SECOND DIVISION
December 13, 2016

No. 1-13-1114



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| SHEILA A. MANNIX,<br><br>Plaintiff-Appellant,<br><br>v.<br><br>DAVID J. WESSEL, an individual and as an agent of, LAW OFFICES OF WESSEL & DOHENY; JONATHAN C. GAMZE, as an individual, and as an agent of JONATHAN C. GAMZE, MD, PC; MITCHELL F. ASHER, as an individual and as an agent of LAW OFFICES OF MITCHELL F. ASHER; STEVEN E. RISSMAN, as an individual and as an agent of LAW OFFICES OF MITCHELL F. ASHER; EILEEN M. BREWER, as an individual, and in her official capacity as Cook County, Illinois Circuit Judge; and DANIEL P. SHEETZ, SR.,<br><br>Defendants-Appellees. | ) | Appeal from the Circuit Court of Cook County<br><br>No. 10 L 63010<br><br>Honorable James N. O'Hara, Judge Presiding. |

JUSTICE PIERCE delivered the judgment of the court.
Presiding Justice Hyman and Justice Mason concurred in the judgment.

## ORDER

¶ 1 *Held*: The circuit court orders denying plaintiff's motions for recusal and substitution of judge for cause are affirmed. The circuit court's dismissal of plaintiff's complaint with prejudice is also affirmed.

¶ 2 *Pro se* plaintiff Sheila A. Mannix filed this action alleging two counts of defamation *per se* and two counts of false light against Daniel P. Sheetz, Sr. (her former husband), Mitchell

Asher and Steven Rissman (Sheetz's former attorneys), David Wessel (court-appointed attorney for Mannix's children), Dr. Jonathan Gamze (licensed psychiatrist who prepared a custody evaluation report), and Judge Eileen Brewer (the judge presiding over the underlying post-decree divorce action). The allegedly defamatory statements were contained in two court orders entered by Judge Brewer on February 27, 2009, during post-decree proceedings. Mannix appeals the dismissal of her defamation and false light complaint, various orders assigning judges to hear this lawsuit, and various orders denying requests for recusal and for substitution of judge for cause. For the following reasons, we affirm the judgment of the circuit court.

¶ 3 BACKGROUND

¶ 4 At the outset, we address defendant-appellee Dr. Jonathan Gamze's argument that plaintiff's statement of facts should be disregarded because of plaintiff's failure to comply with our supreme court rules. We agree and find that plaintiff's statement of facts violates Illinois Supreme Court Rule 341(h)(6) (eff. Feb. 6, 2013) in that it is replete with argumentative commentary, it recites various "facts" not contained in the record, and contains numerous inflammatory allegations not relevant to the disposition of the issues on appeal. We have the authority to strike a statement of facts for failure to comply with Rule 341, and we have the authority to dismiss an appeal for failure to provide a complete statement of facts. *Hall v. Naper Gold Hospitality LLC*, 2012 IL App (2d) 111151, ¶ 9. However, in this case, rather than strike and dismiss the appeal for these violations, we will disregard any inappropriate or unsupported material and argument contained in plaintiff's statement of facts and we will decide the appeal on the merits based on our understanding of the record and the proper arguments of the parties. *Gakuba v. Kurtz*, 2015 IL App (2d) 140252, ¶ 15.

¶ 5 In 1989, plaintiff Sheila Mannix and Daniel P. Sheetz, Sr. were married. Two sons were

born of the marriage, and in 1993, Mannix and Sheetz divorced. As a result of post-decree litigation, Cook County circuit court Judge James Donegan entered orders on October 31, 2005, and March 30, 2006, granting Sheetz sole custody of the children and ordering Mannix to "have no contact [and] no visitation with the minor children" until further order of court.

