2018 IL App (1st) 171410-U

FIRST DIVISION
May 14, 2018

No. 1-17-1410

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

FRED NANCE JR. and DARLENE BOUYER-NANCE, Plaintiffs-Appellants, v. SE CLUSTER FOUR LLC, JIFFY LUBE FRANCHISE # 2503, and ROB WITWICKI, Defendants, (SE Cluster Four LLC, Defendant-Appellee).	)	Appeal from the Circuit Court of Cook County No. 16 M1 12579 The Honorable Clare J. Quish and Martin P. Moltz, Judges Presiding.

PRESIDING JUSTICE PIERCE delivered the judgment of the court.
Justices Harris and Griffin concurred in the judgment.

ORDER

¶ 1 *Held*: We affirm the judgment of the circuit court. Plaintiffs advance numerous issues on appeal, but many of those issues have no connection to the orders identified in plaintiffs' notice of appeal. With respect to the issues properly before this court, plaintiffs forfeited their arguments by failing to develop and advance meaningful legal arguments. Forfeiture aside, we find that the circuit court did not abuse its discretion in denying any of plaintiffs' motions for Rule 137 sanctions against defendant's counsel, and that the circuit court properly denied plaintiffs' petition for substitution of judge for cause without referring the petition to another judge.

¶ 2 This case started as an ordinary property damage claim but quickly devolved into an acrimonious feud. Plaintiffs Fred Nance and Darlene Bouyer-Nance, acting *pro se*, filed a dizzying number of motions for sanctions in the circuit court and complaints against defendant's counsel with the Attorney Disciplinary and Registration Commission (ARDC), as well as multiple petitions for substitution of judge for cause in the circuit court and complaints against three circuit court judges with the Judicial Inquiry Board (JIB). This appeal does not involve the merits of plaintiffs' property damage claim. Instead, this appeal involves the circuit court's rulings on plaintiffs' motions for sanctions and one of plaintiffs' petitions for substitution of judge for cause. For the following reasons, we affirm the judgment of the circuit court.

¶ 3 BACKGROUND

¶ 4 Plaintiffs initiated this action to recover for damages to their vehicle allegedly caused by the negligent conduct of defendant SE Cluster Four LLC, which operates a Jiffy Lube franchise.[1] Plaintiffs' second amended complaint—which is the operative complaint on appeal—alleged that after defendant changed the oil in plaintiffs' vehicle, the vehicle's engine locked while Darlene was driving. A diagnostic test purportedly found that the engine locked because of a lack of oil. Plaintiffs' second amended complaint alleged that "Defendants were negligent and had a duty to secure the oil drain plug after providing an oil change, which duty was breached and caused plaintiffs' injury when [defendant] failed to perform this duty of securing the oil drain plug." Plaintiffs further alleged that defendant was negligent by failing to examine the vehicle on three separate occasions after the engine locked.

[1]As we explain below, plaintiffs named certain individuals as defendants in the initial and first amended complaint. The caption of second amended complaint named as defendants "SE CLUSTER FOUR LLC, JIFFY LUBE FRANCHISE #2503, et al." The body of the second amended complaint identifies three defendants: SE Cluster Four LLC, Jiffy Lube Franchise #2503, and Rob Witwicki. For simplicity, we refer to SE Cluster Four LLC as defendant.

¶ 5 Plaintiffs' underlying property damage claim is relatively straightforward. The litigation of that claim, however, took on a life of its own. We set forth the procedural history in some detail because those facts are necessary to understand the issues before us on appeal.[2]

¶ 6 Plaintiffs filed their initial complaint in June 2016 and named "Jiffy Lube International, Inc., Rob Witwicki, Sergio Sanchez, et al." as defendants. Cheryl Garcia of the law firm Kopka Pinkus Dolin PC filed an appearance on behalf of Witwicki, the manager of the Jiffy Lube Franchise # 2503, and moved to dismiss plaintiffs' complaint. Judge Diana Rosario granted plaintiffs leave to amend their complaint, set a briefing schedule on Witwicki's motion to dismiss, and set a hearing date on the motion. Plaintiffs then filed a first amended complaint, naming "Jiffy Lube Franchise #2503, Rob Witwicki, et al." as defendants. On October 19, 2016, Judge Rosario continued the matter to November 15, 2016, for a hearing on the motion to dismiss and for status as to service on all of the named defendants.

¶ 7 On October 21, 2016, plaintiffs filed a petition for substitution of Judge Rosario for cause, accompanied by Fred's affidavit. Fred averred that on October 19, 2016, Judge Rosario ordered that the case be continued and Fred drafted the continuance order. He averred that Judge Rosario amended the order to include language that the continuance was also for status on service on all of the named defendants. Fred accused Judge Rosario of "assisting defendants in their litigation strategies." The presiding judge of the municipal division transferred the case to another judge for purposes of ruling on the petition for substitution of judge. The petition was denied and the case was returned to Judge Rosario. Plaintiffs then filed a motion for leave to amend the caption of their complaint to name SE Cluster Four LLC as a defendant.

