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NO. 4-13-1085

FILED
September 9, 2014
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FS FINANCIAL SERVICES CORPORATION, as Assignee of PIATT COUNTY SERVICE COMPANY, Plaintiff-Appellee, v. ROBERT R. WILLIAMS, Defendant-Appellant.	)))))))	Appeal from Circuit Court of Piatt County No. 12L4 Honorable Richard L. Broch, Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Turner and Holder White concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not err in granting summary judgment in plaintiff's favor where the record disclosed no error in the court's application of law and failed to reflect that a dispute existed as to a genuine issue of material fact.

¶ 2 Plaintiff, FS Financial Services Corporation, as Assignee of Piatt County Service Company (Piatt), brought an action against defendant, Robert R. Williams, alleging he defaulted on a promissory note held by plaintiff; refused to turn over property held as security for payment of the note; and owed plaintiff $149,421.39, along with *per diem* interest. Ultimately, the trial court granted plaintiff's motion for summary judgment. Defendant appeals, arguing the court erred (1) in its application of the law by relying on provisions of the Credit Agreements Act (Credit Act) (815 ILCS 160/0.01 to 3.1 (West 2010)) over the Uniform Commercial Code (UCC) (810 ILCS 5/1-101 to 13-103 (West 2010)) and (2) by finding no genuine issue of material fact

existed as to whether the parties executed a written agreement extending their original agreement. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Defendant is in the business of farming. On January 8, 2003, he executed a power of attorney appointing his son, James R. Williams, as his agent and attorney-in-fact. On April 22, 2010, Piatt and defendant, through James, executed an "FS Agri-Finance Line of Credit Note and Security Agreement" (loan number 1231370800), setting forth a loan amount of $500,000, with a maturity date of March 31, 2011. The note was secured by accounts and documents of title, livestock, crops, farm products, and equipment. On May 17, 2010, Piatt assigned "all its right, title and interest in and to" the line of credit note and security agreement to plaintiff.

¶ 5 On March 12, 2012, plaintiff filed a two-count complaint against defendant, alleging he was in default under the terms of the note and, as of March 6, 2012, owed plaintiff $149,421.39, plus accrued interests, costs, and attorney fees. Plaintiff also asserted defendant was wrongfully detaining property described as security in the note and refused to deliver possession of that property to plaintiff. In connection with its first count for replevin, plaintiff sought an order granting it possession of property described as security in the note, the value of property not delivered, damages for detention of the property, costs of the proceeding, and other just and equitable relief. Pursuant to count II of the complaint for "collection on [a] promissory note," plaintiff sought judgment in its favor in the amount of $149,421.39, "together with interest since March 6, 2012."

¶ 6 On April 16, 2012, defendant filed his answer and affirmative defense. He denied that he was in default on the note and asserted promissory estoppel as his affirmative defense.

Specifically, defendant alleged as follows:

> "On or about April 22, 2010, Mike Neff, in his capacity as a salesman and as an expert in client service for Piatt FS, indicated to James Williams that the due date for Loan # 1231370800 would be extended to November 15, 2011[,] after the harvest was complete for 2011. Mr. Neff made this commitment to induce Mr. Williams to make additional purchases from Piatt FS.
>
> The manager of Piatt FS, Matt Buzby [(later identified in the record as Matt Busby)], was aware of, and approved, this extension of the due date."

(We note defendant's references to "Piatt FS" are apparently meant to refer to Piatt, plaintiff's assignor.) Defendant asserted the UCC "recognizes the provisions of estoppel under Illinois Law" and cited to the UCC's general provisions (810 ILCS 5/1-103 (West 2010)). Further, he maintained all the elements of promissory estoppel had been met, in that (1) Piatt, the promisor, "had substantial reason to expect that action by Mr. Williams would be induced by making a commitment extending the due date for Loan # 1231370800," (2) Piatt "did so of definite and substantial character," and (3) "Mr. Williams acted on this promissory commitment within the practice of his business."