¶ 6 Despite these orders, Mannix took possession of the younger son, Brian, and refused to return him. This caused Sheetz to file an emergency petition to procure Brian's return. The petition was assigned to Judge Brewer. On February 27, 2009, Judge Brewer granted Sheetz's emergency petition finding that, pursuant to Judge Donegan's orders of October 31, 2005, and March 30, 2006, Sheetz had sole custody of Brian and Mannix was prohibited from having visitation or contact with Brian. In a separate order entered on February 27, 2009, Judge Brewer issued a rule to show cause against Mannix as to why she should not be held in contempt of court for violating Judge Donegan's March 2006 "no contact" order.

¶ 7 Around this same time, Mannix filed a federal lawsuit against Judge Brewer, the defendants in this case, and others, alleging that they engaged in "racketeering activity" and conspired amongst each other during the post-decree proceedings. Because of Mannix's federal lawsuit against Judge Brewer, Mannix asked Judge Brewer to recuse herself from the divorce case, transfer the matter to another circuit court judge, and vacate the February 27, 2009, orders. Judge Brewer continued to preside over the matter, and later vacated the rule to show cause because Mannix had returned Brian to Sheetz.

¶ 8 *Operative Complaint and its Dismissal*

¶ 9 In March 2010, plaintiff filed the instant suit alleging two counts of defamation and two counts of false light against: her ex-husband, Sheetz; his lawyers, Mitchell Asher and Steven Rissman; the court-appointed attorney for Mannix's children, David Wessel; the licensed

psychiatrist who prepared a custody evaluation report, Dr. Jonathan Gamze; and Judge Brewer. Plaintiff alleges the contents of the two February 2009 orders impugned her as a mother and as a psychologist and were the product of a conspiracy among all the defendants. The complaint also alleges that Judge Brewer acted without jurisdiction or in any judicial capacity in entering the February 2009 post-decree orders. Mannix also alleges that she filed various state and federal court actions against these defendants and other officials for their involvement in the post-decree litigation.[1] Several "supplemental" filings also appear in the record. These filings consist of documents from other federal and state court lawsuits she filed against defendants and various state officials regarding the post-decree litigation.

¶ 10 In response, defendants separately moved to dismiss this action pursuant to sections 2-615 and 2-619 of the Code of Civil Procedure (the Code) (735 ILCS 5/2-615, 2-619 (West 2012)) arguing that the complaint failed to state a cause of action and the claims were barred by either the litigation privilege or an immunity. On October 19, 2011, Judge O'Hara granted the motions to dismiss with prejudice finding that all claims arose from entry of the February 2009 orders in the underlying custody dispute and therefore, the claims against Sheetz, Asher, and Rissman were barred by absolute immunity pursuant to the litigation privilege; the claims against Wessel and Dr. Gamze were barred by absolute immunity for statements contained in and made as part of the court orders; and the claims against Judge Brewer were barred by absolute immunity and sovereign immunity. Plaintiff filed a motion to reconsider, which the circuit court denied.

¶ 11 *Substitution of Judge Motions*

[1] The complaint's allegations are confusing and largely incoherent. There are many references to disconnected facts and sporadic legal citations without any cogent explanation as to their relevancy.

¶ 12 In the course of this litigation, plaintiff filed numerous motions seeking reassignment of the case from the assigned judge. Plaintiff was apparently of the mind that no judge in the Law Division of the circuit court could hear this case since Judge Brewer was assigned to the Law Division at the time this case was filed. In April 2010, Mannix filed a motion before the presiding judge of the Law Division requesting that the Chief Judge ask the Illinois Supreme Court to assign an "out-of-circuit" judge to hear this complaint. Thereafter, Chief Judge Evans asked the Illinois Supreme Court to assign the case to a judge outside of Cook County. The director of the Administrative Office of the Illinois Courts (AOIC) responded that, after consideration of plaintiff's request, "the request for an out-of-circuit assignment is disapproved" and "[s]hould you be unable to identify a Cook County judge outside of the law division within the same courthouse, or one elsewhere within the circuit, who does not enjoy a personal relationship with Judge Brewer, I would be happy to have further discussion with you regarding this request."

