2019 IL App (1st) 172230-U

SIXTH DIVISION
APRIL 19, 2019

No. 1-17-2230

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

MERDELIN JOHNSON,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	
	)	
GENERAL BOARD OF PENSION AND HEALTH	)	No. 17 L 2156
BENEFITS OF THE UNITED METHODIST CHURCH,	)	
A Not-for-Profit Company,	)	Honorable
	)	Jeffrey L. Warnick,
Defendant-Appellee.	)	Judge Presiding.

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

ORDER

¶ 1 *Held*: Upon remand from a prior order of this court, we affirm the trial court's revised determination of the amount of Rule 137 sanctions imposed against plaintiff-appellant.

¶ 2 Plaintiff-appellant Merdelin Johnson (plaintiff) challenges the order of the circuit court of Cook County awarding a revised amount of Rule 137 monetary sanctions in favor of defendant-appellee, the General Board of Pension and Health Benefits of the United Methodist Church (General Board), following remand from our court in a prior consolidated appeal. In that prior

appeal, we agreed with the trial court's initial determination that Rule 137 sanctions were appropriate, but we remanded the case for the trial court to reconsider the amount of its original sanctions award, which totaled $214,056 in costs and fees. On remand, the trial court assessed sanctions in a lowered amount of $126,984, comprising the General Board's attorney fees incurred after the close of discovery through the completion of trial. For the following reasons, we affirm the judgment of the circuit court of Cook County.

¶ 3 BACKGROUND

¶ 4 The extensive history of this litigation is set forth in detail in our prior Rule 23 order, entered in May 2016, directing the trial court to reconsider the appropriate amount of sanctions. *Merdelin Johnson v. General Board of Pension and Health Benefits of the United Methodist Church*, 2016 IL App (1st) 141793-U (the May 2016 order). In this order, we recite only the facts necessary to resolve the specific issue of the propriety of the amount of sanctions awarded by the circuit court of Cook County upon remand from our May 2016 order.

¶ 5 Plaintiff was employed by the General Board as a customer service representative from June 1999 until her termination in March 2004. Her job involved fielding telephone calls. Plaintiff based her underlying lawsuit upon her allegations that the General Board monitored and recorded her personal telephone calls during, and even after, her termination.

¶ 6 In September 2010, plaintiff filed a *pro se* complaint against the General Board alleging breach of contract, negligence, negligent infliction of emotional distress, and invasion of privacy. In June 2011, plaintiff filed an amended *pro se* 21-count complaint against the General Board and other defendants, including several current and former employees of the General Board. In orders entered in October and November 2011, the trial court dismissed with prejudice all claims against other defendants, as well as most of the counts against the General Board. However, the

trial court denied the General Board's motion to dismiss plaintiff's breach of contract claim (count I) and also allowed plaintiff leave to amend the counts for invasion of privacy (count V) and public disclosure of private facts (count XVIII).

¶ 7 In November 2011, plaintiff filed a third amended complaint, and the General Board again moved to dismiss. In February 2012, the court dismissed counts V and XVIII, leaving intact only count I, for breach of contract. The parties subsequently engaged in discovery, and the General Board moved for summary judgment on the sole surviving breach of contract count.

¶ 8 On November 5, 2013, the trial court denied the General Board's motion for summary judgment. In its ruling, the trial court explained the proof that would be necessary for plaintiff to be entitled to damages:

> "In order to prove a breach of the contract, Plaintiff only need to prove that her personal or private line was 'monitored' or 'recorded.' However, to prove a right to certain damages, Plaintiff must prove not only that her personal line was recorded and monitored, but also that those calls were listened to."

At that time, the court also explicitly warned plaintiff that she should not proceed to trial if she could not present such evidence:

> "[T]he Court feels constrained to warn Plaintiff that if she is unable to present credible evidence at the trial on the remaining issues involved in this case, the Court may be inclined to act more favorably on Defendant's many past requests for fees and costs that have not been resolved and any future similar requests. Therefore, if Plaintiff does not believe that she will be able to

> present credible evidence at the trial on the remaining issues involved in this case, she should consider voluntarily dismissing her case prior to the start of the trial. Forewarned is forearmed."

