

No. 1-15-2498

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 DISTRICT

PNC BANK NATIONAL ASSOCIATION, as)	Appeal from the
successor in interest to NATIONAL CITY)	Circuit Court of
MORTGAGE, a division of NATIONAL CITY)	Cook County
BANK,)	
)	
Plaintiff-Appellee,)	
)	
v.)	No. 10 CH 54310
)	
ALPHONSE A. TALARICO; MARY C. TALARICO;)	
UNKNOWN HEIRS and LEGATEES OF)	
ALPHONSE A. TALARICO, if any; UNKNOWN)	
OWNERS AND NON RECORD CLAIMANTS,)	
)	Honorable
Defendants,)	Michael T. Mullen and
)	Jean Prendergast Rooney,
(Alphonse A. Talarico, Defendant-Appellant).)	Judges, Presiding.

JUSTICE HOFFMAN delivered the judgment of the court.
Presiding Justice Rochford and Justice Delort concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court did not err in denying the defendant's motion to strike the affidavit submitted in support of the plaintiff's motion for summary judgment or the plaintiff's Loss Mitigation Affidavit. By failing to cite authority in support, the defendant has forfeited all other assignments of error.

¶ 2 The defendant, Alphonse A. Talarico, appeals from orders of the circuit court: denying his motion to quash service of process; ordering him to answer the complaint to foreclose on a mortgage filed by the plaintiff, PNC Bank National Association, as successor in interest to National City Mortgage, a division of National City Bank; sustaining the plaintiff's objection to the production of certain documents; denying his motion to strike the affidavit attached to the plaintiff's motion for summary judgment and the Loss Mitigation Affidavit filed by the plaintiff; and granting the plaintiff's motion for summary judgment and entering a judgment of foreclosure and sale. For the reasons which follow, we affirm.

¶ 3 In its response brief, the plaintiff argues that the defendant's brief fails to comply with Illinois Supreme Court Rule 341 (eff. Jan. 1, 2016), and as a result, we should affirm the orders of the circuit court. We agree that the defendant has forfeited all of the issues raised in his brief with the exception of his claim of error addressed to the trial court's denial of his motion to strike the affidavit of Sharon Lynch attached to the plaintiff's motion for summary judgment and the Loss Mitigation Affidavit signed by Brittany Sloneker.

¶ 4 Rule 341(h)(7) provides, in relevant part, that an appellant's brief shall contain an argument, setting forth "the contentions of the appellant and the reasons therefore, *with citation of the authorities* and the pages of the record relied on." (Emphasis added.) Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1, 2016). In his brief, the defendant cited authority in support of the applicable standards of review. However, in the argument section of his brief, the defendant cites to only two cases, one of which stands for the proposition that a presumption of validity attaches to a process server's affidavit attesting to personal service of a summons (see *Illinois Service Federal Savings & Loan Ass'n of Chicago v. Manley*, 2015 IL App (1st) 143089, ¶ 37) and the other which holds that, where a party's business records include a mass of documents, a

No. 1-15-2498

summary may be attached to a motion for summary judgment when the computations are not questioned and the non-moving party has been given an opportunity to examine the supporting documents (see *PennyMac Corp. v. Colley*, 2015 IL App (3d) 140964, ¶ 17). Other than these two isolated citations, the defendant failed to support his arguments with citation to authority. Regrettably, we are again forced to remind a litigant that the appellate court is not a repository into which an appellant may dump the burden of research. It is not this court's obligation to seek out authority supporting an appellant's assignments of error. *U.S. Bank v. Lindsey*, 397 Ill. App. 3d 437, 459 (2009); *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993). The defendant has failed to support his claims of error addressed to the propriety of the trial court's denial of his motion to quash service of process, the trial court's order requiring him to answer the plaintiff's complaint and its order sustaining the plaintiff's objection to the production of certain documents with citation to any supporting authority. As a consequence, any claimed error relating to the entry of these orders has been forfeited. *CE Design, Ltd. v. Speedway Crane, LLC*, 2015 IL App (1st) 132572, ¶ 18.

¶ 5 The defendant moved to strike Lynch's affidavit filed by the plaintiff in support of its motion for summary judgment and the Loss Mitigation Affidavit executed by Sloneker. In his motion, the defendant asserted that the affidavits failed to comply with Illinois Supreme Court Rule 191(a) (eff. Jan. 4, 2013) in a variety of respects. In his brief on appeal, however, the defendant cites authority supporting only the proposition that, before a summary of loan documents can be attached to an affidavit in support of a motion for summary judgment, the documents upon which the summary is based must be made available for inspection by the nonmoving party. The plaintiff responds by asserting that all of the documents relied upon by Lynch in support of the averments in her affidavit were attached to the affidavit and, therefore,

No. 1-15-2498

available for the defendant's inspection. Our examination of the record reveals that the plaintiff's assertion is correct. The documents relied upon by Lynch in support of the averments contained in her affidavit submitted in support of the plaintiff's motion for summary judgment are attached to the affidavit. Consequently, the defendant's claim of error as a result of the trial court's failure to strike Lynch's affidavit by reason of his inability to examine the documents upon which Lynch relied lacks merit. The other deficiencies in the Lynch affidavit set forth in the defendant's motion to strike have been forfeited by reason of the defendant's failure to address those deficiencies in his brief on appeal.

¶ 6 Turning to the Sloneker affidavit, we note that this affidavit was not submitted in support of the plaintiff's motion for summary judgment. Rather, the affidavit was submitted in compliance with Illinois Supreme Court Rule 114 (eff. May 1, 2013) which provides that a Loss Mitigation Affidavit must be submitted by a plaintiff prior to moving for the entry of a judgment of foreclosure. Illinois Supreme Court Rule 191(a) (eff. Jan. 4, 2013), by its very terms, applies only to affidavits submitted in support of, or in opposition to, motions brought pursuant to sections 2-301(b), 2-619, and 2-1005 of the Code of Civil Procedure (735 ILCS 5/2-301(b), 2-619, 2-1005 (West 2014)). Stated otherwise, Rule 191(a) does not apply to Sloneker's Loss Mitigation Affidavit submitted by the plaintiff prior to moving for the entry of a judgment of foreclosure. The form and required content of a Loss Mitigation Affidavit are set forth in Rule 114. Our examination of the Sloneker affidavit reveals that it complies with the requirements of Rule 114, and, therefore, the trial court did not err in denying the defendant's motion to strike that affidavit.

¶ 7 The only remaining issue is the propriety of the trial court having granted the plaintiff's motion for summary judgment and entering a judgment of foreclosure and sale. However, as the

No. 1-15-2498

defendant has made no argument addressed to the summary judgment itself, other than as noted in the preceding two paragraphs, and has not cited any authority in support of any other claimed error addressed to these orders, the defendant has forfeited any other error in the trial court's order granting the plaintiff's motion for summary judgment and its entry of a judgment of foreclosure and sale.

¶ 8 For these reasons, we affirm the orders and judgment of the circuit court.

¶ 9 Affirmed.