[2]Also, because of the number of circuit court judges involved in this case, clarity requires that we depart from convention and name those judges in this order. See *In re Appointment of Special Prosecutor*, 2017 IL App (1st) 161376, ¶ 4 n.1.

¶ 8 On November 16, 2016, the circuit court granted Witwicki's motion to dismiss and dismissed Witwicki as a defendant without prejudice. The circuit court granted plaintiffs leave to file a second amended complaint and set the matter for a January 12, 2017, status hearing. Plaintiffs filed a second amended complaint, which remained the operative complaint for the remainder of the proceedings.

¶ 9 Garcia then filed her appearance on behalf of defendant SE Cluster Four LLC. Plaintiffs filed their first motion for sanctions against Garcia on December 27, 2016. Plaintiffs' motion took issue with Garcia's alleged statements during a status hearing as to whether all of the defendants had been served and whether the case was properly in small claims court. The motion further complained that Garcia's appearance contained the caption from plaintiffs' initial complaint rather than the second amended complaint. Plaintiffs stated that they were contemplating filing a complaint against Garcia with the ARDC.

¶ 10 On January 12, 2017, Judge Martin Moltz presided over the status hearing. Plaintiffs did not appear for the status hearing. Judge Moltz entered an order denying plaintiffs' first motion for sanctions and dismissed the case for want of prosecution (DWP order). Plaintiffs then filed an emergency motion to reinstate their case. Judge Rosario later granted the motion and the case was reinstated.

¶ 11 While plaintiffs' motion to reinstate was pending, plaintiffs filed their first complaint against Judge Moltz with the JIB based on his denial of plaintiffs' first motion for sanctions and the DWP order. Plaintiffs also filed their first complaint against Garcia with the ARDC. Plaintiffs then filed a second complaint against Judge Moltz with JIB alleging due process violations for allegedly conducting an *ex parte* hearing on January 12, 2017. Plaintiffs also filed a supplement to their first ARDC complaint against Garcia, and filed in the circuit court a

"Motion for Leave to Supplement Motion for Sanctions Against *** Garcia," asserting that they believed that Garcia "influenced, persuaded, and insisted that Judge Moltz hold an [*ex parte*] hearing."

¶ 12 On February 2, 2017, Fred filed a second complaint against Garcia with the ARDC. Fred asserted that Garcia told him that she did not want him "sending her emails, coming to her home, or contacting her bosses *** [or] faxing them documents or information about [the] case." Fred denied attempting to contact Garcia at home in any manner. Fred also alleged that Garcia told the circuit court at a status hearing that Fred was harassing her by posting information about the case on social media. Fred further alleged that Garcia drafted an order of protection against Fred to restrain him from faxing her firm documents about the case and that Judge Rosario refused to sign the draft order. Fred asserted that he had "a constitutional right to free speech, which includes posting anything on social media."

¶ 13 On February 22, 2017, Fred served defendant with discovery requests including requests to produce documents and interrogatories. The circuit court ordered defendant to propound written discovery by March 6, 2017, and ordered defendant to answer or object to plaintiffs' discovery requests by March 23, 2017. Plaintiffs were also granted leave to file a motion to supplement their first motion for sanctions against Garcia. On March 6, 2017, plaintiffs served defendant with interrogatories, requests for production, and a notice to produce. Plaintiffs assert that their discovery requests went unanswered.

¶ 14 On March 3, 2017, plaintiffs filed a "Motion to Reinstate Plaintiffs' Motion for Sanctions" against Garcia, which was originally filed on December 27, 2016, and previously denied by Judge Moltz on January 12, 2017. Plaintiffs asserted that Judge Moltz "had no legal reasoning to dismiss plaintiffs' motion for sanctions."

¶ 15 Defendant filed a motion for protective order asserting that plaintiffs had "repeatedly threatened to post all court related documents on social media and have in fact posted documents in connection with this litigation *** on social media to slander a variety of people, including *** judges, defense counsel, *** and the employees of the [ARDC]." Judge Clare Quish ordered plaintiffs to respond to the motion for protective order and ordered that the case was to follow Judge Rosario. Plaintiffs responded to the motion for protective order and filed a third complaint against Garcia with the ARDC, accusing her of attempting to violate Fred's first amendment rights to free speech and accusing Garcia of lying to the circuit court and defaming plaintiffs in her motion for protective order.

¶ 16 On April 13, 2017, Judge Rosario denied defendant's motion for a protective order. The circuit court also extended the time for defendant to respond to plaintiffs' discovery requests and granted the parties leave to file motions for sanctions against one another.

