2016 IL App (1st) 152459-U

FIFTH DIVISION
MARCH 31, 2016

No. 1-15-2459

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

GOLDSTEIN FINANCIAL CORPORATION, Plaintiff-Appellee, v. EDWARD N. ZUREK and ASSURANCE AGENCY, LTD., Defendants (Tressler L.L.P., Appellant).	)	Appeal from the Circuit Court of Cook County. No. 2010 CH 37346 The Honorable LeRoy K. Martin, Judge, presiding.

JUSTICE GORDON delivered the judgment of the court.
Presiding Justice Reyes and Justice Pierce concurred in the judgment.

ORDER

¶ 1 ***Held***: This appeal must be dismissed both for lack of jurisdiction and for lack of a valid record, since there was not an "express written finding" by the

trial court as required by Supreme Court Rule 304(b), and no authenticated supporting record filed, as required by Supreme Court Rule 328.

¶ 2 In this appeal, appellant Tressler L.L.P., a Chicago law firm, appeals the trial court's August 27, 2015, order denying its petition to adjudicate an attorney's lien. Tressler had represented Goldstein Financial Corporation (GFC), which was the party that prevailed in the underlying matter between GFC[1] and defendants Edward N. Zurek and Assurance Agency, Ltd. (Assurance). Neither Zurek nor Assurance have filed briefs in this appeal.

¶ 3 The trial court denied Tressler's petition on the ground that Tressler had failed to perfect the lien and thus it was not a valid lien under the Illinois Attorneys' Lien Act (the Act) (770 ILCS 5/1 (West 2012)). For the following reasons, we dismiss the appeal for lack of jurisdiction and for lack of a valid record.

¶ 4 BACKGROUND

¶ 5 This court permitted, upon Tressler's motion, an accelerated briefing schedule and the filing of a limited supporting record. As we explain in our Analysis section below, the supporting record was not authenticated and thus not a valid record. *Infra* ¶ 48 *et seq.* However, we provide here a summary of its

[1] Although GFC was the plaintiff in the underlying action, it is defending against the attorney's petition in the instant appeal. Thus, we refer to GFC as simply GFC, rather than plaintiff, in order to avoid confusion.

contents for completeness' sake. Since it was limited, the following statement of facts is also limited.

¶ 6 I. The Attorney's Lien

¶ 7 Tressler, a Chicago law firm, represented GFC in an action brought by GFC on August 27, 2010,[2] against: (1) one of its former employees, Edward Zurek; and (2) Zurek's new employer, Assurance.

¶ 8 On November 14, 2012, Tressler filed a notice of attorney's lien with the trial court.[3] The attached "Certificate of Service" states:

> "The undersigned, an attorney, certifies that the foregoing *Notice of Attorneys' Lien* was served upon the parties to whom such service was directed by facsimile before 5 p.m. on November 14, 2012." (Emphasis in original.)

¶ 9 Tressler sent a notice of the lien to defendants Assurance and Zurek by faxing a copy to Samuel Harrod IV, of Meltzer, Purtil & Stelle L.L.C., who represented both defendants. In an affidavit, dated August 7, 2015, Harrod

[2] Although the complaint is not in the record, Tressler states in its petition to adjudicate its lien that GFC's complaint was filed on August 27, 2010.

[3] In its notice, Tressler stated that it "represents" GFC. See *Pedersen & Houpt, P.C. v. Main Street Village West, Part I, L.L.C.*, 2012 IL App (1st) 112971, ¶ 41 ("[a]ttorneys must exercise their lien rights *** while they are still acting as the attorney for their client and prior to the final judgment being satisfied").

averred that he received the notice on November 16, 2012, and that, on November 20, 2012, he sent defendants Zurek and Assurance a copy.

¶ 10 Tressler admits: (1) that it did not effect service by registered or certified mail, but instead faxed the notice; and (2) that it faxed the notice to the opposing party's attorney, rather than to the party itself.[4] For its part, GFC does not dispute that defendants Assurance and Zurek received actual notice.

