SECOND DIVISION
November 1, 2016

No. 1-15-1581

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).

PAUL WILLIAMS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County
	)	
v.	)	
	)	
TODD COVAULT,	)	
	)	No. 12 L 5295
Defendant-Appellee	)	
	)	
(Dr. I.V. Foster, Board of Education, Prairie Hills,	)	
District 144 in Cook County, Mary Michelle Smith,	)	
Gregory Jackson, Anthony A. Cole, Elaine Walker,	)	
Sharron Davis, Sarah B. Hamm and Juanita Jordan,	)	Honorable
	)	John P. Callahan, Jr.,
Defendants).	)	Judge Presiding.

JUSTICE PIERCE delivered the judgment of the court.
Justices Neville and Mason concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court properly granted defendant's motion for summary judgment.

¶ 2 Plaintiff Paul Williams filed a fourth amended complaint against the Board of Education, Prairie Hills, District 144 (the School Board), individual School Board members, and Todd Covault, the school district's human resources director (collectively, defendants), alleging

defamation *per se*, libel *per se*, slander *per se*, false light invasion of privacy, intentional infliction of emotional distress, willful and wanton, conspiracy, and vicarious liability. Williams' claims alleged that statements made in connection with defendants' investigation into a report of misconduct impugned his reputation. Defendants filed a motion for summary judgment, which the trial court granted in part, disposing of Williams' libel, slander, intentional infliction of emotional distress, willful and wanton, conspiracy, and vicarious liability claims against the School Board and the individual School Board members. The trial court denied summary judgment without prejudice on Williams' defamation *per se* and false light invasion of privacy claims against Covault. After additional discovery, Covault filed a motion for summary judgment as to the two remaining counts. The trial court granted summary judgment in favor of Covault, finding that the statements which formed the basis of Williams' claims were "substantially true." Williams moved to reconsider that order, which was denied. He now appeals the entry of summary judgment in favor of Covault on the defamation *per se* and false light invasion of privacy counts, along with the denial of his motion to reconsider. For the following reasons, we affirm the judgment of the trial court.

¶ 3 BACKGROUND

¶ 4 The parties do not dispute the basic facts, but dispute whether Covault relayed information he received from a third party in a defamatory manner, and whether Covault's statements were substantially true. The record contains the following facts and allegations.

¶ 5 Williams taught health and physical education at Prairie Hills Elementary School District 144 (the School District) for 32 years. During that time, he also served as the coach of the school's girl's basketball team. Beginning in 2004, Williams started his own non-district sports organization that was privately financed called "Lady Blues, LLC." The team consisted primarily

of members from the school's girl's basketball team. The Lady Blues participated in competitive games during the months of April through July, but practiced year round and often participated in field trips organized by Williams. The Lady Blues team had its own liability insurance policy, vehicle rental agreement, bank account, and donors who contributed to the non-profit team to help pay for travel costs for tournaments and other events.

¶ 6 On December 21, 2009, Williams took the Lady Blues to Navy Pier for an end-of-year celebration. Williams rented a van, picked up the team members and took them to a museum, to Navy Pier, ice skating, and to the movies. This was a "non-district" activity that took place during the School District's winter break, and it was undisputed that Williams did not obtain any form of written permission from the team members' parents for this trip.

¶ 7 Also on December 21, 2009, Samar Absoulam was at Navy Pier. Absoulam was there with her own children, and was not connected to the Lady Blues' outing in any way. On December 22, 2009, Absoulam contacted the School District by phone to report that while at Navy Pier she observed Williams sitting in close proximity to one of the girls from the Lady Blues. Absoulam's call was answered by the School District's receptionist who took a message. The next day, Covault called Absoulam to discuss her report. Absoulam reported that Williams and the girl skated hand-in-hand for fifteen minutes. Absoulam later emailed the School District a photo that showed Williams and the girl skating hand-in-hand. Covault discussed the phone call with the school superintendent, Dr. I.V. Foster, the assistant superintendent, Dr. Kimiko Patterson, and the school principal, Tiffany Burnett Johnson. Patterson and Burnett Johnson did not find the photo inappropriate and neither of them participated in the investigation or spoke with Absoulam.

¶ 8 Thereafter, Covault sent a letter to Williams dated December 29, 2009, summarizing the information Absoulam had reported to Covault. The letter stated in pertinent part: "On December 22, 2009, the District received a report that you accompanied six female students to an ice skating outing at Navy Pier in Chicago on Monday, December 21, 2009. *** While at Navy Pier, it was reported that you engaged in inappropriate contact with students." The letter informed Williams that he was required to attend a meeting with Covault on January 4, 2010, instead of reporting to school.

