2018 IL App (2d) 170818-U
No. 2-17-0818
Order filed December 3, 2018

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IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

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| RONALD R. SHEA,<br><br>Plaintiff-Appellant,<br><br>v.<br><br>CAROLYN SHEA KOEHLER, J. MICHAEL SHEA, SHEA C. MILLS, STEPHANIE L. KOEHLER, and OUR LADY OF THE ASSUMPTION,<br><br>Defendants<br><br>(Carolyn Shea Koehler, Defendant-Appellee). | ) | Appeal from the Circuit Court of Winnebago County.<br><br>No. 15-CH-988<br><br>Honorable Eugene G. Doherty, Judge, Presiding. |

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JUSTICE ZENOFF delivered the judgment of the court.
Justices Hutchinson and Birkett concurred in the judgment.

**ORDER**

*Held*: The Appellate Court affirmed the trial court's judgment in favor of the defendant in this suit to set aside a trust where the record was incomplete, certain arguments were forfeited, and the decision was not against the manifest weight of the evidence.

¶ 1 *Pro se* plaintiff, Ronald R. Shea,[1] appeals an order of the circuit court of Winnebago County finding against him and in favor of defendant, Carolyn Shea Koehler, after a bench trial in which Ronald sought to set aside amendments to their mother's trust based on Carolyn's alleged undue influence. We affirm.

¶ 2 I. BACKGROUND

¶ 3 A. The Trust and Its Amendments

¶ 4 On November 28, 1988, Phyllis Shea and her husband Gerald established a revocable living trust. Under its terms, their three children, Ronald, Carolyn, and J. Michael (Mike), were successor co-trustees and inherited as equal beneficiaries upon the death of either Phyllis or Gerald, whoever died last. Phyllis and Gerald amended the trust in March 1994 to name Ronald as successor trustee, with Carolyn and Mike to succeed Ronald if he was unable or unwilling to act as trustee. Gerald died on March 26, 2008.

¶ 5 Pertinent to this appeal, on June 6, 2008, Phyllis executed a third amendment to the trust, removing Ronald and Mike as successor trustees, appointing Carolyn and her husband, Douglas, as successor trustees, and reducing Ronald's and Mike's shares of the estate while increasing Carolyn's share. Then, in November and December 2010, while Ronald was living with Phyllis, Ronald drafted a fourth amendment to the trust, which Phyllis signed after conferring with an attorney in Geneva, Illinois.[2] The fourth amendment recited that the third amendment had been

[1] Ronald is licensed to practice law in California.

[2] Phyllis initialed and dated each page of the fourth amendment "2-28-11," but, curiously, her signature on the last page is not dated, and the notary purported to notarize Phyllis's signature on April 8, 2011. Although Ronald testified to those dates, he was not asked and did not explain why Phyllis's signature was notarized almost two months after she initialed the

"subject to the undue influence and deception" of Carolyn and Phyllis's attorney, who had violated Phyllis's "trust." The fourth amendment named Ronald as first successor trustee and Mike as second successor trustee, and gave Ronald and Mike each 33.33% of the estate upon Phyllis's death, with distributions of 25% of the estate to Carolyn and 4.16% to Carolyn's two children.

¶ 6 The next pertinent amendment to the trust is the sixth, dated November 22, 2011. It names Carolyn as first successor trustee and Ronald as second successor trustee. It distributes one-third of Phyllis's estate to Ronald, Carolyn, and Mike upon Phyllis's death. The last amendment to the trust is the seventh, dated May 17, 2013. Carolyn is named as the first successor trustee, and her daughter Shea C. Mills is named as second successor trustee. The seventh amendment contains two specific bequests: the lesser of 1% or $5,000 to Mike and the lesser of 0.5% or $2,500 to Ronald. The remainder of the estate is distributed as follows: 48% to Carolyn, 25% to Shea, 25% to Carolyn's other daughter Stephanie, and 2% to Our Lady of the Assumption Catholic Church (the church) in Beloit, Wisconsin.