¶ 11 II. Posttrial Proceedings

¶ 12 On June 27, 2013, after a bench trial, the trial court entered judgment in favor of GFC and jointly and severally against Zurek and Assurance in the amount of $195,328. The record on appeal contains a transcript for June 27, 2013, but not a written court order.

¶ 13 After the trial court's decision and award in favor of GFC, Tressler withdrew as counsel, and Cronin & Co., Ltd. (Cronin) represented GFC. Since the parties filed a limited record, Cronin's notice of appearance in the trial court

[4] With respect to service, the Act provides that "service may be made" by the attorneys "[(1)] by registered or certified mail, [(2)] upon the party against whom their clients may have such suits." 770 ILCS 5/1 (West 2012).

is not in the record before us, and thus we do not know the exact date that Cronin's representation commenced.[5]

¶ 14 The record, however, does contain the transcript for March 19, 2015, and Cronin represented GFC on that date. On March 19, 2015, at the oral argument on defendants' motion to reconsider, defendants Zurek and Assurance argued, among other things, that GFC could recover only what it had actually paid. In response, Thomas Cronin, GFC's then-attorney, stated:

> "There is a lien for the remaining [$]220[,000] filed by Mr. Tressler's firm. We submit to your Honor that the fees incurred – the entire fees incurred are what's at issue. And the fact that Mr. Goldstein has not yet paid $220,000, to which is subject to a lien on this matter, is in evidence and demonstrates the reasonableness of those fees."

¶ 15 On March 26, 2015, the trial court entered an order awarding GFC $522,463.41 in attorney fees and $43,255.11 in costs for a total award of $565,718.52. The court also "enter[ed] Final Judgment on the award of damages of $195,328," previously ordered on June 27, 2013.

¶ 16 Defendants Zurek and Assurance filed a motion to reconsider the March 26, 2015, order which the trial court subsequently denied on May 5, 2015. On

[5] Tressler stated in its petition to adjudicate its lien that it represented GFC from the filing of GFC's complaint on August 27, 2010, through the trial judge's decision in GFC's favor on June 27, 2013, and "beyond."

May 15, 2015, Samuel Harrod, attorney for defendants Zurek and Assurance, sent an email both to Thomas Cronin, GFC's attorney, and to Kenneth Sullivan, Tressler's attorney, stating:

> "Assurance will be paying the monetary judgment of $195,238 (plus interest). The funds are in our trust account. Per the attorney lien, the check will be made payable to Tressler LLP and Goldstein Financial Corp.
>
> Please advise immediately as to whose attention the check should be sent. If I do not receive confirmation from you by close of business on Monday, I will be overnighting the checks to Tom Cronin [GFC's attorney]."

¶ 17 In response, on May 15, 2015, Kenneth Sullivan, Tressler's attorney, asked Samuel Harrod to send the check to Tressler's office. Similarly, on May 15, Thomas Cronin, GFC's attorney, asked for the check to be forwarded to him. Cronin stated:

> "I must disagree with Ken [Sullivan, Tressler's attorney]. Goldstein is the party who was awarded judgment, not Tressler. The lien protects Tressler as well as the manner in which you have identified both payees. Sending the check to Tressler is inappropriate. Please send the check to

me, as counsel for GFC, at the address below. I will deposit in my trust account pending a resolution of the lien issue."

¶ 18 Although defendants Zurek and Assurance appealed, the appeal was dismissed in July 2015 after GFC and defendants Zurek and Assurance reached a settlement agreement concerning attorney fees and costs.

¶ 19 In an email dated July 14, 2015, from Samuel Harrod, defendants' attorney, to Kenneth Sullivan, Tressler's attorney, Harrod stated:

"We have settled the rest of the Goldstein case. As you recall, we previously paid the money judgment to both GFC and Tressler and sent the check to Tom Cronin [GFC's attorney] for holding in trust.

We have now settled the fee judgment for $530,000. Once again, Assurance will be cutting a check payable to both GFC and Tressler. As before, I will be sending this check to Tom Cronin for handling in trust to be settled between Tressler and GFC."

