2012 IL App (2d) 110836-U
No. 2-11-0836
Order filed June 11, 2012

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IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

GREGORY IAVARONE, D.C.,	)	Appeal from the Circuit Court
	)	of Du Page County.
Plaintiff,	)	
	)	
v.	)	No. 09-AR-3721
	)	
KEN STENSRUD,	)	
	)	
Defendant and Third-Party Plaintiff-Appellee	)	
	)	
(Douglas P. Trent, Connie Butcher, and Law Office of Trent and Butcher, Third-Party Defendants-Appellants).	)	Honorable Bruce R. Kelsey, Judge, Presiding.

JUSTICE HUTCHINSON delivered the judgment of the court.
Justices Zenoff and Hudson concurred in the judgment

ORDER

Held: The trial court did not err in denying third-party defendants' motion for Rule 137 sanctions or in awarding third-party plaintiff attorney fees for having to respond to third-party defendants' motion. We further waived third-party defendants' argument that they were denied due process because they were denied a hearing on their motion.

¶ 1 In December 1998, Dr. Gregory Iavarone brought the current action against defendant and third-party plaintiff, Ken Stensrud, to recover $21,890 for alleged unpaid chiropractic services.

Stensrud answered Iavarone's complaint and thereafter filed a third-party complaint against third-party defendants Douglas P. Trent, Connie Butcher, and the Law Office of Trent and Butcher (defendants), claiming they were obligated to pay Stensrud's unpaid balance to Iavarone. The trial court subsequently granted Stensrud's motion for voluntary nonsuit of his third-party complaint. Thereafter, defendants filed a motion for sanctions pursuant to Illinois Supreme Court Rule 137 (eff. Feb. 1, 1994) against Stensrud. The trial court denied the motion and granted Stensrud fees that he had incurred from responding to defendants' motion for sanctions. Defendants now appeal and raise three issues: (1) whether the trial court erred in denying their motion for sanctions; (2) whether the trial court violated their right to due process; and (3) whether the trial court erred in awarding Stensrud fees that he incurred while responding to defendants' motion for sanctions. We affirm.

¶ 2 I. Background

¶ 3 The relevant facts are not in dispute. Defendants represented Stensrud (plaintiff) in a personal injury and workers' compensation lawsuit arising from injuries plaintiff sustained through his employment as a truck driver. The case settled. Plaintiff hired Iavarone to perform chiropractic services to treat his injuries, and his workers' compensation insurer and employer paid for a portion of those chiropractic services. Iavarone charged plaintiff individually for the remaining balance.

¶ 4 On December 17, 2009, Iavarone filed a complaint against plaintiff seeking $21,890 for allegedly unpaid chiropractic bills. On March 23, 2010, plaintiff answered the complaint and filed a third-party complaint alleging that defendants should indemnify him for the unpaid chiropractic bills because they owed a duty to secure payment for those services. Defendants retained outside counsel for representation, and that attorney filed an appearance. While this case was pending, plaintiff was proceeding against defendants in another matter pending in Cook County.

¶ 5 On April 20, 2010, defendants' counsel moved to dismiss the third-party complaint pursuant to section 2-619 of the Code of Civil Procedure (the Code) (735 ILCS 5/2-619 (West 2008)). Defendants' counsel argued that, pursuant to the settlement agreement in plaintiff's workers' compensation case, plaintiff acknowledged his responsibility to pay for any unpaid medical bills, and that settlement expressly provided that defendants would be held "harmless" for any additional medical bills. Plaintiff responded that the settlement did not apply to this claim because defendants failed to submit the chiropractic bills to a workers' compensation provider they arranged for with respect to plaintiff's injuries. Plaintiff further responded that he entered into the settlement based on assurances from defendants that all of his medical bills had been paid. The trial court denied defendants' motion to dismiss.

¶ 6 On February 11, 2011, plaintiff filed a motion to voluntary nonsuit his third-party complaint. The common-law record reflects that plaintiff sent notice of the motion to all attorneys of record, including to defendants' counsel at the address provided in the appearance. On February 25, 2011, the trial court entered an order granting plaintiff's motion to voluntarily nonsuit his third-party complaint without prejudice and without costs.

