2023 IL App (5th) 220581-U

NO. 5-22-0581

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

MICHAEL F. DISCH, Plaintiff-Appellant, v. MARION HOSPITAL CORPORATION, d/b/a Heartland Regional Medical Center; REBECCA ARNOLD; LAW FIRM OF BEHR, McCARTER & POTTER; ATTORNEY THOMAS J. HAYEK; and ATTORNEY RYAN M. HYDE, Defendants-Appellees.	)	Appeal from the Circuit Court of Williamson County. No. 21-L-134 Honorable Jeffrey A. Goffinet, Judge, presiding.

JUSTICE BARBERIS delivered the judgment of the court.
Justices Welch and McHaney concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not err in dismissing the plaintiff's complaint where the facts alleged were not sufficient to entitle the plaintiff to relief under any legally recognized cause of action. The trial court did not abuse its discretion in awarding sanctions to one of the defendants where the allegations of the complaint were frivolous and where the parties had engaged in a lengthy course of litigation involving repeated attempts by the plaintiff to circumvent an applicable statutory requirement.

¶ 2 The plaintiff, Michael F. Disch, filed a *pro se* complaint against the defendants, Marion Hospital Corporation, d/b/a Heartland Regional Medical Center (Heartland); Heartland administrative assistant Rebecca Arnold; the Law Firm of Behr, McCarter & Potter, whose attorneys represented Heartland in prior litigation with the plaintiff; and two attorneys from that

firm, Thomas J. Hayek and Ryan M. Hyde. Essentially, he alleged that Arnold accepted service of summons on two physicians who treated the plaintiff at Heartland's emergency room even though those physicians were not employees of Heartland. He alleged that the remaining defendants failed to bring to his attention the fact that the two doctors were not properly served in his prior medical malpractice suit and that he "lost" a default judgment against the two physicians in that case because of the conduct of the defendants in this case. The court granted a motion to dismiss the plaintiff's petition for failure to state a claim and granted defendant Heartland's motion for sanctions. The plaintiff appeals, arguing that his claims in both the instant case and the underlying medical malpractice litigation have merit and are not frivolous. We affirm.

¶ 3 I. BACKGROUND

¶ 4 The complaint at issue in the instant case was the fourth *pro se* complaint filed by the plaintiff related to treatment he received at Heartland's emergency room in May 2016. At the time, the plaintiff was incarcerated at a federal prison in Indiana. The plaintiff's three previous complaints all raised claims of medical malpractice. Each alleged essentially that Dr. Byron Williamson improperly placed a central line, which caused the plaintiff to suffer a pneumothorax, or collapsed lung; that Dr. Randy Balmforth misread an X-ray, thereby failing to diagnose the pneumothorax; that the plaintiff was transferred to Deaconess Hospital, where he was treated for a pneumothorax; and that Heartland was responsible for physician training and for the "overall care of patients." Because the allegations in this case involve claims that the conduct of the defendants named in the fourth complaint prevented the plaintiff from successfully obtaining a default judgment in one of the previous cases, we will set forth the procedural histories of all four cases.

¶ 5 The plaintiff filed his first action—No. 16-L-128—in August 2016, although the complaint was file-stamped May 3, 2017. As defendants, he named Heartland, Dr. Williamson, Dr. Balmforth, and two additional doctors who he alleged were responsible for providing training or supervision. Heartland filed a motion to dismiss the complaint, arguing that the plaintiff failed to include the affidavit required by section 2-622(a) of the Code of Civil Procedure. See 735 ILCS 5/2-622(a) (West 2014). In response, the plaintiff filed a motion asking the court to waive the requirements of section 2-622(a). On July 13, 2017, the court denied the plaintiff's motion for waiver of the requirements of section 2-622(a), granted Heartland's motion, and dismissed the case with prejudice. It does not appear that any of the individual doctors named as defendants were served with process in that case.