¶ 7 On May 2, 2012, plaintiff filed a response, asserting defendant's affirmative defense was barred by the Credit Act. It sought an order dismissing defendant's affirmative defense.

¶ 8 On September 11, 2012, plaintiff filed a motion for summary judgment pursuant

to section 2-1005 of the Code of Civil Procedure (735 ILCS 5/2-1005 (West 2010)) and a memorandum in support of that motion. It maintained its books and records clearly showed defendant was in default as the note had matured without defendant making payment in full. Further, plaintiff asserted that, under the Credit Act, all claims related to a credit agreement "are barred unless [the] agreement has been reduced to writing." It noted, in his affirmative defense, defendant alleged only an oral statement was made and set forth no facts alleging either plaintiff or Piatt entered into a written agreement with defendant or James to extend the maturity date of the original agreement.

¶ 9 Plaintiff attached the affidavit of Rich Norton, the "Vice President of Operations for FS Agri-Finance," to its motion and memorandum. (The record does not disclose the precise relationship between "FS Agri-Finance" and any of the parties; however, we note the original agreement between Piatt and defendant was titled "FS Agri-Finance Line of Credit Note and Security Agreement" and, at times, the parties appear to refer to plaintiff by referencing "FS Agri-Finance.") Norton asserted he had personal knowledge of the loan records of FS Agri-Finance. He averred the line of credit note and security agreement was "in default as it matured March 31, 2011[,] and remain[ed] unpaid." Norton further asserted the sum of $158,905.67 was due as of September 4, 2012, with interest accruing thereon at a rate of $30.87 *per diem*.

¶ 10 On December 11, 2012, defendant filed a motion to compel discovery. He asserted demands were made to take the depositions of three individuals but plaintiff refused to schedule any depositions. As support for his assertions, defendant attached correspondence between the parties to his motion. That correspondence showed, on February 14, 2012, defendant's counsel sent a letter to plaintiff's counsel stating he was waiting on plaintiff to

provide available dates to take the "deposition of Mark Troline in litigation already filed not affecting Piatt FS directly (Piatt County Case No. 11-CH-61)." On February 15, 2012, plaintiff's counsel responded as follows:

> "As to the issue of your deposing Mr. Troline, Farm Credit does not permit its officers to be involved in third party litigation. My review of the Complaint filed in Piatt County Circuit Court, Case No. 11-CH-61 shows that neither Farm Credit nor FS has an interest in this proceeding. Accordingly, Mr. Troline will not be appearing for a deposition in that case and the issuance of a subpoena to Mr. Troline for the purpose of deposition will be met with a Motion to Quash."

¶ 11 Further correspondence attached to defendant's motion showed that, on September 21, 2012, defendant's counsel sent a letter to plaintiff's counsel regarding "Jim Williams v. Piatt FS" and stating he "would like to schedule depositions of Mark Troline[;] Matt Busby, the former general manager of Piatt FS[;] and Mike Neff, who was terminated by Piatt FS recently." On September 26, 2012, plaintiff's counsel responded, asserting there was no point in scheduling Troline's deposition due to the pending motion for summary judgment and the lack of a factual dispute. Additionally, plaintiff's counsel asserted he did "not represent Piatt FS and therefore [was] not able to provide any information regarding depositions of present or former Piatt FS employees."

¶ 12 On January 11, 2013, plaintiff filed a response to defendant's motion to compel discovery, arguing defendant's motion was unsupported by law and fact. Specifically, plaintiff

asserted the record showed defendant did not seek to obtain discovery in the case prior to filing his motion to compel and the correspondence attached to his motion only showed he sought discovery in connection with a pending case that was not related to the case at bar, specifically Piatt County case No. 11-CH-61. Plaintiff noted defendant's February 2012 request for Troline's deposition was made prior to the filing of the plaintiff's complaint in this case. Additionally, plaintiff asserted defendant's motion to compel failed to comply with Illinois Supreme Court Rule 201(k) (eff. July 1, 2002), which required him to "incorporate a statement [in his motion] that counsel responsible for trial of the case[,] after personal consultation and reasonable attempts to resolve differences[,] have been unable to reach an accord or that opposing counsel made himself or herself unavailable for personal consultation or was unreasonable in attempts to resolve differences."

