ILLINOIS OFFICIAL REPORTS

Appellate Court

***In re Marriage of Petrik*, 2012 IL App (2d) 110495**

Appellate Court Caption	*In re* MARRIAGE OF LYNNE PETRIK, Petitioner, and EDWARD PETRIK, Respondent-Appellant (Daniel F. O'Connell, Guardian *ad litem*-Appellee).
District & No.	Second District Docket No. 2-11-0495
Filed	July 19, 2012
Held (*Note: This syllabus constitutes no part of the opinion of the court but has been prepared by the Reporter of Decisions for the convenience of the reader.*)	The trial court's orders reappointing the guardian *ad litem* in the parties' marriage dissolution proceedings after the initial pending issues had been resolved and granting him fees for the work he performed after that reappointment were reversed as an abuse of discretion, because there was no justification for the reappointment when no postdissolution proceedings were pending, but the order denying respondent's petition for sanctions under Supreme Court Rule 137 against the guardian *ad litem* based on his conduct during the reappointment period was affirmed on the ground that he was not a party or an attorney for a party at the time and Rule 137 was not applicable to him, and the grant of fee to the guardian for the work performed after a subsequent reappointment when new postjudgment proceedings were pending were affirmed.
Decision Under Review	Appeal from the Circuit Court of Kane County, No. 05-D-1538; the Hon. Marmarie J. Kostelny, the Hon. Joseph M. Grady, and the Hon. Robert P. Pilmer, Judges, presiding.
Judgment	Affirmed in part and reversed in part; cause remanded.

Counsel on Appeal	Edward Petrik, of Elburn, appellant *pro se*. Daniel F. O'Connell, of Geneva, appellee *pro se*.
Panel	JUSTICE ZENOFF delivered the judgment of the court, with opinion. Justices Hutchinson and Hudson concurred in the judgment and opinion.

OPINION

¶ 1 *Pro se* respondent, Edward Petrik, appeals from orders (1) reappointing attorney Daniel F. O'Connell as the guardian *ad litem* (GAL) in Lynne and Edward Petrik's dissolution-of-marriage proceeding; (2) denying Edward's motion to discharge O'Connell as GAL and to strike his GAL report; (3) granting O'Connell's petitions for GAL fees; and (4) denying Edward's petition for sanctions against O'Connell pursuant to Illinois Supreme Court Rule 137 (eff. Feb. 1, 1994). For the following reasons, we affirm in part, reverse in part, and remand.

¶ 2 BACKGROUND

¶ 3 Lynne and Edward were married in September 1997 and had two children, Michael and Jacob. Lynne filed for divorce, and in April 2007 the court entered a judgment of dissolution, which incorporated the parties' marital settlement agreement (MSA) and joint parenting agreement (JPA). Lynne was awarded sole custody and Edward was awarded reasonable visitation.[1] Shortly thereafter, the parties filed against each other petitions for rule to show cause, alleging violations of various provisions of the MSA and the JPA. Edward also petitioned to modify visitation and to appoint a GAL. The court appointed O'Connell as GAL.

¶ 4 On June 11, 2008, the court entered an order in which Lynne and Edward agreed to modify the visitation provisions of the MSA and the JPA. The modified visitation schedule, which was based at least in part on Edward's work schedule, required a complicated process of corresponding back and forth each month to set the following month's visitation schedule. The order also stated that the parties "agree and have stated to the G.A.L. that there are no pending issues that have not been addressed with the G.A.L., and both parties agree to withdraw their pending petitions." The order further provided that the parties "agree that they will not file additional petitions relating to the children without first going to mediation" and that they "agree to use Dan O'Connell as an ongoing mediator in this case."

¶ 5 Following entry of the June 11, 2008, order, the parties litigated O'Connell's GAL fees, which were resolved by an order entered November 8, 2008. At that point, no petitions or

[1]The JPA used the term "parenting time," while the MSA used the term "visitation."

other issues remained pending before the court.

