

No. 1-12-2470

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

BENEFICIAL ILLINOIS, INC., d/b/a BENEFICIAL	)	Appeal from the Circuit
MORTGAGE COMPANY OF ILLINOIS,	)	Court of Cook County
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	
	)	No. 10 CH 22995
MARY SATTERFIELD,	)	
	)	
Defendant-Appellant	)	
	)	Honorable
(Angela Satterfield, Unknown Owners and Non-	)	Daniel Patrick Brennan,
Record Claimants, Defendants).	)	Judge Presiding.

JUSTICE PALMER delivered the judgment of the court.
Presiding Justice Gordon and Justice Taylor concurred in the judgment.

ORDER

¶ 1 Held: Judgment affirmed on presumption of correctness where defendant failed to comply with the requirements of Supreme Court Rule 341 regarding the form and content of appellate briefs.

¶ 2 Plaintiff Beneficial Illinois, Inc., doing business as Beneficial Mortgage Company of Illinois, filed a mortgage foreclosure action against defendant Mary Satterfield. Defendant, *pro se*, appeals the circuit court's orders granting summary judgment to plaintiff and approving report of sale and distribution and confirming sale and

possession of defendant's property.¹ She alleges fraud, collusion, bad faith, misrepresentation and malfeasance by the court and legal counsel and plaintiff's lack of standing. We affirm.

¶ 3 Background

¶ 4 The record shows that on January 3, 2007, defendant and her daughter, Angela Satterfield, executed a loan agreement with plaintiff (the note) to refinance the home where defendant lived with her son and uncle at 1411 South 20th Avenue, Maywood, Illinois. The note was secured by a mortgage on the Maywood property.

¶ 5 On May 28, 2010, plaintiff filed a complaint to foreclose on the mortgage against defendant, Angela, unknown owners and non-record claimants, asserting that defendant and Angela had defaulted on their obligations under the note beginning in December 2009. The complaint attached copies of the mortgage document and the note executed by defendant and Angela. Plaintiff subsequently obtained a default judgment against the unknown owners and non-record claimants and the parties agree that Angela is not a party on appeal. We will, therefore, recite only the facts pertinent to defendant.

¶ 6 The record contains affidavits of special process servers showing that plaintiff attempted to serve defendant with notice of the foreclosure action at the Maywood

¹ On February 14, 2012, the circuit court granted plaintiff's motion to substitute the party-plaintiff's name. Defendant's loan had been transferred as a result of a merger since the filing of the complaint for foreclosure. The proper plaintiff is now Beneficial Financial I Inc., successor by merger to Beneficial Illinois, Inc., doing business as Beneficial Mortgage Company of Illinois.

address 11 times. Plaintiff filed an affidavit of due and diligent search, stating that searches of social security, credit file and department of motor vehicle databases had disclosed only the Maywood address for defendant. Plaintiff published notice of the foreclosure action in the Chicago Daily Law Bulletin from July 13, 2010, to July 27, 2010, and the clerk of the circuit court mailed a copy of the publication notice to defendant at the Maywood address on July 15, 2010.

¶ 7 On July 28, 2010, Martha Bolton, an attorney with KEL law firm in Florida, entered an appearance as attorney for defendant. On August 10, 2010, defendant filed a motion for referral to mediation, asserting that the Maywood property was her primary residence and she wanted to keep the property. That same day, she filed an answer and affirmative defenses, claiming plaintiff failed to (1) comply with the contractual notice requirements in the mortgage, (2) determine whether the loan qualified for modification under the federal "HEMP" program and (3) violated the Equal Credit Opportunity Act and thus came to the action with unclean hands.

¶ 8 In October 2010, defendant filed a request for production. In February 2011, the court granted Bolton's motion to withdraw her appearance after defendant decided to retain local counsel. In May 2011, Charles Silverman, of Kaplan Silverman LLC of Chicago, filed an "additional appearance" for defendants.

