v. Akpakpan*, 402 Ill. App. 3d 822, 825 (2010).

Nonetheless, we shall address the merits of his appeal.

¶ 5 Plaintiff contends first that the sanctions award was improper because defendants failed to follow a local rule requiring them to provide him and the trial court, in advance of the hearing, any writings in support of their Rule 137 petition and citations to any case law upon which they intended to rely at the hearing. See Lake Co. Cir. Ct. R. 2.02 (Dec. 1, 2006). However, as far as the record discloses, plaintiff did not raise this objection until his motion to reconsider the judgment. Arguments raised for the first time in a motion to reconsider are forfeited. *Caywood v. Gossett*, 382 Ill. App. 3d 124, 134 (2008). The trial court properly refused to allow plaintiff to “sandbag” the court and defendants by proceeding to a hearing on the merits and then, after receiving an unfavorable outcome, claiming for the first time that the prehearing proceedings were defective.

¶ 6 Plaintiff also appears to argue that the sanctions award was improper because defendants never answered his complaint. Plaintiff states, “Under *Heckinger v. Welsh*, 339 Ill. App. 3d 189 [191 (2003)], ‘[t]here was no viable cause for sanctions under Rule 137 if the movant did not respond to the offensive pleading.’ ” However, the passage that plaintiff quotes from our opinion was *not* our holding; it was the trial court’s holding, which we *rejected*. *Id.* We held that a defendant need not file responsive papers before seeking sanctions. *Id.* at 192. Thus, the opinion that plaintiff cites to support his argument actually refutes it. Even assuming that plaintiff is correct that defendants did not answer his complaint—an assertion with no support in the limited record—it does not matter.

¶ 7 Plaintiff contends finally that the sanctions award was unsupported by the evidence. Plaintiff’s terse argument on this score consists of assertions, with minimal citation to the record,

that defendants' exhibits were "fabricated" and proved none of their claimed expenses. Because plaintiff has failed to articulate a coherent argument supported by citations to specific matters of record or to pertinent legal authority, this contention of error is forfeited. We are not obligated to search the record on an appellant's behalf or to act as his advocate. See *Gandy v. Kimbrough*, 406 Ill. App. 3d 867, 875 (2010); *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993). In any event, having read the transcript of the evidentiary hearing, we reject plaintiff's reckless charge of "fabrication." At the hearing, defendants conceded that a few of their exhibits were not pertinent to their petition for sanctions because they documented expenses that were not incurred in defending the present action. Defendants withdrew these exhibits, and the trial court did not consider them in calculating the sanctions. Plaintiff has shown no error.

¶ 8 For the foregoing reasons, the judgment of the circuit court of Lake County is affirmed.

¶ 9 Affirmed.