¶ 7 On March 28, 2011, defendants, not their attorney of record, independently filed a motion for sanctions pursuant to Illinois Supreme Court Rule 137 against plaintiff. The record is devoid of any indication defendants entered an appearance on their own behalf or that their counsel of record withdrew her representation before defendants filed the motion for sanctions. Defendants argued that they did not receive notice of plaintiff's motion to voluntary nonsuit the complaint. Defendants argued that they prepared documentation in preparation for an arbitration hearing scheduled for April 20, 2011, and incurred attorney fees as a result. The motion further argued that plaintiff failed to

make a reasonable inquiry before filing his third-party complaint because he "never discussed or reviewed this matter with [defendants] to acquire facts or evidence or develop a basis in which to file a lawsuit." The motion alleged that plaintiff failed to take other investigative measures, including not reviewing the settlement agreement plaintiff signed in the workers' compensation case.

¶ 8 On April 20, 2011, an arbitrator ruled in favor of Iavarone and against plaintiff, awarding him $21,890 plus $333 in fees. Also on that date, plaintiff filed a "motion to strike and dismiss in lieu of response to motion for Supreme Court Rule 137 sanctions." Plaintiff argued that defendants did not file an appearance as attorneys in this matter, but instead were represented by other counsel of record. Therefore, their motion for sanctions was not properly before the trial court. Plaintiff argued that he sent notice of his motion to voluntarily nonsuit his third-party complaint to each attorney with an appearance on file, including defendants' attorney. Plaintiff further argued that the allegations raised in his third-party complaint were being addressed in previously filed lawsuit between plaintiff and defendants that was pending in Cook County. Defendants filed an answer to plaintiff's motion to strike on May 13, 2011.

¶ 9 On May 25, 2011, the trial court entered its judgment on the arbitration award. The trial court also conducted a hearing on defendants' motion for Rule 137 sanctions. The trial court asked an attorney from defendants' law firm "[w]hat was done [by plaintiff] that is sanctionable." The attorney advised the trial court that another attorney from her office "would be better able to answer that" and asked the court for a continuance. The trial court denied the motion for sanctions, stating "[i]t clearly, clearly is not a sanctionable event. It's not even a close question, let alone even one that I would consider."

¶ 10 After the trial court denied defendants' motion for sanctions, plaintiff asked for fees that he incurred in responding to defendants' motion. The trial court responded:

> "Upon presentation of the petition, I will grant it. And my logic is very simple. First of all, [defendants] do not have an appearance on file. Notice was in fact sent to the attorney that had an appearance on file. Apparently that attorney didn't get it.
>
> ***
>
> There's parts of [defendants' motion] that I have no idea what has anything to do with anything. I can reference paragraph 13 in the petition *** This has absolutely nothing to do with the application of sanctionable activity. Paragraph 13 says [plaintiff] did not conduct a reasonable inquiry to this matter by evidence[,] they never discussed with [defendants] to acquire facts or develop a basis for the filing of a lawsuit, did not contact [Iavarone] in this case. They didn't do many other things that have nothing to do with the sanctionable activity that's potentially out there. It all may have to do with the underlying case, but it has nothing to do with the sanction of the notice that was sent out.
>
> ***
>
> But clearly the sanctionable event did not take place. So, [plaintiff], if you want to file a request for fees, please do so."

The trial court entered a written order denying defendants' motion for Rule 137 sanctions and granting plaintiff leave to file a fee petition. Thereafter, plaintiff filed a fee petition and defendants filed a motion to reconsider the trial court's order denying their motion for sanctions.

¶ 11 On August 9, 2011, the trial court conducted a hearing on plaintiff's fee petition and defendants' motion to reconsider. During the hearing, defendants advised the trial court that their

motion for sanctions was based, in part, on plaintiff filing his third-party complaint "without the statutorily required due diligence *** ." The trial court acknowledged this argument by responding "Okay." The trial court denied defendants' motion to reconsider, stating it did not see any basis for departing from its previous ruling. The trial court also granted plaintiff's fee petition, stating:

> "I find [defendants' motion for Rule 137 sanctions] *** to be frivolous. I find that they did not do due diligence prior to their filing that motion that would suggest that the motion should not have been filed. I find any opinion that would suggest the pleadings that are filed in this [c]ourt that are frivolous under the [Supreme Court Rule] 137 standard are sanctionable and that's what I'm doing in this case."

The trial court granted plaintiff's petition and awarded him $1,160 in fees. Defendants timely appealed.

