

No. 1-14-3861

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

FASCIA EDWARDS)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
)	
v.)	
)	
PATRICK QUINN, GOVERNOR OF THE)	
STATE OF ILLINOIS, DEPARTMENT OF)	
CENTRAL MANAGEMENT SERVICES,)	No. 13 CH 26901
ACTING DIRECTOR MALCOM WEEMS,)	
ILLINOIS DEPARTMENT OF REVENUE)	
A&R SHARED SERVICES, and DIRECTOR)	
DAVID HUNT.)	
)	
Defendants-Appellees.)	Honorable
)	Rodolfo Garcia,
)	Judge Presiding.

JUSTICE HALL delivered the judgment of the court.
Justices Lampkin and Reyes concurred in the judgment.

ORDER

¶ 1 *Held:* (1) The trial court did not err in holding that *res judicata* precluded plaintiff from litigating claims that could have been brought in her previous case; and (2) the trial court did not err when it dismissed plaintiff's workers' compensation claims.

¶ 2 Plaintiff, Fascia Edwards, appeals the trial court's decision to grant defendants', Patrick Quinn, the Department of Central Management Services, Malcolm Weems, the Illinois Department of Revenue A&R Shared Services, and David Hunt's, motion to dismiss. For the reasons that follow, we affirm the decision of the trial court.

¶ 3 **BACKGROUND**

¶ 4 On December 5, 2013, plaintiff filed a complaint in the circuit court against the defendants. The complaint stated that on December 1, 2008, plaintiff began working for the Illinois Department of Finance and Professional Regulation (DFPR) as an Executive I, Office of Legal Affairs employee and that John Lagattuta was her supervisor. Plaintiff claimed that while working at the DFPR, Mr. Lagattuta compiled a secret diary of documents and unsigned complaints submitted by the department's temporary employees. She claimed that the documents and complaints contained lies against her and were released to other employees without her authorization.

¶ 5 Further, plaintiff claimed that she sustained an injury on June 22, 2009, while at work and was placed on work-connected disability leave. She alleged that in June 2010 she returned to work, but Mr. Lagattuta refused to reinstate her to a "CMS 104" position. In response, plaintiff filed a claim under the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2012)), which resulted in the arbitrator concluding that her injury was in fact work related.

¶ 6 In her complaint, plaintiff claimed that the State of Illinois and Mr. Lagattuta violated Central Management Services (CMS) regulations and state law by sending her a letter stating that she must resign or retire and by failing to reinstate her after her disability leave, in light of the Workers' Compensation Commission (Commission) determination that her injury was work related.

¶ 7 Plaintiff further claimed that CMS failed to comply with and enforce sections 25.5(d) and (e) of the Act. 820 ILCS 305/25.5(d), (e) (West 2012) and that Mr. Lagattuta violated the agreement between the State and the American Federation of State, County and Municipal Employees Council (AFSCME). Plaintiff alleged that the agreement was violated when Mr. Lagattuta proceeded directly to a level three grievance suspension without using progressive discipline, and that his actions were further compounded when she received a "3rd level Grievance Resolution", dated May 13, 2009 by Attorney Lydia Mills, stating that plaintiff shall be assigned duties from her current CM 104 job classification.

¶ 8 On April 8, 2014, plaintiff filed a second amended complaint for *mandamus* and sought to compel defendants to reinstate her to CMS 104-Executive I, Office of Legal Affairs or a similar lateral job classification, and to award her back pay, health benefits, and pension benefits. She also requested that the court compel the DFPR to expunge alleged unsigned and undocumented malicious data from her personnel file and enjoin state agencies from hiring employees until such time when the State complied with its regulations.

¶ 9 On May 6, 2014, defendants filed a motion to dismiss pursuant to section 2-619.1 of the Code of Civil Procedure (735 ILCS 5/2-619.1) (West 2014). They asserted that the complaint should be dismissed pursuant to section 2-615 of the Code for failure to state a claim, and pursuant to section 2-619 claiming that: (1) another action was pending between the same parties

for the same cause; (2) plaintiff's claims were barred by the doctrine of *res judicata*; (3) plaintiff's claims for monetary relief were barred by sovereign immunity; and (4) plaintiff failed to exhaust her administrative remedies.

¶ 10 In support of their motion, defendants attached copies of plaintiff's complaint filed on June 11, 2010, in the case of *Edwards v. Illinois Department of Financial. & Professional Regulation*, 2011 IL App (1st) 103214-U (Edwards I) and her complaint filed on January 30, 2013, in the United States District Court for the Northern District of Illinois, in the case of *Edwards v. Illinois Department of Financial and Professional Regulation*, No. 12 C 00371. In *Edwards I*, plaintiff sought injunctive relief against the DFPR and Mr. Lagattuta. Specifically, she requested that the circuit court compel them to expunge information from her personnel file and claimed that the defendants knowingly placed false information in her file and refused to remove it. The *Edwards I* defendants filed a motion to dismiss, which was granted with prejudice. Subsequently, plaintiff appealed the *Edwards I* decision, however it was affirmed.