¶ 6 On August 30, 2017, the plaintiff filed his second action, No. 17-L-125. That complaint named only two defendants—Dr. Williamson and Dr. Balmforth. On September 25, 2017, the plaintiff filed a motion for a default judgment against both doctors. In it, the plaintiff alleged that the defendants were each served with copies of the summons, both at their workplace and through their attorney, Ryan Hyde. Hyde is one of the defendants in this case. The court denied the motion for a default judgment on September 27, explaining that the record contained no proof of effective service of summons on either defendant. The following day, the court received a letter from Hyde advising the court that neither Hyde nor his law firm represented either Dr. Balmforth or Dr. Williamson. Hyde noted that his firm did represent Heartland in No. 16-L-128. Hyde's law firm is Behr, McCarter & Potter, which is also a defendant in the instant case.

¶ 7 On December 11, 2017, a return of service was filed in No. 17-L-125 indicating that Dr. Balmforth was served. On January 9, 2018, Dr. Balmforth filed a motion to dismiss, arguing that the plaintiff failed to comply with the affidavit requirement of section 2-622(a) and that his

complaint was therefore subject to dismissal under sections 2-619 and 2-622. See 735 ILCS 5/2-619(a)(9), 2-622(a), (g) (West 2016). The court granted Dr. Balmforth's motion on February 2, 2018. The plaintiff filed a motion to reconsider this ruling, which the court denied. The case remained pending against Dr. Williamson until November 2019, at which time the court dismissed the case for want of prosecution.

¶ 8 Meanwhile, on May 29, 2018, the plaintiff filed his third *pro se* medical malpractice suit, No. 18-L-93. This time, he named three defendants, Heartland, Dr. Williamson, and Dr. Balmforth. In addition to the allegations we have already discussed, he alleged that he was treated for a pneumothorax by Dr. Muhammed J. Habib from the pulmonary critical care group at Deaconess, that Dr. Habib indicated that the pneumothorax was "likely related to a central line attempt in outlying hospital," and that Dr. Patrick Elangwe (also a physician involved in the plaintiff's care at Deaconess) likewise stated that the "pneumothorax [was] attributed to central line placement."

¶ 9 In his complaint, the plaintiff stated that he was attaching the affidavit required by section 2-622. Attached was his own affidavit, attesting to the facts alleged in the complaint. Also attached were medical records from Heartland and Deaconess, including Dr. Habib's treatment notes, Dr. Elangwe's discharge summary, and a chest X-ray report by Dr. Jugesh Cheema at Deaconess. In pertinent part, the chest X-ray report notes that the "[t]ip of the right subclavian Port-a-Cath is in SVC," and Dr. Habib's treatment notes and Dr. Elangwe's discharge summary both include the statements the plaintiff attributed to them in his complaint and affidavit.

¶ 10 We note that, although the plaintiff did attempt to provide more substantial documentation in support of his claim than he did in his first two complaints, he did not file an affidavit that complied with the requirements of section 2-622. That statute requires an attorney or *pro se* plaintiff in a medical malpractice suit to file an affidavit declaring that he or she has consulted and

reviewed the facts of the case with a healthcare professional who meets certain statutory requirements. The affiant must also declare that, after reviewing the medical records and other pertinent materials, the healthcare professional determined that the plaintiff has a reasonable and meritorious claim. In addition, the attorney or *pro se* litigant must attach the healthcare professional's written report stating the reasons for his or her conclusion that a reasonable and meritorious cause of action exists. 735 ILCS 5/2-622(a) (West 2016). Instead, the plaintiff averred in his affidavit that because he was in prison, he did not have access to a "reviewing healthcare professional" as required by the statute.

¶ 11 On August 10, 2018, attorney Thomas J. Hayek, a named defendant in this case, sent a letter to the plaintiff by certified mail with return receipt requested. Enclosed were two sets of documents that the plaintiff had sent to Heartland directed to Dr. Byron Williamson and Dr. Randy Balmforth. In his letter, Hayek stated:

> "Please be aware that neither Dr. Williamson nor Dr. Balmforth are employed by Heartland Regional Medical Center. *We do not accept service of any documents on their behalf. You have been told this in the past. Please stop sending any such documents to this Hospital*." (Emphasis in original.)

Hayek indicated that he was returning the documents to the plaintiff. The return receipt from the post office shows delivery to the federal penitentiary in Florence, Colorado, on August 14, 2018. The signature indicates that the individual who signed for the letter was an agent, not the addressee.