¶ 13 On June 15, 2010, Chief Judge Evans entered an order stating that the supreme court "disapproved" Mannix's request but directed that the case be assigned to a Cook County judge with no personal relationship with Judge Brewer and then assigned the matter to Judge Lustig "who was recently assigned to the Law Division and is unlikely to have formed a personal relationship with Judge Brewer." That same day, Judge Lustig recused himself and returned the matter to the Chief Judge, who vacated his previous order and assigned the matter to Judge Powell, a judge "recently assigned to the Law Division and [who] is unlikely to have formed a personal relationship with Judge Brewer."

¶ 14 At a hearing in August 2010, Mannix orally requested that the case again be sent to Chief Judge Evans for reassignment to a judge not assigned to the Law Division or an out-of-circuit

judge. Judge Powell considered the request as a motion for substitution of judge as a matter of right, which she granted. Judge Powell transferred the matter to the Chief Judge who, in September 2010, assigned the case to Judge O'Hara of the Law Division.

¶ 15 At this point in the litigation, the defendants' motions to dismiss the complaint had been filed and were pending. Judge O'Hara entered a briefing schedule on the motions. Instead of filing a response to the motions to dismiss, plaintiff filed a motion to substitute Judge O'Hara for cause, on the basis that Judge O'Hara was "biased against her." Judge O'Hara transferred the substitution of judge for cause motion to the presiding judge for a hearing. Plaintiff's motion for substitution of judge was heard and denied by Judge Solganick and returned to Judge O'Hara. Mannix then filed a motion to vacate, which was also denied.

¶ 16 In January 2012, Mannix filed an emergency motion requesting the case be returned to the Chief Judge to seek assignment by the supreme court to an "out-of-circuit" judge. This motion cited the June 2010 letter from the AOIC. The requests to transfer the case to Chief Judge Evans or an out-of-circuit judge were denied and the matter was assigned to Judge Castiglione for a hearing on Mannix's emergency motion for substitution of Judge O'Hara for cause. After hearing, Judge Castiglione denied the motion, finding that Mannix had been given the opportunity to present evidence to support her contentions but she "fail[ed] to do so."

¶ 17 In May 2012, Mannix again moved to substitute Judge O'Hara for cause. Hearing on the motion was assigned to Judge Castiglione who heard "witnesses, testimony" and considered "exhibits and argument," but ultimately denied the motion for substitution of Judge O'Hara for cause. Mannix requested the recusal of Judge Castiglione, which was denied, and the matter was returned to Judge O'Hara who, on October 19, 2012, ultimately dismissed the complaint with

prejudice as to all defendants. Plaintiff's motion to vacate the dismissal was denied on February 27, 2013. This timely filed appeal followed.

¶ 18 ANALYSIS

¶ 19 Before addressing the merits of the appeal, we find that plaintiff's appellant's brief woefully fails to adhere to the Illinois Supreme Court Rules governing appellate review. The argument section of Mannix's appellant's brief is rambling and incoherent, it largely contains assertions involving records and documents that are not part of *this* common law record, it refers to alleged conspiracies involving judges who are neither defendants in this case nor even remotely involved, and refers to other litigation matters and individuals that are not related to this complaint. In sum, we find the brief does not contain a cohesive legal argument as required by Supreme Court Rule 341(h)(7) (eff. Feb. 6, 2013). Although plaintiff's failure to comply with Rule 341 is grounds for this court to disregard her arguments on appeal (*Burmac Metal Finishing Co. v. West Bend Mutual Insurance Co.*, 356 Ill. App. 3d 471, 478 (2005)), and reference to these unrelated matters hinders our review, we will consider the merits to the extent that we are able to understand the issues raised on appeal. *Coleman v. Akpakpan*, 402 Ill. App. 3d 822, 825 (2010) (citing *Lill Coal Co. v. Bellario*, 30 Ill. App. 3d 384, 385 (1975)). While we likely would be otherwise inclined to dismiss this appeal in its entirety, because of the extent of the litigation involved in this case and the underlying actions to date, we will resolve this matter.

