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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

VICTOR GURVICH,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	
)	No. 09 M3 1311
PLUM GROVE CONDO ASSOCIATION and)	
PATRICK CAMASTA)	Honorable
)	Thomas David Roti,
Defendants-Appellees.)	Judge Presiding.

JUSTICE ROCHFORD delivered the judgment of the court.
Presiding Justice Hoffman and Justice Hall concurred in the judgment.

ORDER

- ¶ 1 *Held:* Judgment affirmed on presumption of correctness where plaintiff failed to provide a sufficiently complete record to support his claims of error, or comply with Supreme Court Rule 341 in presenting his arguments.
- ¶ 2 Plaintiff, Victor Gurvich, filed a small-claims complaint against defendants, Plum Grove Condominium Association, (PGCA) and PGCA board president, Patrick Camasta. A jury returned a verdict in favor of defendants. Plaintiff's motions for a retrial and reconsideration were denied by the circuit court of Cook County. Plaintiff now appeals *pro se*.
- ¶ 3 The pleadings in the common law record show plaintiff owned a condominium unit at 912 South Plum Grove Road in Palatine, Illinois. From 2005 to 2009, remodeling was done to the condominium building, including, *inter alia* replacement of balconies, patios, and tile in the hallways. Plaintiff maintained the work done was faulty and in violation of state and local safety

standards, it resulted in damages to his cars and the interior of his condominium unit, and the work needed to be redone. Plaintiff further maintained defendants committed other violations and breaches, including a breach of fiduciary duty, failure to provide PGCA's records for his review, and the imposition of an illegal charge to his account of \$1,424, plus late fees related to that charge.

¶ 4 In April 2009, plaintiff, *pro se*, filed his first complaint against "PG Board" (Board) and defendants, PGCA and Patrick Camasta, alleging they and the Board members breached their fiduciary duties and owed him \$10,000. Defendants filed a motion to dismiss plaintiff's *pro se* complaint alleging it was insufficient as a matter of law. Plaintiff subsequently submitted an "amended" complaint and "response" to defendants' motion to dismiss listing Camasta, PGCA, and the Board members as defendants. On August 28, 2009, the circuit court granted defendants' *pro se* motion to dismiss, struck plaintiff's original and amended complaints, and granted plaintiff leave to file an amended complaint.

¶ 5 Plaintiff ultimately filed six amended complaints and was granted leave to file all but one. Defendants filed motions to dismiss each of the complaints, and the court struck portions of the complaints. The court allowed the following allegations to stand in the fifth-amended complaint: (1) on January 1, 2006, defendants charged plaintiff's account for \$1,424 for damages done to the condominium property for which he was not responsible, the bill was overpriced, and beginning January 2009, defendants charged him a monthly late fee of \$20 for the \$1,424 bill; (2) plaintiff was entitled to recovery of unfair and illegal charges that he paid; (3) in July 2006, plaintiff was fined \$200 for battery against the PGCA's contractor which defendant Camasta allegedly masterminded and provoked; (4) a negligence action for property damages to plaintiff's condominium unit from the balcony replacement job performed by the association contractor, Jeff Cermak; (5) property damages to plaintiff's two automobiles; (6) diminished value to his condominium unit based on continued negligence and wrongdoing of defendants who knowingly hired an unqualified contractor, the husband of the PGCA's managing agent, and performed unacceptable quality work with multiple

safety and structural violations; and (7) intentional infliction of emotional distress.

¶ 6 During the period in which plaintiff filed his amended complaints, he also sought the substitution of Judge Fink with Judge Roti or any other judge in the small claims court. Judge Fink recused himself, and the case was transferred to Judge Roti in July 2010.

¶ 7 In January 2011, the matter proceeded to arbitration, and an award was entered in favor of defendants. Plaintiff rejected it, and in February 2011, Judge Roti issued an order setting trial for April 11, 2011. Prior to trial, plaintiff filed a motion for substitution of "judge and county," alleging he was treated unfairly since his case was filed, and that the judge openly supported the "violators of law." The court denied that motion and, in doing so, observed the motion was not sworn and there was no affidavit attached to it.

¶ 8 On April 12, 2011, following a jury trial, a verdict was entered in favor of defendants. On April 29, 2011, plaintiff filed a motion requesting a retrial. While that motion was pending, plaintiff filed a notice of appeal on May 9, 2011, and an amended notice of appeal on May 10, 2011. On May 12, 2011, plaintiff filed a motion for reconsideration of the jury verdict. On that same date, the circuit court, "after being fully advised in the premises," entered an order denying plaintiff's motions for a new trial and to reconsider based on the notice of appeal filed by plaintiff on May 9, 2011, and the amended notice of appeal filed on May 10, 2011.