¶ 9 A jury trial commenced in January 2014. Plaintiff called several witnesses and also testified. On January 23, 2014, after the plaintiff rested her case, the trial court granted the General Board's motion for a directed verdict. The trial court determined that plaintiff presented no evidence that her telephone line was specifically recorded and "absolutely no evidence that her private line was ever listened to at any time," as necessary to establish any damages from the alleged breach.

¶ 10 In granting the directed verdict, the trial court entered judgment against plaintiff and assessed costs against her. The General Board subsequently filed an itemized bill of costs, seeking reimbursement for costs and fees (other than attorney fees). In a March 12, 2014 order, the trial court granted the bill of costs in part, finding that the General Board was entitled to $16,147.49 in costs from the plaintiff.

¶ 11 Separately, in February 2014, the General Board filed a motion for Rule 137 sanctions, seeking reimbursement for its attorney fees and costs. In May 2014, the trial court granted the motion for sanctions. In that order, the court commented that, over the history of this case, the court had "entered many more orders" and "devoted substantially more time *** to this case studying thousands of pages and hundreds of citations, than any other case over which it has presided." The court observed that throughout the lawsuit, plaintiff had filed motions to reconsider "practically all, if not all," substantive rulings, but that such motions "merely rehashed arguments that Plaintiff had previously made."

¶ 12 The court found that plaintiff "initiated and pressed frivolous litigation." The court remarked: "At the close of discovery, if not before, Plaintiff had to know that she could not satisfy an indispensable element of her meritless claim, namely that her personal calls were listened to." The court thus found that plaintiff had violated Rule 137 and directed the General Board to submit a petition for attorney fees and legal costs.[1]

¶ 13 In June 2014, the General Board submitted a verified fee petition, attaching supporting invoices from its counsel containing detailed time entries. The verified fee petition sought a total of $210,917.50 in attorney fees and other expenses related to, *inter alia*, (1) responding to plaintiff's motions for reconsideration; (2) pursuing the General Board's motions to compel plaintiff to comply with discovery; (3) plaintiff's "unreasonable discovery practices"; (4) pretrial and trial proceedings after the November 5, 2013 warning by the trial court; and (5) fees incurred in pursuing the General Board's motion for Rule 137 sanctions.

¶ 14 After the parties submitted briefing on the fee petition, in July 2014, the trial court entered an order finding that the General Board was entitled to recoup the vast majority of the requested fees. The trial court found that the requested fees were "necessary, appropriate, fair and reasonable" and that "[a]ll of the Defendant's legal expenses were incurred as a result of the Plaintiff's untrue and frivolous complaint." The court noted that in plaintiff's response to the fee petition, plaintiff had not objected to the hourly rates charged by the General Board's counsel, and the court found that the rates were reasonable. The court did not grant the full amount of fees

[1]The court specified that the General Board could seek reimbursement for attorney fees related to (1) responding to plaintiff's numerous motions for reconsideration; (2) responding to plaintiff's motions to compel compliance with her discovery requests; (3) the General Board's motions to compel plaintiff's compliance with discovery requests; (4) fees expended in proceedings "after November 5, 2013, when the Court clearly gave Plaintiff an opportunity to abandon any or all of her claims that she could not prove"; and (5) fees related to discovery, to the extent it exceeded a "reasonable amount of discovery." The court also allowed the General Board to seek fees "not specifically mentioned" if it demonstrated good grounds for reimbursement of such fees.

requested by the petition, as it noticed certain "mathematical errors" when it compared the amount of requested fees to the submitted invoices. After accounting for those errors, the trial court determined that the General Board was entitled to reimbursement of $197,909.50 in attorney fees and expenses, and entered a judgment against plaintiff in that amount. In a separate order of September 17, 2014, the trial court directed the plaintiff to pay the judgment against her in monthly installments of $150.

¶ 15 The plaintiff subsequently filed three separate appeals from the trial court's orders (1) denying her motion to vacate the directed verdict and denying her motion for a new trial; (2) the July 22, 2014 order imposing sanctions in the amount of $197,909.50; and (3) the order directing her to make monthly installment payments of $150. Those appeals were subsequently consolidated, and were addressed in our May 2016 order. 2016 IL App (1st) 141793-U.