¶ 20 From what we can discern, plaintiff takes issue with the procedural background that allowed a judge from the Law Division to preside over this case when another judge of the same division was a named defendant, and by allowing any judge of the Law Division to consider her motions for substitution of judge for cause "when all law division judges refused to recuse"

themselves. Second, plaintiff takes issue with the dismissal of all defendants with prejudice because "that involved weighing contested issues of fact."

¶ 21 *Judges Presiding over the Litigation*

¶ 22 Plaintiff argues that no judge assigned to the Law Division or any judge in Cook County should have been assigned to preside over this litigation. Mannix repeatedly requested that the judges recuse themselves or they be substituted for cause. Mannix also sought intervention from the Illinois Supreme Court and the AOIC for reassignment to a judge outside of the county.

¶ 23 We note that Mannix consistently takes the response from the AOIC out of context and distorts the response to indicate that the AOIC directed the Chief Judge to assign the case to a judge who was not assigned to the Law Division. The precise response from the AOIC was that the request to reassign to a judge outside of Cook County was denied and if the Chief Judge was "unable to identify a Cook County judge outside of the law division within the same courthouse, or one elsewhere within the circuit, who does not enjoy a personal relationship with Judge Brewer," he was to discuss the matter again with the AOIC. Without question, the directive of the AOIC was to assign this lawsuit to a judge within the Law Division that did not have a personal relationship with Judge Brewer and, should that not be possible, the case was to be assigned to another judge in the Daley Center and, if that was not possible, then to another judge within the circuit court of Cook County. The record reflects that this procedure was fully complied with and nothing in the record or in the plaintiff's argument lends itself to a contrary conclusion.

¶ 24 We next examine whether the motions for substitution of judge for cause were properly considered. There are two procedural mechanisms to seek removal of a judge from hearing a case: 1) a party may request recusal (Ill. S. Ct. R. 63(c)(1) (eff. April 16, 2007)) and; 2) a party

may file a motion for substitution of judge (735 ILCS 5/2-1001 (West 2010)). We note that while plaintiff references Rule 63 and section 2-1001 of the Code in her appellant's brief, she fails to develop any meaningful legal argument as required by Rule 341(h)(7).[2]

¶ 25 Rule 63(c)(1), which is part of canon 3 of the Code of Judicial Conduct, states that a judge must disqualify himself or herself in a proceeding when "the judge's impartiality might reasonably be questioned." Ill. S. Ct. R. 63(c)(1) (eff. April 16, 2007). A movant seeking the recusal of a trial judge must show "that an objective, reasonable person would conclude that the judge's impartiality might reasonably be questioned." *In re Marriage of O'Brien*, 393 Ill. App. 3d 364, 374 (2009). In the absence of prejudice, recusal by a trial court judge is not required. See *id*. at 373 (party petitioning for substitution of judge for cause must prove actual prejudice to prevail on its motion). In fact, "[a] circuit judge is presumed to be impartial and the burden of overcoming this presumption rests with the party asserting bias." *Anderson v. Alberto-Culver USA, Inc.*, 337 Ill. App. 3d 643, 663 (2003). Plaintiff has failed to meet her burden to present a persuasive argument that any judge in this case violated their independent duty under Rule 63 to consider or to effect a recusal because "the judge's impartiality might be reasonably questioned." Ill. Sup. Ct. Rule 63(c)(1) (eff. April 16, 2007). Because there has been no showing of personal bias against Mannix, no showing that any judge had knowledge of disputed facts of the case, no showing that any judge had previously represented her, and no showing that any judge had an economic interest in the case, plaintiff fails in her argument that any circuit court judge involved in this case should have recused themselves pursuant to Rule 63.