¶ 17 On April 25, 2017, plaintiffs filed their second motion for sanctions against Garcia pursuant to Illinois Supreme Court Rule 137 and "Illinois Code of Civil Procedure 2-611."[3] Plaintiffs asserted that Garcia "has harassed and caused great expense to plaintiffs due to her unscrupulous and unprincipled character and behavior in this court action." Plaintiffs accused Garcia of "purposely and nefariously distracting, delaying and impeding the processes of the court and this litigation; and Garcia demonstrates a negative pattern of abusing plaintiffs [*sic*] 1st [a]mendment rights, along with defaming [Darlene]." Plaintiffs' motion repeatedly accused Garcia of lying to the circuit court and of defaming Darlene, and further accused Garcia of attempting to violate plaintiffs' first amendment rights by virtue of having sought a protective order. Plaintiffs requested that the circuit court sanction Garcia "for her deliberate and despicable

[3]We note that section 2-611 of the Code of Civil Procedure was repealed by Public Act 86-1156, § 7 (eff. Aug. 10, 1990).

misstatements" to the circuit court, her "false statements" against Darlene, and her attempts to violate plaintiffs' first amendment rights.

¶ 18 Defendant filed its own motion for sanctions against plaintiffs. Defendant asserted "on information and belief" that plaintiffs had posted numerous documents on social media in an effort to harass defendant and its employees as well as Garcia. Defendant asserted that plaintiffs posted ARDC complaints against Garcia containing false information on social media, and posted false statements about the ARDC, the judges involved, as well as the complaints filed with the JIB against those judges. Defendant also asserted that Fred emailed defendant's insurer, stating, "It will cost your company more in litigation and loss of business than it would to fix our car…[.] I litigate my issues. It literally cost me nothing compared to normal legal fees. I have my 1st amendment right to free speech. I will post all this litigation on social media." Defendant further argued that plaintiffs had attempted to contact Judge Rosario directly in an attempt to discuss the litigation outside the presence of defendant's counsel and that plaintiffs made repeated filings to harass defendant and defense counsel.

¶ 19 On May 24, 2017, Judge Quish entered an order stating "After hearing on the merits, [p]laintiff's motion for sanctions is denied. Defendant's motion for sanctions is denied." Judge Quish further ordered that discovery was to close on June 26, 2017, and the matter was set for trial on September 7, 2017. Plaintiffs filed a notice of appeal from Judge Quish's denial of their motion for sanctions, despite the fact that the order was not a final and appealable judgment.[4]

¶ 20 Plaintiffs filed a motion to certify a nine-page bystander's report of the May 24, 2017, hearing. Defendant moved to strike the proposed bystander's report, asserting that it appeared "to

[4]Furthermore, the circuit court also did not make any express finding pursuant to Illinois Supreme Court Rule 304(a) (eff. Mar. 8, 2016), which would allow for an interlocutory appeal. And rightfully so. Rule 304(a) would not provide for an interlocutory appeal because in this context, the circuit court's ruling on the motion for sanctions would not operate as a final judgment on any claim set up in a pleading.

have been prepared by [Fred] after he made an audio recording" of the hearing on the motion for sanctions. Defendant argued that the proposed bystander's report was inaccurate and false and contained "various comments which were certainly not stated during the hearing." Defendant also sought to compel plaintiffs to produce the alleged audio recording of the hearing. Plaintiffs then filed a third motion for sanctions and a fourth complaint against Garcia with the ARDC based on the contents of the motion to strike the bystander's report. On July 27, 2017, Judge Quish denied plaintiffs' third motion for sanctions, denied defendant's motion to strike the proposed bystander's report and to compel production of the alleged audio recording, and ordered defendant to respond to the proposed bystander's report.

¶ 21 Plaintiffs sought to compel defendant to respond to outstanding discovery, although it is not clear to us whether plaintiffs filed a written motion, as we have not located this motion in the record on appeal. Plaintiffs also filed a petition for substitution of Judge Quish for cause. In the petition, plaintiffs accused Garcia of making "false and frivolous statements *** about why she had not filed her version of a bystander's report of proceedings," and stated that "Judge Quish believed Garcia." Plaintiffs contended that they informed Judge Quish that Garcia "was trying to delay plaintiff's [*sic*] appeal processes" and that Judge Quish allowed Garcia additional time to file her version of the bystander's report. Plaintiffs' petition then made the following assertions, which we recite verbatim:

> "7. Plaintiff Fred Nance Jr. is a black male.
>
> 8. Defendant's attorney Garcia is a white female.
>
> 9. Plaintiff believes Judge Quish's [*sic*] abused her discretion, rulings [*sic*] on his motions for sanctions is discriminatory on its face, and may have a racial overtone to it.

