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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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SYLVIA REDSCHLAG,	)	Appeal from the Circuit Court
	)	of Winnebago County.
Plaintiff-Appellant,	)	
	)	
v.	)	No. 15-AR-228
	)	
INGRID NILSEN and ERWIN REDSCHLAG,	)	
JR.	)	Honorable
	)	Lisa R. Fabiano,
Defendants-Appellees.	)	Judge, Presiding.

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JUSTICE McLAREN delivered the judgment of the court.  
Justices Jorgensen and Spence concurred in the judgment.

**ORDER**

¶ 1 *Held:* (1) The trial court properly denied plaintiff's motion for leave to file a fourth amended complaint, as it had already given her several opportunities to amend, it had told plaintiff that the third amended complaint would be her last, and the third amended complaint was not significantly better than her previous ones; (2) we declined to reach the merits of plaintiff's argument that the trial court erred in dismissing her complaint, as her myriad briefing defects precluded review.

¶ 2 Plaintiff, Sylvia Redschlag, and defendants, Ingrid Nilsen and Erwin Redschlag, Jr. (Erwin), are the children and heirs of Hildegard Redschlag, who died on September 22, 2012. Hildegard's husband, Erwin Redschlag, Sr., died in 2002. Plaintiff appeals from the dismissal

with prejudice of her *pro se* third amended complaint. She contends that (1) the trial court erred in denying her leave to amend; and (2) the court erred in dismissing the complaint. We affirm.

¶ 3 On June 10, 2015, plaintiff, through counsel, filed a three-count complaint against defendants. Count I alleged generally that, after Hildegard died, plaintiff was appointed the executor of her estate; that, on June 30, 2014, Hildegard's house was sold and the proceeds divided equally among the three survivors; that the house was not involved in the ongoing probate proceeding applicable to Hildegard's other property; and that, although plaintiff had paid the property taxes, cleanup costs, and utility charges, defendants had not reimbursed her. Count II sought recovery in *quantum meruit* for the value of plaintiff's services. Count III sought reimbursement under a theory of unjust enrichment.

¶ 4 Plaintiff's counsel withdrew. Defendants entered their joint appearance. On October 22, 2015, plaintiff, now proceeding *pro se*, filed an amended complaint. It replicated the original one and added count IV, for tortious interference with an expectancy. This count repeated the allegations of the other counts and added the following facts. Plaintiff had reasonably expected that she would receive one third of the proceeds from the sale of Hildegard's house and the distribution of the remaining estate. However, defendants frustrated this expectation in the following ways. First, shortly before Hildegard died, Nilsen used duress to get her name added to Hildegard's checking account; after Hildegard died, Nilsen removed money from the account without paying any outstanding estate expenses. Second, Erwin twice removed tangible property from the house, including Hildegard's cash; cash memorial gifts; a signed copy of Hildegard's original will; documents relating to the estate; and some of plaintiff's property. Third, after the funeral and burial, Erwin, without any authority to do so, had Hildegard's remains rerouted to

another funeral home. Fourth, Nilsen had the estate's mail rerouted to her home in Colorado. Plaintiff alleged that she incurred costs for all these wrongful acts.

¶ 5 On May 3, 2016, defendants moved to dismiss the amended complaint. They contended first that the amended complaint was deficient in form, as it failed to state in a separate count each separate cause of action upon which separate relief could be granted (see 735 ILCS 5/2-603(b) (West 2016)). In particular, the counts did not distinguish between the defendants and required each to guess what facts or theories applied to him or her. Defendants contended next that each substantive count was legally deficient. Count II, for *quantum meruit*, failed to allege that plaintiff performed the alleged tasks for defendants' benefit; that they knew of or accepted any services; and that plaintiff suffered a quantifiable loss. Count III, for unjust enrichment, was deficient because unjust enrichment is not a separate cause of action and because the count did not clearly specify what benefits defendants unjustly received. Count IV, for tortious interference with an expectancy, did not allege that, before Hildegard's death, defendants did anything to interfere with plaintiff's expected *pro rata* inheritance or that she received less than her share; instead, the count claimed unsoundly that executor expenses were an expectancy.

¶ 6 On May 9, 2016, the trial court dismissed the amended complaint but allowed plaintiff to replead. On May 31, 2016, she filed an 11-page, single-spaced, eight-count second amended complaint. In summarizing the second amended complaint, we necessarily omit a great deal, much of which was repetitive in any event. Count I was for "Wrongful Ejectment" and alleged that Erwin had redirected Hildegard's remains to a different funeral home and had taken cash from inside the house; that on September 26, 2012, defendants obstructed plaintiff's access to the house, requiring her to hire a locksmith; that, on March 9, 2013, she discovered that the house had been burglarized and defendants had blocked her access; that Nilsen withdrew all the money

from the estate's checking account; and that plaintiff had paid more than her share of the taxes, utility charges, and upkeep costs on the home but defendants had not reimbursed her. Count I prayed for damages caused by defendants' "obstruction and interference" with the order appointing plaintiff executor of the estate.