¶ 20 In a letter to Thomas Cronin, GFC's new counsel, dated July 16, 2015, Samuel Harrod, defendants Zurek and Assurance's counsel, stated, in relevant part:

"Pursuant to our agreement today, I am enclosing herewith the two checks, one payable to GFC and Tressler for $61,437.67, and the other payable to GFC and Cronin, for $468,562.33, in payment of the agreed

settlement amount of $530,000, along with a Release Satisfaction of Judgment."

¶ 21 On July 21, 2015, Tressler filed a petition to adjudicate its attorney's lien. On July 31, 2015, GFC filed a response in which it asserted for the first time that Tressler's notice was "legally insufficient to establish a lien under the Act for at least two reasons. First, it was not served on Defendants [Zurek and Assurance] but on their counsel ***. Second, the Notice was not served by registered or certified mail or by personal service." In an affidavit, dated August 18, 2015, Thomas Cronin, GFC's new counsel, swore that: "It was not until July 16, 2015, *** that I realized that Tressler did not in fact have a valid lien."[6]

¶ 22 On August 27, 2015, the trial court issued a written order which stated in full:

"This matter coming before the Court for Hearing on Tressler's Petition to Adjudicate Attorney's Lien and Goldstein's Notice to Strike Reply, Or For the Alternative For Leave to File Surreply, the parties have appeared, argued and been heard and the Court fully advised in the premises. It is hereby ordered:

[6] The Act did not require service of the notice on GFC, which was then Tressler's client. 770 ILCS 5/1 (West 2012) ("attorneys shall serve notice in writing *** upon the party *against* whom their clients may have such suits" (emphasis added)).

1.) Tressler's Petition to Adjudicate Attorney's Lien is denied for reasons stated on the record in open court; and

2.) [GFC's] Motion to Strike Reply Or For Leave To File Surreply is Denied for Reasons stated on the record in open court."

¶ 23 On August 27, 2015, GFC and Tressler had appeared in open court. Defendants Zurek and Assurance were not present, in person or by their attorneys. Tressler's attorney stated: "it's undisputed at this point in time that Tressler is currently owed $259,402.60 in unpaid fees and costs. The reason I'm saying it's undisputed is we have in the papers before your Honor with respect to the lien an affidavit signed by me with respect to those dollars. So I haven't heard the defendant say 'No, no, no. they're not owed $259,000.' "

¶ 24 GFC's attorney replied that "much of what [Tressler's attorney] says really is not relevant ***. He began by telling you how much he's owed and all this other stuff. The only issue before this Court is whether or not a valid lien exists. *** As we explained in our papers, GFC has already filed an action against the Tressler firm seeking damages for negligence." GFC's attorney argued: "So Tressler loses none of its contract rights, none of its arguments, nothing about what it's paid. That case is about damages arising from Tressler's negligence ***." GFC argued: "What we're looking at here is whether or not Tressler is—either has or is deemed to have satisfied the very specific statutory

requirements in order to assert a valid lien. That's it." GFC further argued that the statutory lien "is an extraodinary remedy that requires strict compliance. It doesn't mean that they're not going to get paid, your Honor. It doesn't mean that at all. What it means is that we have a pending case; that they get the benefit of the lien, which is an extraordinary remedy, but that we have a pending case in which these issues can be addressed and should be addressed."

¶ 25 GFC identified two violations of the Act which, it argued, barred enforcement of the lien: (1) service "on the party's attorney"; and (2) "service by facsimile."

¶ 26 Tressler replied: "So as far as an unfair benefit, that clearly would be an unfair benefit to GFC for it to be awarded attorney's fees and then not pay the lawyers that basically incurred those fees on behalf of" GFC.

¶ 27 After listening to the arguments, the trial court ruled:

"What's before the Court is really rather discrete, and it's perhaps not as broad as all of us have made it. And so, for example, I agree that the fact that there's a pending case is of no import here. All that's important, really, is whether or not we have an enforceable lien, and that's really what it comes down to. And to make that determination, obviously, the Court begins by looking at the statute and what the statute requires for a valid lien. And, of course, the Court considers the argument that

[Tressler's attorney] raises why he believes the lien to be valid despite what appear to be some defects in the lien.