¶ 12 On August 24, 2018, Heartland filed a motion to dismiss the plaintiff's third complaint and a motion for sanctions pursuant to Illinois Supreme Court Rule 137 (eff. Jan. 1, 2018). In the motion to dismiss, Heartland asserted that the claim involved in No. 18-L-93 was identical in substance to the cause of action asserted in No. 16-L-128, which had been dismissed previously.

Heartland argued that the claim was, therefore, barred by *res judicata*. Heartland further argued that dismissal was appropriate for two additional reasons: (1) the plaintiff's complaint still failed to comply with the requirements of section 2-622(a) (735 ILCS 5/2-622(a) (West 2016)) and (2) his claim was now barred by the statute of limitations applicable to actions for medical malpractice (*id.* § 13-212).

¶ 13 On September 18, 2018, the court granted Heartland's motion to dismiss with prejudice. The court did not address Heartland's request for sanctions. The case remained pending against Dr. Williamson and Dr. Balmforth.

¶ 14 On September 24, 2018, the plaintiff filed a motion for a default judgment against both Dr. Williamson and Dr. Balmforth. He asserted that both had been served but had not responded. An August 6, 2018, docket entry indicates that three returns of service were filed that day. We note, however, that while the record before us in this case contains a copy of the docket entries and some of the pleadings filed in No. 18-L-93, it does not include the returns of service filed with the court on that date. Based on the allegations of both parties in this appeal, however, it appears that the Williamson County Sheriff's Department served three copies of the summons at Heartland, which were accepted by Rebecca Arnold.

¶ 15 On October 30, 2018, Judge Bleyer made a docket entry granting the plaintiff's motion for a default against Dr. Williamson and Dr. Balmforth. Although the case remained open, the plaintiff did not request a hearing to prove up his damages at any time. Instead, in August 2019, he filed a motion for wage garnishment.

¶ 16 In May 2021, case No. 18-L-93 was assigned to Judge Goffinet upon Judge Bleyer's retirement. In a May 5, 2021, docket entry, Judge Goffinet denied Heartland's motion for sanctions for want of prosecution. He further noted that although Judge Bleyer had found Dr. Williamson

and Dr. Balmforth to be in default, he never entered a judgment against them, and that the plaintiff still had not requested a prove-up hearing. Judge Goffinet therefore denied the plaintiff's motion for wage garnishment. The docket entry notes that copies of the docket sheet were sent to all parties.

¶ 17 A May 20, 2021, docket entry notes that the court received a memorandum from Hayek. We presume that memorandum addressed the issue of service on Dr. Williamson and Dr. Balmforth. A docket entry made the following day states, "Issue of service of summons is brought to the court's attention." The court granted the plaintiff 21 days to address the issue. Although the plaintiff did not respond, on June 11, 2021, the court granted him an additional 21 days to find file proof of proper service. On July 27, 2021, the court vacated the prior finding of default.

¶ 18 On October 19, 2021, the plaintiff filed the *pro se* complaint at issue in this appeal. He alleged that he previously filed a civil lawsuit against Heartland, Dr. Williamson, and Dr. Balmforth, and that Williamson County Sheriff's Deputy Mike Byrne served all three with summons through substitute service on Heartland employee Rebecca Arnold. The plaintiff further alleged that "[i]t appears that the summons were mailed to the law office of Behr, McCarter & Potter, [where] Attorney Hyde and attorney Hayek received the summons and never informed the court or the Plaintiff of this matter." The plaintiff asserted that the case proceeded as if the defendants had been served properly and that the court entered a default judgment against the two physicians, awarding him damages of $750,000 from Dr. Williamson and $250,000 from Dr. Balmforth. Finally, the plaintiff alleged that because of misconduct and fraud by the defendants named in this case, he "lost this judgment of default" in case No. 18-L-93. He requested damages of $250,000 from each named defendant.

¶ 19 The record in this case indicates that the plaintiff asked the Williamson County Sheriff's Department to serve summons on all five defendants even though he provided Missouri addresses for service on Hayek, Hyde, and the law firm of Behr, McCarter & Potter. The record indicates that Heartland and Arnold were properly served, but it contains no evidence that the remaining defendants were ever properly served.