¶ 13 On July 23, 2013, defendant filed a request to produce. He requested plaintiff produce any and all documentation regarding the extension of three different line-of-credit notes and security agreements entered into between plaintiff and either James or defendant on April 22, 2010. The record indicates plaintiff responded to defendant's request, asserted it did not have such documentation, and denied that such documentation existed.

¶ 14 On July 24, 2013, defendant filed a response to plaintiff's motion for summary judgment. He asserted the UCC applied rather than the Credit Act, the UCC recognized the doctrines of promissory and equitable estoppel, and those doctrines applied in the present case where a promise was made to defendant to extend the deadline of the original agreement and he relied on that promise. For the first time, defendant also asserted the existence of a written document extending the original contract's deadline, alleging "[t]he attached Affidavit of Pamela

Williams indicates that there is a written document extending the deadline."

¶ 15 In her affidavit, Pamela asserted that, in June 2010, "Piatt FS extended [three Agri-Finance Lines of Credit and Security Agreements between plaintiff and either James or defendant (only one of which is at issue on appeal)] as an inducement for [defendant's farming operation] to purchase additional products from Piatt FS." She averred that, based on the inducements, defendant's farming operation "did purchase additional products from Piatt FS in return for the extension of the deadline on the FS Agri-Finance contracts." Further, Pamela asserted she "remember[ed] seeing a written document signed by Piatt FS officials verifying the deadline extension and the agreement of the subject contracts." She acknowledged she did not have possession of the document but believed it was in the exclusive possession of "Piatt FS or FS Agri-Finance." (Pamela's affidavit does not establish her relationship to the parties; however, arguments during a hearing before the trial court indicated she was James's wife and defendant's daughter-in-law).

¶ 16 James's affidavit was also attached to defendant's response. He asserted that in June 2010, "Piatt FS" extended the payment deadline on three line-of-credit notes and security agreements between plaintiff and either James or defendant as an inducement for defendant's farming operation to purchase additional products. He also averred as follows:

> "This agreement [to extend the deadlines] was negotiated by Piatt FS sales person Mike Neef [*sic*] and verified by Matt Busby, the General Manager of Piatt FS. Furthermore, I believe Piatt FS comptroller/treasurer Tom Veitch, and FS Agri-Finance representative Mark Troline have personal knowledge of the

documentation and the extension."

James asserted defendant's farming operation purchased additional products pursuant to the agreement but "after the manager for Piatt FS was replaced, counsel for FS Agri-Finance and Mark Troline changed their position and decided *** they would no longer honor the extension agreement." He averred defendant had been erroneously charged default interest and that defendant's farming operation had paid "FS Agri-Finance $1,500,000, or the entire principal due" under each of the three line-of-credit notes and security agreements, including the one at issue on appeal. (Again, although the record, including the parties' filings, does not disclose the relationship between FS Agri-Finance and the parties, James's affidavit seemingly uses "FS Agri-Finance" to refer to plaintiff.)

¶ 17 Finally, defendant's own affidavit was attached to his response. Defendant asserted he was 89 years old and retired from farming. He stated he owned no property or farm equipment or any property listed in the security agreement at issue.

¶ 18 On July 25, 2013, the trial court conducted a hearing, following which it denied defendant's motion to compel and granted plaintiff's motion for summary judgment. On August 8, 2013, the court entered a written order that denied the motion to compel. It found the record failed to show defendant made a request for discovery in the case prior to filing the motion to compel and discovery requested in the motion related "only to Case No. 11-CH-61."