¶ 9 On September 28, 2011, plaintiff filed motions for summary judgment of foreclosure, judgment of foreclose and sale and appointment of Judicial Sales

Corporation as selling officer.² Following a November 23, 2011, hearing on defendants' request for mediation and plaintiff's motions, the court continued the hearing on plaintiff's motions until December 2011. Noting that plaintiff's and defendants' counsel were present in court, the court stated that defendants' motion for mediation had been withdrawn and gave counsel for defendants "time to consult with her clients about whether they want to move forward with mediation." On February 14, 2012, following another hearing, the court granted plaintiff's motions for summary judgment, appointment of selling officer and judgment of foreclosure and sale.

¶ 10 On April 19, 2012, Silverman moved to withdraw. On April 26, 2012, defendant and her son, Nathaniel Satterfield, as her aide, filed a *pro se* appearance. From this point forward, all defendant's filings and appearances were *pro se*. Defendant filed a verified "motion/answer/counterclaim," requesting dismissal of plaintiff's action on the basis of plaintiff's violation of the service of process requirement, lying in the service affidavit, perjury, "pattern of untruthfulness through out the entire relationship of their contract," loan modification fraud, predatory lending, lack of due diligence and pattern of unfair dealings, among other claims. She attached numerous exhibits and sought rescission of the contract and actual and punitive damages.

¶ 11 On May 3, 2012, the court granted Silverman's motion to withdraw and gave defendant 21 days to file an appearance. On May 31, 2012, defendant filed another

² The record contains these motions twice: once with a date stamp of September 28, 2011, and then again with a date stamp of November 16, 2011.

"answer" to the foreclosure complaint, asserting that the foreclosure was unjust.

Setting forth the transactions between herself and plaintiff and herself and her attorneys at great length, she alleged that defendants were never properly served foreclosure papers and plaintiff had unclean hands and had perpetrated fraud, unfair business practices and predatory lending. The answer was prepared by Nathaniel on defendant's behalf.

¶ 12 On June 14, 2012, defendant filed another *pro se* appearance as well as another lengthy "answer" with numerous exhibits. She claimed "we have been left in the dark with regards to the details of the complaint and have been victimized by the plaintiff who has established a pattern of fraud [and] unfair dealings with the defendant(s)."

Defendant also filed a motion to stay sale of the property and to "dismiss plaintiff's motion for summary judgment," arguing that plaintiff did not come to court with clean hands, had lied in a sworn affidavit, had defrauded defendants and failed to comply with notice requirements.

¶ 13 On June 21, 2012, plaintiff filed a motion for order approving report of sale and distribution and possession. It informed the court that, pursuant to the court's February 14, 2012, judgment of foreclosure and sale, a judicial sale was held on May 16, 2012. Plaintiff was the highest bidder at the sale.

¶ 14 On July 19, 2012, defendant filed a motion requesting the court to deny plaintiff's motion to approve sale "until the following matters have been addressed." She charged plaintiff with unlawful eviction, harassment, lack of due diligence, failure to provide

proper notice, bad faith business dealing and fraud. On July 24, 2012, she filed a motion requesting the court to deny or vacate the confirmation of sale

¶ 15 On July 24, 2012, the court denied defendant's "motion to vacate judgment," presumably referring to defendant's motion to dismiss plaintiff's summary judgment motion. The court received *instanter* defendant's response to plaintiff's motion for an order approving sale. Plaintiff filed a reply and defendant filed a response.

¶ 16 On August 14, 2012, defendant filed a motion to deny confirmation of sale and "quash summary judgment." That same day, the court entered an order approving plaintiff's report of sale and distribution, confirming sale and order of possession.

¶ 17 On August 16, 2012, Angela filed her timely notice of appeal from the August 14, 2012, order approving plaintiff's report of sale and distribution, confirming sale and order of possession and the February 12, 2012, order granting summary judgment to plaintiff. She amended her notice of appeal on August 29, 2012, adding a request for "any other equitable relief."