¶ 20 On January 3, 2022, Heartland and Arnold filed a motion to dismiss. In their motion, they set forth the procedural history of the three medical malpractice cases filed by the plaintiff. They emphasized that, contrary to the allegations in the plaintiff's complaint, Hayek and Hyde notified the plaintiff on two occasions that they could not accept service on behalf of Dr. Williamson and Dr. Balmforth and that the plaintiff had not obtained effective service on them. Heartland and Arnold further alleged that the plaintiff sent a letter to Heartland's counsel threatening to file suit in federal court because it would be more costly for Heartland to litigate the case there and threatening to "file a UCC-1 on the CEO" of Heartland. Attached to the motion as exhibits were a letter from the plaintiff containing these threats and substantial portions of the records in the three medical malpractice cases. Heartland and Arnold asked the court to take judicial notice of the records of those proceedings.

¶ 21 Heartland and Arnold argued that the plaintiff's complaint in this case should be dismissed for failure to state a claim (735 ILCS 5/2-615 (West 2018)) because (1) the facts alleged in the complaint were not sufficient to state a claim for any particular cause of action and (2) the plaintiff's allegations consisted of conclusory statements, many of which were contradicted by the records in the three prior cases. They further argued that because the plaintiff "repeatedly attempt[ed] to circumvent" Illinois procedural rules to file frivolous claims in bad faith, sanctions would be appropriate. They requested that the court (1) dismiss the plaintiff's claim with prejudice,

(2) award them costs and attorney fees, and (3) enter an order prohibiting the plaintiff from filing any new actions until he paid their costs and fees.

¶ 22 In a January 14, 2022, docket entry, the court granted Heartland and Arnold's motion to dismiss. After noting that the court had considered "the lengthy history of the dispute" between the plaintiff and Heartland and had considered the allegations of the current complaint in context of this dispute, the court dismissed the case as to Heartland and Arnold with prejudice. Noting that the record contained no indication of service on any of the other defendants, the court stated that the case remained pending against them. The court also addressed the request for sanctions. After expressly finding that the claims against Heartland and Arnold to be frivolous and without any legal basis, the court stated that it would "consider sanctions of fees and costs if submitted." A January 19 docket entry indicates that copies of the January 14 entry were mailed to the plaintiff and emailed to counsel for Heartland and Arnold.

¶ 23 The plaintiff filed a motion to reconsider the court's ruling. Before the court could rule on it, however, he filed a notice of appeal. On May 31, 2022, after this court dismissed the appeal for lack of jurisdiction, the trial court denied the plaintiff's motion to reconsider in a docket entry. In the same docket entry, the court again stated that it would consider sanctions "if requested."

¶ 24 On July 12, 2022, Heartland filed a motion for sanctions under Rule 137. It argued that the plaintiff's *pro se* status should not preclude the imposition of sanctions because *pro se* litigants are required to comply with relevant court rules. Heartland otherwise adopted and incorporated the allegations in the earlier motion to dismiss. It requested sanctions in the amount of $6089, which was half of the amount of attorney fees it incurred in responding to the complaint. The record indicates that the plaintiff was served with a copy of the motion on July 18, 2022.

¶ 25 On July 25, 2022, the court granted Heartland's motion for sanctions in a detailed docket entry. The court found that sanctions were appropriate because the complaint, a pleading signed by the plaintiff, was frivolous. The court also barred the plaintiff from filing any additional claims against Heartland, its employees, or its attorneys until he paid the sanctions ordered. The court noted that this was necessary both to prevent future frivolous filings and to impose a "sanction of meaning" on the plaintiff because his incarceration made it unlikely that he would pay the sanctions.

¶ 26 In the same docket entry, the court noted that the record still contained no indication of service on the three additional defendants and that there had been no activity with respect to them for over six months. The court therefore dismissed the case against the codefendants without prejudice and ordered the case file to be closed.

¶ 27 On August 5, 2022, the court entered a written order imposing sanctions in the amount of $6089. In the order, the court expressly stated that it had considered the lengthy history of the dispute between the parties. This timely appeal followed.