I'm of this opinion, gentlemen: I agree, [GFC's attorney], that Tressler has the ability, other than a lien, to collect its fees; maybe not in the pending lawsuit. And to be honest with you, gentlemen, it's really not important for this determination. But ultimately, I'm convinced that the lien act has to be complied with. And unfortunately for the Tressler firm, I don't believe it has been, really, for the reasons that you've articulated much better than I this morning, [GFC's attorney], again, not addressing what's going on in another courtroom, but only because the lien act has to be perfected in a certain way, and it just doesn't appear to me that those sections of the lien act have been complied with. And because they have not, I don't believe that there is an enforceable lien here. I don't believe that there's a lien that I can adjudicate in favor of Tressler because of these technical – what we've – what has been termed technical difficulties, I suppose.

I appreciate the fact that there are other methods for Tressler to attempt to collect what it says is owed it. But again, gentlemen, we're just here concerned with whether or not there's a valid lien here for the Court to adjudicate. "

¶ 28 On August 27, 2015, Tressler filed an emergency motion to stay enforcement of the trial court's August 27 order pending appeal. In its written motion, Tressler stated its intention to file an appeal. On August 28, Kenneth Sullivan, Tressler's attorney, and Thomas Cronin, GFC's new counsel, appeared before the trial court. Sullivan informed the court that the checks from defendants Zurek and Assurance had not been cashed:

> "The checks are sitting there made payable to [GFC] as well as Tressler. So I anticipate – Yesterday or today, I anticipate that Mr. Cronin was going to call Mr. Harrod, who represents Assurance that cuts the check, and he's going to tell him, listen, recut the checks. Take Tressler's name off them. [The trial court] has ruled. They do not have a valid lien.
>
> And what I'm saying is if down the road the appellate court decides that this is a valid lien, that money is going to be gone. The actual party that will be on the hook will be Mr. Harrod, who is representing defendants who is actually served with the lien.
>
> So the appellate court makes that ruling: The party that receives the lien notice is the party that's going to be on the hook."

¶ 29 Cronin informed the trial court that he had "received an email yesterday from Mr. Harrod[, Zurek and Assurance's attorney,] saying that he would hold

off any performance of the settlement agreement pending further orders of the Court."

¶ 30 On August 28, 2015, the trial court issued a written order which stated in full:

"This Matter Coming before The Honorable Court on Tressler LLP's Emergency Motion to Stay Enforcement of Appeal of August 27, 2015 Order Pending Appeal due notice having been given and The Court having taken Argument in the Premises. IT IS HEREBY ORDERED:

1. Tressler's Emergency Motion is Granted in Part and Denied in Part.

2. Defendants Zurek and Assurance are Ordered to Replace the $197,964.93 and $64,437.67 Checks Payable to Tressler LLP and Goldstein Financial with one Check in the Amount of $269,402.60 Payable to Cronin and Company on behalf of Goldstein Financial.

3. The Cronin Counsel for Goldstein Financial is Ordered by the Court to secure and hold the $259,402.60 for The Benefit of Tressler and Goldstein Financial pending Resolution of Tressler's Appeal of This Court's August 27, 2015 Order.

4. Goldstein shall be entitled to interest at The Judgment Rate of Interest until Tressler's Appeal is Resolved By the Appellate Court.

5. Tressler is Ordered to Post a $50,000 Bond pursuant to Rule 305.

6. The $259,402.60 Referenced in Par. 3 of The Instant Order shall be held in Cronin and Co.'s IOLTA Trial Account pending resolution of Tressler's Appeal."

¶ 31 On August 28, 2015, Tressler filed a notice of appeal asking this court to reverse the trial court's August 27, 2015, order, and to remand the matter to the trial court for further proceedings. This appeal followed.