¶ 9 On January 4, 2010, Covault met with Williams, Foster, and Burnett Johnson, and asked Williams questions prepared by the School District's lawyer. Williams answered that he took six members of the Lady Blues to an outing at Navy Pier. Williams confirmed the event was sponsored by his private team and that it was not approved by any School District administrator. He explained that the parents knew about the outing and gave their oral permission for their daughters' participation in the outing. Williams admitted that he held one of the girl's hands while skating at Navy Pier but explained that he was holding the girl's hand because she "did not know how to skate and he was helping her balance herself on the ice."

¶ 10 At the end of the meeting, Covault informed Williams that the School District would question the six participants about the reported events and that in the interim Williams should not go to school and should not communicate with any student. On that same day, the principal and assistant principal questioned the Lady Blues team members regarding the Navy Pier outing. The record indicates that the girls agreed with Williams' version of the events and also confirmed that Williams did not touch them in a way that made them feel uncomfortable. Williams was permitted to return to work on January 5, 2010. He alleged that his co-workers, students, and the community had become aware of the accusations that he had engaged in "sexual misconduct."

¶ 11 In a letter dated January 15, 2010, the School Board notified Williams that he had violated the School Code by taking an unauthorized field trip. In a letter dated January 20, 2010, Williams was informed by the School Board that his conduct was "unprofessional and inappropriate." That letter identified Williams' failure to follow School Board policy in obtaining permission and approval for the trip, as well as failure to obtain written permission from the parents of the students prior to the trip. On January 25, 2010, the School Board held a hearing and unanimously voted to deny all proposed disciplinary and remedial action. Williams continued working at the school until his retirement.

¶ 12 Thereafter, Williams filed this action, eventually filing a fourth amended complaint against defendants asserting claims for defamation *per se*, libel *per se*, slander *per se*, false light invasion of privacy, intentional infliction of emotional distress, willful and wanton, conspiracy, and vicarious liability. Williams alleged that Covault's December 29, 2009, letter was defamatory in that it accused plaintiff of "inappropriate contact" with the female students, which impugned his reputation and his want of integrity to perform his job. He further alleged that the letters dated January 15, 2010, and January 20, 2010, contained false statements, and all of the letters falsely implied that there were allegations of sexual abuse against him.

¶ 13 Defendants filed a motion for summary judgment on all counts of the fourth amended complaint. On June 30, 2014, the trial court conducted a hearing and granted summary judgment in favor of defendants on all counts except for counts I (defamation *per se*) and IV (false light invasion of privacy) against Covault. The trial court permitted further discovery which included the deposition of Samar Absoulam whose telephone call to the School District regarding plaintiff's conduct at Navy Pier set into motion the events of this litigation.

¶ 14 Covault filed a second motion for summary judgment on counts I and IV, the two remaining claims. Attached to the motion were several documents including the transcript of Absoulam's deposition where she confirmed that Covault's letter to Williams describing the Absoulam-Covault telephone conversation was an accurate summarization of her discussion about the Navy Pier outing. Specifically, she testified that she called the School District to report "inappropriate" behavior between a coach and student and she was "concerned that either inappropriate behavior was going on or [*sic*] the intention for inappropriate behavior to go on with this young girl." During the call with Covault she "explained that I just thought that it was an inappropriate action for any adult to be having with a young girl *** [and] I thought it might have been one [*sic*] have his employees." After the call, she sent Covault an email with the picture she took of the "teacher with one of the students, holding hands."

¶ 15 On December 1, 2014, the trial court held a hearing on the motion for summary judgment on the two remaining claims against Covault. Williams asked the court to strike Absoulam's deposition, asserting that his counsel was unable to attend due to a scheduling conflict, but that Covault's counsel held the deposition anyway. The trial court denied Williams' request. After hearing oral argument, the trial court granted summary judgment in favor of Covault on the remaining defamation and false light claims finding that, "the statements that form[ed] the basis of plaintiff's claims were substantially true." Williams filed a motion to reconsider and requested the case be set for trial so that plaintiff could present his claims against Covault to a jury. The trial court denied the motion, and Williams timely filed this appeal.