> 10. Judge Quish had one other hearing in her courtroom on July 27, 2017[,] at 2:00 pm; a black male attorney and a white female attorney.
>
> 11. Plaintiff, Fred Nance Jr., witnessed Judge Quish challenge, vigorously, the black male attorney's argument and there was hardly any challenge to the white female attorney's argument."

Plaintiffs asserted that they "will not have a fair and impartial hearing going forward with Judge Quish presiding in this matter." The petition for substitution of judge was accompanied by Fred's affidavit, which included the assertion that he "is filing a complaint with the [JIB]." He further averred that he would "post his motion for substitution of judge for cause and affidavit on social media once filed with the Cook County Clerk of Court as they will become public documents." Plaintiffs subsequently filed a complaint against Judge Quish with the JIB.

¶ 22 The petition for substitution of Judge Quish for cause was transferred to the presiding judge of the municipal division, and was in turn assigned to Judge Leon Wool. Judge Wool denied the petition and the case was returned to Judge Quish. Judge Quish then ordered plaintiffs to "prepare a new draft of [the] bystander's report." Judge Quish's order further states "Plaintiffs' motion to compel discovery is entered and continued to August 25, 2017."

¶ 23 On August 8, 2017, plaintiffs filed their fourth motion for sanctions and fifth complaint with the ARDC against Garcia, as well as a second complaint against Judge Quish with the JIB. The sanctions motion asserted that during the hearing before Judge Wool on the petition for substitution of Judge Quish for cause, Garcia accused Fred of having an audio recording device in his briefcase. The petition also asserted that Judge Wool stated that he needed to contact Judge Quish about the bystander's report of May 24, 2017, sanctions hearing, which was relevant to the pending petition for substitution of judge. Fred asserted that after the petition was denied and the

case returned to Judge Quish, she ordered Garcia "on how to reconstruct the bystander's report." When Fred asked Judge Quish about the outstanding discovery, Judge Quish asked Fred if he had complied with Supreme Court Rule 201(k) (eff. July 1, 2014), and asked to see his discovery requests. Garcia denied receiving Fred's February 22, 2017, discovery requests. When Judge Quish stated that she would enter and continue Fred's motion to compel discovery, Fred accused Judge Quish of "being bias [*sic*] against him because of Garcia [*sic*] baseless arguments for providing discovery pursuant to [the circuit court's] order of May 24, 2017[,] setting a closing date of discovery, which [was] June 26, 2017." Fred asserted that he would be filing another complaint against Garcia with the ARDC and complaints against Judges Quish and Wool with the JIB.

¶ 24 On August 24, 2017, Judge Quish approved a bystander's report of the May 24, 2017, sanctions hearing, and the next day, Judge Quish entered an order recusing herself from the case. The case was reassigned to Judge Moltz. Judge Moltz then denied plaintiffs' motion to compel discovery and set the matter for trial on September 7, 2017.

¶ 25 On August 28, 2017, Fred filed a petition for substitution of Judge Moltz for cause. The petition asserted that Fred believed that "[Presiding] Judge [Kenneth] Wright, Judge Moltz, and Judge Quish conspired and colluded to deny [Fred] due process of law, meaningful access to court, and equal protection under the law." Fred stated that he previously filed a complaint against Judge Moltz with the JIB and that Judge Moltz should therefore recuse himself. Fred asserted that when he informed Judge Moltz about the complaint on August 25, 2017, Judge Moltz asked Judge Wright whether he could keep the case and Judge Wright said that he could. Judge Moltz then denied plaintiffs' motion to compel discovery and set a trial date. The petition then contains the following statements, which we restate verbatim:

> "Judges Moltz, Quish, and Wright are white. Nance is African American. Nance is a victim, in this instance and matter, of racism, discriminatory practices, disparate treatment, and just pure hatred toward an educated black man. Nance is being punished by these individuals for exercising his right to free speech, due process, equal protection of the law, and meaningful access to court."

Fred offered no corroboration whatsoever for his claims of any racial bias against him by any of the judges. Fred expressed his frustrations with the discovery process and Judge Moltz's denial of Fred's motion to compel, as well as Judge Moltz's previous denial of plaintiffs' motion for sanctions against Garcia. Fred asserted that Judges Wright, Quish, and Moltz "have acted nefariously and despicable [*sic*]." He then stated,

> "To Judges Wright, Wool, Moltz, and Quish (white males and female) Nance is just a little ole black boy trying to exercise his rights in court. This is okay but Nance better not report any improprieties. Nance better not challenge the racism or discriminatory practices. If Nance does, he is playing the race card because these judges have a few 'black' females and some males working in their offices, which makes them non-racist. Nance is not playing the race card. Racism and discriminatory practices is [*sic*] alive and well in America. Ask your president!!!"

¶ 26 Fred submitted an affidavit in connection with his petition for substitution of Judge Moltz for cause, but the affidavit simply recites the procedural progression of the case and does not include any accusations of any extrajudicial prejudice or bias against Judge Moltz.