¶ 28 II. ANALYSIS

¶ 29 On appeal, the plaintiff argues that the court erred in granting both the motion to dismiss and the motion for sanctions. He contends that he was not given sufficient time to respond to the motion for sanctions and that the claims in this case and in the underlying medical malpractice actions have merit. We note that none of the medical malpractice cases are before us. Although the plaintiff has filed an appeal from case No. 18-L-93, the two cases have not been consolidated. Nevertheless, because the trial court considered the history of the dispute between the parties in awarding sanctions, we will discuss the plaintiff's contentions regarding his underlying

malpractice suits to the extent they are relevant to the question of sanctions. We find no merit to the plaintiff's contentions.

¶ 30 A. Dismissal of the Complaint

¶ 31 In ruling on a motion to dismiss for failure to state a claim, courts must consider only (1) facts that are apparent from the face of the pleadings, (2) matters subject to judicial notice, and (3) any judicial admissions on record. *O'Keefe v. Walgreens Boots Alliance, Inc.*, 2020 IL App (5th) 190448, ¶ 13. We accept as true all well-pled facts in the complaint and any reasonable inferences that can be taken from those facts. *Turner-El v. West*, 349 Ill. App. 3d 475, 479 (2004). However, we may disregard and need not accept as true any conclusory allegations unsupported by facts. *City of Chicago v. Beretta U.S.A. Corp.*, 213 Ill. 2d 351, 368 (2004); *Turner-El*, 349 Ill. App. 3d at 479.

¶ 32 To survive a motion to dismiss pursuant to section 2-615, a plaintiff must allege facts that are sufficient to bring his claims within a legally cognizable cause of action. *Beretta U.S.A. Corp.*, 213 Ill. 2d at 368. We construe pleadings liberally. 735 ILCS 5/2-603(c) (West 2018). This is particularly true when reviewing the pleadings of *pro se* prisoners. See *Turner-El*, 349 Ill. App. 3d at 479; *People ex rel. Hill v. McGinnis*, 224 Ill. App. 3d 658, 660 (1992). However, a liberal construction will not "remedy the failure of a complaint to plead sufficient facts to establish a cause of action." *Turner-El*, 349 Ill. App. 3d at 479. In other words, this court will not "fill in all the blanks in a *pro se* complaint." *Id.* Our review is *de novo*. *Neppl v. Murphy*, 316 Ill. App. 3d 581, 584 (2000).

¶ 33 In his complaint in this case, the plaintiff did not identify any legally cognizable cause of action, and the facts alleged do not appear to fit within any recognized claim. The only facts alleged were that a sheriff's deputy served three copies of the complaint in 18-L-93 on Arnold; that the

summons were mailed to the offices of Behr, McCarter & Potter; that Hyde and Hayek received the summons intended for Dr. Williamson and Dr. Balmforth, but failed to inform either the plaintiff or the trial court that the two physicians had not been properly served; that the court entered a default judgment against Dr. Williamson and Dr. Balmforth in 18-L-93; and that the plaintiff "lost" that default judgment due to "misconduct" and "fraud" by the defendants in this case. These allegations fail to state a claim for two reasons.

¶ 34 First, the plaintiff's allegations concerning the conduct of Hyde and Hayek are contradicted by the record in case No. 18-L-93. We recognize that the denial of a well-pled allegation in complaint precludes judgment on the pleadings if it raises a genuine issue of material fact. *Munroe-Diamond v. Munroe*, 2019 IL App (1st) 172966, ¶ 42. As mentioned previously, however, courts can properly consider matters subject to judicial notice when ruling on a motion to dismiss for failure to state a claim. *O'Keefe*, 2020 IL App (5th) 190448, ¶ 13. Here, it was proper for the trial court to take judicial notice of records in another case pending before it, No. 18-L-93. See *Bush v. J&J Transmissions, Inc.*, 2017 IL App (3d) 160254, ¶ 11; *Auto-Owners Insurance Co. v. Konow*, 2016 IL App (2d) 150823, ¶ 5. Those records demonstrated that Hyde and Hayek did inform both the court and the plaintiff that the plaintiff had not obtained effective service on Dr. Williamson and Dr. Balmforth.