¶ 12 II. Discussion

¶ 13 A. Third-Party Defendants' Motion for Rule 137 Sanctions

¶ 14 Defendants' first contention is that the trial court erred in denying their motion for sanctions pursuant to Illinois Supreme Court Rule 137. Defendants argue that plaintiff failed to conduct a reasonable inquiry before filing his third-party complaint by not considering the settlement agreement he signed stating he would be responsible for all unpaid medical bills; not reviewing a workers' compensation commission settlement contract providing that he would be exclusively liable for all unpaid medical bills; not contacting the attorney who represented him in the workers' compensation dispute; and not contacting Iavarone. Defendants maintain that, had plaintiff undertaken such steps, "it would have been abundantly evident that there was no basis for filing" the

third-party complaint. Defendants further assert that the trial court focused only on the notice aspect of their motion for sanctions, and ignored the reasonable-inquiry aspect of the motion.

¶ 15 Rule 137 provides, in relevant part, that every pleading and motion shall be signed by the attorney of record, which constitutes a certificate by the attorney that he or she has read the pleading or motion, and that, to the best of his or her knowledge, the pleading or motion was grounded in fact and warranted by existing law or a good-faith argument for the extension of existing law. Ill. S. Ct. R. 137 (eff. Feb. 1, 1994). Rule 137 further provides that, if a pleading, motion, or other court paper is signed in violation of the rule, a court may impose sanctions on the person who signed it, including an order to pay the other party's attorney fees. *Id.* Rule 137 is aimed to prevent parties from abusing the judicial process by imposing sanctions on attorneys who file vexatious and harassing actions based on unsupported allegations in fact or law. *Burrows v. Pick*, 306 Ill. App. 3d 1048, 1050 (1999). "The party requesting the imposition of Rule 137 sanctions bears the burden of proof and must show that the opposing party made untrue and false allegations without reasonable cause for the mere purpose of invoking harassment or undue delay of the proceedings." *Mina v. The Board of Education for Homewood-Flossmoor*, 348 Ill. App. 3d 264, 279 (2004). Rule 137 should be strictly construed because it is punitive in nature. *Sadler v. Ceekmur*, 354 Ill. App. 3d 1029, 1045 (2004). In reviewing a trial court's ruling on a motion pursuant to Rule 137, reviewing courts consider whether the trial court's ruling was informed, based on valid reasons which fit the case, and followed logically from the stated reasons to the particular circumstances of the case. *Sanchez v. City of Chicago*, 352 Ill. App. 3d 1015, 1020 (2004). The decision to impose Rule 137 sanctions lies within the sound discretion of the trial court, and we cannot disturb its decision absent an abuse of discretion. *Mina*, 348 Ill. App. 3d at 279. Accordingly, we will afford "considerable deference" to

the trial court's decision (*id.*), because an abuse of discretion occurs where no reasonable person would adopt the same view as the trial court. *Gonzalez v. Nissan North America, Inc.*, 369 Ill. App. 460, 464-64 (2006).

¶ 16 In this case, the trial court did not abuse its discretion in denying defendants' motion for sanctions. Defendants' motion was premised on the theory that plaintiff failed to conduct a reasonable inquiry before filing his third-party complaint and that defendants did not receive notice of plaintiff's motion to voluntarily nonsuit. We will address each aspect of their motion in turn.

¶ 17 Initially, with respect to the defendants' argument that plaintiff failed to conduct a reasonable inquiry, defendants emphasized in their briefs and during oral argument that they provided plaintiff with a copy of the settlement agreement and other documentation relating to plaintiff's prior workers' compensation case. According to defendants, the documentation demonstrated that plaintiff was required to pay all unpaid medical bills to Iavarone. Nonetheless, defendants assert, plaintiff ignored the documentation and proceeded to file the third-party complaint despite knowing that he was responsible for the outstanding balance owed to Iavarone. However, plaintiff represented during oral argument that he reviewed the settlement agreement and other documents "very carefully." After reviewing the documentation, plaintiff concluded that, despite signing the workers' compensation settlement agreement, defendants were still required to indemnify plaintiff for any amount owed to Iavarone. Therefore, contrary to defendants' assertion, plaintiff did not ignore the workers' compensation settlement agreement or other documentation. Rather, plaintiff considered those documents and concluded—as he was free to do—that defendants were required to indemnify plaintiff for any amounts owed to Iavarone despite the settlement agreement.

