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FIRST DIVISION
November 10, 2014

No. 1-13-3535
2014 IL App (1st) 133535-U

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

DEANDRE HALL,)	
)	
)	Appeal from the
Plaintiff-Appellant,)	Circuit Court of
)	Cook County.
)	
v.)	
)	No. 11 L 4312
TIMOTHY J. CAVANAGH & ASSOCIATES,)	
P.C. d/b/a CAVANAGH LAW GROUP,)	
RODERICK FOWLER, REGINALD FOWLER,)	
and SHAWN BOGDANOVICZ,)	Honorable
)	Margaret Ann Brennan,
)	Judge Presiding.
Defendants-Appellees.)	

JUSTICE CONNORS delivered the judgment of the court.
Presiding Justice Delort and Justice Harris concurred in the judgment.

ORDER

Held: The circuit court erroneously granted defendants' motion to dismiss and motion for summary judgment against plaintiff, as there was a question of fact as to whether plaintiff could prove by clear and convincing evidence that he was decedent's son.

¶ 1 Plaintiff Deandre Hall filed a claim against Timothy Cavanagh & Associates, P.C. (Cavanagh Law) alleging that the law firm committed legal malpractice in a wrongful death case by wrongfully distributing the settlement proceeds to the decedent's brothers, Roderick Fowler,

Reginald Fowler, and Shawn Bogdanowicz (Fowler defendants). Plaintiff also made a claim for conversion of the settlement proceeds against the Fowler defendants. The trial court granted summary judgment in favor of Cavanagh Law, and granted the Fowler defendants' combined motion to dismiss pursuant to section 2-619.1 of the Code of Civil Procedure (Code) (735 ILCS 5/2-619.1 (West 2012)). The trial court additionally denied plaintiff's cross-motion for partial summary judgment. Plaintiff now appeals. For the following reasons, we reverse and remand.

¶ 2

I. BACKGROUND

¶ 3 On September 21, 2011, plaintiff filed an amended complaint against Cavanagh Law and the Fowler defendants. Count one of his complaint, directed at Cavanagh Law, stated that he was the son of decedent Reunond Fowler, that he was born June 10, 1991, and that he was the only rightful heir of decedent. Plaintiff contended that in November 2004, decedent was an inmate in the Cook County Jail and died in prison due to his inability to obtain the medical attention that he required. Plaintiff alleged that thereafter, Cavanagh Law entered into an attorney-client relationship with the Roderick Fowler, decedent's brother, to pursue a wrongful death action.

¶ 4 Plaintiff further alleged that in 2005, Cavanagh Law filed a lawsuit on behalf of the Fowler defendants against Cook County Sheriff and the County of Cook, and that in March 2010, the parties entered into a settlement agreement for \$450,000. Plaintiff contends that Cavanagh Law disbursed the settlement funds to the Fowler defendants, but that it knew or should have known that plaintiff was the sole beneficiary of the settlement proceeds. Plaintiff alleged that on May 6, 2005, Cavanagh Law possessed an affidavit from Roderick Fowler that stated that "[u]pon information and belief, [decedent] had a minor child whose name and address are unknown." Plaintiff alleged that this affidavit put Cavanagh Law on notice that a true and

rightful heir existed other than decedent's brothers. Plaintiff alleged that Cavanagh Law had a duty to exercise a reasonable degree of care, skill, and diligence in handling the wrongful death case, and that Cavanagh Law breached its duty to plaintiff, which left plaintiff with no opportunity to obtain compensation for his father's alleged wrongful death.

¶ 5 In count two of plaintiff's amended complaint, directed against the Fowler defendants, plaintiff alleged that each of the Fowler defendants knew that plaintiff was the son of decedent and that he was living in Chicago at the time of the prosecution of the wrongful death case. Plaintiff alleged that the Fowler defendants had a duty "to exercise their fiduciary duty to a reasonable degree of care, skill and diligence in handling the wrongful death case and settlement." Plaintiff further alleged that he had an absolute and unconditional right to immediate possession of his monetary property, and that the Fowler defendants' actions in converting the funds to their own use was purposeful, deliberate, willful, and wanton.