¶ 32 III. Motions on Appeal

¶ 33 On September 2, 2015, Tressler moved this court to enter orders (1) placing this appeal on an accelerated docket pursuant to Illinois Supreme Court Rule 311(b) (eff. Feb. 26, 2010) and (2) permitting the filing of a limited supporting record pursuant to Illinois Supreme Court Rule 328 (eff. Feb. 1, 1994). On September 17, 2015, this court issued both those orders.

¶ 34 ANALYSIS

¶ 35 On this appeal, Tressler claims that the trial court erred in denying its petition to adjudicate its attorney's lien, where (1) defendants Zurek and Assurance received actual notice of Tressler's lien; and (2) GFC is judicially estopped from denying the enforceability of Tressler's lien.

¶ 36 For the reasons explained below, we find that Tressler failed to follow several Supreme Court Rules, which results in our having neither jurisdiction nor a valid record to decide its claims.

¶ 37 I. Jurisdiction

¶ 38 Before considering the merits of Tressler's appeal, we must first consider our jurisdiction. "A reviewing court must ascertain its jurisdiction before proceeding in a cause of action, regardless of whether either party has raised the issue." *Secura Insurance Co. v. Illinois Farmers Insurance Co.*, 232 Ill. 2d 209, 213 (2009). "Subject to certain exceptions, an appeal can be taken in a case only after the circuit court has resolved *all* claims against *all* parties." (Emphasis added.) *State Farm Fire & Casualty Co. v. John J. Rickhoff Sheet Metal Co.*, 394 Ill. App. 3d 548, 556 (2009).

¶ 39 Supreme Court Rule 341(h)(4) requires the appellant to provide in its brief "a statement of jurisdiction." This statement must contain the following:

> "(ii) In a case appealed to the Appellate Court, a brief but precise statement or explanation under the heading 'Jurisdiction' of the basis for appeal including the supreme court rule or other law which confers jurisdiction upon the reviewing court; the facts of the case which bring it within this rule or other law; and the date that the order being appealed was entered and any other facts which are necessary to demonstrate that the appeal is timely. In appeals from a judgment as to all the claims and all the parties, the statement shall demonstrate the disposition of all claims and all parties. All facts recited in this statement shall be

supported by page references to the record on appeal." Ill. S. Ct. R. 341(h)(4)(ii) (eff. Feb. 6, 2013).

¶ 40 An appellant's failure to comply with Supreme Court Rule 341 is so serious that it justifies dismissal of the appeal. *Fender v. Town of Cicero,* 347 Ill. App. 3d 46, 51 (2004) ("A party's failure to comply with Supreme Court Rules 341 and 342 justifies dismissal of an appeal."); *Collier v. Avis Rent A Car System, Inc.*, 248 Ill. App. 3d 1088, 1095 (1993) (" 'Where an appellate brief fails to comply with the rules, this court has inherent authority to dismiss the appeal for noncompliance with its rules.' " (quoting *Zadrozny v. City Colleges of Chicago*, 220 Ill. App. 3d 290, 292-93 (1991)).

¶ 41 In Tressler's statement of jurisdiction in its appellate brief, it stated that "[t]his is an appeal pursuant to Illinois Supreme Court Rule 304(a) from the circuit court's Order dated August 27, 2015, dismissing Tressler's Petition to Adjudicat Attorneys' Lien."

¶ 42 Illinois Supreme Court Rule 304(a), provides in relevant part:

"(a) Judgments As To Fewer Than All Parties or Claims – Necessity for Special Finding. If multiple parties or multiple claims for relief are involved in an action, an appeal may be taken from a final judgment as to one or more but fewer than all of the parties or claims *only if the trial court has made an express written finding* that there is no just reason for

> delaying either enforcement or appeal or both. Such a finding may be made at the entry of the judgment or thereafter on the court's own motion or on motion of any party. *** In computing the time provided in Rule 303 for filing the notice of appeal, the entry of the required finding shall be treated as the date of the entry of the final judgment." (Emphasis added.) Ill. S. Ct. R. 304(a) (eff. Feb. 26, 2010).