¶ 7 Phyllis died in October 2015. On November 9, 2015, Ronald, through counsel, filed a complaint for rescission of the sixth and seventh trust amendments. The defendants in that complaint were Carolyn and Mike. Only Carolyn appeared. On January 21, 2016, Ronald sought leave to file an amended complaint to add the beneficiaries as defendants. On January 27, 2016, the court granted leave to amend, although neither the proposed amended complaint nor a filed amended complaint is included in the common law record. The record shows that the amended complaint and alias summonses were served on Mike, Shea, Stephanie, and the church. Of those

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pages. Even more curious, the sixth and seventh amendments recite that the fifth amendment was dated April 8, 2011. The third and fifth amendments to the trust are not part of the record.

defendants, only the church appeared and answered. Carolyn filed an answer to the amended complaint on June 6, 2016. The matter proceeded to a bench trial between Ronald and Carolyn on the amended complaint.

¶ 8 B. The Trial

¶ 9 At trial, it became clear that the amended complaint sought rescission of the sixth and seventh amendments to the trust. According to Ronald's opening statement, count I alleged Carolyn's undue influence, count II alleged Phyllis's lack of capacity, count III alleged constructive fraud, and count IV alleged tortious interference with an inheritance. At the commencement of trial, Ronald dismissed count II. With respect to the church, the court ruled that any decision that it made would dispose of the church's interest. That reasoning also applies to the other beneficiary-defendants who did not appear and were not defaulted.

¶ 10 1. Ronald's Testimony

¶ 11 During Ronald's testimony, it became apparent that he and Carolyn had engaged in other litigation (discussed below) and that there was considerable acrimony on Ronald's part. The court ruled that the events surrounding the other litigation were not relevant. In this appeal, Ronald refers to those other events as a conspiracy to isolate Phyllis from him. However, at trial, Ronald did not make an offer of proof as to such a conspiracy. We will provide additional facts concerning the conspiracy allegation in the analysis section of this Order. The following is a summary of Ronald's testimony without the frequent interruptions for objections and arguments that appear in the record.

¶ 12 Ronald testified that he moved from California into Phyllis's home in Roscoe, Illinois, in November 2011 to assist her because she was in failing physical health. According to Ronald, he was there approximately 19 days when Carolyn and her husband had him arrested and removed

from Phyllis's home. While he was in Phyllis's home, he explained to her the third amendment to the trust that she had signed reducing his share of the estate, whereupon, according to Ronald, Phyllis "wept for days."

¶ 13 Ronald testified that he acted as Phyllis's "scrivener" in preparing the fourth amendment, but he acknowledged that he drafted the parts of it relating to Carolyn's undue influence and the disposition of the estate. Ronald arranged for Phyllis to meet with the Geneva lawyer. Ronald testified that he stayed outside the lawyer's office while Phyllis met with the lawyer.

¶ 14 Ronald testified that he took screen shots of certain pages of Phyllis's brokerage accounts. Those pages were admitted into evidence over Carolyn's objection. Transactions in 2011 and 2012 showing withdrawals and "automatic transfers" were circled.

¶ 15 2. Mike's Testimony

¶ 16 Mike testified that he made many attempts to contact Phyllis in 2014 and 2015, but with one exception Phyllis never returned his calls.

¶ 17 3. Carolyn's Testimony

¶ 18 Under cross-examination as an adverse witness in Ronald's case-in-chief, Carolyn testified to the following. She and Phyllis had a close relationship. Carolyn was aware that she was Phyllis's power of attorney for property in 2008, but she was not aware that Phyllis had made another power of attorney in 2012, also appointing her. Carolyn testified that she never exercised the 2008 power of attorney.

¶ 19 Carolyn testified that, between 2011 and 2015, "age was catching up" with Phyllis. Phyllis sometimes had memory "issues," and Carolyn helped Phyllis with tasks such as balancing her checkbook, getting groceries, and taking her to doctors' appointments—"whatever she might need." Carolyn was available to Phyllis only 10 days per month until January 2013,

because she flew internationally as a flight attendant. According to Carolyn, beginning in 2013, Phyllis requested her to spend more time taking care of her. Carolyn testified that she took over from four nonfamily caregivers who were not reliable, although Carolyn continued to live in her own home in Sharon, Wisconsin. Then, from Thanksgiving of 2014 until Phyllis's death in 2015, Carolyn acted as Phyllis's around-the-clock paid caregiver, although Carolyn also testified that she was not Phyllis's exclusive caregiver.