¶ 16 ANALYSIS

¶ 17 In keeping with our independent duty to examine our jurisdiction (*In re Marriage of Crecos*, 2015 IL App (1st) 132756, ¶ 16), we note that Illinois Supreme Court Rule 303(b)(2)

(eff. Jan. 1, 2015) requires that a notice of appeal "specify the judgment or part thereof or other orders appealed from ***[.]" Williams filed his notice of appeal on May 26, 2015, and identifies two orders from which he seeks to appeal: the "Order Granting Defendants' [sic] for Summary Judgment dated October 28, 2014," and the "Order Denying Plaintiff's Motion to Reconsider [sic] Order of October 28, 2014 dated April 28, 2015." Our review of the record reveals that there is no summary judgment order dated October 28, 2014, but we believe this to be a harmless scrivener's error. See *In re Marriage of Crecos*, 2015 IL App (1st) 132756, ¶ 17 (finding that the incorrect dates on a notice of appeal were scrivener's errors that do not create any fatal jurisdictional defects). This scrivener's error does not inhibit our ability to determine that Williams is appealing from the summary judgment order dated December 1, 2014. Williams does properly identify the order of April 28, 2015, which was the date that the trial court denied his timely motion to reconsider the summary judgment order dated December 1, 2014. We also note that the jurisdictional statement in Williams' appellate brief states that he is appealing from the order of December 1, 2014. This error went unnoticed by Covault, who has addressed Williams' arguments on their merits, causing us to find that there has been no prejudice to Covault from Williams' scrivener's error. See *id.* ¶ 18. We therefore find no defect that might affect our jurisdiction over this appeal.

¶ 18 We next observe that Williams' brief does not conform to a number of the mandatory requirements of the Illinois Supreme Court Rules 341 (eff. Feb. 6, 2013) and 342 (eff. Jan. 1. 2005). Rules 341 and 342 are not mere suggestions, but rather, requirements that parties must follow. *Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8. If a party fails to comply with these rules, the court may strike the party's brief and dismiss the appeal completely. *Epstein v. Galuska*, 362 Ill. App. 3d 36, 42 (2005). We find that Williams' failure to comply with these rules results in

the forfeiture of his contentions on appeal. *Burmac Metal Finishing Co. v. West Bend Mutual Insurance Co.*, 356 Ill. App. 3d 471, 478 (2005).

¶ 19 Our Supreme Court Rules are in place to ensure that parties provide clear and orderly arguments so that the appellate court can properly ascertain, evaluate, and dispose of the issues involved. *Hall v. Naper Gold Hospitality LLC*, 2012 IL App (2d) 111151, ¶ 7. Aside from the formatting requirements, Rule 341 requires that an appellant present a cohesive argument with adequate legal and factual support, citations to the record for all factual assertions made, and citations to relevant legal authority for the arguments advocated. *Housing Authority of Champaign County v. Lyles*, 395 Ill. App. 3d 1036, 1040 (2009); *Collier v. Avis Rent A Car System, Inc.*, 248 Ill. App. 3d 1088, 1095 (1993); *Soter v. Christoforacos*, 53 Ill. App. 2d 133, 137 (1964).

¶ 20 Here, Williams' appellant's brief does not contain an appendix, in violation of Rule 342, meaning that he has failed to attach to his brief a table of contents for the nine-volume common law record, a copy of the judgment appealed from, or any pleadings which are the basis of the appeal. His brief also lacks a certificate of compliance, in violation of Rule 341(c). More vexing is the lack of citation to case law and the common law record to support his contentions on appeal, in violation of Rule 341(h)(7). Williams purports to present three issues for our review, but only cites authority in support of the standard of review for summary judgment, and general propositions of law regarding defamatory statements. Williams cites no authority at all in support of his two other contentions on appeal, namely that the trial court should have given less weight to Absoulam's deposition testimony because Williams' counsel was not present, and that a reasonable jury could have found that Dr. Covault's statements were not substantially true.

¶ 21 It is well settled that when a party calls into question a court's ruling, the party must properly present a fully developed legal argument, with citations to relevant legal authority to support their claims of error. Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013); *McCann v. Dart*, 2015 IL App (1st) 141291, ¶ 15. We find that Williams has failed to comply with these requirements. An argument that is not properly developed by a party is forfeited, does "not merit consideration on appeal and may be rejected for that reason alone." *Housing Authority*, 395 Ill. App. 3d at 1040. Williams has presented no argument related to his claim of false light invasion of privacy, and we thus affirm the trial court's grant of summary judgment in favor of Covault on count IV of Williams' complaint. We also find Williams has forfeited any argument related to request that the trial court strike Absoulam's deposition.

¶ 22 Although Williams has also forfeited his argument that summary judgment in favor of Covault on the defamation *per se* claim was in error, we briefly address the merits of this argument and find that the trial court did not err when it granted summary judgment in favor of Covault based on the finding that Covault's statements were "substantially true."

¶ 23 To prove defamation, a plaintiff must show that the defendant made a false statement about the plaintiff, there was an unprivileged publication to a third party by the defendant, and the publication damaged the plaintiff. *Harrison v. Addington*, 2011 IL App (3d) 100810, ¶ 39. In addition, "a claim for defamation *per se* must fit into one of the following categories: '(1) words that impute the commission of a criminal offense; (2) words that impute infection with a loathsome communicable disease; (3) words that impute an inability to perform or want of integrity in the discharge of duties of office of employment; and (4) words that prejudice a party, or impute a lack of ability, in his or her trade, profession, or business.' " *Seitz-Partridge v. Loyola Univ. of Chicago*, 2013 IL App (1st) 113409, ¶ 21.