¶ 16 Our May 2016 order first affirmed the directed verdict in favor of the General Board, and rejected plaintiff's other claims of error at trial. We proceeded to address plaintiff's challenge to the trial court's imposition of Rule 137 sanctions in the amount of $197,909.50. We reviewed the detailed findings of the trial court's May 8, 2014 order, noting that it "set forth in detail all the ways the plaintiff's lawsuit was frivolous, not well grounded in fact, nor warranted by existing law." *Id.* ¶ 72. We noted that the trial court had pointed out that "on multiple occasions, [it] had warned the plaintiff of the possibility and probability of sanctions being imposed if she could not put forth evidence of the recording of, and listening to, her personal calls." *Id.*

¶ 17 Our May 2016 order noted that the plaintiff's appellate argument challenged the imposition of Rule 137 sanctions "in a cursory manner" by arguing that her lawsuit was not frivolous, accusing the trial court of punishing her and siding with the General Board, and attacking the trial court for its allegedly demeaning statements toward her. *Id.* ¶ 73.

¶ 18 We stated in that order:

> "Based on our review of the record, in this case, it is apparent that the trial court had ample basis for the imposition of some level of Rule 137 sanctions. However *** it is apparent from her numerous procedural and substantive blunders that the plaintiff's *pro se* representation did not serve her well and may have accounted for some of these missteps. Further, we cannot say that a large part of the plaintiff's seemingly defiant and sometimes obnoxious conduct was not in large part due to her *pro se* status ***. It is true that while the plaintiff has the right to represent herself, she does not have the right to do so in a manner which runs afoul of established procedural rules and case law. However, we believe it is worth revisiting the trial court's imposition of sanctions *** given her *pro se* status and her lack of legal knowledge." *Id.*

¶ 19 We determined that "the *level* of sanctions imposed by the trial court *** must be vacated and the cause remanded for imposition of a different amount," directing that the new sanction "should satisfy the purpose of addressing the plaintiff's sanctionable conduct *** but should not be so onerous as to have a chilling effect on *pro se* litigants." (Emphasis in original.) *Id.*

¶ 20 In addition to these concerns, we also indicated that it was not clear whether the trial court had determined a specific point in the litigation when plaintiff's continued pursuit of the lawsuit became frivolous:

> "We note also that the court commented on the plaintiff's abhorrent behavior in pursuing *what turned out to be* a frivolous

> lawsuit. This underscores the need for the trial court to revisit its level of sanctions in this case. While it is true that the plaintiff was not able to prove her case at trial, it cannot be said that she knew or should have known that fact *ab initio*. *** [T]he record bears out the conclusion that the plaintiff's behavior and conduct *** became progressively worse as the litigation wore on. Yet, it is unclear from the record, the point at which the trial court determined that the plaintiff's conduct was subject to sanctions. We do not assume, nor would it be appropriate, that the sanctions imposed by the trial court were intended to cover the litigation from its inception. It cannot be said under these facts that the plaintiff should be sanctioned for bringing the lawsuit in the first place ***. Accordingly, while we do not dispute that *some* level of sanctions is appropriate under these facts, the trial court must carefully *reconsider* all facts, circumstances, and criteria necessary for imposing a new order for sanctions consistent with our ruling." (Emphases in original.) *Id.*

We thus vacated the initial sanctions award and remanded the case for the trial court to determine a new amount of appropriate sanctions, consistent with the directions outlined in our May 2016 order. *Id.* ¶ 78.

¶ 21 In proceedings following remand, the General Board submitted a modified sanctions request to the trial court[2], seeking Rule 137 sanctions in a lower, revised amount of $126,984.

[2]Whereas Hon. Roger G. Fein presided over pretrial and trial proceedings, a different judge, Hon. Jeffrey L. Warnick, presided over proceedings upon remand from our court's May 2016 order.

That amount represented the General Board's attorney fees incurred from November 1, 2013 through January 23, 2014; that period encompassed pretrial and trial proceedings after the close of discovery through the entry of the directed verdict. The parties submitted briefing, and the trial court conducted a hearing, regarding the General Board's modified sanctions request.