¶ 27 On September 7, 2017, the case proceeded to a bench trial before Judge Moltz. The record does not contain any transcript of the proceedings or any substitute report of the proceedings. In a single handwritten order dated September 7, 2017, Judge Moltz denied

plaintiffs' petition for substitution for cause against him, denied plaintiffs' fourth motion for sanctions against Garcia, and entered "judgment for defendant upon directed finding."

¶ 28 Plaintiffs then filed a motion in this court seeking leave to amend their June 12, 2017, notice of appeal. We denied the motion because plaintiffs did not provide this court with an amended notice of appeal. Plaintiffs filed a second motion for leave to amend their notice of appeal, which we granted, and which is more fully described below

¶ 29 ANALYSIS

¶ 30 At the outset, we find it necessary to clarify the scope of our jurisdiction in this appeal. Plaintiffs are self-represented litigants pursing this appeal without the aid of trained legal counsel. It is their right to do so. It is also their obligation to comply with the rules of appellate procedure and to comport themselves with the requirements of the law. The fact that plaintiffs are representing themselves does not excuse any failures to comply with the law or with the rules. That stated, this court has an independent obligation to examine the notice of appeal and identify the issues that the plaintiffs want us to review and then determine, according to the rules, the issues that we are allowed to review.

¶ 31 On June 12, 2017, plaintiffs filed a notice of appeal from the portion of the circuit court's May 24, 2017, order denying plaintiffs' Rule 137 motion for sanctions against Garcia. This notice of appeal was of no effect because the May 24, 2017, order was not a final order and could not be appealed or considered by this court. However, after the circuit court entered a final judgment in favor of defendant on September 7, 2017, we granted plaintiffs leave to amend the June 12, 2017, notice of appeal, which they did, to request that this court "review, reverse and remand, with instructions, the decisions in the trial court regarding the numerous motions for sanctions against *** Garcia, the judicial abuse of discretion and power, and the final decisions

outlined in the *** September 7, 2017[,] [order].” Plaintiffs’ amended notice of appeal does not specifically identify any other rulings by the circuit court that they wish to appeal and therefore we will not consider those unspecified rulings or decisions. Therefore, the only rulings, decisions, or orders included in the circuit court’s final judgment in this case that plaintiffs have properly appealed are the circuit court’s rulings on the motions for sanctions and the circuit court’s rulings contained in the September 7, 2017, final order.

¶ 32 Plaintiffs were required to identify in their appellant’s brief the issues they want reviewed, show that the issues are reviewable, and further show that the issues are contained in the amended notice of appeal. We note a number of deficiencies in plaintiffs’ appellant’s brief. First, plaintiffs identify 10 issues for review, but several of those issues are either not reviewable by this court or have no connection to any order identified in the notice of appeal. Plaintiffs identify the following issues:

> “1. Whether Judges *** Quish, *** Wool, *** Wright and *** Moltz followed and adhered to Supreme Court Rules 137 and 735 ILCS 5/2-1001(3)(i)(ii)(iii) [*sic*].
>
> 2. Whether there was an abuse of discretion by Judges Clare J. Quish, Leon Wool, E. Kenneth Wright and Martin Paul Moltz.
>
> 3. Whether Attorney Cheryl Garcia violated Supreme Court Rule 323 and Article III of the Illinois Rules of Professional Conduct – Rules 3.4, 4.1, and 8.4.
>
> 4. Whether Judges Clare J. Quish, Leon Wool, E. Kenneth Wright and Martin Paul Moltz violated Code of Judicial Conduct Rule 61, 62, and 63(A)(B)(1)(2)(3)(a) [*sic*].

5. Whether plaintiffs are entitled to discovery when defendants received discovery from plaintiffs.

6. Whether a trial judge can hear and rule on a substitution of judge for cause against himself.

7. Whether Judges Quish, Wool, Wright, and Moltz denied plaintiffs due process of law.

8. Whether a final judgment is valid when the trial judge ruled on a substitution of judge for cause against himself before the ruling and making a final judgment.

9. Whether the Illinois Judicial Inquiry Board and Attorney Registration and Disciplinary Commission performed its duties pursuant to Supreme Court rules, regulations, and policies.