¶ 19 The same date, the trial court entered its written order granting plaintiff's motion for summary judgment. It found (1) the line-of-credit note and security agreement at issue in the case was not paid by the due date of March 31, 2011; (2) plaintiff and defendant did not enter into a written agreement extending the due date of the note to November 15, 2011; and (3)

plaintiff provided defendant with additional time to pay the note beyond the due date as it "did not initiate [the] collection action against [defendant] until March 12, 2012," when plaintiff filed its complaint. The trial court found, as of July 25, 2013, the note was in default and defendant owed a total of $159,504.65, representing (1) $93,115.18 in principal; (2) $34,867.55 in interest; and (3) $31,521.92 in late charges. The court found no genuine issue of material fact existed and plaintiff was entitled to summary judgment as a matter of law. It determined plaintiff was entitled to possession of the property described in the contract and entered judgment in plaintiff's favor in the amount of $159,504.65.

¶ 20 On September 6, 2013, defendant filed both a motion for reconsideration of the trial court's August 8, 2013, order, which granted plaintiff's motion for summary judgment, and a request to clarify that order. Following a hearing on October 24, 2013, the court denied both motions. The same date, plaintiff filed a release of judgment, asserting it received full satisfaction and payment from defendant and released the August 8, 2013, judgment against him. On November 7, 2013, the court entered its written order denying defendant's motions for reconsideration and to clarify.

¶ 21 This appeal followed.

¶ 22 II. ANALYSIS

¶ 23 On appeal, defendant argues the trial court erred in granting summary judgment in favor of plaintiff. He contends that, although the maturity date of the line-of-credit note and security agreement was March 31, 2011, he had either an oral or written agreement with Piatt to extend the due date to November 15, 2011. Defendant contends plaintiff was not entitled to judgment as a matter of law because provisions of the UCC apply over those of the Credit Act

and, pursuant to the UCC, "an agreement concerning a secured transaction need not be in writing to be enforceable." Alternatively, defendant argues the affidavits of Pamela and James establish a genuine dispute of fact as to the existence of a written agreement to extend the due date of the note.

¶ 24 "Summary judgment is proper when the pleadings, depositions, admissions and affidavits on file demonstrate that there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law." *Wilkins v. Williams*, 2013 IL 114310, ¶ 12, 991 N.E.2d 308. The trial court's grant of a motion for summary judgment is subject to *de novo* review. *Ioerger v. Halverson Construction Co.*, 232 Ill. 2d 196, 201, 902 N.E.2d 645, 648 (2008).

¶ 25 A. Applicable Law

¶ 26 Pursuant to the Credit Act, a "credit agreement" is defined as "an agreement or commitment by a creditor to lend money or extend credit or delay or forbear repayment of money not primarily for personal, family or household purposes, and not in connection with the issuance of credit cards." 815 ILCS 160/1(1) (West 2010). Section 2 of the Credit Act provides as follows:

> "A debtor may not maintain an action on or in any way related to a credit agreement unless the credit agreement is in writing, expresses an agreement or commitment to lend money or extend credit or delay or forbear repayment of money, sets forth the relevant terms and conditions, and is signed by the creditor and the debtor." 815 ILCS 160/2 (West 2010).

Further, section 3 of the Credit Act provides:

> "The following actions do not give rise to a claim, counter-claim, or defense by a debtor that a new credit agreement is created, unless the agreement satisfies the requirements of Section 2:
>
> * * *
>
> (3) the agreement by a creditor to modify or amend an existing credit agreement or to otherwise take certain actions, such as entering into a new credit agreement, forbearing from exercising remedies in connection with an existing credit agreement, or rescheduling or extending installments due under an existing credit agreement." 815 ILCS 160/3 (West 2010).