[2] Rule 341 requires, among other things, that an appellant present a fully developed argument with adequate legal and factual support (*Housing Authority of Champaign County v. Lyles*, 395 Ill. App. 3d 1036, 1040 (2009)) including, citations to legal authority for all arguments advocated (*Soter v. Christoforacos*, 53 Ill. App. 2d 133, 137 (1964)). In addition, the citations must be relevant and cannot merely consist of citations to general propositions of law. *Robinson v. Point One Toyota, Evanston*, 2012 IL App (1st) 111889, ¶ 54.

¶ 26 Section 2-1001(a)(3) of the Code provides in pertinent part that a judge can be substituted for cause "[w]hen cause exists." 735 ILCS 5/2-1001(a)(3) (West 2012). A party's right to have the petition for a substitution of judge heard by another judge is not automatic. The petitioner must first demonstrate that the petition meets the threshold requirements, including setting forth the cause for substitution. *In re Estate of Wilson*, 238 Ill. 2d 519, 553 (2010). Judges are presumed to be impartial and "the burden of overcoming the presumption by showing prejudicial trial conduct or personal bias rests on the party making the charge." *In re Marriage of O'Brien*, 2011 IL 109039, ¶ 31. Where bias or prejudice is invoked as the basis for seeking substitution, the bias must stem from an extrajudicial source, not simply what the judge learned from his or her participation in the case. *In re Estate of Wilson*, 238 Ill. 2d at 554. A trial judge's rulings entered during litigation almost never constitute a proper basis for claiming prejudice. *Id.* We will not overturn a trial court's decision on a petition to substitute judge for cause unless the decision was against the manifest weight of the evidence. *In re Marriage of O'Brien*, 2011 IL 109039, ¶ 13. A trial court's decision is against the manifest weight of the evidence only if "the opposite conclusion is clearly evident" or if the "court's findings are unreasonable, arbitrary, and not based on any of the evidence." *Id.*

¶ 27 In the instant case, our review of the record indicates that Mannix first moved for the assignment of this case to a judge from outside the Law Division because Judge Brewer was a named defendant and also assigned to the Law Division. That sparked her effort to involve the AOIC and its denial of her request for a judge from outside Cook County. When the case was finally assigned to Judge O'Hara, Mannix moved for his removal merely because of the proximity of his office to that of Judge Brewer. Finally, numerous motions to remove Judge O'Hara for cause were heard and denied after hearings before Judges Solganik and Castiglione.

Mannix has not made any cogent argument or citation to the record as to any error committed by either judge in the denial of these motions. Absent such argument and based on this record, we cannot find the denial of any motion to substitute any judge in this case to be in error.

¶ 28 The assertions by Mannix concerning various and sundry allegations of misconduct committed by the judges who presided over this case are also of no help. She claims that "all" of the judges who presided over her action should have either recused themselves or been substituted for cause because: the judges' conduct showed that they prejudged her case and theories of relief; the court is a "cottage industry"; the judges refused to take judicial notice of various court proceedings and rulings from cases involving other litigants before other courts and agencies; and the judges refused to hold various lawyers in contempt. She also references the facial expressions and number of times a judge sighed in court to support her claims of prejudice and bias, but she does not provide any citation to the record, a bystander's report, or evidence of such an encounter. In fact, plaintiff does not identify anything in the record from which an "objective, reasonable person would conclude that the judge's impartiality might reasonably be questioned." *In re Marriage of O'Brien*, 393 Ill. App. 3d at 374; *Collier v. Avis Rent A Car System, Inc.*, 248 Ill. App. 3d 1088, 1095 (1993) (argument made without citation to the record may be disregarded).