¶ 22 On August 8, 2017, the trial court entered an order that awarded Rule 137 sanctions in the revised amount of $126,984 requested by the General Board. In that order, the trial court first reviewed the conclusions of our May 2016 order regarding the issue of sanctions, including our court's statement that it was "apparent that the trial court had ample basis for the imposition of some level of Rule 137 sanctions." The trial court reasoned: "Based upon the language in the [May 2016 order], this court gleans that the scope of the remand is narrow. What appears to be at issue is the temporal scope of the sanction imposed."

¶ 23 The trial court observed that, upon remand, the General Board had modified its request for sanctions "in a temporal manner" to request only its attorney fees incurred for proceedings after the completion of discovery; that is, fees incurred from November 1, 2013 through January 23, 2014. The trial court found that the General Board's approach was "consistent" with its interpretation of our May 2016 order.

¶ 24 The trial court proceeded to agree that the time period suggested by the General Board was an appropriate measure of sanctions. The court recalled the November 5, 2013 order, in which plaintiff was warned that if she could not present evidence to support her claim at trial, she should consider dismissing her case before trial to avoid potential liability for the General Board's fees and costs. The trial court also noted that, in a January 2014 order, it had further warned plaintiff that if she could not meet her burden at trial, "she may face the consequences of sanctions, including reimbursing the [General Board] for all or part of its legal expenses."

¶ 25 The trial court found that the General Board's "timeframe for awarding sanctions *** [is] persuasive" and that the General Board incurred $126,984 in attorney fees from November 1, 2013 to January 23, 2014 in pretrial and trial-related activities. The trial court also noted that in our May 2016 order "the appellate court appears to have sustained the rates billed and hours incurred by [the General Board's] counsel."

¶ 26 The trial court thus entered a judgment awarding Rule 137 sanctions in the revised amount of $126,984. Finally, the trial court vacated its prior September 2014 order directing plaintiff to make monthly installment payments in the amount of $150.

¶ 27 On September 7, 2017, plaintiff filed a timely notice of appeal. Accordingly, this court has jurisdiction. Ill. S. Ct. R. 303 (eff. July 1, 2017).

¶ 28 ANALYSIS

¶ 29 On appeal, plaintiff challenges the trial court's revised $126,984 sanctions award as an abuse of discretion. Plaintiff makes several arguments, although most of them are not directed to the limited issue of the reasonableness of the *amount* of the sanctions awarded after remand. Rather, the bulk of her briefing urges that it was improper to impose *any* Rule 137 sanctions in the first place.

¶ 30 Plaintiff maintains that she did not engage in any sanctionable conduct in the trial court. She claims that her "pleading was well grounded in fact" and that "the General Board's surreptitious recording of [her] personal telephone calls" is not disputed under the record. In support, she cites to deposition testimony in which, she claims, two General Board witnesses acknowledged that employee personal calls were recorded. Similarly, plaintiff argues that she "pled sufficient facts to support each of the requested elements of her claim" and thus her pleading "was objectively warranted by existing law."

¶ 31 Plaintiff further argues that her "pleading was not for an improper purpose." As support, she refers to a prior federal lawsuit that she brought against the General Board (which she states was "separate" but has "related" facts). She states that her "federal case was litigated from 2002 to 2012 before at least six federal judges and/or magistrates" but claims that "[n]one of the federal judges *** accused [her] of being unprofessional and/or engage[ing] in any inappropriate conduct." She notes that the only court to impose sanctions against her is the circuit court of Cook County, whom she has accused of being "biased and prejudiced" against her.

¶ 32 Plaintiff does not dispute that the $126,984 in attorney fees awarded were actually incurred by the General Board's counsel in the period from November 2013 through January 2014. Rather, she argues that the "General Board is to be faulted" for the large amount of expenses, because it "had an opportunity to settle this case" but did not do so. She also claims that the General Board's refusal to admit its recording of her telephone calls "forced [her] to conduct extra discovery in this case," which increased the General Board's legal fees.