¶ 27 The Credit Act "is broadly worded" and "bars actions by a debtor 'on or in any way related to a credit agreement' unless there is a written agreement." *First National Bank in Staunton v. McBride Chevrolet, Inc.*, 267 Ill. App. 3d 367, 372, 642 N.E.2d 138, 142 (1994). "There is no limitation as to the type of actions by a debtor which are barred by the [Credit] Act, so long as the action is in any way related to a credit agreement." *First National Bank*, 267 Ill. App. 3d at 372, 642 N.E.2d at 142. "[E]quitable estoppel as well as the other traditional exceptions to a [Frauds Act] defense [are] inapplicable to the [Credit] Act." *McAloon v. Northwest Bancorp, Inc.*, 274 Ill. App. 3d 758, 763, 654 N.E.2d 1091, 1094 (1995).

¶ 28 Here, defendant does not dispute that the agreement at issue between the parties was a "credit agreement." Thus, the Credit Act applies and prohibited defendant from raising a claim or defense based upon an oral modification of the parties' original contract.

¶ 29 Nevertheless, defendant maintains that the legislature intended for the UCC to apply in this case. He notes the parties' contract included a security agreement and article 9 of the UCC (810 ILCS 5/9-101 to 710 (West 2010)) governs secured transactions. Defendant argues the Credit Act and the UCC are in conflict as section 9-201(a) of the UCC (810 ILCS 5/9-201(a) (West 2010)) "makes security agreements enforceable regardless of whether they are in writing." To support his position, defendant also relies on the UCC's general provisions. Applying various rules of statutory construction, he maintains that the UCC must govern the parties' transaction because it is the more recently amended statute and more specific than the Credit Act.

¶ 30 "The cardinal rule of statutory construction is to ascertain and give effect to the legislature's intent." *Moore v. Green*, 219 Ill. 2d 470, 479, 848 N.E.2d 1015, 1020 (2006). The best indication of legislative intent is the statutory language, which "must be afforded its plain, ordinary, popularly understood meaning." *Moore*, 219 Ill. 2d at 479, 848 N.E.2d at 1020-21. "When the language is unambiguous, the statute must be applied as written without resorting to other aids of construction." *Moore*, 219 Ill. 2d at 479, 848 N.E.2d at 1021.

¶ 31 "Where two statutes conflict, we will attempt to construe them together, *in pari materia*, where such an interpretation is reasonable." *Moore*, 219 Ill. 2d at 479, 848 N.E.2d at 1021. "We presume the legislature would not enact a law that completely contradicts an existing law without expressly repealing it." *Moore*, 219 Ill. 2d at 479, 848 N.E.2d at 1021. "Where a general statutory provision and a more specific statutory provision relate to the same subject, we will presume that the legislature intended the more specific provision to govern." *Moore*, 219 Ill. 2d at 480, 848 N.E.2d at 1021. "Similarly, [courts] will presume that the legislature intended the

more recent statutory provision to control." *Moore*, 219 Ill. 2d at 480, 848 N.E.2d at 1021. "However, the canon that the specific governs the general holds true ' "regardless of the priority of enactment." ' " *People ex rel. Madigan v. Burge*, 2014 IL 115635, ¶ 32 (quoting *Radzanower v. Touche Ross & Co.*, 426 U.S. 148, 153 (1976) (quoting *Morton v. Mancari*, 417 U.S. 535, 551 (1974))).

¶ 32 As stated, defendant argues section 9-201(a) of the UCC "makes security agreements enforceable regardless of whether they are in writing" and directly conflicts with the Credit Act. We disagree. Section 9-201(a) of the UCC provides that "a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors." 810 ILCS 5/9-201(a) (West 2010). This section merely sets forth the general effectiveness of a security agreement and contains no provision regarding the enforceability of an oral agreement in the context of a secured transaction. Defendant cites no other provision of article 9 to support his position and we find it is not in conflict with the provisions of the Credit Act, which prohibit defendant from raising a claim or defense that is in any way related to a credit agreement unless that agreement is in writing. Application of the Credit Act is not precluded by the fact that a credit agreement might also include a security agreement, which is subject to article 9 of the UCC.