¶ 18 Simply put, plaintiff was not required to accept defendants' representations that the workers' compensation settlement agreement barred plaintiff's complaint alleging that defendants were required indemnify plaintiff for amounts he owed to Iavarone. Instead, even with the signed settlement agreement, plaintiff could have filed the third-party complaint for indemnification so long as he had a good faith basis for doing so. As we discuss in greater detail below, the trial court's denial of defendants' April 20, 2010, section 2-619 motion to dismiss, which addressed the settlement agreement from the workers' compensation case, clearly signaled that the trial court believed that plaintiff had a good faith basis for concluding that a case could be made that defendants were required to indemnify plaintiff despite the workers' compensation-case settlement agreement.

¶ 19 We also note that plaintiff did not initiate this matter in Du Page County while he simultaneously proceeded against defendants in another matter pending in Cook County. Instead, Iavarone filed suit against plaintiff for unpaid chiropractic bills. Defendants have not brought to our attention any authority providing that plaintiff was not permitted to seek indemnification from defendants after Iavarone filed suit against plaintiff in Du Page County merely because plaintiff was also proceeding against defendants in another matter pending in Cook County.

¶ 20 We further note that defendants' assertion that the trial court ignored the reasonable-inquiry aspect of their motion, and instead focused exclusively on whether defendants received notice of plaintiff's motion for a voluntary nonsuit, is belied by the record. At the May 25, 2011, hearing, the trial court asked defendants' "What was done [by plaintiff] that is sanctionable." The attorney from defendants' law firm did not answer that question, but instead asked the trial court to hold the case over until another attorney from the firm could make the argument. At the August 9, 2011, hearing, the trial court again entertained argument from the parties. Defendants advised the trial court that

the motion was based, in part, on the theory that plaintiff failed to undertake a reasonable inquiry before filing his third-party complaint. The trial court acknowledged this argument by responding "[o]kay." Therefore, the record clearly reflects that the trial court was aware of the reasonable-inquiry aspect of their motion for sanctions.

¶ 21 Next, with respect to defendants' argument that they did not receive notice of plaintiff's motion to voluntarily nonsuit, the record unequivocally reflects that plaintiff complied with the service requirements provided in Illinois Supreme Court Rule 11 (eff. Dec. 29, 2009) . Contrary to defendants' assertion at oral argument, Supreme Court Rule 11 is not predicated on receipt of notice. Specifically, Rule 11(b)(3) permits service of documents "[b]y depositing them in a United States post office or post-office box, enclosed in an envelope, plainly addressed to the attorney at the attorney's business address, or to the party at the party's business address or residence, with postage fully prepaid[.]" *Id.* Illinois courts have held that " '[s]ervice by mail is not invalid simply because a party denies receiving it.' " *City of Bloomington v. Illinois Labor Relations Board*, 2011 IL App (4th) 100778, ¶ 15 (quoting *Thompson v. Department of Employment Security*, 399 Ill. App. 3d 393, 395 (2010)). Here, the trial court recognized that the record contained a notarized proof of service from plaintiff's attorney averring that he deposited notice of plaintiff's motion to voluntary nonsuit in a United States mailbox with postage prepaid, and addressed to defendants' attorney of record. The address for defendants' attorney listed in plaintiff's notice of motion to voluntary nonsuit matched the business address defendants' attorney provided in her appearance. In addition, the trial court noted that the motion for sanctions was not brought by defendants' attorney of record, but instead brought independently by defendants who, despite being lawyers and a law firm, had yet to file an appearance. See *Larson v. Pedersen*, 349 Ill. App. 3d 203, 208 (2004) (noting that an attorney

erred by filing a motion on a party's behalf before filing an appearance, and in doing so, appeared to have violated Rule 137).