¶ 6 On February 29, 2012, plaintiff filed a motion for DNA testing of the Fowler defendants. Plaintiff filed an affidavit in support of his motion for DNA testing that stated that his father was decedent, and that his earliest recollections after the age of three included those of the decedent. He stated that his father took him to the zoo on many occasions, that he visited decedent in an alcohol rehabilitation center and stayed the weekend there with him in 2000, that decedent gave plaintiff gifts on holidays and his birthday, that decedent played childhood games with him, and that plaintiff received social security payments after decedent's death. Plaintiff attached an undated alleged picture of him and decedent.

¶ 7 Also on June 28, 2012, plaintiff filed an affidavit from Kimberly Hall, his biological mother. Hall stated that she had a relationship with decedent that lasted many years and that she produced a child as a result of that relationship. She stated that decedent is plaintiff's father, and

that during his life, decedent always acknowledged and admitted to the paternity of plaintiff. Hall further stated that plaintiff received love and affection from decedent, and that all members of decedent's family knew that plaintiff was his son. Hall stated that plaintiff received monthly social security payments after decedent's death, and that decedent made plaintiff the primary beneficiary to his 401(k) account where he was employed prior to going to jail. Hall attached the same undated photo as plaintiff did in his affidavit.

¶ 8 On July 11, 2012, the Fowler defendants moved to strike the affidavits of plaintiff and his mother pursuant to Illinois Supreme Court Rule 191 (eff. Jan. 4, 2013). The Fowler defendants argued that the affidavits of plaintiff and his mom were insufficient to establish paternity because "they do not allege facts to support a conclusion of paternity but only allege the conclusion itself as well as hearsay and other incompetent statements." The Fowler defendants also contended that the affidavits were not accompanied by any documents as required by Rule 191.

¶ 9 On June 3, 2013, the trial court noted that the parties stipulated that the DNA testing was performed on Roderick Fowler and that the results of the testing were consistent with individuals that did not share the same male lineage, and that if such testing was to be performed on the other two Fowler defendants, the results would be the same.

¶ 10 On June 26, 2013, the Fowler defendants filed a combined section 2-619.1 motion to dismiss count two of plaintiff's amended complaint pursuant to sections 2-619(4)(5), (9) and 2-615 of the Code. Under section 2-619(9), the Fowler defendants argued that plaintiff did not have standing to bring a conversion action because he could not prove he was decedent's son, and therefore could not prove the first element of the conversion claim, which is that he had an absolute and unqualified right to possession of the property. Defendants pointed to the DNA testing that found that the brothers shared no common male lineage with plaintiff. In support of

their motion, the Fowler defendants submitted documents filed in the wrongful death case, including the order approving the settlement and distribution of settlement funds entered by Judge Egan, the petition to appoint a special administrator, the affidavit of heirship dated October 27, 200 and signed by Roderick Fowler, in which he stated that decedent was survived by his mother and three brothers and that there were no other heirs, and the order appointing Roderick Fowler as special administrator of decedent's estate in the wrongful death case. The Fowler defendants also submitted the results of the DNA testing in support of their motion to dismiss.

¶ 11 On June 27, 2013, Cavanagh Law filed a motion for summary judgment, contending that the burden was upon plaintiff to present clear and convincing evidence to establish paternity and that he did not meet that burden, and thus had no standing to bring a legal malpractice claim against the law firm. Cavanagh Law submitted documents filed in the wrongful death case, as well as affidavits from each of the Fowler defendants, all dated January 26, 2010, stating that they did not know if decedent ever had a child.

¶ 12 On July 15, 2013, plaintiff responded to both Cavanagh Law's motion for summary judgment as well as the Fowler defendants' combined motion to dismiss. Plaintiff also filed a cross-motion for partial summary judgment on the issue of paternity. In support of his motion, plaintiff filed several documents. He filed an affidavit from Betty Thornton, the office manager at Arlington Lexus, where decedent was employed before his death. Thornton testified in her affidavit that she was familiar with personnel files of employees and that the files are kept in the regular course of business. She testified that decedent was an employee of Arlington Lexus and that he filled out several documents relating to employee benefit matters. The documents were attached to her affidavit. The first document was a 401(k) plan designation of decedent, dated

January 7, 1993, in which he identified his sole beneficiary as plaintiff, who is listed as his "son." The form indicated that decedent's social security number was 426-31-6117. Plaintiff also submitted a "Certification of Extract From Records" signed by Mary Coonda, the custodian of records of the Social Security Administration. Coonda certified in her affidavit that the social security number listed on decedent's 401(k) plan designation was a valid social security number and that plaintiff was entitled to child benefits effective November 2004 through June 2010. Coonda stated that the records had been destroyed pursuant to the agency's record retention and disposition program, but that that the benefit distributions were listed in the records.