¶ 20 Carolyn testified that she did not discuss with Phyllis how she should "leave her estate." According to Carolyn, Phyllis asked her to call the Agnew Law Office in Rockford, Illinois, shortly after Gerald's death, because Phyllis wanted to make sure that "things were in order." Carolyn recalled accompanying Phyllis to the law office on one occasion in 2008, when Phyllis met with attorney Doug Warren. Carolyn testified that she was present in Warren's office at Phyllis's request. Carolyn assumed that Warren drafted papers for Phyllis to sign, but she did not know that for sure. Carolyn denied taking Phyllis to Warren's office again in either 2011 or 2013.

¶ 21 Carolyn testified that she would occasionally write out checks for Phyllis to sign, and then, after December 2014, when Phyllis's physician declared Phyllis incompetent, Carolyn became a signatory on the account. The only extraordinary expenses that Carolyn recalled were for Phyllis's caregivers. Carolyn also testified that Phyllis did not wish to speak with either Mike or Ronald, so Carolyn would decline their phone calls on Phyllis's behalf.

¶ 22 4. Douglas Warren's Testimony

¶ 23 Douglas Warren, an Illinois attorney concentrating in estate planning and estate administration, testified in Ronald's case-in-chief. In 2008, Warren met with Phyllis to discuss the administration of Gerald's estate and her own estate planning requirements. Carolyn was

present for that meeting. Although Warren did not recall specifically, he thought that he would have prepared a will and powers of attorney for Phyllis. Warren did not recall whether Carolyn was present when Phyllis signed those documents.

¶ 24 Warren testified from his notes that he next met with Phyllis on October 19, 2011. According to Warren, Phyllis wanted to make changes to her estate plan. Warren explained that he had spoken with both Phyllis and Carolyn the previous August about making the changes. According to Warren, either Carolyn or Phyllis indicated that Phyllis's sons had procured changes to her estate plan that she wished to reverse. On August 19, 2011, Warren received a call from Carolyn inquiring about the status of the changes and asking whether Warren could meet at Phyllis's home. According to Warren, Carolyn seemed in a "rush" to get the documents finalized. Then six days later, Warren received a call from Phyllis telling him that she made the 2010 changes to her trust under Mike's influence.

¶ 25 Warren testified that he next spoke with Phyllis by phone on September 6, 2011. According to Warren, Phyllis's health "wasn't great" and she was confused about when they had last spoken. Warren suggested that Phyllis concentrate on her health and postpone the estate-planning arrangements. Then, on September 21, 2011, Carolyn called Warren wanting to set a date for Phyllis to execute the documents. Warren testified that he was concerned that Carolyn could be exerting undue influence, so he advised Carolyn that Phyllis needed to initiate any signing. After that, Warren testified, Phyllis always contacted him personally.

¶ 26 On October 19, 2011, Warren met with Phyllis alone at her home. According to Warren, Phyllis told him that Ronald, not Mike, had influenced the previous changes to her estate plan and that Carolyn got "wind" of it. Phyllis also stated that Carolyn had initiated the call to Warren's office to have those changes reversed. Warren testified that he drafted documents in

2011 leaving Phyllis's estate to Carolyn, Ronald, and Mike equally.

¶ 27 Warren's next contact with Phyllis was in his office on March 21, 2013, to discuss Phyllis's desire to make further changes to her estate plan. Warren characterized the proposed changes as "drastic," in that Carolyn was to receive 46.5% of the estate,[3] with mere fractions going to Ronald and Mike. Warren testified that this request did not raise any "red flags" in his mind, but he found it unusual enough to probe Phyllis for her reasons. According to Warren, Phyllis stated that Mike was an alcoholic who would "blow" his inheritance. Phyllis told Warren that she was estranged from Ronald because Ronald had "assaulted" Carolyn during an argument, was suing Carolyn for multiple millions of dollars in federal court, and always talked about Phyllis's money as if it were his own. Later, Warren ascertained that there was, indeed, a federal lawsuit. He did not follow up on the assault allegation.