¶ 18 Analysis

¶ 19 Illinois Supreme Court Rule 341 sets forth the format and contents of appellate briefs. Ill. S. Ct. R. 341 (eff. July 1, 2008); *Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8. These procedural rules are mandatory, and defendant's *pro se* status does not relieve her from complying with these rules as nearly as possible. *Voris*, 2011 IL App (1st) 103814, ¶ 8. Defendant obviously put a lot of time and effort into preparing her brief and it does meet some of the requirements of Rule 341. But, overall, her brief is

inadequate for our review of the case.

¶ 20 Defendant provides an introductory statement regarding the nature of the case, statement of the issues, jurisdictional statement and conclusion that meet the basic requirements of Rules 341(h)(2), (h)(3), (h)(4) and (h)(8). Ill. S. Ct. R. 341(h)(2), (h)(3), (h)(4), (h)(8) (eff. July 1, 2008). She also provides a list of point and authorities, a statement of facts, an argument section and an appendix as required by Rules 341(h)(1), (h)(6), (h)(7) and (h)(9). Ill. S. Ct. R. 341 (h)(1), (h)(6), (h)(7), (h)(9) (eff. July 1, 2008). Unfortunately, the contents of these sections are inadequate to meet the requirements of Rule 341.

¶ 21 Defendant's points and authorities section fails to comply with Rule 341(h)(1) because it does not contain "the headings of the points and subpoints as in the Argument, with the citation under each heading of the authorities relied upon or distinguished, and a reference to the page of the brief on which each heading and each authority appear." Ill. S. Ct. R. 341(h)(1) (eff. July 1, 2008). Defendant's points and authorities list consists of general subject headings such as "regarding fraud" and "rules regarding professional conduct," with citations and holdings or quotes from the cited cases listed under each heading. She includes no argument points or page references, which is not surprising given that, as will be discussed below, her argument contains neither citations to authority nor adequate headings.

¶ 22 Defendant's statement of facts fails to comply with Rule 341(h)(6) because it in no way sets forth "the facts necessary to an understanding of the case, stated

accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal." Ill. S. Ct. R. 341(h)(6) (eff. July 1, 2008).

Defendant's statement of facts sets forth a cursory chronology but is not adequate to our understanding of the case. Defendant includes no citations to the record, repeatedly refers to events outside the record and court proceedings, makes personal observations regarding what happened in the trial court and between her and her attorneys and plaintiff, and argues throughout the section. Reading this statement of facts, we have little understanding of what happened below.

¶ 23 The argument section of defendant's brief fails to comply with Rule 341(h)(7).

Although defendant presents the requisite "contentions of the appellant and the reasons therefor" (Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2008)), her contentions are, for the most part, directed to issues that are not properly before this court. She concisely summarizes her argument as follows: "this entire court proceeding is tainted with fraud and involved *Bad Faith* participation from some of the officers of the court, namely the agents of the Plaintiff-Appellee, Johnson & Blumberg [plaintiff's attorneys], Kaplan & Silverman [defendant's former attorneys], and [the trial court judge]." (Emphasis in original.)

¶ 24 Defendant introduces her argument with "[l]et's now consider the actions of each party involved" and then divides her argument into subsections comprised of the following headings and assertions:

"[Plaintiff]" - Defendants argues that plaintiff and its employees and agents have

been defrauding her since the inception of the refinancing loan, perpetrated fraud in their service of the complaint by never personally serving defendant, violated assorted lending statutes and had no standing to sue.

"Kaplan & Silverman" - Defendant argues this law firm's representation of her was "seriously deficient," ineffective, inadequate representation and committed in bad faith.

"Judge [the circuit court judge]" - Defendant stated, "[w]hile we hold our opponent, Beneficial and their agents as being primarily responsible for all of the fraud we suffered in the past approximately 5 years, what the trial court judge did in this case proved most shocking to us." She charged the judge with lying, conducting the case unreasonably and impatiently, not listening to defendant, rolling his eyes, colluding with plaintiff's attorneys, not providing defendant an opportunity to present her case and presiding over the courtroom "in such a way so as to let fraud and bad faith participation rein *[sic]*."