¶ 6 On March 17, 2009, O'Connell filed a motion entitled, "Motion to Compel Parents' Cooperation with GAL." He alleged that he had been appointed GAL in the dissolution action and, at the request of the parents, had continued to investigate matters involving the children. He further alleged that, on March 2, 2009, at the request of the children's therapist, he had observed one of Michael's therapy sessions. Based on his observations and on conversations with the therapist, with Michael's physician, and with Lynne, O'Connell believed that there was cause to be concerned for Michael's welfare. He stated that Michael was suffering from a gastrointestinal condition and that Michael's physician had opined that the condition was stress-related. O'Connell concluded that it was in Michael's best interest that the matter be investigated.

¶ 7 O'Connell appeared before Judge Kostelny on March 26, 2009, for a hearing on his motion, even though his notice of motion had indicated that the motion would be heard on March 27, 2009. No one else appeared, and Judge Kostelny granted O'Connell's motion. O'Connell nevertheless appeared the next day before Judge Grady, who was hearing Judge Kostelny's court call. Judge Grady vacated the prior day's order and conducted a new hearing on O'Connell's motion with all parties present. In his written order granting the motion, Judge Grady stated that "O'Connell will continue to serve as GAL." The court granted O'Connell full access to the children's medical, mental-health, and educational records, and ordered the parents to cooperate with O'Connell during his investigation. Otherwise, the order did not specify the tasks expected of O'Connell as GAL. Although the record does not contain a transcript from the hearing, we know from the record that Edward opposed O'Connell's motion.[2]

¶ 8 Nothing else took place in the matter until September 15, 2009, when O'Connell filed a GAL report. In his report, O'Connell concluded, based on information received from Michael's gastroenterologist, that Michael's condition was in no way stress-related. Nevertheless, O'Connell went on to report, he had received a letter from the children's therapist, dated July 30, 2009, in which the therapist surmised that Michael "turns his feelings inward and was having significant physical problems as a result." The therapist further suggested that the current visitation schedule was "confusing for the children, who have been traumatized as a result of the conflicted divorce," and she recommended a traditional visitation schedule consisting of alternating weekends. O'Connell adopted the therapist's recommendation and concluded that a change in visitation would "improve the stability and predictability of the boys' schedule with their parents, better provide for a consistent home environment on school nights[,] and decrease the opportunities for conflicts between the parents."

¶ 9 On November 23, 2009, based upon O'Connell's GAL report, Lynne filed a petition to modify visitation. As O'Connell had recommended, Lynne sought modifications of the MSA

[2]At the February 24, 2010, hearing on Edward's motion to discharge O'Connell as GAL, Lynne's attorney represented to the trial court that, at the March 27, 2009, hearing, Edward and his counsel had made "the exact same argument they are making today."

and the JPA to provide for a traditional visitation schedule of alternating weekends.

¶ 10 Edward filed a motion to discharge O'Connell as GAL and to strike his GAL report. Edward argued, among other things, that the June 11, 2008, order, which resolved all pending issues in the dissolution proceeding, effectively discharged O'Connell as GAL and that it had been improper to reappoint him on March 27, 2009.

¶ 11 While his motion to discharge O'Connell was pending, Edward filed a petition to modify custody. He alleged, among other things, that Lynne had interfered with his visitation and telephone contact with the children. Edward sought custody of the children with visitation to be awarded to Lynne.

¶ 12 At the February 24, 2010, hearing on Edward's motion to discharge O'Connell, Judge Kostelny agreed with Edward that the June 11, 2008, order had effectively discharged O'Connell as GAL, pursuant to a circuit court rule that provided that, "[u]nless previously discharged, the final order disposing of the issues resulting in the appointment shall act as a discharge of the court-appointed *** Guardian *ad Litem*." 16th Judicial Cir. Ct. R. 15.20(*l*) (Apr. 12, 2007). Referencing another section of the local rule, the court admonished the parties that it had been improper to use O'Connell as a mediator. See 16th Judicial Cir. Ct. R. 15.20(f) (Apr. 12, 2007) (providing that a GAL "shall not be appointed as a mediator in the same case"). Nevertheless, the court found that the March 27, 2009, order "reappointed essentially" O'Connell as GAL. The court denied Edward's motion to discharge O'Connell and entered another order reappointing O'Connell as GAL and directing him to address the issues raised by the parties' pending petitions. The reappointment order included the following language: "This appointment is continuous with his appointment on 3/27/09. Between 6/11/08 and 3/26/09 O'Connell was acting as a mediator. O'Connell will no longer act as a mediator in this case."