¶ 28 Warren testified that he next had a telephone conversation with Phyllis on April 23, 2013, in which he recommended that she leave Ronald and Mike flat dollar amounts rather than percentages of the estate. Phyllis rejected that advice. According to Warren, Carolyn was in the background during the conversation telling Phyllis that, if she gave Mike and Ronald a flat dollar amount rather than a percentage, and if Phyllis spent all of her money, then Mike and Ronald would get the "lion's share" of her estate.

¶ 29 On May 17, 2013, Warren met with Phyllis in his office to sign the amended trust documents. Warren testified that he "pressed" Phyllis on whether she was being influenced by Carolyn and Carolyn's daughters to make the changes, and Phyllis assured him that she was not. Phyllis reiterated the reasons for the changes that she had given during their previous meeting.

¶ 30 On cross-examination, Warren testified that he was satisfied that Phyllis executed each of

[3] The seventh amendment to the trust actually gives Carolyn 48%.

the 2008, November 2011, and 2013 changes of her own free will. Warren described Phyllis as a "pretty independent" woman, and he had noted that she was a "firecracker" and "feisty." According to Warren, Phyllis knew what she wanted and had "strong opinions" about her family and how to leave her estate. Warren testified that he was satisfied that the 2013 changes were Phyllis's desires because of her articulateness and the independence that she showed when she rejected some of his advice. At the conclusion of Warren's testimony, Ronald rested.

¶ 31 5. Kimberly Baker McKenzie's Testimony

¶ 32 Attorney Kimberly Baker McKenzie testified in Carolyn's case-in-chief. On March 20, 2015, McKenzie was appointed as guardian *ad litem* for Phyllis in a probate case. Although McKenzie did not name the specific type of case, it became clear that she was talking about a guardianship proceeding. McKenzie testified that she first met with Phyllis on April 2, 2015, at a rehabilitation facility. Carolyn and her husband were present for that meeting, but, according to McKenzie, they did not exert any influence over it. Without giving specifics, McKenzie stated that she had reviewed the pleadings and the doctor's affidavit prior to the meeting, and she explained to Phyllis during the meeting who she was, what her role was, and why she was involved. According to McKenzie, Phyllis was "a pretty smart lady so she understood." Phyllis told McKenzie that she did not want a guardian.

¶ 33 McKenzie testified that she met with Phyllis a second time on June 7, 2015, at Phyllis's home. Carolyn was present for most of that meeting but did not participate in it. According to McKenzie, Phyllis was still physically weak from an illness but was clear-headed. McKenzie testified that Phyllis was a very direct person who "told you exactly how it was." According to McKenzie, Phyllis "didn't pull any punches" in telling her "what she wanted, what she didn't want," and in making sure that McKenzie understood her position regarding "the issues we were

discussing."

¶ 34 McKenzie noted that Phyllis was "annoyed and angry" over the probate proceeding, because she had already designated Carolyn as her main heir and she wanted no more discussion about it. McKenzie testified that Phyllis told the probate court that she did not want to see Mike and Ronald and that she wanted to make those decisions for herself. McKenzie's own recommendation to the probate court was that contact with Mike and Ronald was not in Phyllis's best interests, because it was "upsetting to her, it was aggravating to her, it was not something she wanted to do."

¶ 35 On cross-examination, McKenzie testified that Phyllis told her "multiple times" that she did not want contact with either Mike or, especially, Ronald. According to McKenzie, Phyllis said that Ronald was not supporting his children so that they did not have what they needed. Phyllis added that the conflict between her and Ronald when he was living with her made her nervous, and she disapproved of him fighting with Carolyn, the fault of which she believed was Ronald's. Phyllis also did not like that Ronald thought that he was in a better position than Carolyn to make decisions for her, when she saw Carolyn all the time. McKenzie testified that Phyllis told her that she and Carolyn were friends as well as mother and daughter. It was McKenzie's impression that Phyllis and Carolyn treated each other as peers, joking and "lovingly" jabbing at each other "almost as sisters would do."