10. Whether plaintiff [*sic*] 1st [a]mendment free written speech of public documents is [c]onstitutionally protected."

Plaintiffs failed to identify any orders in their notice of appeal that are connected to issues 3, 5, 9, and 10 and, because of this failure, we will not consider these issues. With respect to issue 3, our supreme court has exclusive authority over attorney discipline and has appointed the ARDC "to supervise [t]he registration of, and disciplinary proceedings affecting, members of the Illinois bar." *People ex rel. Brazen v. Finley*, 119 Ill. 2d 485, 494 (1988). Therefore, we have no authority to enforce the Illinois Rules of Professional Conduct governing attorney discipline or to sit in review of any decision made by the ARDC. Furthermore, with respect to issue 4, whether a judge has violated the Code of Judicial Conduct falls within the exclusive authority of the Illinois Courts Commission. Ill. S. Ct. R. 71 (eff. Jan. 1, 1987) ("A judge who violates Rules 61 through 68 may be subject to discipline by the Illinois Courts Commission."). Therefore, we have no

jurisdictional basis from which we might consider issue 4. Finally, plaintiffs' fail to connect any order identified in plaintiffs' notice of appeal to issues 5 (discovery) and 10 (first amendment protection), and those issues are therefore not subject to review by this court.

¶ 33 Second, plaintiffs' brief violates Supreme Court Rule 341(h)(6) and (7) (eff. Nov. 1, 2017), because plaintiffs frequently cite to the appendix to their brief rather than to the record. Plaintiffs' brief also fails to comply with Supreme Court Rule 342 (eff. July 1, 2017) in three ways: (1) the appendix is not "numbered consecutively with the letter 'A' preceding the number of each page," because the pages, while numbered, are not in consecutive order; (2) plaintiffs variously use "A" and "AA" to precede the page number in their appendix; and (3) there is no complete table of contents of the record on appeal. These deficiencies are serious and have frustrated our review of plaintiffs' claims on appeal. Plaintiffs' *pro se* status does not relieve them of their obligations to comply with our supreme court's rules and we caution plaintiffs that future violations of the rules may result in forfeiture of their appellate arguments or outright dismissal of their appeal.

¶ 34 Notwithstanding these deficiencies and omissions, we now turn to address the merits of plaintiffs' surviving arguments on appeal. Plaintiffs' arguments are disorganized and often resort to commentary and verbiage that is simply irrelevant to this court's review of the circuit court's orders. For instance, plaintiffs contend that Garcia defamed them and attempted to impair their first amendment rights to free speech; that socially disadvantaged and disenfranchised people are deprived of access to the courts; they recite the law regarding the presumption that statutes are constitutional, although none of their claims raise constitutional challenges; they complain that they were denied their right to discovery; they complain about the proceedings they initiated in the ARDC against Garcia; and they assert arguments about their petitions for substitution of

Judge Quish for cause and the complaints they filed against her with the JIB. None of those complaints, observations, recitations, or baseless accusations are properly before this court, nor do they enhance plaintiffs' position with respect to the issues that are properly before us. Other than advising plaintiffs that this style and format does nothing to further an understanding of their complaints or to resolve these issues in their favor, there is no sound reason for any further discussion of these contentions.

¶ 35 We now turn to addressing plaintiffs' arguments related to the denial of their motions for sanctions against Garcia. We observe that plaintiffs do not raise any specific argument regarding any of the circuit court's denials of plaintiffs' motions for sanctions and plaintiffs do not advance any particular basis from which we could conclude that the circuit court abused its discretion in denying the any of the motions for sanctions. The failure to develop and advance an argument on these issues results in forfeiture. Ill. S. Ct. Rule 341(h)(7) (eff. Nov. 1, 2017) ("Points not argued are waived ***."). Forfeiture aside, we find that the circuit court did not abuse its discretion in denying any of plaintiffs' motions for Rule 137 sanctions.

¶ 36 Rule 137 was created to prevent parties from abusing the judicial process by imposing sanctions on litigants who file vexatious and harassing actions based on unsupported allegations of fact or law. *Dismuke v. Rand Cook Auto Sales, Inc.*, 378 Ill. App. 3d 214, 217 (2007). Rule 137 provides, in relevant part,

> "Every pleading, motion and other document of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. *** The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion or other document; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in

> fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. *** If a pleading, motion, or other document is signed in violation of this rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion or other document, including a reasonable attorney fee." Ill. S. Ct. R. 137 (eff. July 1, 2013).

¶ 37 To prevail on a motion for Rule 137 sanctions, the petitioner must demonstrate that the opposing party pled untrue facts without reasonable cause. *Couri v. Korn*, 202 Ill. App. 3d 848, 855 (1990). On review of the circuit court's decision to deny sanctions, this court must determine whether the circuit court's decision was "informed, based on valid reasons, and followed logically from the circumstances of the case." *Burrows v. Pick*, 306 Ill. App. 3d 1048, 1051 (1999). Generally, we will defer to a circuit court's decision regarding sanctions and will not reverse unless there has been an abuse of discretion. *Dowd & Dowd, Ltd. v. Gleason*, 181 Ill. 2d 460, 487 (1998). Because Rule 137 is penal in nature, it is narrowly construed. *Id.*

¶ 38 Here, plaintiffs' first motion for sanctions against Garcia, filed on December 27, 2016, took issue with Garcia's alleged statements during a status hearing as to whether all of the defendants had been served and whether the case was properly in small claims court. The motion further complained that Garcia's appearance contained the caption from plaintiffs' initial complaint rather than the second amended complaint. Plaintiffs do not advance any argument as to how the conduct alleged in the motion falls within the scope of Rule 137. Plaintiffs' motion

did not assert that any of Garcia's representations were false or that she deliberately used the wrong case caption in her appearance for any improper purpose contemplated by Rule 137. The circuit court therefore could not have abused its discretion when it denied plaintiffs' first motion for sanctions.