¶ 35 Second, the facts alleged in the plaintiff's complaint do not bring his claim within any recognized cause of action. Assuming he intended to allege fraud, the facts alleged are inadequate to support such a claim. To state a claim for fraud, a plaintiff must allege that the defendant made a false statement of material fact, knowing it to be false; that the defendant intended the statement to induce action by the plaintiff; that the plaintiff relied on the false statement; and that the plaintiff incurred damages as a result. *Miller v. William Chevrolet/GEO, Inc.*, 326 Ill. App. 3d 642, 648

(2001). Here, the plaintiff did not even allege that any of the defendants made any false statements. On appeal, he argues that "[b]y [Arnold] accepting these summons, she then stated that she was a[n] agent or authorized person to accept service on defendants' behalf." However, he cites no authority in support of this position. See *U.S. Bank v. Lindsey*, 397 Ill. App. 3d 437, 459 (2009) (stating that the appellate court is not "a repository into which an appellant may 'dump the burden of argument and research,' nor is it the obligation of this court to act as an advocate or seek error in the record" (quoting *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993))). For these reasons, we find that the plaintiff's complaint failed to state a claim entitling him to relief. As such, the court correctly granted the defendants' motion to dismiss.

¶ 36 B. Sanctions

¶ 37 The plaintiff also asks this court to overturn the trial court's award of sanctions. In support of this request, he argues that the complaints he has filed in this case and in the related medical malpractice cases have merit and are not frivolous, and he asserts that he did not file this complaint or any other pleading for the purpose of harassing the defendants. Finally, the plaintiff argues that he did not have sufficient time to respond to Heartland's motion for sanctions. We reject each of these contentions.

¶ 38 Rule 137 requires attorneys and *pro se* litigants to sign every pleading or other document filed with the court. The signature is required as a certification by the attorney or *pro se* litigant that, to the best of his knowledge, the pleading 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 the pleading has not been filed "for any improper purpose, such as to harass or to cause unnecessary delay or [a] needless increase in the cost of litigation." Ill. S. Ct. R. 137(a) (eff. Jan. 1, 2018). The rule authorizes courts to impose appropriate sanctions for violations, either on the

motion of a party or on the court's own motion. *Id.* Because Rule 137 sanctions are penal in nature, the rule must be strictly construed. *Dowd & Dowd, Ltd. v. Gleason*, 181 Ill. 2d 460, 487 (1998). However, whether to impose sanctions is a matter within the trial court's discretion, and we will overturn the court's decision only if we find that it constitutes an abuse of discretion. *Id.*

¶ 39 We have already concluded that the complaint in this case was not warranted by existing law. In addition, the complaint does not include any argument for the extension, modification, or reversal of existing law. Further, as we discussed previously, many of the allegations in the complaint are contradicted by the records in the plaintiff's earlier medical malpractice actions. These allegations were not well-grounded in fact. Under the express terms of Rule 137, then, the court correctly determined that sanctions were warranted.

¶ 40 Moreover, as mentioned earlier, the court expressly considered the history of litigation between Heartland and the plaintiff. The plaintiff argues that Heartland's motion to dismiss in No. 18-L-93 was granted only "because plaintiff is an inmate and legally cannot comply with the requirements of Illinois State statute 735 ILCS 5/2-622." He cites the United States Supreme Court's decision in *Haines v. Kerner*, 404 U.S. 519 (1972), in support of his contention that *pro se* litigants are held to a lower standard than attorneys, presumably rendering his admitted failure to comply with the statute reasonable. We are not convinced.