¶ 36 6. Carolyn's Testimony

¶ 37 In her case-in-chief, Carolyn testified that she noticed that Phyllis's checking account balance in the fall of 2010 began dwindling to the point that she had to get money from a brokerage account to pay her bills. Carolyn discovered that Phyllis, at Ronald's suggestion, was funneling money from the checking account into a passbook account bearing .5% interest.

Carolyn also noted that someone had changed Phyllis's telephone service so that her lifeline alert no longer worked.

¶ 38 Carolyn testified to Phyllis's extensive contacts with her friends, her church, and the outside world in general. Carolyn testified that she telephoned Warren at her mother's request and then would hand Phyllis the telephone, but, after Warren explained the implications of that, Carolyn never dialed Warren again. According to Carolyn, Phyllis was present when Ronald assaulted Carolyn, which caused Phyllis to cry and say that she was "scared."

¶ 39 7. Ronald's Rebuttal Testimony

¶ 40 Ronald testified that Phyllis was at the other end of the house when the altercation between him and Carolyn occurred, so she did not witness it. Ronald also testified that he never discussed the incident with Phyllis. Ronald testified that his children had reached their majority by 2011 and that he had previously paid all of the child support that he owed. Ronald denied that he told Phyllis about his federal lawsuit against Carolyn. Ronald denied that he took any money from Phyllis's checkbook or passbook. On cross-examination, Ronald admitted a time when he had been behind in child support, but he denied that Phyllis knew about that.

¶ 41 Following closing arguments, the court found that Ronald was not a "persuasive witness," particularly in his rebuttal testimony. The court noted that it watched Carolyn carefully and found her to be credible. The court found McKenzie's testimony "very persuasive." Likewise, the court found Warren to be very persuasive in his candidness about addressing his concerns of undue influence. The court found insufficient evidence of undue influence. With respect to Ronald's alternative theory of constructive fraud, the court found that there was not a fiduciary relationship between Carolyn and Phyllis. However, the court found that if the power of attorney created such a relationship, and if there were a presumption of undue influence

because of a benefit bestowed, Carolyn had rebutted the presumption. Next, the court found that the changes between the 2010 and 2011 amendments were "negligible," with "very little benefit" to Carolyn. The court found that Warren was sensitive to the possibility of Carolyn's undue influence and did not allow that to occur. Ultimately, the court found, the 2011 changes to the trust were Phyllis's.

¶ 42 With respect to the 2013 changes, the court found that there was family in-fighting of which Phyllis was aware, including the physical altercation between Ronald and Carolyn. The court determined that Phyllis made the decision to cut off contact with Ronald and Mike, and that it was Phyllis's decision alone to take them out of her estate plan. The court found that Phyllis was not isolated but still had friends and social relationships. Finally, the court found that Carolyn had not tortiously interfered with Ronald's expectancy of an inheritance. Thus, the court ruled in Carolyn's favor and against Ronald on counts I, III, and IV of the amended complaint. Ronald did not file a posttrial motion, but he filed a timely notice of appeal.

¶ 43 II. ANALYSIS

¶ 44 Preliminarily, we address Ronald's motion, which we ordered to be taken with the case, to take judicial notice pursuant to Illinois Rule of Evidence 201 (eff. Jan. 1, 2011) of 114 pages of documents (the litigation documents), which were not offered into evidence. These documents relate to six other court cases. They consist of police reports, excerpts from deposition transcripts, excerpts from trial transcripts, motions, pleadings, orders, transcripts of rulings, and portions of a decision of the Seventh Circuit Court of Appeals. Primarily, Ronald wants to get before us details of a domestic battery case in which he was the defendant and Carolyn was the complaining witness and a federal case in which Ronald sued Carolyn for battery and other causes of action arising out of the domestic battery incident.