¶ 29 Mannix does not identify any specific "extrajudicial source" as a basis for the trial judges' alleged biases against her. Simply put, her claims lack evidentiary support and she has not shown how the trial judges' decisions resulted from anything other than their participation in the case and the fact that they are all judges in the same judicial circuit. For the most part, Mannix points to adverse rulings by the judges as support for her position. Such rulings are the natural consequence of the litigation process and are not evidence of bias. "Allegedly erroneous

findings and rulings by the trial court are insufficient reasons to believe that the court has a personal bias for or against a litigant." *Eychaner v. Gross*, 202 Ill. 2d 228, 280 (2002). Because plaintiff has not provided a basis from which to demonstrate bias, the denials of her petitions for recusal and motions for substitution of judge for cause were proper. The record does not support a conclusion that a reasonable person would question the impartiality of the judges sitting in the Law Division and the circuit court of Cook County to preside over this litigation.

¶ 30 Based on our review of the record and these circumstances, we find that plaintiff has failed to overcome the presumption that the judges presiding over this litigation were fair and impartial and the denial of her requests for recusal and substitution of judge for cause are not against the manifest weight of the evidence.

¶ 31 *Dismissal of Complaint with Prejudice*

¶ 32 Next, Mannix contends that the trial court erred in dismissing her complaint in its entirety. Plaintiff's complaint contained four counts, two for defamation *per se* and two for false light. Each count was brought against all defendants. The basis of all counts was the publication of specific language contained in two February 27, 2009, orders entered by Judge Brewer in post-decree custody proceedings filed against plaintiff.

¶ 33 The record shows that the February 27, 2009, orders were entered after a hearing on Sheetz's emergency petition seeking custody of his child, Brian, based on a prior order entered by Judge Donegan that granted Sheetz sole custody and enjoined Mannix from contacting Brian. In the first February 27, 2009 order, Judge Brewer, pursuant to Judge Donegan's earlier orders, granted Sheetz's emergency petition and awarded Sheetz sole custody of Brian and prohibited Mannix from contacting Brian "until further order of court." In the second February 27, 2009 order, Judge Brewer issued a rule to show cause against Mannix "to show why she should not be

held in contempt of court for failing to return Brian to his father as ordered by the court on March 30, 2006."

¶ 34 In her complaint, Mannix alleges that the two February 27, 2009 orders injured her reputation and impugned her capabilities as a clinical psychologist and mother. She alleged that Wessel, at the direction of Judge Brewer, drafted the first order, which was "disseminated to the court" by Sheetz, and Rissman drafted the second order, which was also disseminated by Sheetz. As for Asher, Mannix alleged that he acted "in conspiracy with" Wessel, Rissman, and Sheetz in authoring, publishing, and disseminating the contents of the two orders, although she did not allege that Asher himself performed any of those acts. As for Dr. Gamze, Mannix alleged he was part of the "conspiracy," and further alleged that the two orders were based in part on Dr. Gamze's Rule 604(b) evaluation prepared in the underlying post-decree proceedings, and therefore he was also responsible for the contents of the orders.

¶ 35 Defendants separately filed various motions to dismiss under sections 2-615, 2-619, and 2-619.1 of the Code (735 ILCS 5/2-615, 2-619, 2-619.1 (West 2012)). Defendant Sheetz argued that the complaint failed to allege sufficient facts to support any cause of action. Wessel, the court-appointed attorney for Mannix's children, and Asher and Rissman, Sheetz's former attorneys in the custody proceedings, argued that plaintiff's claims against them were barred by absolute immunity and the litigation privilege. Dr. Gamze, the court-appointed licensed psychiatrist who prepared a custody evaluation report, argued that the claims against him were barred by absolute immunity. Judge Brewer argued that the claims against her were barred by judicial and sovereign immunity.

¶ 36 The circuit court dismissed the claims against all defendants under section 2-619 of the Code, finding that the alleged actions which formed the basis of plaintiff's theories of liability

were all grounded on acts which took place during court proceedings or were representations made in court or on the court's behalf, and therefore the claims against Sheetz, Dr. Gamze, and the attorney defendants were barred by absolute immunity. As to Judge Brewer, the court found that plaintiff's claims were barred by judicial and sovereign immunity.