¶ 33 She also blames the trial court for the large amount of fees, in that the court "did not limit discovery as to the General Board" to "relevant matters." On the other hand, she claims that the trial court "restricted" her efforts to take discovery and made it "impossible to obtain" the evidence that she needed to prove her case at trial.

¶ 34 Plaintiff's briefing otherwise complains that the trial court was biased against her and that it imposed the attorney fee sanctions "to punish [her] for filing [the] lawsuit." She asserts that the trial court treated her unfairly, engaged in "name-calling," and made other "defamatory and libelous" remarks against her. Plaintiff thus argues that we should reverse the circuit court's order and not impose any Rule 137 sanctions.

¶ 35 In its response, the General Board notes that although most of plaintiff's opening brief "rehash[es] whether she should have been sanctioned in the first instance," the "only issue *** is whether the circuit court abused its discretion by entering a modified sanctions award of $126,984." The General Board argues that there was no abuse of discretion, as the circuit court's modified order properly recognized a "clear demarcation" between the proceedings prior to the close of discovery (for which the General Board does not seek fees), and the fees incurred in "post-discovery pretrial and trial phases." The General Board asserts that the attorney fees incurred in the post-discovery period was an appropriate measure of sanctions, because the plaintiff should have abandoned her lawsuit once it became apparent that her claim was not viable.

¶ 36 The General Board argues that its counsel's billing rates were reasonable. Further, it urges that plaintiff forfeited any challenge on that basis, as she did not object to the billing rates in the trial court upon remand, and her opening brief on appeal does not discuss that issue. Similarly, the General Board suggests that plaintiff has forfeited any objection to the number of hours billed by its counsel. The General Board otherwise argues that there is ample support in the record showing that the fees incurred directly relate to plaintiff's conduct in pursuing a frivolous claim, which rendered the trial an "utter waste of the time and resources of the court, the jury, the witnesses, and the General Board's counsel."

¶ 37 Finally, the General Board urges that plaintiff's *pro se* status should not have any bearing on our analysis, as "*pro se* litigants are held to the same standards as attorneys and represented parties." The General Board notes that, although plaintiff is not an attorney, she "is an experienced litigant" who has pursued lawsuits against the General Board for many years.

¶ 38 Plaintiff's reply brief maintains that her claims were never frivolous and that her lawsuit had a good-faith basis. She suggests that her underlying claim was meritorious, claiming that she is the victim of "discrimination, retaliation, sexual harassment, and invasion of privacy" by the General Board. She also repeats her claims that the trial judge was prejudiced against her, and suggests that she was a victim of judicial bias against *pro se* litigants.

¶ 39 She denies that she engaged in "vexatious" behavior in the trial court, but accuses the General Board's counsel of "sanctionable conduct" at trial. She blames the General Board's counsel for running up the costs of the litigation. Her reply also asserts (for the first time) that the rates of the General Board's counsel are unreasonable. She indicates that she cannot repay the revised sanctions amount of $126,984 and suggests that such an award is not "judicial justice."

¶ 40 Illinois Supreme Court Rule 137 provides, in relevant part:

> "Every pleading, motion, and other document of a party represented by an attorney shall be signed by at least one attorney of record ***. A party who is not represented by an attorney shall sign his pleading, motion, or other document ***. The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion or other document; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. *** If a pleading, motion, or other

> document is signed in violation of this rule, the court *** may impose *** an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion or other document, including a reasonable attorney fee." Ill. S. Ct. R. 137(a) (eff. July 1, 2013).

"The purpose of Rule 137 is to prevent abuse of the judicial process by penalizing claimants who bring vexatious and harassing actions based upon unsupported allegations of fact or law. [Citation.]" *Williams Montgomery & John Limited v. Broaddus*, 2017 IL App (1st) 161063, ¶ 41.

¶ 41 "Rule 137 requires that the trial court provide an explanation in imposing sanctions, and that a reviewing court may only affirm the imposition of sanctions on the grounds specified by the trial court. [Citation.] In reviewing the trial court's decision to impose sanctions, the primary consideration is whether the trial court's decision was informed, based on valid reasoning, and follows logically from the facts." (Internal quotation marks omitted.) *Nelson v. Chicago Park District*, 408 Ill. App. 3d 53, 68 (2011). "We review the trial court's imposition of Rule 137 sanctions under an abuse of discretion standard. [Citation.] An abuse of discretion occurs when 'no reasonable person could have taken the view [the trial court] adopted.' " *Id.* (quoting *Sterdjevich v. RMK Management Corp.*, 343 Ill. App. 3d 1, 19 (2003)).