"The Court's Computer Docket" - Defendant argues that the circuit court's computer docket is a public record rife with inconsistencies which "should serve as indicators or earmarks of [plaintiff's, its attorneys' and the court's untruthfulness]. As an example, she asserts that the computer docket shows "appearances fraudulently entered under the name of George Van Emden & Associates," a law firm she never retained, at a time when she was not yet in court and had retained KEL as her counsel. She also makes much of the fact

that the docket did not show entry of the order granting summary judgment, questioning whether such was actually granted and whether, if it was, that fact was being hidden from her.

¶ 25 Defendant's conclusion section is a continuation of her argument, opening with her statement that "we believe that the officers of the court engaged in unconscionable tactics to insulate [plaintiff] from [defendant's] formidable foreclosure defenses due to Social Discrimination and Favoritism." She asserts "a fake summary judgment served to divert the court's attention away from the merits of [her] legitimate claims," includes a myriad of details regarding the effect the proceedings and foreclosure had on her family and closes with the request that the court reverse the judgment approving the sale of her home and the "voidable summary judgment allegedly entered on February 14, 2012."

¶ 26 Defendant provides no "citation of the authorities and the pages of the record relied on" to support her arguments as required by Rule 341(h)(7). Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2008). In 12 pages of argument and 4 pages of conclusion, which are essentially an extension of her argument, defendant provides only three citations to authority, none of them relevant, and as many citations to the record. This is entirely inadequate to meet the requirements of Rule 341(h)(7) and for our review of the issues.

¶ 27 The lack of citations to the record is not surprising given that there is nothing in the record to support any of defendant's arguments. Defendant failed to file any reports of the assorted court proceedings, bystander's reports or agreed statements of facts

pursuant to Illinois Supreme Court Rules 323(c) and (d). Ill. S.Ct. R. 323(c), (d) (eff. Dec. 13, 2005). Without records of what transpired during the hearings, we have no record of the issues, arguments or evidence presented or considered by the court in finding for plaintiff, let alone of how the court conducted the proceedings. It is the appellant's burden to provide a sufficiently complete record to support claims of error on appeal. *Webster v. Hartman*, 195 Ill. 2d 426, 432 (2001) (citing *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984)).

"Where the issue on appeal relates to the conduct of a hearing or proceeding, this issue is not subject to review absent a report or record of the proceeding. Instead, absent a record, 'it [is] presumed that the order entered by the trial court [is] in conformity with the law and had a sufficient factual basis.'" *Webster*, 195 Ill. 2d at 432 (quoting *Foutch*, 99 Ill.2d at 392).

¶ 28 We grant that the record is relatively short, consisting of only two volumes, and we could arguably parse through the record in search of support for defendant's assertions. See *People v. Johnson*, 192 Ill. 2d 202, 206 (2000) (where a record is short and the issues simple, we will, at times, decline to penalize an appellant for an inadequate brief and consider the issues). However, we are not required to do an appellant's work for him and decline to do so here. This court is not a depository into which an appellant can dump the entire matter of pleadings, court action, argument and research. *Bank of Ravenswood*, 104 Ill. App. 3d at 1074.

¶ 29 The record contains no transcript of the hearings on plaintiff's motions for

summary judgment and for approval of report of sale and distribution and confirmation of sale and possession. It contains no reports of the proceedings, no bystander's reports and no agreed statements of facts. We, therefore, do not know what evidence or arguments were presented at the hearings or the basis for the circuit court's decision. We only know that the court granted plaintiff's motions. Under these circumstances, we will presume that the trial court heard adequate evidence to support its decisions and that its orders granting summary judgment to plaintiff and approving report of sale and distribution and confirming sale and possession of defendant's property were in conformity with the law. See *Webster*, 195 Ill. 2d at 432 (citing *Foutch*, 99 Ill. 2d at 391-92).