¶ 13 O'Connell conducted an investigation and filed a second GAL report on June 2, 2010, in which he recommended maintaining sole custody with Lynne. Following other developments in the case, including the filing of a custody evaluation pursuant to section 604(b) of the Illinois Marriage and Dissolution of Marriage Act (the Act) (750 ILCS 5/604(b) (West 2008)), in which the evaluator recommended granting Edward custody, the parties reached an agreement. On November 8, 2010, the court entered a modified JPA, which awarded joint custody to Lynne and Edward and provided for equal parenting time, with the children spending alternating weeks with each parent.

¶ 14 Following entry of the agreed order, the focus of the litigation shifted to O'Connell's GAL fees. O'Connell filed fee petitions for his work as GAL after March 27, 2009. Edward opposed the petitions on the same basis that he had opposed O'Connell's reappointment on March 27, 2009, arguing that O'Connell was not entitled to GAL fees after June 11, 2008, because he had never properly been reappointed as GAL. Edward also filed a petition for sanctions against O'Connell pursuant to Rule 137, alleging, among other things, that in O'Connell's March 17, 2009, motion to compel the parents' cooperation O'Connell misrepresented that he was still GAL in the matter. On March 11, 2011, following a hearing, the trial court, Judge Pilmer, granted O'Connell's fee petitions and denied Edward's petition for Rule 137 sanctions. The court denied Edward's motion to reconsider, and this timely

appeal followed.

¶ 15 ANALYSIS

¶ 16 Edward's notice of appeal lists 12 orders from which he appeals; however, his brief addresses only 4 of them. These include (1) the March 27, 2009, order reappointing O'Connell as GAL and granting O'Connell's motion to compel the parents' cooperation; (2) the February 24, 2010, order denying Edward's motion to discharge O'Connell as GAL and to strike his GAL report; (3) the separate February 24, 2010, order reappointing O'Connell as GAL; and (4) the March 11, 2011, order granting O'Connell's petitions for GAL fees and denying Edward's petition for Rule 137 sanctions against O'Connell.

¶ 17 Appointment of GAL in the Absence of Postdissolution Proceedings

¶ 18 Edward's first argument that we address, which he expresses in various ways, essentially is that the trial court abused its discretion in reappointing O'Connell as GAL on March 27, 2009, because there were no postdissolution proceedings pending at that time. Edward maintains that the June 11, 2008, order resolved all of the parties' postdissolution petitions and that, therefore, there was no need to reappoint O'Connell as GAL. Edward further contends that the March 27, 2009, reappointment order "utterly failed to comply with local court rules pertaining to orders appointing GALs" because it had "no timetable for future action," "no specific tasks to be addressed," "no retainer specified to be paid," and "no hourly rate specified." According to Edward, O'Connell took advantage of this "blank check" order when he filed an unsolicited GAL report on September 15, 2009, in which he recommended changing visitation to a traditional schedule of alternating weekends.

¶ 19 The decision to appoint a GAL is subject to the sound discretion of the trial court. *In re Marriage of Ricketts*, 329 Ill. App. 3d 173, 182 (2002). "A trial court abuses its discretion where no reasonable person would take the view adopted by the trial court." *In re Marriage of Tutor*, 2011 IL App (2d) 100187, ¶ 10.

¶ 20 Initially, we reject Edward's argument that the March 27, 2009, order reappointing O'Connell as GAL was "invalid on its face" because it stated that O'Connell would "continue" to serve as GAL. Edward contends that the trial court's use of the word "continue" reveals its misunderstanding of the situation before it, because O'Connell was not GAL between June 11, 2008, and March 26, 2009. However, the court could have used the word "continue" because O'Connell had served as GAL in the matter previously, prior to June 11, 2008. See Merriam-Webster Online Dictionary (2012), *available at* http://www.merriam-webster.com/dictionary/continue (last visited June 7, 2012) (defining "continue," in part, as "to resume an activity after interruption").