¶ 45 Ronald argues that the litigation documents are critical to demonstrating a "conspiracy that included at least five fraudulent enlistments of the state and federal governments to assist [Carolyn and her husband] in securing and maintaining the isolation of [Phyllis]." According to Ronald, the conspiracy is relevant to his claim that Carolyn pilfered in excess of $650,000 from Phyllis's brokerage accounts. Ronald further maintains that the pilfering is relevant to show Carolyn's undue influence over Phyllis when she executed the sixth and seventh trust amendments. Ronald asserts that defense counsel in the present case prevented the litigation documents from "being submitted as evidence in [the present proceedings]" through "deceptive and outright fraudulent statements to the court," which amounted to "a protracted fraud on the court." The record shows that Ronald never sought the admission into evidence of the litigation documents nor did he make an offer of proof regarding the matters that they cover.

¶ 46 This is Ronald's second attempt to place the litigation documents before us. He originally included them in the appendix to his opening brief and requested that we take judicial notice of them. On September 25, 2018, this court ordered the litigation documents stricken from the appendix, as they were not part of the record. We also struck Ronald's brief for violations of Illinois Supreme Court Rule 341 (eff. Nov. 1, 2017), with leave to file a compliant brief. In response to our order, Ronald filed a revised brief and appendix and the instant motion to take judicial notice of the litigation documents.

¶ 47 Rule 201 provides that a court shall take judicial notice of adjudicative facts if requested by a party and supplied with the necessary information. Ill. R. Evid. 201. The rule further provides that a judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be

questioned. Ill. R. Evid. 201. However, only documents that were properly before the trial court can be part of the record on appeal. *Radosevich v. Industrial Comm'n*, 367 Ill. App. 3d 769, 772 (2006) (party may supplement the record on appeal only with documents that were before the circuit court).

¶ 48 Ronald argues that he is not attempting to supplement the record by asking for judicial notice, citing *May Department Stores Co. v. Teamsters Union Local No. 743*, 64 Ill. 2d 153, 158-59 (1976). In *May Department Stores*, the store sought and obtained an injunction from a state court against certain union activity upon its property. *May Department Stores*, 64 Ill. 2d at 157-58. Prior to the circuit court's ruling, the union had filed an unfair labor practice charge with the National Labor Relations Board (NLRB), listing the filing of the complaint for injunction as an unfair labor practice. *May Department Stores*, 64 Ill. 2d at 157. While the state case was pending on appeal, the NLRB refused to issue a complaint against the store, a decision which was affirmed by the NLRB's office of appeals. *May Department Stores*, 64 Ill. 2d at 158. The appellate court had refused to take judicial notice of the NLRB's letters of determination, but our supreme court took judicial notice, as the letters were documents that were included in the records of administrative tribunals, further noting that both parties at oral argument had agreed to the accuracy of the NLRB's letters. *May Department Stores*, 64 Ill. 2d at 159. Here, Ronald's documents consist of 114 pages of police reports, selected excerpts of transcripts and depositions, motions, and pleadings, the accuracy of none of which can be verified. Ronald also relies on *People v. Davis*, 65 Ill. 2d 157, 165 (1976), where our supreme court held that a trial court could take judicial notice of its own action in a prior case involving the same defendant. The litigation documents do not fit that category either. Accordingly, we deny Ronald's request

to take judicial notice and find that he is attempting an improper end-run around our prior order striking the documents from his appendix.

¶ 49 Ronald asserts that he is entitled to an oral argument on his motion for judicial notice. Rule 201 provides for an "opportunity to be heard" as to the propriety of taking judicial notice and the tenor of the matter noticed. Ill. R. Evid. 201. Ronald cites no supreme court rule requiring the appellate court to conduct an oral argument on the matter. In considering Ronald's written motion, we have given him an opportunity to be heard.