¶ 9 As an initial matter, we observe plaintiff requests this court "combine and review this case together with the case 10 M3 3267." Plaintiff, however, failed to file a notice of appeal in that case and, therefore, we cannot consider it or consolidate it since a timely notice of appeal from the final judgment must be filed pursuant to Supreme Court Rule 303(a). Ill. S. Ct. R. 303(a) (eff. June 4, 2008; see also *D'Agostino v. Lynch*, 382 Ill. App. 3d 639, 642 (2008)).

¶ 10 We also consider whether we have jurisdiction over plaintiff's appeal in case number 09 M3 1311 based on the timing of the postjudgment motions and notices of appeal. *Lebron v. Gottlieb Memorial Hospital*, 237 Ill. 2d 217, 251-52 (2010). When a timely postjudgment motion has been

filed, a notice of appeal filed before the entry of the order disposing of the last pending postjudgment motion becomes effective when the order disposing of said motion is entered. Ill. S. Ct. R. 303(a)(2) (eff. June 4, 2008). Under this rule, plaintiff's previously filed notice of appeal on May 9, 2011, became effective when the trial court disposed of his postjudgment motions on May 12, 2011. Ill. S. Ct. R. 303(a)(2) (eff. June 4, 2008). Accordingly, we have jurisdiction over this appeal.

¶ 11 That said, we observe plaintiff has failed to set forth a cogent argument in his brief as required by Supreme Court Rule 341. Ill. S. Ct. R. 341 (eff. July 1, 2008). On appeal, plaintiff contends the trial court erred in granting defendants summary judgment, while the record reveals there was a jury trial. Plaintiff further maintains that the facts and evidence showed defendants improperly charged his account for damages to the condominium's doorways, refused to communicate with him, charged his account with retaliatory late fees, committed multiple frauds, were responsible for continuous negligent and intentional infliction of emotional distress, were responsible for his personal property damages and loss of investment, failed and refused to communicate and act in good faith and with diligence, breached their contract with plaintiff, and breached fiduciary duties owed plaintiff. He further contends the circuit court acted with prejudice where, *inter alia*, the small claims process was inappropriate, damaging and did not bring him relief, the verdict was erroneous, the trial process was confusing and destructive, and Judge Roti failed to satisfy his request to recuse himself from the case.

¶ 12 Plaintiff's listing of unclear allegations of error is not argument and does not satisfy the requirements of Rule 341(h)(7). *Vancura v. Katris*, 238 Ill. 2d 352, 370 (2010). It is not this court's task "to divine the truth from the interstices of the parties' filings or to sift through the record like a tea leaf reader conjuring up fortunes in order to gain a proper understanding of the case before us." *First Illinois Bank & Trust v. Galuska*, 255 Ill. App. 3d 86, 94 (1993).

¶ 13 Moreover, plaintiff, as appellant, has the responsibility of providing this court with a complete record on appeal. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Any doubts arising

from the incomplete record are resolved against the appellant and those issues which depend for resolution upon facts not in the record mandate affirmance. *Id.*

¶ 14 In this case, the matter proceeded to a jury trial, but plaintiff has not provided this court with a transcript of that trial, or acceptable substitute, the exhibits presented there or the jury instructions. Ill. S. Ct. R. 323 (eff. Dec. 13, 2005). We are, thus, unable to review those of plaintiff's claims which are fact-sensitive and depend upon review of the evidence presented at trial. In the absence of such a record, the reviewing court must presume that the trier of fact had ample grounds to support its judgment. *Rock Island County v. Boalbey*, 242 Ill. App. 3d 461, 462 (1993). Since plaintiff failed to provide the record necessary to review his claims, we presume that the judgment was in conformity with the law and was supported by a sufficient factual basis. *Foutch*, 99 Ill. 2d at 392.

¶ 15 With regard to defendant's apparent challenge to the denial of his motion for substitution of Judge Roti for cause, we observe defendant failed to show the requisite prejudice, *i.e.*, prejudicial trial conduct or personal bias, had specifically sought judge Roti in a prior successful motion for substitution of judge (*In re Marriage of O'Brien*, 2011 IL 109039, ¶ 30) and failed to verify the motion for substitution with his affidavit, as required by statute. 735 ILCS 5/2-1001(a)(3) (West 2010); *In re J.D.*, 332 Ill. App. 3d 395, 404 (2002). Accordingly, we find no error by the trial court in denying plaintiff's motion for substitution of judge. *Shachter v. City of Chicago*, 2011 Ill. App. (1st) 103582, ¶ 30. Finally, plaintiff's claim that the trial court disregarded his post-trial motions is belied by the order showing that the court denied the motions after being fully advised in the premises. *Sheppard v. Rebidas*, 354 Ill. App. 3d 330, 334 (2004).

¶ 16 In light of the foregoing, we affirm the judgment of the circuit court of Cook County.

¶ 17 Affirmed.