¶ 21 However, we agree with Edward that the trial court abused its discretion in reappointing O'Connell as GAL when no postdissolution proceedings were pending. The Act does not permit a trial court to modify a judgment of dissolution *sua sponte* when no postdissolution petitions have been filed. See *In re Custody of Ayala*, 344 Ill. App. 3d 574, 584-85 (2003) (holding that the trial court exceeded its authority when it awarded custody of a child to the child's stepmother and grandparents where no pleading requested that relief); *In re Marriage*

of Fox, 191 Ill. App. 3d 514, 520-22 (1989) (holding that the trial court exceeded its authority when it modified custody when no petition to modify custody was pending); see also *Ligon v. Williams*, 264 Ill. App. 3d 701, 708-09 (1994) (holding that the trial court exceeded its authority when it awarded custody of a child to the father, when mother's petition brought under the Illinois Parentage Act of 1984 (750 ILCS 45/1 *et seq.* (West 1992)) did not seek a ruling on custody). Rather, section 511 of the Act provides that a judgment of dissolution "may be enforced or modified by order of court *pursuant to petition*." (Emphasis added.) 750 ILCS 5/511 (West 2008). Regarding modification of a child custody order in particular, section 601(d) of the Act dictates that "[p]roceedings for modification of a previous custody order *** must be initiated by serving a written notice and a copy of the petition for modification upon the child's parent, guardian and custodian at least 30 days prior to hearing on the petition." 750 ILCS 5/601(d) (West 2008).

¶ 22 The requirement of a pending proceeding, initiated by the filing of a petition, is significant, because the Act contemplates appointment of a GAL only to assist the court in resolving pending proceedings. Section 506(a)(2) of the Act authorizes a court to appoint an attorney to serve as a GAL "[i]n any *proceedings* involving the support, custody, visitation, education, parentage, property interest, or general welfare of a minor or dependent child." (Emphasis added.) 750 ILCS 5/506(a)(2) (West 2008). Regarding appointment of a GAL in a child custody proceeding specifically, section 601(f) of the Act provides that "[t]he court shall, at the court's discretion or upon the request of any party entitled to petition for custody of the child, appoint a guardian ad litem to represent the best interest of the child for the duration of the custody *proceeding* or for any modifications of any custody orders entered." (Emphasis added.) 750 ILCS 5/601(f) (West 2008). Nowhere does the Act provide for appointment of a GAL to investigate out-of-court disputes that are not the subject of pending proceedings.

¶ 23 Moreover, while "courts have always had the inherent equitable power to appoint a guardian *ad litem* for minors interested in litigation" (*Pelham v. Griesheimer*, 92 Ill. 2d 13, 24 (1982)), this power "is not boundless" (*City of Chicago v. Chicago Board of Education*, 277 Ill. App. 3d 250, 260 (1995)). "Absent some statutory provision to the contrary, a court treats a minor as its ward only when some suit is instituted relative to the person or property of the minor ***." *City of Chicago*, 277 Ill. App. 3d at 260.

¶ 24 We reject O'Connell's argument that he was never discharged as GAL. Whether the June 11, 2008, order served to discharge O'Connell as GAL is not at issue on appeal. At the February 24, 2010, hearing on Edward's motion to discharge O'Connell, the trial court found that the June 11, 2008, order discharged O'Connell pursuant to local rule 15.20(*l*), and no one appealed that finding. The trial court went on to find that O'Connell "was acting as a mediator" between June 11, 2008, and March 26, 2009, and, again, no one appealed that finding.

¶ 25 O'Connell's subjective perception of his role after June 11, 2008, does not alter our conclusion. O'Connell testified at his deposition that he believed that his continued involvement in the case after June 11, 2008, consisted of "activities more in keeping with a guardian ad litem's role." However, O'Connell's perception of his role does not override the objective and undisputed considerations that, after June 11, 2008, he was acting under a court

order designating him as an "ongoing mediator," and, in its February 24, 2010, order, the trial court found that he was acting as a mediator, not as GAL, from June 11, 2008, to March 26, 2009.