Our supreme court has held: "On its face Rule 304(a) requires the trial court to make an '*express written finding* that there is no just reason for delaying either enforcement or appeal or both.' *** The courts of this state are uniform in strictly enforcing this requirement." (Emphasis in original.) *John G. Phillips & Associates v. Brown*, 197 Ill. 2d 337, 345 (2001).

¶ 43 In support of its assertion of jurisdiction pursuant to Supreme Court Rule 304(a), Tressler provided a cite to a page in the record which contained the trial court's August 27, 2015, order. The August 27 order is quoted in full above and it does not contain "an express written finding that there is no just reason for delaying either enforcement or appeal or both," as Supreme Court Rule 304(a) requires. Ill. S. Ct. R. 304(a) (eff. Feb. 26, 2010). In addition, Tressler did not request such a finding on August 28, 2015, when it appeared before the trial court; and the written order issued by the trial court on August 28, 2015, and drafted by Tressler's attorney, does not contain one.

¶ 44 Supreme Court Rule 304(a) provides what happens if an express written finding is absent:

> "In the absence of such a finding, any judgment that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties is *not* enforceable or *appealable* and is subject to revision at any time before the entry of a judgment adjudicating all the claims, rights, and liabilities of all the parties." (Emphasis added.) Ill. S. Ct. R. 304(a) (eff. Feb. 26, 2010).

"Absent a Rule 304(a) finding, a final order disposing of fewer than all of the claims is not an appealable order and does not become appealable until all of the claims have been resolved." *In re Marriage of Gutman*, 232 Ill. 2d 145, 151 (2008). Our supreme court "has defined a 'claim' as 'any right, liability or matter raised in an action.' " *Gutman*, 232 Ill. 2d at 151 (quoting *Marsh v. Evangelical Covenant Church of Hinsdale*, 138 Ill. 2d 458, 465 (1990)). "Judgment is not final, nor immediately appealable, where the court reserves an issue for further consideration or otherwise manifests an intention to retain jurisdiction for the entry of a further order." *Djikas v. Grafft*, 344 Ill. App. 3d 1, 8 (2003).

¶ 45 On the record before us, we cannot say that there has been "the entry of a judgment adjudicating all the claims, rights, and liabilities of the parties." Ill. S.

Ct. R. 304(a) (eff. Feb. 26, 2010). First, and most importantly, as we discuss in the next section, we do not have a valid record. Even if we did, as the parties acknowledged before the trial court on August 28, 2015, the settlement agreement is being held in abeyance, and Tressler claimed that defendants Zurek and Assurance, who have not appeared in this appeal, may be "on the hook" for Tressler's attorney fees. Thus, all the "liabilities" of the parties have not been resolved. Ill. S. Ct. R. 304(a) (eff. Feb. 26, 2010).

¶ 46 Third, Supreme Court Rule 341(h) required Tressler to state the jurisdictional basis for its appeal, and the only basis it cited was Supreme Court Rule 304(a), which does not apply due to the absence of an express written finding. Ill. S. Ct. R. 304(a) (eff. Feb. 26, 2010). As we noted above, an appellant's failure to comply with Supreme Court Rule 341 is so serious that it justifies dismissal of the appeal. *Fender*, 347 Ill. App. 3d at 51 ("A party's failure to comply with Supreme Court Rules 341 and 342 justifies dismissal of an appeal."); *Collier*, 248 Ill. App. 3d at 1095 (" 'Where an appellate brief fails to comply with the rules, this court has inherent authority to dismiss the appeal for noncompliance with its rules.' " (quoting *Zadrozny*, 220 Ill. App. 3d at 292-93)).

¶ 47 For all these reasons, we conclude that we lack jurisdiction and dismiss the appeal.

¶ 48 II. Supporting Record

¶ 49 Another ground requiring dismissal is the lack of a valid record.