¶ 7 Count II, for "*Quantum Meruit*," and count III, for "Unjust Enrichment," alleged that neither defendant shared any of the costs of selling Hildegard's house or reimbursed plaintiff for what she had spent. Count IV, for "Theft and Vandalism," alleged that, on September 22, 2012, and March 9, 2013, Erwin looted the house and stole property belonging to the estate and plaintiff, as detailed in count I. Count V was for "Undue Influence" and alleged that both defendants improperly influenced Hildegard to revise her will on June 20, 2012, causing plaintiff expenses. Count VI, for "Breach of Fiduciary Duties," alleged that Erwin redirected Hildegard's remains to a different funeral home; that Nilsen cashed checks that belonged to the estate and kept the proceeds herself; that both defendants breached their duties as fiduciaries; and that plaintiff incurred expenses as a result of these wrongful acts. Count VII, for "Common Fraud (Mail, Wire and Bank)," incorporated the previous counts and added that Nilsen had rerouted the estate's mail to her address; that she had misrepresented herself as the estate's executor; that Erwin had written checks on the estate's account; and that both defendants had tampered with online automatic-payment accounts (not specified), causing plaintiff expenses in correcting billing addresses and paying bills. Count VIII, for "Tortious Interference with Expectancy," relied on the facts alleged in the previous counts to assert that defendants had intentionally denied plaintiff her full share of the inheritance.

¶ 8 On June 20, 2016, defendants moved to dismiss the second amended complaint. They contended generally that it did not specify separate causes of action with separate grounds for

relief in separate counts. They contended specifically that count I did not set out a recognized cause of action; counts II and III failed for the same reasons as did the *quantum meruit* and unjust-enrichment counts in the first amended complaint; count IV did not plead a recognized cause of action; count V was “not germane to this court”; count VI did not allege the basis on which defendants were plaintiff’s fiduciaries; and count VIII did not allege that defendants had done anything to interfere with plaintiff’s one-third share of the inheritance or that she had not received her share. Apparently, the motion did not challenge count VII specifically.

¶ 9 On August 1, 2016, plaintiff filed her 15-page response to the motion. The response argued first that any deficiencies in the complaint’s form did not allow the court to dismiss it for failure to state a cause of action. The response then argued the following as to each count. (In summarizing the response’s arguments, we omit the lengthy and highly repetitive expositions in each one.) Count I sufficiently alleged that defendants had ousted plaintiff from the property, forcing her to regain rightful access at her expense; the count also alleged that defendants had obstructed the probate court’s order appointing her executor of Hildegard’s estate. Count II alleged that defendants knowingly accepted plaintiff’s payment of the taxes, utility charges, and maintenance expenses relating to Hildegard’s house and obtained benefits thereby. Count III pleaded that defendants had been unjustly enriched by the wrongful conduct alleged in the other counts. Count IV was based on criminal statutes that allowed compensation to the victims of theft. Counts V and VI were supported by statutes criminalizing the financial exploitation of an elderly or disabled person. Count VII was supported by criminal statutes prohibiting mail and wire fraud. Count VIII stated a cause of action because it alleged that, by declining to share the expenses of selling the house, defendants received disproportionate shares of the proceeds.

¶ 10 On August 25, 2016, the trial court held a hearing on defendants' motion to dismiss. The judge noted that, to the extent that plaintiff was alleging that defendants had interfered with the administration of the estate, the claim would belong to the estate, not plaintiff. Plaintiff agreed. The judge told plaintiff that the complaint would be dismissed and that plaintiff would have "one final time to amend the complaint to state a cause of action." The judge noted that the second amended complaint did not distinguish between claims on behalf of the estate and those on behalf of plaintiff personally and that it also had "numerous, numerous, numerous, numerous paragraphs that [were] not relevant." Also, it did not distinguish between the defendants and their respective liabilities. That day, the court dismissed the second amended complaint and allowed plaintiff to replead. Its order stated, "This is Plaintiff file [*sic*] attempt to replead."