¶ 39 Plaintiffs' second motion for sanctions, filed April 25, 2017, asserted that Garcia's motion for a protective order contained the assertion that plaintiffs "have repeatedly threatened to post all court related documents on social media and in fact have posted documents in connection with this litigation and other litigated matters on social media to slander a variety of people, including Cook County judges, defense counsel, Illinois attorneys, and the employees of the [ARDC]." Fred asserted that Darlene had not "published anything on social media relating to this case or on any individual Garcia has listed." He further claimed that he had "never placed false information on social media." He also pointed to a statement Garcia made in a motion for extension of time in which Garcia wrote, "[p]laintiffs have stated on numerous occasions, including at the last court status hearing, that they intend to post [d]efendant's responses on various social media platforms." Fred asserted that Darlene was not at that status hearing. He further recounted instances where Garcia purportedly submitted draft orders to the circuit court that did not conform to the circuit court's rulings.

¶ 40 According to the bystander's report of the May 24, 2017, hearing, Fred presented oral argument consistent with his motion and further stated that he did not threaten to post defendant's discovery responses on social media. After hearing argument, Judge Quish stated that "after reviewing the motions, briefs, pleadings and case law and hearing argument," she was denying plaintiffs' motion for Rule 137 sanctions.

¶ 41 We simply have no basis from which we could conclude that Judge Quish abused her discretion in denying plaintiffs' motion. A circuit court abuses its discretion only if it acts "arbitrarily without the employment of conscientious judgment, exceed[s] the bounds of reason and ignore[s] recognized principles of law [citation] or if no reasonable person would take the position adopted by the court." *Schmitz v. Binette*, 368 Ill. App. 3d 447, 452 (2006) (citing *Popko v. Continental Casualty Co.*, 355 Ill. App. 3d 257, 266 (2005)). That is not the case here. The circuit court concluded, after considering the relevant filings and hearing argument, that sanctions were not warranted. While the parties disputed whether Fred made statements threatening to post defendant's discovery responses to social media, there was no need for an evidentiary hearing because the circuit court could reasonably conclude that even if Garcia's statement was in error, it did not rise to the level of sanctionable conduct where there was no indication that the statement was intended to harass or to cause unnecessary delay or needless increase in the cost of litigation. This is particularly true where the record clearly reflects that Fred acknowledged that he posted other court materials to social media and repeatedly threatened to do so. The circuit court could have reasonably concluded that imposing sanctions would only further mire the already contentious proceedings in even more hostile filings and that the best course of action was to not further encourage the filing of additional sanctions motions predicated on perceived slights. Plaintiffs must understand that not everything that is said in the course of litigation is sanctionable and that it is usually better to ignore innocuous comments from an adverse attorney and concentrate on the true subject of the litigation. Judges have more important duties than to hold hearings on perceived, but insignificant, upsetting statements from an opposing lawyer. We therefore affirm the circuit court's denial of plaintiffs' April 25, 2017, motion for sanctions.

¶ 42 Plaintiffs' third motion for sanctions, filed July 24, 2017, was based on the contents of Garcia's motion to strike the bystander's report, and plaintiffs' fourth motion for sanctions, filed August 8, 2017, was based on assertions that during the hearing before Judge Wool on the petition to substitute Judge Quish for cause, Garcia accused Fred of having an audio recording device in his briefcase. Plaintiffs' brief contains virtually no discussion of these motions and plaintiffs advance no argument on appeal as to whether the circuit court abused its discretion by denying the motions. It is not our duty to scour the record in an effort to understand an appellant's arguments when the appellant fails to advance any such arguments. Plaintiffs' arguments with respect to their third and fourth motions for sanctions are forfeited and merit no further consideration.

¶ 43 In sum, plaintiffs' forfeited all of their arguments related to the circuit court's orders denying plaintiffs' motions for sanctions. We have no basis from which we can conclude that the circuit court abused its discretion in denying any of the motions, and we therefore affirm the circuit court's denials of all of plaintiffs' motions for Rule 137 sanctions against Garcia.

¶ 44 We next consider plaintiffs' argument that Judge Moltz erred by denying plaintiffs' September 7, 2017, petition for substitution of judge for cause. Plaintiffs argue generally that the circuit court's judgment is void because Judge Moltz should not have ruled on a petition for substitution of judge for cause directed at him.