¶ 42 For the following reasons, we cannot find that the trial court's revised award constituted an abuse of discretion. At the outset, we note that plaintiff's briefing appears to misunderstand, or ignore, the limited nature of the issue at hand, given the directions in our May 2016 order. In that order, we did not take issue with the trial court's finding that plaintiff was guilty of at least some sanctionable conduct under Rule 137. To the contrary, we found that it was

"apparent that the trial court had ample basis for the imposition of some level of Rule 137 sanctions." 2016 IL App (1st) 141793-U, ¶ 73. Thus, in remanding the case for reconsideration, we did not instruct the trial court to reconsider whether *any* sanctions were appropriate. Rather, we directed the trial court to reconsider the *amount* of sanctions. *Id.* Specifically, we stated that: "[w]e believe the imposition of the *level* of sanctions imposed by the trial court *** must be vacated and the cause remanded for imposition of a different amount of sanctions." *Id*.

¶ 43 Thus, to the extent plaintiff argues that she did not engage in *any* frivolous conduct at any time, those arguments are not properly before us in this appeal. Rather, the pertinent issue when we remanded the case to the trial court was the appropriate *amount* of sanctions. Specifically, our May 2016 order noted that it was not clear whether the trial court had determined a particular point in the course of the litigation, at which plaintiff's continued pursuit of the lawsuit became frivolous. Thus, we instructed the trial court to impose "a new, appropriate level of sanctions" consistent with our order.

¶ 44 On remand of the case, the trial court properly interpreted our May 2016 order as seeking clarification of the "temporal" point in the proceedings at which it determined that plaintiff's continued pursuit of the lawsuit became sanctionable. The trial court, on remand, determined that sanctions were warranted only for plaintiff's pursuit of the litigation *after* the trial court's November 2013 order denying the General Board's motion for summary judgment, and after the close of discovery. As the trial court emphasized, that order coincided with its express warning to the plaintiff that she should dismiss the lawsuit before trial, if she could not present evidence to support her claim. The trial court appropriately recognized that by the close of discovery, the plaintiff would and should know if she had the evidence to support her claim.

¶ 45 Thus, although much of her brief is devoted to assertions that her *pleading* was well-grounded in fact and in law and lacked an "improper purpose," those arguments are irrelevant. Her arguments regarding her *pleading* simply do not address the pertinent finding by the trial court on remand: that by the time the court ruled on the General Board's summary judgment motion, plaintiff knew or should have known that she lacked evidence to prove her claim at trial.

¶ 46 The remaining arguments in her opening brief before this court—such as her reference to her separate federal court action, as well as her attacks on the integrity of the General Board's counsel, are also obviously irrelevant to the limited issue upon remand from our May 2016 order, *i.e.*, the amount of sanctions appropriate for her conduct.[3]

¶ 47 Similarly, to the extent that she now complains that the trial court unfairly restricted her ability to take discovery, or that the trial judge harbored a personal bias against her, any such argument is not now properly before this court. Any arguments concerning the trial court's prior rulings were, or could have been, raised in the prior appeals that resulted in our May 2016 order. Our limited remand from that order concerned the narrow issue of the proper amount of sanctions; it did not grant plaintiff a renewed opportunity to challenge any prior trial court rulings. Such arguments are forfeited and, in any event, have no relevance to the limited issue before us.