¶ 26 Based on the foregoing, we conclude that the trial court abused its discretion in reappointing O'Connell as GAL on March 27, 2009. With no postdissolution proceedings pending, there was no apparent justification for the trial court's reappointment of O'Connell as GAL.

¶ 27 We also agree with Edward that the trial court's "blank check" reappointment order, which did not specify the tasks expected of O'Connell as GAL, exacerbated the problem of reappointing O'Connell as GAL when no postdissolution proceedings were pending. Section 506(a)(2) of the Act authorizes a trial court to appoint a GAL "to address the issues the court delineates." 750 ILCS 5/506(a)(2) (West 2008). The GAL is then obligated to "investigate the facts of the case" and "interview the child and the parties" before either testifying or submitting a written report regarding the GAL's recommendations. 750 ILCS 5/506(a)(2) (West 2008). In the absence of pending proceedings, appointing a GAL to investigate facts, conduct interviews, and give a recommendation raises the question, "To what end?" Furthermore, circuit court rule 15.20(g) required the trial court in this case to specify in the reappointment order "the tasks expected of" O'Connell as GAL (16th Judicial Cir. Ct. R. 15.20(g) (Apr. 12, 2007)), which it did not do. Given the absence of pending proceedings and the reappointment order's silence with respect to what tasks were expected of O'Connell, it undoubtedly came as a surprise to Edward when O'Connell filed his GAL report on September 15, 2009, recommending a change in visitation.

¶ 28 Because we conclude that it was an abuse of discretion to reappoint O'Connell as GAL on March 27, 2009, we must also conclude that the trial court abused its discretion when it awarded O'Connell GAL fees for work performed after March 27, 2009, but before February 24, 2010, which is the date on which the trial court again reappointed O'Connell as GAL. By February 24, 2010, Lynn had filed a petition to modify visitation and Edward had filed a petition to modify custody, so there were postdissolution proceedings pending and the trial court had authority to appoint a GAL on that date. Moreover, the February 24, 2010, order specified the tasks expected of O'Connell. A court may award only GAL fees that are "reasonable and necessary." 750 ILCS 5/506(b) (West 2008). In the absence of pending postdissolution proceedings, and in the absence of an order specifying the tasks O'Connell was to complete, none of the fees for work O'Connell performed between March 27, 2009, and February 24, 2010, were either reasonable or necessary. Any work O'Connell performed during that time was at his own peril.

¶ 29 Our conclusion that the trial court abused its discretion in awarding O'Connell GAL fees for this period finds support in the public policy of this state as expressed by our supreme court when it drafted the rules applicable to child custody proceedings. See Ill. S. Ct. Rs. 900 to 908 (entitled "Rules of General Application to Child Custody Proceedings"); see also *In re Marriage of Newton*, 2011 IL App (1st) 090683, ¶ 40 (" 'Supreme court rules have the force of law and are indicative of public policy in the area of attorney conduct.' " (quoting *Albert Brooks Friedman, Ltd. v. Malevitis*, 304 Ill. App. 3d 979, 984 (1999))). The purpose of the rules is to, among other things, "expedite cases affecting the custody of a child" and

"focus child custody proceedings on the best interests of the child." Ill. S. Ct. R. 900(a) (eff. July 1, 2006); see also Ill. S. Ct. R. 900, Committee Comments ("Our supreme court and legislature have repeatedly stressed the need for child custody proceedings to be handled expeditiously, with great emphasis on the best interest of the child."). To effectuate this purpose, Rule 907(e) provides that a GAL "shall determine whether a settlement of the custody dispute can be achieved by agreement, and, to the extent feasible, shall attempt to resolve such disputes by an agreement that serves the best interest of the child." Ill. S. Ct. R. 907(e) (eff. July 1, 2006). Here, rather than work to resolve a pending custody dispute, O'Connell filed his motion to compel the parents' cooperation despite the absence of pending postdissolution proceedings. He later filed a report recommending that visitation be modified, when no petition to modify visitation was pending. Without necessarily attributing negative motivations to his actions, it nevertheless would be inconsistent with the public policy encouraging settlement to award fees to O'Connell for his work that encouraged postdissolution litigation between the parties.