¶ 13 Plaintiff also submitted the affidavit of Pearlie Fowler, who stated that she was a member of the Fowler family and raised Roderick Fowler. Her sister raised decedent. Pearlie averred in her affidavit that decedent introduced her to his girlfriend, Kimberly Hall, when they were dating. After Kimberly Hall gave birth to plaintiff, decedent told Pearlie the baby was his son. Pearlie stated that Roderick knows that plaintiff is the son of decedent because he was in the same room when decedent and plaintiff were together, and that Roderick did some activities with plaintiff after decedent died. Pearlie stated that it was "crazy" for Roderick to say that plaintiff is not decedent's son. She further averred that decedent always acknowledged and admitted during his life to his paternity of plaintiff.

¶ 14 Plaintiff also submitted the discovery deposition of Anthony Jerome Fowler, who testified that he was decedent's second cousin, and Pearlie Fowler is his mother. He testified that he lived with decedent from 1987 to 1993, and that during that time decedent dated Kimberly Hall, who is plaintiff's mother. Fowler testified that he was aware that Kimberly got pregnant, and that decedent told him the baby was his son. Fowler testified that decedent treated the baby as his son and brought him to the house often. Fowler testified that Roderick was over at the

house on more than one occasion when plaintiff was visiting decedent. Fowler further testified that he was familiar with decedent's handwriting. Fowler then identified the handwriting on decedent's 401(k) beneficiary designation as that of decedent's.

¶ 15 Plaintiff submitted both the affidavit and the discovery deposition testimony of Kimberly Hall, plaintiff's mother. In her deposition, Hall stated that she had sexual relations with decedent, and no one else, between 1988 and 1991, and that plaintiff was conceived in September 1990. Hall testified that she filed an action against decedent in 2000 or 2001 because he would not consistently give her financial support for plaintiff, but she did not pursue the case.

¶ 16 Plaintiff also attached his own affidavit to his cross motion for partial summary judgment. Plaintiff further attached the affidavit of heirship dated May 6, 2005, which was created by and in the possession of Cavanagh Law, in which Roderick Fowler stated that decedent "on information and belief had a minor child whose name and address are unknown" and that the heirs of decedent's estate were the Fowler defendants "and minor child."

¶ 17 On August 19, 2013, the Fowler defendants submitted a "response and reply" of the cross summary judgment motions. Defendants stated that "[w]hile it is not typically the role of the court in summary judgment or summary determination to determine disputed issues of fact, by virtue of the cross-motions, the parties have asked the court to rule as a matter of law on the issue of proof of paternity by clear and convincing evidence." Defendants then stated that plaintiff's evidence on this issue was inadmissible because plaintiff's affidavits did not comply with Illinois Supreme Court Rule 191 (eff. Jan. 4, 2013).

¶ 18 In reply to the Fowler defendants' response to his motion for summary judgment, plaintiff contended that the court cannot decide disputed questions of fact or weigh the evidence on cross motions for summary judgment. Plaintiff argued that the defendants were wrong when they

asserted that a court may decide disputed questions of fact when parties file cross motions for summary judgment and decide the issue as it would on a motion for a directed verdict. Plaintiff contended that his documentary evidence was admissible and that the evidence was sufficient for the court to find in plaintiff's favor on the issue of paternity. Specifically, plaintiff contended that the certified extract from the Social Security Administration was admissible because it was a record of social security benefits payments that had been authenticated. Plaintiff further contended that Thornton's original affidavit was admissible under the business records exception to the hearsay rule.

¶ 19 On October 12, 2013, plaintiff filed a motion to supplement his brief in support of his motion for summary judgment with a newly acquired affidavit. The affidavit was from Anne Bogdanowicz, who stated that she was decedent's biological mother. Bogdanowicz stated that she was told by Pearlie Fowler in 2009 that decedent had a son called "Andre." She further stated that Hall contacted her through Facebook in 2009 asking if decedent was her son. Bogdanowicz also stated that Roderick recently admitted to her that he was told by Pearlie Fowler that decedent had a son and that Roderick went to see plaintiff when plaintiff was approximately five years old.