¶ 50 In the instant appeal, we granted Tressler's motion to accelerate the appeal pursuant to Illinois Supreme Court Rule 311(b) (eff. Feb. 26, 2010). This rule provides, in relevant part:

> "Any time after the docketing statement is filed in the reviewing court, the court, on its own motion, or on the motion of any party, for good cause shown, may place the case on an accelerated docket. The motion shall be supported by an affidavit stating reasons why the appeal should be expedited. If warranted by the circumstances, the court may enter an order accepting a supporting record prepared pursuant to Rule 328, consisting of those lower court pleadings, reports of proceedings or other materials that will fully present the issues." Ill. S. Ct. R. 311(b) (eff. Feb. 26, 2010).

¶ 51 We also granted Tressler's motion to allow a limited supporting record. Illinois Supreme Court Rule 311(b), quoted above, permits the filing of "a supporting record prepared pursuant to Rule 328." Ill. S. Ct. R. 311(b) (eff. Feb. 26, 2010).

¶ 52 Supreme Court Rule 328 provides, in relevant part:

> "The supporting record must be authenticated by the certificate of the clerk of the trial court or by the affidavit of the attorney or party filing it. The supporting record shall bear a cover page with a caption of the appeal. The cover page shall be clearly labelled 'Supporting Record.' The numbering of volumes and pages of the supporting record shall conform to the requirements of Rule 324." Ill. S. Ct. R. 328 (eff. Feb. 1, 1994).

¶ 53 In the instant appeal, the record is labelled "Stipulated Limited Record," rather than " 'Supporting Record' " as required by Supreme Court Rule 324. Ill. S. Ct. R. 328 (eff. Feb. 1, 1994). More importantly, however, the record is not authenticated by either a certificate of the trial court or by the affidavit of the attorney or party filing it, as required by Supreme Court Rule 328. Ill. S. Ct. R. 328 (eff. Feb. 1, 1994). Thus, it is not a valid record.

¶ 54 CONCLUSION

¶ 55 In sum, the appellant has not followed Supreme Court Rule 341(h)(4) which required an accurate and complete jurisdictional statement in appellant's brief; or Supreme Court Rule 304(a), which required an express written finding; or Supreme Court Rule 328, which required the filing of an authenticated supporting record. As this court has stated repeatedly, Supreme Court Rules are not advisory, but are written to be followed. *Nava v. Sears, Roebuck & Co.*, 2013 IL App (1st) 122063, ¶ 7 ("our supreme court rules are not advisory

suggestions, but, rather, rules to be followed"); *Menard, Inc. v. 1945 Cornell, L.L.C.*, 2013 IL App (1st) 121422, ¶ 7; *In re Marriage of Hluska*, 2011 IL App (1st) 092636, ¶ 57; *In re Estate of Michalak*, 404 Ill. App. 3d 75, 98-99 (2010) (" 'the rules promulgated by the supreme court are, in fact, rules, and not advisory suggestions for conduct of the lower courts and the bar' " (quoting *Roberson v. Liu*, 198 Ill. App. 3d 332, 335 (1990))).

¶ 56 In a case such as this, where the appellant is asking this court to excuse its prior omissions with respect to procedural rules, one would hope that the appellant would pay particularly close attention to them on appeal. When an appellant "fails to follow the provisions set forth" in the Supreme Court Rules which govern the briefs and the record, "we may, within our discretion, dismiss his appeal for failure to do so." *Hluska*, 2011 IL App (1st) 092636, ¶ 57; *Fender*, 347 Ill. App. 3d at 51 ("A party's failure to comply with Supreme Court Rules 341 and 342 justifies dismissal of an appeal."); *Collier*, 248 Ill. App. 3d at 1095 (" 'Where an appellate brief fails to comply with the rules, this court has inherent authority to dismiss the appeal for noncompliance with its rules.' " (quoting *Zadrozny*, 220 Ill. App. 3d at 292-93)). In the case at bar, the failure to follow the rules deprives this court of both jurisdiction and a record upon which

we may rely, and thus requires dismissal of this appeal.

¶ 57 Appeal dismissed, for lack of jurisdiction and a valid record.