¶ 22 Finally, we reject defendants' assertion that Rule 137 required the trial court to conduct a hearing on their motion for Rule 137 sanctions. As this court has previously held, because the pleadings and the factual basis for defendants' motion in the record are clear, the trial court could have entered a summary disposition of defendants' motion for sanctions without a hearing. See *North Shore Sign Co. v. Signature Design Group Inc.*, 237 Ill. App. 3d 782, 791 (1992) ("[A] summary disposition of a motion for sanctions may be appropriate in cases where the pleadings, trial evidence[,] and the factual basis in the record are clear."). Here, the record unequivocally reflects that defendants filed a section 2-619 motion to dismiss plaintiff's third-party complaint, arguing that the complaint should be defeated as a matter of law because plaintiff's allegations were subject to the settlement agreement he signed in the previous workers' compensation claim. Plaintiff responded to that motion by arguing that the settlement agreement did not apply to the complaint. The trial court denied defendants' motion, and in doing so, necessarily concluded as a matter of law that the settlement agreement did not defeat plaintiff's complaint. While the issue of whether the trial court properly denied defendants' April 20, 2010, section 2-619 motion to dismiss is not before this court, we can presume that the trial court's order conformed with the law because defendants failed to provide us with a report of proceedings for the hearing or ruling on that motion. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391 (1984). Based on this information, the record was sufficient for the trial court to reject defendants' assertion that plaintiff failed to conduct a reasonable inquiry before filing his third-party complaint. *Cf. Edward Yavitz Eye Center, Ltd. v. Allen*, 241 Ill. App. 3d 365, 569 (1993) (holding that the trial court erred in declining to impose sanctions where the

unambiguous language of an arbitration agreement barred suit based on that agreement, and a "cursory examination" of the agreement would have revealed that).

¶ 23 Accordingly, we hold the trial court did not abuse its discretion in denying defendants' motion for sanctions. See *Webber v. Wight & Co.*, 368 Ill. App. 3d 1007, 1032 (2006) (finding that the trial court did not abuse its discretion in declining to impose Rule 137 sanctions).

¶ 24 B. Procedural Due Process

¶ 25 Defendants' next contend that they were denied procedural due process. Defendants raise several arguments in support of this contention, including that they were denied due process because their motion for sanctions was not scheduled to be heard on May 25, 2011, but rather, only plaintiff's motion to strike was scheduled to be heard on that date. Defendants further argue that they were denied the right to file an amended motion for sanctions; the trial court's "premature ruling" on the merits of their motion for sanctions "denied [them] the procedural due process right by diverging from the plain language of section 2-619" and permitted plaintiff to file an "insufficient motion"; and the trial court erred by permitting plaintiff to voluntary nonsuit his third-party complaint without paying costs.

¶ 26 We find this contention waived pursuant to Illinois Supreme Court Rule 341(h)(7) (eff. July 1, 2008). Defendants' initial brief before this court contains citation only to section 2-616 of the Code (735 ILCS 5/2-616 (West 2010)) for the proposition that parties can amend pleadings; section 2-619 of the Code; and section 2-1009(a) of the Code (735 ILCS 5/2-1009(a) (West 2010)) for the proposition that a party who voluntarily nonsuits a case is required to pay costs. Aside from these general statutory citations, their brief is devoid of any developed or substantive argument with appropriate citations to relevant authority. Instead, defendants merely rely on conclusory statements.

Such conclusory assertions without supporting analysis is insufficient, and subject to waiver. See *Wolfe v. Menard, Inc.*, 364 Ill. App. 3d 338, 348 (2006).

¶ 27 Defendants' reply brief before this court offers little more. They attempt to clarify their argument by stating "our argument is simple. In this instance, the trial court permitted [plaintiff] to file a 2-619 motion to dismiss in response to [our motion for Rule 137] sanctions." Defendants provide general citations to case law distinguishing pleadings from motions, but offer no further substantive argument supported by relevant authority as to how the trial court permitted plaintiff to file a section 2-619 motion to dismiss in response to their motion for sanctions.

¶ 28 The appellate court is not a depository in which the appealing party may dump the burden of argument and research. *Id.* As a result of third-party defendants' violation of Rule 341(h)(7), we waive this contention. See *id.* at 349.

¶ 29 In waiving this contention, we emphasize that the record clearly and unequivocally rebuts defendants' assertions. First, with respect to the trial court ruling on their motion for sanctions at the May 25, 2011 hearing, defendants were afforded ample opportunity to address both their motion for sanctions and plaintiff's motion to strike. Specifically, the record reflects that plaintiff filed his motion to strike on April 20, 2011. Defendants answered that motion on May 13, 2011. Their answer contained general denials of the allegations in plaintiff's motion to strike, and made conclusory statements of law. Defendants could have used their answer as an opportunity to elaborate as to why the trial court should reject plaintiff's motion to strike, and instead, grant their motion for sanctions. Defendants did not do so. Further, at the May 25, 2011, hearing, the trial court asked an attorney from defendants' law firm to identify the specific conduct exhibited by plaintiff warranting sanctions. The attorney was unprepared to answer that question. We further note that

the trial court's ruling on May 25, 2011, did not prevent defendants from amending their motion. Defendants had ample opportunity to amend their motion for sanctions before that date if they so desired, including when they filed their response to plaintiff's motion to strike.