¶ 30 Denial of Edward's Petition for Rule 137 Sanctions

¶ 31 Edward's next argument is that the trial court abused its discretion in denying his petition for sanctions against O'Connell pursuant to Rule 137. Edward maintains that Rule 137 sanctions were warranted for O'Connell's misrepresentation in his March 17, 2009, motion that he was still GAL in the matter, as well as for other purported misconduct.

¶ 32 As a preliminary matter, we reject Edward's argument in his reply brief that he was entitled to sanctions "above and beyond those authorized by Rule 137" for O'Connell's purported misconduct unconnected with the filing of pleadings or other papers. Edward cites *Skolnick v. Altheimer & Gray*, 303 Ill. App. 3d 27 (1999), in support of his argument that a court can look beyond the scope of Rule 137 when sanctioning an attorney. However, the court in *Skolnick* stated that our supreme court and the agency to which it has delegated this authority, the Attorney Registration and Disciplinary Commission, have the "exclusive authority to discipline or sanction the unprofessional conduct of attorneys admitted to practice before the court." *Skolnick*, 303 Ill. App. 3d at 30. The court further noted that "[a] party cannot seek redress in the trial court for the mere misconduct of an attorney." *Skolnick*, 303 Ill. App. 3d at 30. One exception to this rule is that "a trial court may consider attorney violations of the Illinois Rules of Professional Conduct if that misconduct results in prejudice or adversely impacts the rights of the parties in the case pending before it." *Skolnick*, 303 Ill. App. 3d at 31. In his motion for sanctions in the trial court, the only supreme court rule other than Rule 137 that Edward cited was Rule 907. However, Edward articulated no argument as to how O'Connell violated Rule 907. On appeal, Edward no longer cites Rule 907 in the context of his sanctions argument, and instead asserts conclusorily that he incurred fees due to "O'Connell's misconduct including his officious intermeddling and wrongfully encouraging the proliferation of litigation between and among Ed and Lynne." Without citation to a supreme court rule or argument as to how O'Connell violated such a rule, we reject Edward's argument as improperly seeking redress for an attorney's alleged "mere misconduct."

¶ 33 Rule 137 provides, in pertinent part, as follows:

> "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 name, whose address shall be stated. A party who is not represented by an attorney shall sign his pleading, motion, or other paper and state his address. *** The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation." Ill. S. Ct. R. 137 (eff. Feb. 1, 1994).

The purpose of the rule is to penalize attorneys and parties who abuse the judicial process by filing frivolous or false matters without a basis in law or fact or for purposes of harassment. *Shea, Rogal & Associates, Ltd. v. Leslie Volkswagen, Inc.*, 250 Ill. App. 3d 149, 152 (1993). Because the rule is penal, courts must construe it strictly. *Patton v. Lee*, 406 Ill. App. 3d 195, 202 (2010). A trial court's decision whether to impose sanctions is entitled to significant deference, and we will not disturb the trial court's decision absent an abuse of discretion. *Feret v. Schillerstrom*, 363 Ill. App. 3d 534, 542 (2006). "[T]his court is not bound by the trial court's reasoning and may affirm on any basis supported by the record, regardless of whether the trial court based its decision on the proper grounds." *Mutual Management Services, Inc. v. Swalve*, 2011 IL App (2d) 100778, ¶ 11.

¶ 34 Because O'Connell was not a party or an attorney for a party, but a mediator, on March 17, 2009, when he filed his motion to compel the parents' cooperation with the GAL, we conclude that Rule 137 sanctions were not a proper remedy for his conduct. The rule requires that either an attorney for a party or a party sign every "pleading, motion or other paper" to certify that "it is well grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose." Ill. S. Ct. R. 137 (eff. Feb. 1, 1994). The rule " 'does not provide a sanction against all asserted violations of court rules and for all acts of professional misconduct of an attorney.' " *In re Marriage of Oleksy*, 337 Ill. App. 3d 946, 949 (2003). Accordingly, because O'Connell was neither a party nor an attorney for a party on March 17, 2009, Rule 137 was inapplicable to him. See *Oleksy*, 337 Ill. App. 3d at 949 (holding that an order signed by a trial judge, even though drafted by an attorney, was not a proper basis for Rule 137 sanctions because it was not a " 'paper' of a party"); *In re C.K.*, 214 Ill. App. 3d 297, 299-300 (1991) (holding that an improperly issued subpoena was not a proper basis for Rule 137 sanctions because it was not a " 'paper of a party' ").