¶ 37 Reviewing the motions to dismiss *de novo* (*Elderman, Combs & Latturner v. Hinshaw & Culbertson*, 338 Ill. App. 3d 156, 164 (2003)), we agree with the circuit court and find Mannix's claims are barred.

¶ 38 Mannix argues on appeal that "Judge O'Hara erred when he granted the defendants' motions to dismiss by weighing controverted issues of fact that he was statutorily prohibited from deciding." Those "facts" include whether Judge Brewer: acted in the absence of authority and jurisdiction; "agree[d] to act as a combine or 'cottage industry' engaged in unlawful acts"; and acted with actual malice as alleged in the complaint. To support this claim of error, Mannix's appellant's brief includes typed portions of transcripts from 2007 hearings before Judge Donegan and Judge Brewer that fail to support her claim of error. Nonetheless, Mannix's instant complaint was dismissed under section 2-619 of the Code because the claims against defendants were barred.

¶ 39 First, we find Judge Brewer's claimed tortious actions were within her normal judicial function and are absolutely immune from liability.

¶ 40 "A judge is *absolutely* immune from liability for acts committed while exercising the authority vested in [her]. This doctrine of judicial immunity is subject to only two exceptions: namely, actions not taken in the judge's judicial capacity and actions taken in the complete absence of all jurisdiction." (Emphasis added.) *Grund v. Donegan*, 298 Ill. App. 3d 1034, 1039 (1998). In this case, considering the well-pleaded allegations against Judge Brewer in the light

most favorable to plaintiff, there can be no question that neither exception is applicable to Judge Brewer's conduct in the underlying domestic relations proceedings on February 27, 2009. Plaintiff has not established anything other than a judge entering an order after due consideration of the issues before her. Plaintiff has presented nothing that remotely casts doubt on Judge Brewer's jurisdiction over the parties or the subject matter or her authority as a judicial officer when she entered the two orders in question. Consequently, because Mannix's claims against Judge Brewer arose solely out of her judicial function and are based on her statements made in open court as part of the bases for her rulings and orders, the claims against Judge Brewer were properly dismissed with prejudice pursuant to section 2-619(a)(9) of the Code.

¶ 41 Similarly, we find that the claims against Wessell, the child representative for Mannix's children, and Dr. Gamze, the licensed psychiatrist who prepared a custody evaluation report at the direction of the court in the underlying domestic relations matter, are barred because of absolute immunity.

¶ 42 A "child representative appointed by the court assists in this determination by meeting with the child and the parties, investigating the facts of the case, and advocating for the child's best interests after reviewing the facts and circumstances of the case." *Vlastelica v. Brend*, 2011 IL App (1st) 102587, ¶ 22. "[A] child representative [is] a 'hybrid' of a child's attorney and a child's guardian *ad litem* who acts as an arm of the court in assisting in a neutral determination of the child's best interests." *Id.* ¶ 23. Therefore, a "child representative must be accorded absolute immunity so as to allow him to fulfill his obligations without worry of harassment and intimidation from dissatisfied parents." *Id.* ¶ 23. "Such absolute immunity extends to all conduct that 'occurred within the course of [the child representative's] court-appointed duties.' " *Id.* ¶ 28. The same absolute immunity is afforded court-appointed psychiatrists like Dr. Gamze who are

ordered to evaluate and prepare a custody evaluation report. Both Wessell and Gamze provided valuable insight and assistance to the court in its evaluation and final determination of the custody issues decided in the post-decree proceedings. Therefore, these defendants are protected by absolute immunity.