¶ 11 On September 17, 2014, the circuit court granted defendants' motion and dismissed plaintiff's case with prejudice. The circuit court held that the workers' compensation issue should have been brought before the Commission instead of the circuit court. Furthermore, the circuit court held that the remaining claims were barred by *res judicata* pursuant to the final order entered in *Edwards I*. On October 16, 2014, plaintiff filed a motion to reconsider, which was denied on November 17, 2014. Plaintiff appealed.

¶ 12 ANALYSIS

¶ 13 Plaintiff argues the trial court erred when it granted defendants' motion to dismiss. She contends (1) *res judicata* does not bar her claims, and (2) that the trial court was properly vested with jurisdiction to hear her workers' compensation claims.

¶ 14 In addressing the merits of this appeal, we must first note that plaintiff's briefs violate several provisions of Illinois Supreme Court Rule 341(eff. Feb. 6, 2013). Specifically, these violations include: a Points and Authorities section that contains no reference to the pages on which each heading and each authority appear as required by Rule 341(h)(1) (eff. Feb. 6, 2013); the appellant brief provides no indication whether the judgment appealed from is based upon the verdict of a jury as required by Rule 341(h)(2)(i) (eff. Feb. 6, 2013); plaintiff's Issues Presented section is a three page detailed paragraph containing numerous case citations and argument in violation of Rule 341(h)(3) (eff. Feb. 6, 2013); the appellant brief omits the applicable standards of review required by Rule 341(h)(3); the appellant brief's Statement of Facts section contains argument and neither brief contains citation to the record on appeal in violation of Rule 341(h)(6), (7) (eff. Feb. 6, 2013); the reply brief is more than twice as long as the Rule 341(b) (eff. Feb. 6, 2013) permits; and the reply brief contains an appendix, a Points and Authorities section, a Nature of the Case section, an Issues Presented section, a Statement of Jurisdiction, a Statutes Involved section, a Standards of Review section and a Statement of Facts in violation of Rule 341(j) (eff. Feb. 6, 2013).

¶ 15 Compliance with the Rule 341(h) provisions is mandatory. *Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8. The purpose of the supreme court rules is to require the parties to present clear and orderly arguments so that the reviewing court may ascertain and dispose of the issues involved. *Collier v. Avis Rent A Car System, Inc.*, 248 Ill. App. 3d 1088, 1095 (1993). Where an appellant fails to comply with the applicable rules of appellate procedure, this court may, in its discretion, strike a brief and dismiss the appeal. *McCann v. Dart*, 2015 IL App (1st) 141291, ¶ 12. However, we choose not to and instead address this case on the merits.

¶ 16

A. Standard of Review

¶ 17 Section 2–619.1 of the Code allows a party to file a motion combining a section 2–615 motion to dismiss with a section 2–619 motion to dismiss. 735 ILCS 5/2–619.1 (West 2014). “A section 2–615 motion to dismiss tests the legal sufficiency of a complaint. A section 2–619 motion to dismiss admits the sufficiency of the complaint, but asserts affirmative matter that defeats the claim.” *Bjork v. O’Meara*, 2013 IL 114044, ¶ 21. We review a dismissal under either section 2–615 or section 2–619 *de novo*. *Id.*

¶ 18 B. *Res Judicata*

¶ 19 Under the doctrine of *res judicata*, a final judgment on the merits rendered by a court of competent jurisdiction acts as a bar to a subsequent suit between the parties involving the same cause of action. *Rein v. David A. Noyes & Co.*, 172 Ill. 2d 325, 334–35 (1996). The bar extends to what was actually decided in the first action, as well as those matters that could have been decided in that suit. *La Salle National Bank v. County Board of School Trustees*, 61 Ill. 2d 524, 529 (1975). For the doctrine of *res judicata* to apply, the following three requirements must be satisfied: (1) there was a final judgment on the merits rendered by a court of competent jurisdiction, (2) there is an identity of cause of action, and (3) there is an identity of parties or their privies. *Downing v. Chicago Transit Authority*, 162 Ill. 2d 70, 73–74 (1994).

¶ 20 To determine whether the doctrine of *res judicata* applies in this case, our initial inquiry begins with whether the dismissal of plaintiff’s complaint in *Edwards I* was a final judgment on the merits. In that case this court affirmed the trial court’s decision to dismiss plaintiff’s claim, with prejudice, for failure to state a claim for relief under section 2-615 of the Code. *Edwards*, 2011 IL App (1st) 103214-U at ¶ 7. Illinois Supreme Court Rule 273 provides: “Unless the order of dismissal or a statute of this State otherwise specifies, an involuntary dismissal of an action, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join an

indispensable party, operates as an adjudication upon the merits.” 134 Ill. 2d R. 273. Thus, under Illinois law, it is clear that the dismissal of a complaint for failure to state a claim is a final adjudication on the merits. See *Bentley v. Glenn Shipley Enterprises, Inc.*, 248 Ill. App. 3d 647, 650 (1993); see also *McGann v. Illinois Hospital Ass'n*, 172 Ill. App. 3d 560, 568–69 (1988).