¶ 20 On November 5, 2013, a hearing was held on the cross motions for summary judgment and the motion to dismiss. The trial court found that the affidavits of Roderick Fowler and Anne Bogdanowicz failed to comply with Rule 191, and those two affidavits were stricken. The court found that the threshold issue on both motions for summary judgment was "whether or not there was clear and convincing evidence that [plaintiff] is an heir of [decedent]." The court found that in order to present that issue, it could only consider evidence that could rightfully be put before the trier of fact and could not consider anything speculative. The trial court found that the

evidence before the court was Judge Egan's order concerning heirship, the inconclusive DNA test, and plaintiff's birth certificate that did not identify decedent as the father

¶ 21 The court further found that the social security evidence was not presented in a way that was admissible, and that even if it was to be considered, it was "inconclusive for the issue of clear and convincing to show paternity." The court further found that the way the 401(k) evidence was presented to the court was inadmissible, but even if it were to consider that evidence, it did not rise to the level of clear and convincing evidence.

¶ 22 At the end of the hearing, the trial court noted: "I find that [plaintiff] lacked standing to pursue this claim and summary judgment is granted in favor of [Cavanagh Law]." The trial court further noted that "just for clarity's sake as to the issues raised by the Fowler defendants as far as conversion, a necessary element has not been met." The trial court stated that "based on Judge Egan's order finding that [the Fowler defendants] were entitled to the asset of this wrongful death settlement, there's no possible claim for conversation based upon that order."

¶ 23 Counsel for the Fowler defendants then asked, just to clarify, whether the court was entering judgment against plaintiff on the Fowler defendants' motion to dismiss. The court answered, "Correct." It then went on to say "I am finding actually in favor of the defendants, just for clarity's sake, on plaintiff's motion for summary judgment, just so that everything gets wrapped up." The brief written order states: "This matter coming before the Court on cross-motions for summary judgment and motions to dismiss, IT IS SO ORDERED: (1) For the reasons stated in the record, this Court finds in favor of all Defendants; (2) This matter is dismissed with prejudice."

¶ 24 Accordingly, the trial court granted the Fowler defendants' combined motion to dismiss, granted Cavanagh Law's motion for summary judgment, and denied plaintiff's cross-motion for summary judgment against all defendants. Plaintiff now appeals these rulings.

¶ 25

II. ANALYSIS

¶ 26 The trial court's grant of Cavanagh Law's motion for summary judgment, its grant of the Fowler defendants' motion to dismiss, and its denial of plaintiff's cross-motion for partial summary judgment, were all based on its finding that plaintiff failed to prove by clear and convincing evidence that decedent was his father. We look first at the trial court's grant of summary judgment to Cavanagh Law and denial of partial summary judgment to plaintiff on the issue of paternity.

¶ 27 Summary judgment may be granted on the issue of paternity in Illinois if the pleadings, depositions, admission on file, and affidavits, if any, show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. *Andrews v. Cramer*, 256 Ill. App. 3d 766, 769 (1993); *People ex rel. Stockwill v. Keller*, 251 Ill. App. 3d 796, 798 (1993). Facts contained in an affidavit in support of a motion for summary judgment which are not contradicted by counteraffidavits are admitted and must be taken as true for purposes of the motion. *Keller*, 251 Ill. App. 3d at 798. "Where the evidence before the court at the hearing for summary judgment would constitute all the evidence before the court at trial, and on that evidence the court would be required to direct a verdict, then summary judgment should be entered even though the evidence would otherwise raise a genuine issue of material fact." *Id.*

¶ 28 When parties file cross-motions for summary judgment, they agree that only a question of law is involved and invite the court to decide the issue based on the record. *Pielet v. Pielet*, 2012 IL 112064, ¶ 28. However, the mere filing of cross-motions for summary judgment does not

establish that there is no issue of material fact, nor does it obligate a court to render summary judgment. *Id.* Summary judgment may be granted on cross-motions by the parties where "[i]t is clear that all material facts [are] before the court, the issues [are] defined; and the parties [are] agreed that only a question of law [is] involved." *Allen v. Meyer*, 14 Ill. 2d 284, 292 (1958). If that is not the case, the trial court is required to make an independent determination as to whether a genuine issue of material fact remains. *Haberer v. Village of Sauget*, 158 Ill. App. 3d 313, 317 (1987). On appeal from the entry of summary judgment, the standard of review is *de novo*. *Andrews*, 256 Ill. App. 3d at 769.