¶ 30 Second, defendants' assertion that the trial court permitted plaintiff to file a section 2-619 motion to dismiss in response to their motion for sanctions is unfounded. Initially, we note that Illinois law is clear that a party may file a motion to strike an opposing party's petition for fees pursuant to Illinois Supreme Court Rule 137. See *Krautsack v. Anderson*, 223 Ill. 2d 541, 562-63 (2006) (discussing the plaintiff's petition for fees pursuant to, in part, Rule 137, and the defendant's motion to strike that petition). Here, in his introductory paragraph, plaintiff argued that his motion to strike should be alternatively granted pursuant to section 2-619. Although we recognize that a motion for sanctions is not a pleading (see *In re Marriage of Sutherland*, 251 Ill. App. 3d 411, 413 (1993)), the trial court's remarks did not reference section 2-619 of the Code during either the May 25, 2011, or August 9, 2011, hearings or in its orders denying defendants' motion to strike or motion to reconsider, respectively. Therefore, because the record clearly reflects that the trial court did not base its decision to deny defendants' motion for sanctions on section 2-619 of the Code, we reject defendants' argument that the trial court erred in permitting plaintiff to file an inappropriate motion, or for not requiring plaintiff to meet the provisions of section 2-619.

¶ 31 Finally, defendants' argument that they were denied procedural due process because the trial court permitted plaintiff to voluntarily nonsuit his third-party complaint without paying costs is similarly deficient. As defendants acknowledged in their motion for sanctions, they were aware "on or about March 22, 2011" of the trial court's order granting plaintiff's motion to voluntary nonsuit his third-party complaint without prejudice and without costs. Defendants could have raised their

objection to the trial court's order at that point in the proceedings. Defendants, however, failed to do so, and instead filed a motion for sanctions. Illinois reviewing courts have held that a party "cannot sit on his hands and let perceived errors in the record" stand, and then complain of those errors for the first time in a posttrial motion. *Dubey v. Public Storage, Inc.*, 395 Ill. App. 3d 342 350 (2010). We decline to allow defendants to do so now.

¶ 32 C. Plaintiff's Fee Petition

¶ 33 Defendants' final contention is that the trial court erred granting plaintiff's petition for fees that he incurred in responding to defendants' motion for sanctions. Defendants argue that the plain language of the "statute" (Rule 137) does not allow a court to award fees to a party incurred in responding to a Rule 137 motion. Defendants further argue that the trial court failed to specify the conduct that justified plaintiff's fee award, and that they brought their motion for sanctions in good faith and diligently researched the matter.

¶ 34 As outlined above, our review of a trial court's imposition of Rule 137 sanctions involves considering whether the trial court's ruling was informed, based on valid reasons which fit the case, and followed logically from the stated reasons to the particular circumstances of the case. *Sanchez*, 352 Ill. App. 3d at 1020. The decision to impose Rule 137 sanctions lies within the sound discretion of the trial court, and as a result, we will afford considerable deference to the trial court's decision. *Mina*, 348 Ill. App. 3d at 279. A trial court's decision regarding Rule 137 sanctions will not be reversed absent an abuse of discretion, which occurs where no reasonable person would adopt the same view as the trial court. *Gonzalez*, 369 Ill. App. 460, 464-64 (2006).

¶ 35 Initially, we reject defendants' argument that Rule 137 does not permit a trial court to award fees to a party responding to a Rule 137 motion. Resolution of this issue requires us to interpret Rule

137, and "[w]e interpret a supreme court rule in the same manner in which we interpret a statute, namely, by ascertaining and giving effect to the intent of the drafter." *Roth v. Illinois Farmers Insurance Co.*, 202 Ill. 2d 490, 493 (2002). The most reliable indicator of such intent is the language used, given its plain and ordinary meaning. *Id.* (citing *In re Estate of Rennick*, 181 Ill. 2d 395, 405 (1998)). " 'Where the language is clear and unambiguous, we must apply the language used without further aids of construction.' " *Szczeblewski v. Gosset*, 342 Ill. App. 3d 344, 349 (2003) (quoting *Rennick*, 181 Ill. 2d at 404-05).