¶ 24 The substantial truth doctrine is an effective defense to defamation. *Lemons v. Chronicle Publishing Co.*, 253 Ill. App. 3d 888, 889 (1993). So long as the alleged defamatory statement is substantially true the defamatory statement is not actionable. *Parker v. House O'Lite Corp.*, 324 Ill. App. 3d 1014, 1026 (2001). To be substantially true does not mean that every detail of the statement needs to be accurate. *Id*. A defendant bears the burden of asserting substantial truth and establishing substantial truth of the assertions which can be accomplished by showing the "sting" or "gist" of the defamatory material is true. *Id*.

¶ 25 Williams argues that Covault's use of the words "report" and "inappropriate contact" in his December 29, 2009, letter to Williams were defamatory and that a reasonable jury could find that the " 'gist' or 'sting' " of Covault's statements were more severe than Absoulam's statements and therefore not "substantially true." However, Covault established through Absoulam's deposition that his letter dated December 29, 2009, was an accurate description of what Absoulam communicated to him. Absoulam testified that she reported what she saw at Navy Pier because she "was concerned that either inappropriate behavior was going on or [*sic*] the intention for inappropriate behavior to go on with this young girl." Covault's letter referenced receiving a report. The report he received concerned "inappropriate contact with students." Absoulam testified that she used the word "inappropriate" in reference to the contact she saw between an adult and a student when she reported the incident to Covault. Clearly, Covault's letter was an accurate memorialization of his conversation with Absoulam that did not convey anything more than what had been communicated to him.

¶ 26 Williams' arguments, without citation to legal authority, and largely without citation to the record, involve the accuracy of what Absoulam reported to have seen. Williams asserts that his conduct was not "inappropriate," and Absoulam's underlying report of "inappropriate

conduct" was based on observations that were untrue. But the statements at issue here are Covault's statements, and the issue is not whether the conduct Absoulam's observed could reasonably be described by her as "inappropriate," but rather is whether Covault's statements describing Absoulam's report were true. In short, Williams' defamation claim rests on the allegation that Covault's letter describing Absoulam's report of "inappropriate contact" was untrue and defamatory. Absoulam testified that Covault's letter was an "accurate" description of what she told Covault in her "report," and that she used the word "inappropriate" when explaining what she observed at Navy Pier. On this basis, the trial court found Covault's statements "substantially true" and therefore not actionable. We find no error in that conclusion, and affirm the trial court's order granting summary judgment in favor of Covault on Williams' defamation claim.

¶ 27 We also note that Williams has failed to show how Covault's statements in the letter of December 29, 2009, informing Williams of the complaint that he received and requesting a meeting to discuss the events, are actionable where Covault's statements were made as part of a human resources investigation into Absoulam's report. Covault's statements are accurately characterized as a supervisor's statements in a letter to the employee at issue, in the early stages of an investigation, to inform him of a report from a member of the community and instructing him to a meeting with school administration to discuss the issue. Plaintiff does not dispute that Covault's statements were made as part of the School Board's response and investigation into Absoulam's report. Such statements carry a privilege especially where, in a situation like this, a school administrator may have a duty to investigate and possibly report an allegation of inappropriate conduct. 325 ILCS 5/4 (West 2012); *Coghlan v. Beck*, 2013 IL App (1st) 120891, ¶ 43 (an otherwise defamatory statement is not actionable if it is subject to a privilege, such as

communications made during an investigation into employee misconduct); *Malevitis v. Friedman*, 323 Ill. App. 3d 1129, 1132 (2001) (privilege applies to claims for defamation and also claims for false light invasion of privacy). Therefore, we find the trial court entry of summary judgment in favor of Covault was appropriate.

¶ 28 Finally, we note that Covault's appellee's brief and Williams' reply brief address several issues not properly before this court. As discussed above, the only orders reasonably identified in Williams' notice of appeal are the orders granting summary judgment in favor of Covault on counts I and IV of Williams' fourth amended complaint and denying Williams' motion to reconsider summary judgment on counts I and IV. Therefore, we will not address any other arguments advanced by the parties that relate to any other counts.

¶ 29 CONCLUSION

¶ 30 In sum, Williams' failure to comply with the mandatory requirements of Illinois Supreme Court Rules 341 and 342 results in the forfeiture of his arguments on appeal, and, forfeiture aside, Williams cannot establish that the trial court erred in entering summary judgment in favor of Covault. For the foregoing reasons, we affirm the judgment of the trial court.

¶ 31 Affirmed.