¶ 11 On September 21, 2016, plaintiff filed her third amended complaint, which was 10 pages long, single-spaced, and in small print. We summarize it as follows, noting that we necessarily leave out a great deal (including much repetitive matter). Count I, for "Wrongful Ejectment," alleged that (1) defendants had obstructed plaintiff's access to the house and (2) Erwin, with Nilsen's complicity, twice broke into the house and looted it, both acts causing plaintiff expense and stress in regaining access. Count II, for "Theft," alleged that (1) between September 22, 2012, and March 9, 2013, Erwin looted the house of \$1,400 cash, plus personal property that had belonged to Hildegard; (2) between September 22, 2012, and September 26, 2012, he took from the house an antique telephone stand belonging to plaintiff; (3) on September 29, 2012, he took from the house more than \$1,000 in memorial gifts; (4) between September 22, 2012, and September 26, 2012, he "took and hid the original blue ink signed copy" of Hildegard's will and various financial documents; (5) between August 1, 2012, and September 22, 2012, he wrote and endorsed personal checks on the estate's account; (6) between September 25, 2012, and

September 26, 2012, Nilsen wrongfully removed personal documents from the house; (7) sometime in October 2012, Nilsen withdrew all the remaining money from the estate's account, causing checks written on the account to bounce; and (8) Nilsen fraudulently rerouted the estate's mail to her home and cashed checks belonging to the estate.

¶ 12 Count III, for "*Quantum Meruit*," incorporated the preceding counts and alleged further that on September 29, 2012, defendants told plaintiff that they wanted no part of the upkeep of Hildegard's house; defendants paid none of the expenses for upkeep and no taxes or utility charges; plaintiff performed all of these responsibilities; and defendants neither told her to cease work nor contributed to paying the expenses. Count IV, for "Unjust Enrichment," incorporated the allegations of the prior counts and asserted that defendants had unjustly enriched themselves. Count V, for "Tortious Interference with Expectancy," incorporated the allegations of the prior counts and alleged further that plaintiff had suffered damages.

¶ 13 On October 13, 2016, defendants moved to dismiss the third amended complaint. The motion's introduction stated that it was brought under section 2-615 of the Code of Civil Procedure (Code) (735 ILCS 5/2-615 (West 2016)), pertaining to dismissals for failure to state a claim on which relief can be granted. However, it contended first that the entire complaint should be dismissed because again it did not place separate causes of action in separate counts and because it contained numerous compound statements and several blank spaces, such as for damages. Thus, the motion asserted, because the complaint did not put defendants on notice of the facts that plaintiff relied on to recover, it did not state a cause of action.

¶ 14 The motion contended second that each count was legally insufficient, as follows. Count I was deficient because "wrongful ejection" is not a recognized cause of action and because plaintiff did not specify her damages or the legal basis for them. Count II, for "Theft," did not

state a cause of action and ran together separate claims against the separate defendants. Count III did not plead facts to show that plaintiff performed her acts for the benefit of defendants, and the facts that she pleaded showed that she did them as part of her responsibilities as the executor of Hildegard's estate. Further, plaintiff did not plead any facts to show that defendants accepted these services, as opposed to not asking her to stop them. Count IV was deficient because "unjust enrichment" is not a separate cause of action and the count did not state what benefits defendants had unjustly received. Also, although defendants' motion to dismiss was brought under section 2-615, for failure to state a cause of action, it contended that the subject matter of count IV should be resolved in the probate proceeding. Finally, count V was deficient because it did not allege that defendants had attempted to deny plaintiff her expected one-third share of the total inheritance, but stated only that she had incurred some expenses as the executor of the estate.

¶ 15 On November 21, 2016, plaintiff moved for leave to file an "Affidavit of Damages" and two complaints (collectively, the fourth amended complaint), one against each defendant. The affidavit stated that plaintiff was seeking "money damages or collection of taxes" and that "this cause of action [did] not exceed \$50,000.00."

¶ 16 On December 1, 2016, the court held a hearing. The judge turned first to defendants' motion. Defendants argued that the profusion of compound allegations made it essentially impossible for them to answer the third amended complaint. The judge stated that the first four counts were essentially unintelligible and that it was unclear what relief plaintiff was requesting; the fifth count did not state a cause of action for tortious interference with an expectancy. Thus, the entire third amended complaint would be dismissed.



¶ 17 The arguments turned to plaintiff's motion for leave to file the fourth amended complaint, including the affidavit of damages. Finding the fourth amended complaint no improvement over the previous ones, the judge denied the motion. After the trial court denied plaintiff's motion to reconsider, she timely appealed.

¶ 18 Defendants have not filed an appellee's brief. However, to the extent that we choose to consider the merits of the appeal, there is no impediment to our doing so. See *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976).