¶ 29 When parentage of a child is at issue in a civil action, the provisions of the Illinois Parentage Act of 1984 (Parentage Act) (750 ILCS 45/1.1 et seq. (West 2010)) shall apply. *In re N.C.*, 2013 IL App (3d) 120438, ¶ 16. A litigant must establish parentage by clear and convincing evidence. *U.S. Bank v. Lindsey*, 397 Ill. App. 3d 437, 454 (2007). This court has explained the "clear and convincing" standard, which applies in actions like this when a party seeks an adjudication of paternity after the death of the alleged father, stating:

"[P]roof by clear and convincing evidence has most often been defined as the quantum of proof which leaves no reasonable doubt in the mind of the trier of fact as to the truth of the proposition in question [citations]." *In re Estate of Ragen*, 79 Ill. App. 3d 8, 14 (1979).

¶ 30 The Parentage Act provides that: "[t]he parent and child relationship *** extends equally to every child and to every parent, regardless of the marital status of the parents." 750 ILCS 45/3 (West 2012). Accordingly, under the Parentage Act, a father-child relationship may be established in a number of ways; by presumption, by consent, or by judicial determination. *J.S.A v. M.H.*, 224 Ill. 2d 182, 198 (2007). Illinois courts have held that a written acknowledgement of

paternity is not required and that proof offered by way of testimonial and documentary evidence, uncontradicted by a disinterested witness, is sufficient to prove paternity. *Brice v. Estate of White*, 344 Ill. App. 3d 995, 997-98 (2003).

¶ 31 Before getting to the merits of this argument, we first note that a court "recognizes the drastic nature of a summary judgment order, especially in a paternity case where the credibility of the witnesses can be crucial." *Breese v. Dewey*, 223 Ill. App. 3d 356, 358 (1991). In those cases where this court has granted summary judgment on the issue of paternity, it has been noted that the defendant "at no time offered a scintilla of evidence by opposing affidavits or other pleadings and proof which would present the trial court with a genuine issue of material fact." *Breese*, 223 Ill. App. 3d at 357; *Keller*, 251 Ill. App. 3d at 800. In the case at bar, we believe that both parties have offered more than a "scintilla of evidence" by opposing affidavits and other pleadings so that this case should not have been disposed of by summary judgment. We believe a discussion of two cases regarding proof of paternity by clear and convincing evidence would be helpful here.

¶ 32 In *Lindsey*, 397 Ill. App. 3d at 454, decedent's name was not on the birth certificate of the beneficiaries of his estate. However, plaintiff admitted evidence *at trial* that included a valid, signed order of heirship from the probate court, testimony from several witnesses about decedent's paternal relationship with the putative children he raised with their mother, testimony from their mother that they lived together as husband and wife but never married, testimony that decedent signed public aid documents as the father of the children, testimony that decedent was listed on the school records, and finally testimony that decedent acknowledged the children as his own. *Lindsey*, 397 Ill. App. 3d at 455. The court found "it important to point out that [defendant] presented no evidence to rebut the evidence plaintiff admitted at trial." *Id.* The

court therefore found that the plaintiff proved by clear and convincing evidence that decedent was the children's father under the Parentage Act. *Id.* See also *Brice v. Estate of White*, 344 Ill. App. 3d 995, (2003) (court found that plaintiffs proved *at trial* by clear and convincing evidence that decedent was their father based on testimony from a disinterested person as well as the plaintiffs; the court also noted that there was no testimony that the decedent ever denied he was plaintiffs' father). This case was not dismissed at the pleading stage, but rather went to trial where similar evidence to the case at bar was presented in order to determine whether the plaintiff proved paternity by clear and convincing evidence.