¶ 41 *Haines* involved an inmate's *pro se* complaint under the federal Civil Rights Act of 1871. *Id.* at 519-20. The inmate alleged that he suffered physical injuries while in solitary confinement and that the solitary confinement was imposed upon him as a disciplinary measure without due process. *Id.* at 520. The district court dismissed his petition for failure to state a claim, and the Circuit Court of Appeals upheld that ruling. *Id.* The basis for both courts' decisions was not the general inadequacy of the inmate's complaint or a failure to follow applicable statutes. Rather,

both the district court and the appeals court based their decisions on the broad discretion prison officials have in disciplinary matters. *Id.*

¶ 42 In reversing, the Supreme Court stated that despite some "limits on the scope of inquiry of courts into the internal administration of prisons," the inmate's allegations, "however inartfully pleaded, [were] sufficient to call for the opportunity to offer supporting evidence." *Id.* The Court went on to state, "We cannot say with assurance that under the allegations of the *pro se* complaint, which we hold to less stringent standards than formal pleadings drafted by lawyers, it appears 'beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.' " *Id.* at 520-21 (quoting *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957)).

¶ 43 There are two key distinctions between *Haines* and the case before us. First and foremost, in this case, as we have already discussed at length, we *can* say with assurance that the plaintiff cannot prove any set of facts which would entitle him to relief. Second, this case does not involve an action under the Civil Rights Act. Prisoners have a constitutional right to adequate, effective, and meaningful access to the courts, but this right is limited to civil rights claims involving the conditions of their confinement, such as the claim at issue in *Haines*, direct criminal appeals, and *habeas corpus* petitions. *Turner-El*, 349 Ill. App. 3d at 484 (citing *Lewis v. Casey*, 518 U.S. 343, 354 (1996); *Bounds v. Smith*, 430 U.S. 817, 822 (1977)).

¶ 44 Illinois courts have construed *Haines* to require liberal construction of a *pro se* prisoner's petition (see, *e.g.*, *Hill*, 224 Ill. App. 3d at 660 (citing *Haines*, 404 U.S. 519))—something our statutes require as well (see 735 ILCS 5/2-603(c) (West 2018) (mandating liberal construction of all pleadings)). However, it does not stand for the proposition that a *pro se* inmate is relieved of the obligation to comply with all pertinent statutes and rules. Indeed, under Illinois law, *pro se* litigants are held to the same standards as attorneys and are required to follow all applicable

procedural rules and statutes. *Zemater v. Village of Waterman*, 2020 IL App (2d) 190013, ¶ 19; *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 78.

¶ 45 Section 2-622(a) of the Code of Civil Procedure, by its express terms, applies to *pro se* litigants as well as to attorneys. 735 ILCS 5/2-622(a) (West 2016). If a medical malpractice plaintiff does not satisfy the requirements of the statute, dismissal of the complaint is mandatory. *Hull v. Southern Illinois Hospital Services*, 356 Ill. App. 3d 300, 305 (2005) (citing 735 ILCS 5/2-622(g) (West 2002)). Here, the plaintiff filed three medical malpractice complaints containing the same allegations, none of which complied with section 2-622(a). He then attempted to circumvent the requirements of that statute by filing the instant suit. The trial court reasonably took this into account in finding that sanctions were appropriate. We can find no abuse of discretion.

¶ 46 Finally, we will briefly address the plaintiff's assertion that he was not given enough time to respond to Heartland's motion for sanctions. He notes that the motion was filed on July 12, 2022, and that he received notice of the motion six days later, on July 18. He further notes that the court ruled on the motion for sanctions only one week later, on July 25, and entered a written order on August 5. He argues that this did not give him time to respond to the motion for sanctions. We disagree.

¶ 47 As we discussed previously, Heartland requested sanctions in the motion to dismiss filed in January 2022. In that motion, Heartland set forth the substance of the allegations that formed the basis for its request. In addition, as we also discussed previously, the court expressly found that the complaint in this case was frivolous in January 2022. The formal motion for sanctions filed in July 2022 simply incorporated the allegations of the earlier motion to dismiss. The only new allegations in the July motion concerned the amount of costs and attorney fees Heartland had incurred in responding to this complaint. Under these circumstances, we find that the plaintiff had

ample opportunity to respond to Heartland's allegations of sanctionable conduct. For this reason, and because we find no abuse of the court's discretion, we affirm the award of sanctions.

¶ 48 III. CONCLUSION

¶ 49 For the foregoing reasons, we affirm the trial court's judgment dismissing the plaintiff's complaint with prejudice, and we also affirm the court's order imposing sanctions.

¶ 50 Affirmed.