¶ 19 We address first plaintiff's argument that the trial court erred in refusing to allow her to file the fourth amended complaint. Plaintiff relies on section 2-616(a) of the Code, which states that, at any time before final judgment, "amendments may be allowed on just and reasonable terms." 735 ILCS 5/2-616(a) (West 2016). She invokes the general rule that leave to file an amended complaint should be granted if it will further the ends of justice. See *In re Estate of Hoover*, 155 Ill. 2d 402, 416 (1993). We disagree with plaintiff that the trial court erred in denying her a *fifth* opportunity to plead.

¶ 20 The trial court's decision to deny leave to amend a complaint will not be disturbed absent an abuse of discretion. *People ex rel. Hartigan v. E & E Hauling, Inc.*, 153 Ill. 2d 473, 505 (1992). The trial court should consider whether the proposed amendment would cure the defect in the original pleading; whether the amendment would prejudice or surprise other parties; whether the proposed amendment is timely; and whether previous opportunities to amend the pleading can be identified. *Id.*

¶ 21 Here, the trial court did not abuse its discretion in concluding that these factors weighed against allowing plaintiff to file the fourth amended complaint. The most obvious considerations were that (1) the court had already given plaintiff numerous opportunities to amend and (2) the

court had clearly notified her that she had but one more chance, a third amended complaint. Plaintiff's original complaint was filed on June 10, 2015. By August 25, 2016, she had filed two more complaints, which the court had determined were essentially unintelligible and, practically speaking, impossible for defendants to answer. After the hearing on that date, the court gave plaintiff one more opportunity to file a complaint in proper form. The court's oral and written pronouncements (although the latter was garbled) told plaintiff that, one year and two months after she had initiated this action, she must file a more concise, specific, and organized complaint or face a dismissal with prejudice.

¶ 22 Plaintiff filed a third amended complaint that the trial court reasonably concluded was not a significant improvement over her second amended complaint (or her first amended complaint). The court was not obligated to provide plaintiff yet another chance. See *Hirsch v. Feuer*, 299 Ill. App. 3d 1076, 1087 (1998) (no abuse of discretion in refusal to allow plaintiffs to file sixth amended complaint). We cannot say that the court abused its discretion in denying plaintiff leave to file the fourth amended complaint.

¶ 23 We turn to plaintiff's other argument on appeal: that the court erred in dismissing with prejudice her third amended complaint. We need not reach the merits of this argument, because plaintiff's presentation does not satisfy the rules for appellate briefing.

¶ 24 As must attorneys, *pro se* litigants must adhere to the rules of appellate briefing. *Twardowski v. Holiday Hospital Franchising, Inc.*, 321 Ill. App. 3d 509, 511 (2001). In general terms, this court is not a depository into which the appellant may dump the burden of argument and research. *Vilardo v. Barrington Community School District 220*, 406 Ill. App. 3d 713, 720 (2010). In particular terms, an appellant's arguments must be supported by citations to pertinent authority and to the pages of the record relied on. Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1, 2016).

Contentions supported by some argument but no authority do not conform to this rule. *Vilardo*, 406 Ill. App. 3d at 720.<sup>1</sup>

¶ 25 Here, plaintiff's brief does cite some general authority pertaining to the review of a dismissal for failure to state a cause of action. However, the specific contentions relating to the particular counts of the complaint fail to cite any legal authority pertinent to the cause of action purportedly stated in each count of the third amended complaint. In some instances, there are references to statutes that are not pertinent (such as criminal statutes that do not apply to civil suits). Plaintiff contends that each count of the third amended complaint gave defendants sufficient notice of her purported cause of action, but she does not explain why any one of them actually states a valid claim.

¶ 26 We acknowledge that the proceedings that led to the judgment of dismissal were not as clear or well organized as they might have been. The parties and the court alternated between focusing on whether the third amended complaint was in proper form (*e.g.*, separate and concise allegations) and considering whether the third amended complaint actually stated any cause of action with a basis in properly pleaded facts. However, it is plaintiff's burden on appeal to demonstrate error, and we shall not construct arguments on her behalf. Under the circumstances, we decline to disturb the judgment.

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<sup>1</sup> We note also that plaintiff's brief contains a three-page "Overview" that states facts without references to the pages of the record (see Ill. S. Ct. R. 341(h)(6) (eff. Jan. 1, 2016)); states facts that are outside of the record; is highly argumentative (see *id.*); and contains matters that are wholly irrelevant to the issues on appeal. Plaintiff's statement of facts is also highly argumentative; fails to cite the record for many of its assertions; and contains numerous allegations that are both unsupported by the record and irrelevant to the issues on appeal.

¶ 27 The judgment of the circuit court of Winnebago County is affirmed.

¶ 28 Affirmed.