¶ 21 Next we turn to whether the second requirement for *res judicata* has been satisfied. To determine whether there is an identity of causes of action for purposes of *res judicata*, Illinois courts rely on the “transactional test.” *Lane v. Kalcheim*, 394 Ill. App. 3d 324, 332 (2009). Under the transactional analysis, separate claims will be considered the same cause of action for *res judicata* purposes if they arise from a single group of operative facts, regardless of whether different theories of relief are asserted. *River Park, Inc v. City of Highland Park*, 184 Ill. 2d 290, 310-11 (1998). The transactional test allows claims to be considered part of the same cause of action “even if there is not a substantial overlap of evidence, so long as they arise from the same transaction.” *Id.* at 311. What constitutes a “transaction” should be “determined pragmatically,” and a court should “give[] weight to such considerations as whether the facts are related in time, space, origin, or motivation, whether they form a convenient trial unit, and whether their treatment as a unit conforms to the parties' expectations or business understanding or usage.” *Id.* at 312.

¶ 22 In *Edwards I*, plaintiff claimed that the DFPR and Mr. Lagattuta placed false documents in her personnel file, and she sought an injunction to compel the defendants to expunge the alleged information from her file pursuant to the Personnel Record Review Act (840 ILCS 40/0.01 *et seq.* (West 2008)). In the case before this Court, plaintiff claims that she began working for the DFPR in December 2008, that Mr. Lagattuta was her supervisor, and that Mr. Lagattuta violated the Personnel Record Review Act by compiling a secret diary containing

fabricated complaints against her, which were released to other employees without her authorization. Plaintiff again requested that the circuit court compel the DFPR to expunge unsigned and undocumented malicious data in her Personnel file. In the present matter before this Court plaintiff also claims that Mr. Lagattuta and the DFPR refused to reinstate her to her job after she returned from disability leave in June 2010. She claims that she is entitled to reinstatement, back pay and pension benefits pursuant to CMS regulations and the agreement between the State and AFSCME. The claims in *Edwards I* and the claims here before this Court arise from the same events which occurred during plaintiff's employment at the DFPR between December 2008 and June 2010. Consequently, we find that the transactional test has been satisfied and that the claims in the present case and those in *Edwards I* arise from the same group of operative facts.

¶ 23 We need not determine whether the third requirement for *res judicata* has been satisfied because the parties agree there is an identity of parties or privies between the present case and *Edwards I*. Accordingly, we find that the requirements for dismissal based on *res judicata* have been met, and the trial court did not err in dismissing plaintiff's claims.

¶ 24 C. Workers' Compensation Claims

¶ 25 Plaintiff brought her workers' compensation complaint in the form of a *mandamus* petition. *Mandamus* is an extraordinary remedy that is granted to enforce the performance of a public officer's official nondiscretionary duties as a matter of right. *Ruhl v. Department of Corrections.*, 2015 IL App (3d) 130728, ¶ 20 (citing *Rodriguez v. Illinois Prisoner Review Board*, 376 Ill. App. 3d 429, 433 (2007)). For *mandamus* to issue, a plaintiff must establish material facts that demonstrate: (1) his clear right to the requested relief; (2) a clear duty on the

defendant to act; and (3) clear authority existing in the defendant to comply with an order granting *mandamus* relief. *Id.*

¶ 26 Plaintiff claims that the Commission's decision mandated that she be reinstated to her previous position, job classification and receive back pay and benefits owed from defendants' refusal to rehire her. The Commission stated the following:

"IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed August 12, 2011 is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent shall have credit for all amounts paid, if any, to or on behalf of the Petitioner on account of said accidental injury."

¶ 27 The record contains pages four and five of the arbitrator's decision, however we have not found any mention of reinstatement in those two pages. An appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and any doubts which may arise from the incompleteness of the record will be resolved against the appellant. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391 (1984). Further, plaintiff has not provided this court with facts demonstrating her entitlement to interest under Section 19(n) of the Workers' Compensation Act (Act). Section 19(n) of the Act states, in pertinent part that:

"[D]ecisions of the Illinois Workers' Compensation Commission reviewing an award of an arbitrator of the Commission shall draw interest at a rate equal to the yield on indebtedness issued by the United States Government with a 26-week maturity next previously auctioned on the day on which the decision is filed. Said rate of interest shall

be set forth in the Arbitrator's Decision. Interest shall be drawn from the date of the arbitrator's award on all accrued compensation due the employee through the day prior to the date of payments. 820 Ill. Comp. Stat. Ann. 305/19"

¶ 28 Pages four and five of the arbitrator's decision make no mention of interest or interest rates, therefore this claim must be resolved against plaintiff. *Foutch*, 99 Ill. 2d at 391. As a result, plaintiff has failed to establish material facts that demonstrate she is entitled to a clear right to the requested relief and that defendants had a clear duty to act.

¶ 29 Accordingly, for the reasons set forth above, we affirm the judgment of the Circuit Court of Cook County.

Affirmed.