¶ 43 It is well-settled that allegedly libelous material contained in court documents generated during the course of litigation is absolutely privileged. *Defemd v. LaScelles*, 149 Ill. App. 3d 630, 636 (1986) (documents filed in the course of litigation are protected by an absolute privilege against defamation actions). "The law *** clearly allows for an absolute privilege where there exists a significant interest in protecting the type of speech involved." *Id.* at 635. "For a court deciding a custody matter, the issue that singly must be decided is the best interest of the child." *Vlastelica*, 2011 IL App (1st) 102587 at ¶ 23. A psychological evaluator appointed by the court serves the best interest of the children involved in a family law dispute, by meeting with the parties and the child, and by "investigating the facts of the case, and advocating for the child's best interests." *Id.*; *Cooney v. Rossiter*, 583 F.3d 967, 970 (7th Cir. 2009). It is vital that this service is performed without the threat of any kind of resultant liability. *Cooney*, 583 F.3d at 970. Thus, the work performed by a child representative, appointed by a domestic relations judge to evaluate and prepare a custody evaluation report, is protected by the absolute privilege. See *Vlastelica*, 2011 IL App (1st) 102587.

¶ 44 In this case, the basis of liability alleged against defendants Wessel and Dr. Gamze is predicated on their actions as child representative and licensed psychiatrist, performed at the direction of the court, during the course of the divorce litigation. Dr. Gamze's preparation of the Rule 604(b) evaluation report, Wessel's counsel as child representative, and the contents of Judge Brewer's orders cannot serve as the basis of civil liability for *per se* defamation and false

light because of the absolute privilege that protect the work they performed at the direction of the court in underlying custody proceeding. See *id.* There is no genuine issue of material fact that the purported defamatory statements are contained in the February 27, 2009 court orders made and documented in the course of valid judicial proceedings. Consequently, we find the circuit court properly dismissed Mannix's claims against Wessel and Dr. Gamze, as the conduct alleged is privileged and barred by absolute immunity.

¶ 45 Lastly, the absolute privilege also applies to Asher and Rissman, who represented plaintiff's ex-husband in the divorce proceedings.

¶ 46 The Illinois absolute attorney privilege is based on section 586 of the Restatement (Second) of Torts which provides:

> "An attorney at law is absolutely privileged to publish defamatory matter concerning another in communications preliminary to a proposed judicial proceeding, or in the institution of, or during the course and as part of, a judicial proceeding in which he participates as counsel, if it has some relation to the proceeding." Restatement (Second) of Torts § 586 (1977).

The privilege applies to communications made before, during, and after litigation. *O'Callaghan v. Satherlie*, 2015 IL App (1st) 142152, ¶ 26. The privilege has recently been applied by this court to causes of action for defamation, negligent infliction of emotional distress, and breach of contract. *Id.*

¶ 47 Mannix's complaint alleged that Asher and Rissman's acts of defamation and false light were contained in the February 27, 2009 court orders, disseminated by Rissman at the direction of Judge Brewer, with Asher acting as a co-conspirator, resulting in damage to Mannix's reputation as a licensed professional and as a mother. Again, there is no question of fact that the

orders containing the alleged defamatory statements were prepared and entered in a judicial proceeding at the direction of a judicial officer acting within the scope of her judicial authority. Accordingly, we find that Mannix's claims against attorneys Asher and Rissman are barred by absolute immunity. See *id*.

¶ 48 CONCLUSION

¶ 49 Mannix has failed to provide this court with a brief in compliance with Rule 341. Nonetheless, we considered the record and her arguments and find that she did not establish that the various orders denying her requests for recusal and substitution of judge for cause were not against the manifest weight of the evidence. The allegations of Mannix's defamation and false light claims are based on the contents of the two orders entered by Judge Brewer and the dissemination of those orders. We also find that her claims, as alleged, are predicated on the defendants' conduct during the course of the underlying domestic relations proceedings, conduct that was part of the litigation process and conduct that occurred either while in court or at the direction of the court or on behalf of a litigant or as a child representative or court-appointed physician, which is absolutely immune from liability. Therefore, we affirm the judgment of the circuit court in denying Mannix's requests for recusal and petitions for substitution of judge for cause, and in dismissing her complaint with prejudice.

¶ 50 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 51 Affirmed.