¶ 50 Next, on our own motion, we consider whether to strike Ronald's revised opening brief for violations of Illinois Supreme Court Rule 341(h) (eff. Nov. 1, 2017). Rule 341(h)(3) requires a "concise statement of the applicable standard of review for each issue, with citation to authority." Ronald fails to include any standards of review. Instead, he prefaces each argument with what he terms the "burden," accompanied by unintelligible verbiage with no citations to authority. Rule 341(h)(6) requires a statement of facts, stated "accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal." Ronald's lengthy statement of facts is argumentative throughout and improperly relies on the litigation documents. Additionally, Ronald improperly cites to pages of his appendix rather than to the record. See *Mead v. Board of Review of McHenry County*, 143 Ill. App. 3d 1088, 1092 (1986) (it is improper to reference the appendix rather than the record). In violation of Rule 341(h)(7), requiring that the argument section of the brief contain citations to authority and to pages of the record, Ronald also cites to his revised appendix. Such infractions can result in forfeiture of the arguments. *People v. Snow*, 2012 IL App (4th) 110415, ¶ 11.

¶ 51 When we struck Ronald's original brief, that should have served as notice that supreme court rules are mandatory, not mere suggestions. See *Menard v. Illinois Workers' Compensation*

*Comm'n*, 405 Ill. App. 3d 235, 238 (2010). It is within our discretion to strike a noncompliant brief and dismiss the appeal. *Parkway Bank & Trust Co. v. Korzen*, 2013 IL App (1st) 130380, ¶ 10. Nevertheless, we opt not to impose the ultimate sanction of dismissal given that the violations do not preclude our review. Instead of dismissal, we strike those portions of the statement of facts and arguments that are based on the litigation documents. Further, we strike Ronald's scurrilous allegations of fraud against opposing counsel.

¶ 52 Turning to the merits, and interpreting Ronald's arguments liberally, he argues that the court erred in not admitting the litigation documents into evidence and in limiting his testimony concerning the "conspiracy." A trial court's decision whether to admit evidence will not be reversed absent an abuse of discretion. *Fronabarger v. Burns*, 385 Ill. App. 3d 560, 564 (2008). With respect to the litigation documents, Ronald never offered them into evidence, so the court did not have the opportunity to rule on their admissibility.

¶ 53 Ronald asserts that the trial court improperly prevented him from interpreting the nature of the documents that were introduced into evidence. The trial court did not allow Ronald to read verbatim from the trust documents and other writings or to offer his own opinions as to their meaning. Under Illinois Rule of Evidence 403 (eff. Jan. 1, 2017), the court can exclude evidence that needlessly wastes time or is confusing. Under Illinois Rule of Evidence 611 (eff. Jan. 1, 2017), the court exercises reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to avoid the needless consumption of time. This was a bench trial. Reading the documents to the judge would be an unnecessary waste of time.

¶ 54 With respect to the conspiracy, the determination of relevancy is made by interpreting the evidence in light of the factual issues raised by the pleadings. *Greater Pleasant Valley Church in Christ v. Pappas*, 2012 IL App (1st) 111853, ¶ 39. The amended complaint is not in the record.

We cannot assume that its factual allegations were identical to the original complaint. Thus, we cannot determine whether the evidence of the other litigation and the facts surrounding it were relevant. The burden of providing a sufficient record on appeal lies with the appellant. *Webster v. Hartman*, 195 Ill. 2d 426, 428 (2001). In the absence of a sufficient record, we will presume that the trial court's order was in conformity with the law and had a sufficient factual basis. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 392 (1984).

¶ 55 Next, Ronald argues that the court did not consider the evidence that Carolyn pilfered money from Phyllis's brokerage accounts. Although the court admitted the screen shots of the pages into evidence, it did not mention them in its ruling. In a bench trial, the trial court weighs the credibility of the witnesses and determines the weight to be given the evidence. *People v. Coleman*, 301 Ill. App. 3d 37, 42 (1998). Here, the court found Ronald not to be credible. It also appears that the court gave the screen shots little or no weight.

¶ 56 Ronald did not present a witness with knowledge of Phyllis's accounts to testify that Ronald's screen shots accurately depicted the accounts or to testify to the activity in the accounts. For instance, no witness explained what the "automatic transfers" were. Without that testimony, the pages are meaningless. Nor did Ronald present any evidence that Carolyn took money from the accounts. Furthermore, if Carolyn were taking Phyllis's money from the accounts, and thus the estate, there would be less in the estate for Carolyn to inherit upon Phyllis's death and less reason for Carolyn to exert undue influence in procuring the trust amendments.