¶ 35 The proper remedy for O'Connell's purported misrepresentations would have been a petition for adjudication of criminal contempt. See *Oleksy*, 337 Ill. App. 3d at 949 ("Contempt of court is an act that is calculated to embarrass or obstruct a court in the administration of justice, or that is calculated to lessen its authority or dignity."). "The conduct which may be punished by means of criminal contempt proceedings covers the entire gamut of disrespectful, disruptive, deceitful, and disobedient acts (or failures to act) which affect judicial proceedings." *In re Marriage of Betts*, 200 Ill. App. 3d 26, 45 (1990). Criminal

contempt includes the filing of contemptuous documents in court. *Betts*, 200 Ill. App. 3d at 48. "One of the purposes of criminal contempt is to punish those who commit fraud upon the court." *Oleksy*, 337 Ill. App. 3d at 949 (citing *Betts*, 200 Ill. App. 3d at 44-45). " 'Utter disregard of attorneys as to the truth or falsity of matters contained in papers and documents presented to courts warrants condemnation as unethical and contemptuous.' " *Oleksy*, 337 Ill. App. 3d at 949 (quoting *In re Estate of Kelly*, 365 Ill. 174, 184 (1936)). Thus, if Edward construed as fraudulent O'Connell's misrepresentation in his March 17, 2009, motion that he was still GAL, a petition for adjudication of criminal contempt presumably would have been available to Edward to pursue as a remedy despite O'Connell's status as a nonparty.

¶ 36 Therefore, we affirm the court's denial of Edward's petition for Rule 137 sanctions.

¶ 37 Edward's Remaining Arguments

¶ 38 Although Edward's brief contains a multitude of other arguments, we decline to address them, because Edward has forfeited them by failing to comply with Illinois Supreme Court Rule 341 (eff. July 1, 2008). The supreme court rules governing the content and format of briefs are mandatory. *Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8. "The fact that a party appears *pro se* does not relieve that party from complying as nearly as possible [with] the Illinois Supreme Court Rules for practice before this court." *Voris*, 2011 IL App (1st) 103814, ¶ 8; see also *In re Marriage of Barile*, 385 Ill. App. 3d 752, 757 (2008). Those rules require an appellant's brief to contain argument supported by citation to authority and to the record. Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2008); *Kic v. Bianucci*, 2011 IL App (1st) 100622, ¶ 23. "A failure to cite relevant authority violates Rule 341 and can cause a party to forfeit consideration of the issue." *Kic*, 2011 IL App (1st) 100622, ¶ 23. " 'The appellate court is not a depository in which the appellant may dump the burden of argument and research.' " *Kic*, 2011 IL App (1st) 100622, ¶ 23 (quoting *Thrall Car Manufacturing Co. v. Lindquist*, 145 Ill. App. 3d 712, 719 (1986)).

¶ 39 Edward's brief consists predominantly of commentary on O'Connell's purported misconduct, organized chronologically rather than by points argued. While Edward cites authority, it is not relevant authority, and, even if relevant, it is not cited in support of coherent legal arguments. To the extent that we addressed Edward's arguments above, we did so because we understood the issues raised despite Edward's noncompliance with the rules, and we considered it necessary to maintain a uniform body of precedent and to reach a just result. See *Barile*, 385 Ill. App. 3d at 757 (overlooking an appellant's failure to comply with the rules because the court understood the issues raised); see also *In re Tamera W.*, 2012 IL App (2d) 111131, ¶ 30 ("forfeiture is a limitation on the parties, not the reviewing court, and we will relax the forfeiture rule to address a plain error affecting the fundamental fairness of a proceeding, maintain a uniform body of precedent, and reach a just result"). Regarding Edward's remaining arguments, we decline to overlook Edward's forfeiture and to *sua sponte* research the issues, formulate arguments, and then decide the issues. See *Skidis v. Industrial Comm'n*, 309 Ill. App. 3d 720, 724 (1999) (stating that "this court will not become the advocate for, as well as the judge of, points an appellant seeks to raise").