¶ 30 Moreover, even were we to consider defendant's arguments, they can be summarily disposed of. With some inference, there are two substantive arguments to be gleaned from defendant's brief: (1) plaintiff committed fraud in its service of the complaint because plaintiff never personally served defendant and lied to the court when it reported that it had attempted such service; and (2) plaintiff had no standing to sue because it had sold the mortgage to another company.

¶ 31 The first argument is rebutted by the record, which shows compliance with the service requirements of section 2-206 of the Illinois Code of Civil Procedure (735 ILCS 5/2-206 (West 2008)). The record contains an affidavit showing that plaintiff's agent's search of multiple computer databases disclosed only the Maywood address as defendant's residence, two affidavits from process servers showing 11 unsuccessful

attempts to serve defendant at that Maywood address and the ultimate service by publication when personal service failed. Further, by filing her answer, defendant waived any objection to the court's personal jurisdiction over her. 735 ILCS 5/2-301(a-5) (West 2008).

¶ 32 The second argument is unsupported, given that it is a defendant's burden to plead and prove lack of standing (*International Union of Operating Engineers, Local 148, AFL–CIO v. Illinois Department of Employment Security*, 215 Ill.2d 37, 45 (2005)) and defendant points us to nothing in the record to support her assertion that plaintiff lacked standing, let alone that she raised this argument to the trial court.

¶ 33 Defendant remaining arguments are addressed to challenging the inadequacies and misrepresentations of her counsel; collusion between the court and plaintiff's counsel; plaintiff's fraud, bad faith and misrepresentation; and the court's conduct of the proceedings. These arguments are based solely on defendant's reminiscences and anecdotal evidence rather than on the record, are entirely irrelevant to the issues raised in the notice of appeal (which challenges the court's orders granting summary judgment to plaintiff and approving plaintiff's report of sale and distribution, confirming sale and order of possession) and have no place before this court.

¶ 34 As a final note, defendant's table of contents to the record contained in the appendix to her brief falls far short of the requirements of the supreme court rules, specifically Rules 341(h)(9) and 342. The table of contents does not "set forth a complete table of contents, with page references, of the record on appeal" nor does it

sufficiently describe "the nature of each document, order, or exhibit" or include "the date of filing or entry" of the orders or pleadings." Ill. S. Ct. R. 342(a) (eff. Jan. 1, 2005). Although defendant's table of contents to the record includes some page references, she neither adequately identifies the nature of the documents referenced nor states the dates of filing or entry of those documents. Indeed, defendant's identification of the nature of the documents is often argument, rather than identification.³ The table of contents is clearly inadequate for our review of the issues, especially since defendant did not include citations to the record in either her statement of facts or argument.

¶ 35 We do not doubt defendant's sincere belief in her case and that she put in a considerable amount of work to produce her appellate brief. However, despite defendant's best efforts, her brief does not articulate an organized and cohesive legal argument for our consideration and fails to comply with Supreme Court Rule 341 in that it contains an inadequate statement of facts, citation of authorities, legal arguments and table of contents to the record, among other deficiencies. Defendant's failure to comply

³ For example, defendant's table contains the following identifications:
"C00062-63; Evidence of the presence of another judge who sat on this case;
the transition between the judges is very obscure - not in plain sight"
"C00099; Defendant's former attorney resurfaces accompanied by Kaplan?"
"C00129, C00130, C00136; should be viewed as fraudulent"
"C00168; Strong evidence of extrinsic fraud"
"C00172 [through C00189]; [a 13-line argument regarding the fact that this was
the "small modicum" of defendant's evidence that "ma[de] its way into the
record"]].

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with Rule 341 results in the forfeiture of her arguments on appeal. *First National Bank of LaGrange v. Lowrey*, 375 Ill. App. 3d 181, 211 (2007).

¶ 36 Conclusion

¶ 37 For the reasons stated above, we affirm the decision of the circuit court.

¶ 38 Affirmed.