¶ 45 Section 2-1001(a)(3)(ii) of the Code of Civil Procedure (Code) provides, "Every application for substitution of judge for cause shall be made by petition, setting forth the specific cause for substitution and praying a substitution of judge. The petition shall be verified by the affidavit of the applicant." 735 ILCS 5/2-1001(a)(3)(ii) (West 2016). Furthermore,

> "Upon the filing of a petition for substitution of judge for cause, a hearing to determine whether the cause exists shall be conducted as soon as possible by a judge other than the judge named in the petition. The judge named in the petition need not testify but may submit an affidavit if the judge wishes. If the petition is allowed, the case shall be assigned to a judge not named in the petition. If the petition is denied, the case shall be assigned back to the judge named in the petition." *Id.* § 2-1001(a)(3)(iii).

¶ 46 Our supreme court has held that right to have a petition for substitution of judge for cause heard by another judge is not automatic; the right is only triggered if the party seeking relief is able to bring himself within the provisions of the law. *In re Estate of Wilson*, 238 Ill. 2d 519, 553 (2010). The petition must allege grounds that, if true, would justify granting substitution for cause. *Id.* at 554. "Where bias or prejudice is invoked as the basis for seeking substitution, it must normally stem from an extrajudicial source, *i.e.*, from a source other than from what the judge learned from [his] participation in the case before [him]." *Id.* "The supreme court explained that opinions formed by the judge during the course of the proceedings do not constitute a basis for a bias unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible." (Internal quotation marks omitted.) *Danhauer v. Danhauer*, 2013 IL App (1st) 123537, ¶ 23 (citing *Wilson*, 238 Ill. 2d at 554). Because our review of the circuit court's order denying plaintiffs' petition for substitution of judge for cause requires us to interpret and apply section 2-1001(a)(3) of the Code, which is a question of law, our review is *de novo*. *Danhauer*, 2013 IL App (1st) 123537, ¶ 22.

¶ 47 Here, plaintiffs neither develop nor advance any argument as to whether the petition for substitution of Judge Moltz for cause against satisfied the criteria of section 2-1001(a)(3) of the Code. The failure to develop and advance an argument on this point again results in forfeiture.

Ill. S. Ct. R. 341(h)(7). Regardless, our review of the petition for cause against Judge Moltz reveals that plaintiffs did not allege an extrajudicial source of bias. Their petition generally asserted a conspiracy among the judges in the municipal division, including Judge Moltz, to deny plaintiffs "due process of law, meaningful access to court, and equal protection under the law." Although Fred asserted that he had filed a complaint with the JIB against Judge Moltz, that complaint was based on Judge Moltz's judicial acts of denying a motion for sanctions and entering a DWP order when plaintiffs failed to appear at a scheduled status hearing. Fred's petition for substitution of judge for cause then made the wholly unsubstantiated claim that he was "a victim *** of racism, discriminatory practices, disparate treatment, and just pure hatred toward an educated black man." Neither the petition nor the accompanying affidavit identified any conduct by Judge Moltz (or any other judge) that would suggest any bias, discrimination, or disparate treatment based on Fred's race. Plaintiffs leveled serious accusations against sitting judges without a modicum of evidentiary support. The record on appeal demonstrates that at each turn, all of the circuit court's rulings were well-supported by the facts before it and show no hint of any form of racial discrimination. If anything, plaintiffs' failure to state a factual basis for their petition supports the conclusion that plaintiffs were attempting to use the substitution of judge petitions to remove judges that were not ruling in plaintiffs' favor. The absence of any facts supporting plaintiffs' petition more likely shows the exercise of great patience and restraint on the part of Judge Moltz (and Judge Quish) in the face of scurrilous, unsubstantiated, and defamatory accusations. Again, plaintiffs fail to understand that verbal or written incivility directed at the court or their legal adversary is treated seriously and, where unfounded, greatly diminishes their credibility and does nothing to help their case. We find that plaintiffs' petition to substitute Judge Moltz for cause failed to make a *prima facie* showing of cause that would

necessitate Judge Moltz's referral of the petition to another judge. Furthermore, there is no transcript of the September 7, 2017, proceedings and no substitute report of those proceedings, and we therefore have no basis from which to conclude that Judge Moltz improperly considered and denied the petition. Judge Moltz's order denying plaintiffs' petition for substitution of judge for cause is affirmed.

¶ 48 Finally, we note that plaintiffs do not raise any argument regarding the propriety of the circuit court's judgment on the merits of their property damage claim. Any such argument is therefore forfeited. The circuit court's judgment in favor of defendant is affirmed.

¶ 49 CONCLUSION

¶ 50 For the foregoing reasons, the judgment of the circuit court is affirmed.

¶ 51 Affirmed.