¶ 33 We note defendant also cites to the UCC's "General Provisions." See 810 ILCS 5/1-201(b)(3) (West 2010) (stating " 'Agreement', as distinguished from 'contract', means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing, or usage of trade"); 810 ILCS 5/1-103(b) (West 2010) (providing that "the principles of law and equity, including the law merchant and

the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, and other validating or invalidating cause supplement [the UCC's] provisions"). To the extent that those provisions conflict with the Credit Act's requirement of a written agreement between parties, we find the Credit Act is the more specific provision and governs the parties' transaction. As its title implies, the UCC's "General Provisions" apply generally, while the Credit Act applies specifically to credit agreements.

¶ 34 On appeal, defendant also argues the parties' contract requires that the UCC applies over the Credit Act. To support his position, he references a portion of the contract which provides that plaintiff, as assignee of Piatt, had "the right to the immediate exercise of all remedies of a secured party under the [UCC]." However, defendant neglects to note that the parties' contract also contains a "notice" provision, which provides:

> "Only those terms in writing are enforceable. No other terms or oral promises not contained in this written contract may be legally enforced. You may change the terms of this agreement only by another written agreement."

¶ 35 Here, we find that the Credit Act and the portion of the UCC which concerns secured transactions are not in conflict. To the extent the UCC's general provisions conflict with the Credit Act, the Credit Act is more specific and governs the parties' transaction. Moreover, the actual terms of the parties' contract are consistent with the Credit Act's requirement that modifications to a credit agreement must be in writing. Under these circumstances, the trial court committed no error in finding plaintiff was entitled to summary judgment as a matter of law when no written agreement existed between the plaintiff and defendant which extended their

contract's maturity date.

¶ 36 B. Genuine Issue of Material Fact Regarding a Written Agreement

¶ 37 On appeal, defendant alternatively argues that the affidavits of both James and Pamela establish a genuine issue of material fact as to the existence of a written agreement extending the due date of the note. Thus, he maintains that even if the Credit Act applies, the trial court's grant of summary judgment in plaintiff's favor must be reversed.

¶ 38 "In determining whether a genuine issue of material fact exists, the pleadings, depositions, admissions and affidavits must be construed strictly against the movant and liberally in favor of the opponent." *Mashal v. City of Chicago*, 2012 IL 112341, ¶ 49, 981 N.E.2d 951. In this instance, even construing the record strictly against plaintiff, we must disagree with defendant's contention that either affidavit raises a genuine issue of material fact and precluded summary judgment. Here, not only does Pamela's affidavit fail to set forth her relationship to the parties or under what circumstances she would have obtained her knowledge of their agreement, her affidavit would not establish compliance with the Credit Act. Pamela asserted she "remember[ed] seeing a written document signed by Piatt FS officials." However, pursuant to the Credit Act, a document must be "signed by the creditor and the debtor." 815 ILCS 160/2 (West 2010). Notably, neither James nor defendant averred that they signed a written agreement to extend the note's maturity date or that such a written agreement actually existed. James's affidavit stated only that he believed "Piatt FS" and "FS Agri-Finance" representatives had personal knowledge of "the documentation and the extension" but does not set forth what that "documentation" was. He certainly does not aver that a written agreement to extend the maturity date existed or that it was signed by all relevant parties.