¶ 48 We also reject plaintiff's reply brief's attempt to challenge the reasonableness of the billing rates of the General Board's attorneys. She denies that she forfeited this claim in her opening brief, citing the statement that: "the circuit court abused its discretion in granting

[3]We further note that, to the extent plaintiff suggests that the General Board's counsel "forced Johnson to conduct extra discovery in this case," that argument is particularly irrelevant, because the trial court's sanctions award corresponded to attorney fees incurred *after* the close of discovery. Further, plaintiff's suggestion that the General Board should be faulted for failing to settle the case defies logic, since her case lacked merit.

excessive attorney fees as sanctions." We find that this statement from her opening brief is conclusory and too vague to be construed as a specific challenge to defense counsel's billing rates. We thus agree with the General Board that any such argument has been forfeited. Ill. S. Ct. R. 341(h)(7) (eff. May 25, 2018) ("Points not argued [in the opening brief] are forfeited and shall not be raised in the reply brief, in oral argument, or on petition for rehearing."). In any event, our May 2016 order directed the trial court, on remand, to specify the temporal scope of the sanctions, but did not suggest that the trial court should reconsider the billing rates for defense counsel.

¶ 49 We reiterate that the only pertinent issue before this court now, is whether the trial court abused its discretion, when upon remand following our May 2016 order, that court determined that plaintiff should be sanctioned in the amount of $126,984 in attorney fees, incurred by the General Board in the three-month period from the close of discovery through trial. Keeping in mind the deferential standard with which we must review the trial court's action, we cannot find that the trial court abused its discretion. In other words, we certainly cannot say that no reasonable person could have taken the view adopted by the trial court. To the contrary, the trial court's assessment of sanctions was well-reasoned. Consistent with the directive of our May 2016 order, the trial court clarified the temporal scope of the sanctions, determining that sanctions should correspond to the attorney fees for post-discovery proceedings, *i.e.,* fees incurred after the trial court's ruling denying the General Board's motion for summary judgment. The trial court reasonably found that this was an appropriate measure of sanctions because, by the end of discovery, the plaintiff knew or should have known that she lacked the evidence required to prove damages. Furthermore, at that point in the litigation, the trial court explicitly warned plaintiff that if she lacked evidence to prove her case, the court could impose sanctions

for the General Board's attorney fees. Given that warning (and others), plaintiff cannot suggest that she lacked notice of the potential consequences for her continued pursuit of a meritless claim.

¶ 50 We are aware of plaintiff's *pro se* status, and the concerns relating to fairness regarding the imposition of sanctions against a *pro se* litigant. Nevertheless, on the record before us, we conclude that plaintiff's *pro se* status does not preclude the substantial amount of sanctions awarded in this case. "Where litigants appear *pro se*, their status does not relieve them of their burden of complying with the court's rules. [Citations.]" *Oruta v. B.E.W. and Continental*, 2016 IL App (1st) 152735, ¶ 30. Thus, "[s]anctions may be awarded against *pro se* litigants under sufficiently egregious circumstances." *Parkway Bank and Trust Co. v. Korzen*, 2013 IL App (1st) 130380, ¶ 87 (imposing sanctions under Rule 375(b) where appeal was frivolous); see also *Whitekind v. Rusk*, 253 Ill. App. 2d 577, 581 (1993) (finding that trial court abused its discretion in denying defendant's motion for Rule 137 sanctions against *pro se* plaintiff).

¶ 51 We recognize that the attorney fee award in this case is a substantial amount. However, as the trial court repeatedly recognized, the record in this case presents extraordinary circumstances. Further, although plaintiff was not an attorney, she was hardly a stranger to litigation by the time she engaged in the conduct that formed the basis for the sanctions. Indeed, she had prosecuted this case for several years before the relevant pretrial and trial proceedings which formed the basis of the sanctions.

¶ 52 We also reiterate that the trial court repeatedly explained to plaintiff that to prove her case, she would need to set forth evidence that her telephone conversations were listened to. Any plaintiff, even a *pro se* plaintiff, knows that it is his or her burden to present *evidence* to support a claim. Moreover, in denying the General Board's motion for summary judgment, the

trial court *explicitly* warned plaintiff that she could be liable for the General Board's attorney fees, if she proceeded to trial without the necessary evidence. That warning came after the close of discovery, and so plaintiff knew or should have known by that time that she lacked evidence to prove her case. Nevertheless, she persisted in going to trial on a meritless claim.

¶ 53 Under these circumstances, we cannot say that it was unreasonable for the trial court to exercise its discretion to award sanctions against plaintiff in the amount of $126,984.

¶ 54 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 55 Affirmed.