¶ 40 We feel compelled to point out one argument specifically that Edward has forfeited by

his failure to comply with Rule 341. Edward contends that it was improper to reappoint O'Connell as GAL because he had previously been appointed mediator in the matter. Edward cites local rule 15.20(f), which provides that a GAL "shall not be appointed as a mediator in the same case" (16th Judicial Cir. Ct. R. 15.20(f) (Apr. 12, 2007)), but he articulates no argument for why, based on this rule, the trial court abused its discretion in reappointing O'Connell as GAL on February 24, 2010. See *Wolfe v. Menard, Inc.*, 364 Ill. App. 3d 338, 348 (2006) ("A conclusory assertion, without supporting analysis, is not enough [to satisfy the requirements of Rule 341]."). Edward also cites Illinois Rule of Professional Conduct 1.12(a) (eff. Jan. 1, 2010), but, again, he articulates no argument with respect to the rule. In any event, Edward did not raise O'Connell's purported violation of Rule 1.12(a) before the trial court, and he cannot raise it for the first time on appeal. See *In re Marriage of Romano*, 2012 IL App (2d) 091339, ¶ 85 ("[I]ssues not raised in the trial court are deemed forfeited and may not be raised for the first time on appeal."). Finally, in his reply brief, Edward argues, for the first time, that O'Connell had a conflict of interest based upon his prior appointment as "ongoing mediator." We decline to address this new argument. See Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2008) ("Points not argued are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing."); see also *Villanueva v. Toyota Motor Sales, U.S.A., Inc.*, 373 Ill. App. 3d 800, 802 (2007) (declining to consider issues raised for the first time in a reply brief).

¶ 41 Although we decline to overlook Edward's forfeiture of the issue, we note that an attorney in O'Connell's position would be wise to be cognizant of conflicts of interest arising out of appointments as mediator and GAL in the same matter. Given a mediator's obligation to keep mediation communications confidential, contrasted with a GAL's duty to testify or submit a written report to the court, an attorney's exposure to confidential information as mediator would undermine his or her ability to subsequently fulfill his or her role as GAL. Compare Ill. Rs. Prof. Conduct R. 1.12, Committee Comments (eff. Jan. 1, 2010) ("Although lawyers who serve as third-party neutrals do not have information concerning the parties that is protected under Rule 1.6, they typically owe the parties an obligation of confidentiality under law or codes of ethics governing third-party neutrals."), with 750 ILCS 5/506(a)(2) (West 2008) (providing that a GAL "may be called as a witness" and requiring a GAL to "testify or submit a written report to the court regarding his or her recommendations"). An attorney in O'Connell's position is obligated to remain mindful of such conflicts. See Ill. S. Ct. R. 907(a) (eff. July 1, 2006) ("Every child representative, attorney for a child and guardian ad litem shall adhere to all ethical rules governing attorneys in professional practice, be mindful of any conflicts in the representation of children and take appropriate action to address such conflicts.").

¶ 42 CONCLUSION

¶ 43 Based on the foregoing, we conclude that it was an abuse of discretion to reappoint O'Connell as GAL on March 27, 2009, and to award O'Connell GAL fees for work performed after March 27, 2009, but before February 24, 2010. Therefore, we reverse the March 27, 2009, order reappointing O'Connell as GAL, and we reverse the March 11, 2011, order to the extent that it granted O'Connell fees for work performed between March 27,

2009, and February 24, 2010. We affirm the March 11, 2011, order to the extent that it denied Edward's petition for Rule 137 sanctions and granted O'Connell fees for work performed after his February 24, 2010, reappointment as GAL. Finally, we remand with instructions to have O'Connell disgorge any GAL fees that he was paid for work performed between March 27, 2009, and February 24, 2010.

¶ 44 Affirmed in part and reversed in part; cause remanded.