¶ 39 Additionally, we note that both parties ignore (and fail to address on appeal) the effect of the assignment from Piatt to plaintiff. "An assignment is the transfer of some identifiable property, claim, or right from the assignor to the assignee." *YPI 180 N. LaSalle Owner, LLC v. 180 N. LaSalle II, LLC*, 403 Ill. App. 3d 1, 5, 933 N.E.2d 860, 864 (2010). "The assignment operates to transfer to the assignee all of the assignor's right, title or interest in the thing assigned, such that the assignee stands in the shoes of the assignor." *YPI 180 N. LaSalle Owner*, 403 Ill. App. 3d at 5, 933 N.E.2d at 864; *Collins Co., Ltd. v. Carboline Co.*, 125 Ill. 2d 498, 512, 532 N.E.2d 834, 839 (1988) ("Once made, an assignment puts the assignee into the shoes of the assignor."). Thereafter, "[t]he assignor no longer has any rights in the property assigned." *People v. Wurster*, 97 Ill. App. 3d 104, 106, 422 N.E.2d 650, 652 (1981). "The assignee takes the assignor's interest subject to all legal and equitable defenses *existing at the time of the assignment*." (Emphasis added.) *Kelley/Lehr & Associates, Inc. v. O'Brien*, 194 Ill. App. 3d 380, 389, 551 N.E.2d 419, 425 (1990).

¶ 40 Here, on April 22, 2010, Piatt and defendant, through James, executed the line-of-credit note and security agreement. On May 17, 2010, Piatt assigned "all its right, title and interest in and to" the line-of-credit note and security agreement to plaintiff. According to defendant, Piatt did not agree to extend the maturity date of the note until June 2010, after Piatt assigned its interest to plaintiff. Thus, because there were no legal and equitable defenses that would have existed against Piatt relative to the alleged extension agreement at the time of assignment, defendant also has no such defenses against plaintiff. Moreover, Piatt and plaintiff are separate entities and defendant has not alleged or argued that plaintiff was a party to the alleged extension agreement (whether written or oral).

¶ 41 Under the circumstances presented, whether a written agreement existed between Piatt and defendant did not involve a "material" fact because that written agreement was alleged to have been entered into after Piatt assigned its interest to plaintiff. Therefore, that Pamela and James's affidavits may have established a dispute as to the existence of a written agreement is of no consequence and did not preclude summary judgment in plaintiff's favor.

¶ 42 C. Discovery

¶ 43 Finally, in his reply brief, defendant argued that "it was incumbent on the trial court under the circumstances, to permit the completion of discovery" and the court erred in denying his motion to compel. However, we find we are without jurisdiction to address defendant's discovery-related claims. "A notice of appeal confers jurisdiction on a court of review to consider only the judgments or parts of judgments specified in the notice of appeal." *General Motors Corp. v. Pappas*, 242 Ill. 2d 163, 176, 950 N.E.2d 1136, 1144 (2011); see also Ill. S. Ct. R. 303(b)(2) (eff. June 4, 2008) (providing that a notice of appeal "shall specify the judgment or part thereof or other orders appealed from and the relief sought from the reviewing court"). Here, defendant's notice of appeal stated he was appealing the trial court's (1) August 8, 2013, order granting plaintiff summary judgment and (2) November 7, 2013, order denying defendant's motions to reconsider and to clarify. His notice failed to reference the trial court's separate written order denying his motion to compel and, therefore, issues related to that order are not properly before this court.

¶ 44 Additionally, even if defendant's notice of appeal had properly referenced the trial court's order denying his motion to compel, we would find any discovery-related claim forfeited. Not only is an appellant precluded from raising issues or arguments in a reply brief

that he failed to raise in his initial brief, an appellant also forfeits an argument by failing to cite supporting legal authority. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013) (providing the argument section of a brief must "contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on" and "[p]oints not argued are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing"); *People v. Jacobs*, 405 Ill. App. 3d 210, 218, 939 N.E.2d 64, 72 (2010) ("Points not raised in the defendant's initial brief are forfeited and cannot be raised in the reply brief."). Here, defendant raised his discovery-related issues for the first time in his reply brief. Additionally, he failed to cite any legal authority to support his contentions.

¶ 45 III. CONCLUSION

¶ 46 For the reasons stated, we affirm the trial court's judgment.

¶ 47 Affirmed.