¶ 36 The plain and unambiguous language of Supreme Court Rule 137 permits a trial court to award attorney fees to a party responding to a motion for sanctions pursuant to it. In relevant part, Supreme Court Rule 137 provides:

> "*Every pleading, motion and other paper* of a party represented by an attorney shall be signed by at least one attorney of record in his individual, whose address shall be stated. *** The signature of an attorney or party constitutes a certificate by that he has read the pleading, motion or other paper; that to the best of his knowledge, information, and belief formed a reasonable inquiry it is well grounded in fact and is warranted by existing law or a good-faith 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 paper is signed in violation of this rule, the court, upon motion *or upon its own initiative*, may impose upon the person who signed it *** an appropriate sanction *** including a reasonable attorney fee." (Emphasis added.) Ill. S. Ct. R. 137 (eff. Feb. 1, 1994).

Rule 137 is clearly applicable to every motion brought by a party, as the plain language of the rule provides that "[e]very" motion shall be signed by an attorney of record. Further, the rule expressly permits a trial court to impose sanctions upon a party for bringing a motion in violation of the rule upon the court's own initiative. Given this clear and broad statutory language, we find no sound basis for not applying Rule 137 to motions, including those brought pursuant to Rule 137. Applying Rule 137 to motions seeking relief pursuant to the rule is consistent with the spirit and purpose of Rule 137, which is to prevent parties or their attorneys from making assertions without support in law or fact. See *Kensington's Wine v. John Hart Fine Wine*, 392 Ill. App. 3d 1, 15 (2009). In other words, if our supreme court precluded trial courts from imposing sanctions against a party who brought a motion under Rule 137 when that motion was frivolous or otherwise in violation Rule 137, the effect would encourage parties to bring such motions without ensuring it was supported by law and facts. Therefore, we conclude that the plain language of Rule 137 permitted the trial court to award plaintiff fees in responding to defendants' motion for sanctions.

¶ 37 Having determined that the plain and unambiguous language of Rule 137 permits a trial court to award fees to a party responding to a Rule 137 motion, we further conclude that the trial court did not abuse its discretion by awarding plaintiff such fees in this case. Defendants' motion for sanctions argued that plaintiff was in violation of Rule 137 because defendants did not receive notice of plaintiff's motion to voluntary nonsuit, and that plaintiff failed to make a reasonable inquiry before filing its third-party complaint. However, as discussed above, the common-law record clearly and unequivocally reflected that plaintiff sent notice of his motion to voluntary nonsuit the third-party complaint to defendants' attorney of record at the address that matched the appearance.

¶ 38 Moreover, with respect to the reasonable-inquiry aspect of defendants' motion for sanctions, the trial court previously denied defendants' motion to dismiss pursuant to section 2-619 of the Code. In that motion, defendants argued that the allegations contained in plaintiff's third-party complaint were subject to a previous settlement agreement plaintiff had entered into with defendants, and therefore, the complaint should be defeated as a matter of law. The trial court denied the motion, and as a result, necessarily concluded that the prior settlement agreement did not defeat plaintiff's lawsuit as a matter of law. Therefore, the trial court could have concluded that both aspects of defendants' motion for sanctions violated Rule 137 because they were not grounded in fact or law. Finally, the trial court outlined on the record why it thought defendants' motion for sanctions was frivolous, *i.e.*, that the record reflected that plaintiff sent notice of his motion to voluntary nonsuit his complaint to each attorney of record.

¶ 39 In sum, we cannot conclude that no reasonable person would take the view adopted by the trial court in imposing sanctions on defendants for bringing a frivolous Rule 137 motion. See *Cretton v. Protestant Memorial Medical Center, Inc.*, 371 Ill. App. 3d 841, 866 (2009) ("We do not believe that the trial court abused its discretion in concluding that the defendant and its agents were subject to Rule 137 sanctions ***.).

¶ 40 III. Conclusion

¶ 41 For the foregoing reasons, we affirm the judgment of the circuit court of Du Page County.

¶ 42 Affirmed.