¶ 57 Next, Ronald argues that the court erred when it denied him the opportunity to testify to the contents of the police reports relating to the alleged battery. Relevance aside, police reports are not admissible in evidence in a civil trial. *People v. Richardson*, 48 Ill. App. 3d 307, 310

(1977); *Jacobs v. Holley*, 3 Ill. App. 3d 762, 763 (1972). Consequently, the court did not abuse its discretion when it did not permit such testimony.

¶ 58 Next, Ronald contends that an exception to hearsay under Illinois Rule of Evidence 804(b)(5) (eff. Jan. 1, 2017), forfeiture by wrongdoing, applied to his testimony concerning the conspiracy to isolate him from Phyllis. Nowhere in his argument does Ronald pinpoint what evidence he thinks was subject to the forfeiture-by-wrongdoing exception. As such, he fails to present a cogent legal argument that we can address. See Illinois Supreme Court Rule 341(h)(7) (eff. Nov. 1, 2017) (requiring the appellant to state his or contentions and the reasons therefor, with citations of the record and pertinent authorities). Rule 804(b)(5) was raised in connection with Ronald's request for admission of his Exhibit Nos. 13, 14, and 15. Those exhibits, two of which were handwritten and signed by Phyllis, related to her desire to undo the third amendment to the trust. The report of proceedings indicates that the court admitted those documents pursuant to the state-of-mind exception to the hearsay rule. The reviewing court is entitled to have the issues on appeal clearly defined with pertinent authority cited and a cohesive legal argument presented. *Gandy v. Kimbrough*, 406 Ill. App. 3d 867, 875 (2010). Ill-defined and insufficiently presented issues are considered forfeited. *Gandy*, 406 Ill. App. 3d at 875.

¶ 59 Moreover, if Ronald is addressing Exhibit Nos. 13, 14, and 15, he cannot challenge the judge's reasoning even if he disagrees with it, because those exhibits were admitted. It is the trial court's judgment, not its reasoning that we review on appeal; the forum of appellate courts is not afforded to successful parties who may disagree with the reasons, conclusion, or findings of the trial court. *Argonaut-Midwest Insurance Co. v. E.W. Corrigan Construction Co.*, 338 Ill. App. 3d 423, 427 (2003).

¶ 60 Lastly, Ronald argues that the court ignored the evidence tending to prove Carolyn's undue influence. In its ruling, the court found Ronald to be not credible, Carolyn to be credible, and the court placed the most weight on McKenzie's and Warren's testimonies. Again, in a bench trial, the court has the responsibility to determine the weight to give the evidence. *Coleman*, 301 Ill. App. 3d at 42. When contradictory testimony that could support conflicting conclusions is given in a bench trial, a reviewing court will not disturb the trial court's factual findings unless a contrary finding is clearly apparent. *Motorola Solutions, Inc. v. Zurich Insurance Co.*, 2015 IL App (1st) 131529, ¶ 118. Here, even discounting Carolyn's testimony, both McKenzie and Warren were clear that Phyllis knew the extent of her estate and how she wanted to leave it. Warren was especially attuned to any possible undue influence on Carolyn's part, and he took measures to circumvent it. McKenzie testified that Phyllis was adamant about not having contact with Mike and Ronald. Ronald points to the fourth amendment to the trust, which he admits that he "crafted," in which Phyllis supposedly accused Carolyn of undue influence in procuring the third amendment. The trial court apparently gave little or no weight to that language in the fourth amendment. We will not upset the trial court's determinations of credibility of witnesses or the weight to be given evidence unless those determinations are manifestly against the weight of the evidence. *Motorola*, 2015 IL App (1st) 131529, ¶ 118. Here, because we cannot say that the court's decision was against the manifest weight of the evidence, we affirm the judgment.

¶ 61 III. CONCLUSION

¶ 62 For the reasons stated, we affirm the judgment of the circuit court of Winnebago County.

¶ 63 Affirmed.