¶ 33 In the case of *In re Estate of Olenick*, 204 Ill. App. 3d 291 (1990), the plaintiff claimed that her son was the decedent's sole surviving heir at law. She presented evidence *in her pleadings* that she began living with decedent in 1982, that the child was born in 1988, that since the child's birth they lived as a family unit, and that decedent acknowledged the child as his natural son. She also provided affidavits of parentage in which decedent acknowledged the child as his son, a hospital birth record naming the child as his son, and a birth certificate naming decedent as the father. *Olenick*, 204 Ill. App. 3d at 295. The administrator of the estate responded to the plaintiff's motion for summary judgment with affidavits from doctors that analyzed decedent's semen in June of 1987, which revealed that decedent was incapable of having children. The trial court granted the plaintiff's motion for summary judgment, finding that the child was decedent's son. On appeal, the Second District reversed, reminding the parties that if reasonable persons "may disagree upon inferences fairly drawn from the uncontroverted facts" a motion for summary judgment must be denied "and the resolution of such facts and inferences is to be made by the fact finder at trial, not the court considering the motion." *Olenick*, 204 Ill. App. 3d at 297. The court held that "although an appropriately authenticated

acknowledgment of parentage constitutes clear and convincing evidence of paternity, where, as in the instant case, material countervailing evidence is submitted, all the evidence must be weighed by the trier of fact to determine whether, at the conclusion of the trial, the acknowledgement still stands as 'proof which leaves no reasonable doubt in the mind of the trier of fact.' " *Olenick*, 204 Ill. App. 3d at 298 (quoting *In re Estate of Orzoff*, 116 Ill. App. 3d 264 (1983)). The court ultimately found that that the record demonstrated the existence of a genuine, triable material issue of fact "which required resolution by trial, and the entry of summary judgment must be reversed." *Id.*

¶ 34 Similarly here, we find that the record demonstrates the existence of a genuine, triable material issue of fact which requires resolution by trial. The evidence presented in this case by plaintiff, in his responses to the defendants' motion to dismiss and summary judgment motion, as well as in his motion for partial summary judgment, included: (1) plaintiff's affidavit and deposition testimony saying he was decedent's son, (2) Hall's affidavit and deposition testimony saying she only had sexual relations with decedent during the time of plaintiff's birth and that plaintiff is decedent's son, (3) Pearlie Fowler's affidavit stating that plaintiff is decedent's son and that Roderick Fowler knew that plaintiff was decedent's son, (4) Anthony Fowler's discovery deposition stating that plaintiff is decedent's son and that Roderick Fowler knew that plaintiff was decedent's son, (5) a picture of plaintiff and decedent together, (6) a 401(k) plan designation form from decedent's place of work indicating plaintiff was his son and naming him as the sole beneficiary, (7) an affidavit from a Social Security Office employee confirming that social security benefits were paid from decedent's social security number to plaintiff after his death, and (8) an affidavit of Roderick Fowler from 2005 in which he stated that decedent's heirs include a minor child.

¶ 35 The evidence that defendants put forth to rebut plaintiff's evidence included: (1) documents from the wrongful death action in which decedent's heirs were determined to be only the Fowler defendants, and (2) affidavits from all three Fowler defendants stating they did not know of any children of decedent. We note that the Fowler defendants' affidavits arguably should not have been considered as the Fowler defendants were clearly interested parties. *Brice*, 344 Ill. App. 3d at 997-98 (proof offered by way of testimonial and documentary evidence, uncontradicted by a disinterested witness, is sufficient to prove paternity)

¶ 36 Looking at this evidence, even excluding the affidavits and other evidence that the trial court found inadmissible, we find that there is still a question of fact as to whether or not plaintiff could establish by clear and convincing evidence that he was decedent's son. In light of the fact that the "credibility of witnesses is crucial in paternity cases" (*Matter of Estate of Lukas*, 155 Ill. App. 3d 512, 521 (1987)), and that summary judgment is considered especially drastic in cases of paternity (*Breese*, 223 Ill. App. 3d at 358), we reverse the trial court's grant of summary judgment in favor of Cavanagh Law, and reverse the trial court's denial of plaintiff's motion for partial summary judgment.

¶ 37 We also find that the trial court's grant of the Fowler defendants' section 2-619.1 combined motion to dismiss, which was based solely on the issue of paternity, should also be reversed. We note, however, that even if the trial court were to find, after assessing the credibility of the witnesses, that plaintiff successfully established paternity, this order has no bearing on whether plaintiff can ultimately establish the claims he made against defendants in his amended complaint for legal malpractice and conversion.

¶ 38

III. CONCLUSION

No. 1-13-3535

¶ 39 For the foregoing reasons, we reverse the judgment of the circuit court of Cook County, and remand for further proceedings consistent with this order.

¶ 40 Reversed and remanded.