

No. 1-15-2695

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

MARGO STAPLES,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	No. 1988 L 18215
)	
NORTHWESTERN MEMORIAL HOSPITAL,)	
)	Honorable
Defendant-Appellee.)	Alexander White,
)	Judge Presiding.

JUSTICE CUNNINGHAM delivered the judgment of the court.
Presiding Justice Hoffmann and Justice Rochford concurred in the judgment.

ORDER

¶ 1 *Held:* Appellant's appeal is dismissed for lack of appellate jurisdiction as appellant did not file a timely notice of appeal.

¶ 2 *Pro se* plaintiff-appellant, Margo Staples (Staples), appeals the circuit court's order on September 16, 2015, which denied her motion to vacate the court's order on August 4, 2015 and which denied her sixth petition to revive a 1988 judgment entered against defendant-appellee, Northwestern Memorial Hospital (Northwestern). We find that Staples did not file a timely

notice of appeal from the January 6, 2015 final order that dismissed her first of six duplicative petitions. Therefore, we lack jurisdiction to consider the merits and dismiss this appeal.

¶ 3 BACKGROUND

¶ 4 On October 4, 1988, Staples filed a complaint against Northwestern and Dr. Jane Cullen (Dr. Cullen) alleging medical malpractice and seeking \$99,000,000 in damages. On December 13, 1988, upon Staples' motion, the trial court entered an order of default of liability against both Northwestern and Dr. Cullen, and scheduled a prove-up hearing for December 27, 1988. However, on December 22, 1988, the court granted Northwestern's motion to vacate the order of default entered on December 13, 1988.

¶ 5 On December 27, 1988, the court held that the December 13th order of default against Dr. Cullen was null and void because she had never been properly served. As a result, there were no monetary judgments entered in favor of Staples against either Northwestern or Dr. Cullen.

¶ 6 On February 3, 1989, Staples' cause of action was dismissed based on Northwestern's motion to dismiss for failure to comply with section 2-622 of the Code of Civil Procedure (735 ILCS 5/2-622 (West 2016)) (requiring a plaintiff in a medical malpractice action to attach an affidavit with specific declarations).

¶ 7 On March 29, 1993, the trial court dismissed Staples' cause of action for want of prosecution.¹

¹ The record is devoid of any pleadings explaining why this matter remained on the court's docket for four years, as the record files have since been destroyed in accordance with a retention period policy from the Administrative Office of the Illinois Courts. The record does reflect, however, that from 1993 to 1997, Staples pursued supplemental proceedings to try to enforce the vacated order of default from the December 13, 1988 court order. The parties engaged in additional motion practice throughout these years, although the record is unclear as to the substance.

¶ 8 On December 11, 2014, Staples filed a petition pursuant to section 2-1602 of the Code of Civil Procedure for revival of the December 13, 1988 vacated order of default on liability against Northwestern (735 ILCS 5/2-1602 (West 2016)). She provided no basis for the revival. On January 6, 2015, the trial court denied Staples' petition. Staples did not file a notice of appeal from that order.

¶ 9 Over the subsequent months, Staples filed several postjudgment motions, including a motion for permission to file a citation to discover assets, two citations to discover assets, and two motions for a rule to show cause against Northwestern. These motions were all dismissed on March 4, 2015 and April 16, 2015, respectively. The court also barred Staples from filing any further supplemental proceedings against Northwestern.

¶ 10 On May 6, 2015, Staples filed a second petition to revive the December 13, 1998 vacated order of default. She did not provide any new basis nor mention the January 6, 2015 order denying her first petition to revive the vacated judgment. On May 28, 2015, the court denied her second petition. The court further found that there was no judgment against Northwestern to be revived and entered an order barring Staples from pursuing further postjudgment proceedings against Northwestern.

¶ 11 Despite the admonitions from the court, Staples continued to file further, identical petitions to revive the vacated order from December 13, 1988, as well as additional citations and motions. The court continued to deny or strike the motions and petitions. On August 4, 2015, the court struck her third petition to revive the vacated judgment. None of the petitions or motions referenced the January 6, 2015 ruling which denied her original petition for revival of judgment, seeking the same relief.

¶ 12 On September 2, 2015, Staples filed her sixth, duplicative petition to revive the December 13, 1988 order of default, as well as a motion to vacate the August 4, 2015 order that struck her third petition for revival of the vacated judgment. Again, she provided no basis for the revival and she made no reference to the January 6, 2015 ruling. On September 16, 2015, the trial court denied both her motion to vacate and her sixth petition to revive the vacated judgment.

¶ 13 On September 16, 2015, Staples filed a notice of appeal from the September 16, 2015 order, stating in the notice, "I would like my motions to be allowed, and I would like to go to citation proceedings to get the judgment satisfied."

¶ 14 ANALYSIS

¶ 15 This court has an obligation to determine whether cases brought before us for resolution are within our jurisdiction. Accordingly, we first address whether we have jurisdiction to reach the merits of the case.

¶ 16 As set forth below, we find that Staples' failure to appeal the denial of her first petition to revive deprives us of jurisdiction to review the denial of her sixth petition to revive the vacated judgment.

¶ 17 Jurisdiction is conferred upon this court only through the timely filing of a notice of appeal. *Affordable Housing Preservation Foundation v. Williams*, 375 Ill. App. 3d 305, 307 (2007). See Ill. S. Ct. R. 303(a)(1) (eff. Jan. 1, 2015) (a notice of appeal must be filed within 30 days after entry of the final judgment appealed from). "A final judgment is defined as one that fixes the rights of the parties in the lawsuit; it is final if it determines the litigation on the merits and, if affirmed, leaves only the execution of the judgment." *In re D.D.*, 212 Ill. 2d 410, 418 (2004) (citing *In re J.N.*, 91 Ill. 2d 122, 127 (1982)).

¶ 18 We must first determine if and when there was a final and appealable judgment in this case. A ruling on a petition for revival of judgment is a final determination of the status of the judgment, as it disposes of all the issues between the parties. *In re Estate of Carlen*, 2015 IL App (5th) 130599, ¶ 16. Although Staples' notice of appeal challenges the September 16, 2015 order regarding her third and sixth petitions, the trial court denied her first petition for revival of the December 13, 1988 judgment on January 6, 2015. There were no remaining controversies between the parties following that order. The January 6, 2015 order was therefore the final and appealable judgment in this case. However, Staples did not file her notice of appeal until September 16, 2015, well beyond the 30 day time limit, making her appeal untimely for appellate jurisdiction pursuant to Ill. S. Ct. R. 303(a)(1) (eff. Jan. 1, 2015).

¶ 19 We must consider, though, whether Staples' subsequent trial court filings extended her time to file a notice of appeal from the January 6, 2015 order.

¶ 20 Rule 303(a)(1) states that a timely notice of appeal must be filed within 30 days of a final judgment, or "within 30 days after the entry of the order disposing of the last pending postjudgment motion directed *against that judgment or order*, irrespective of whether the circuit court had entered a series of final orders that were modified pursuant to postjudgment motions. [Emphasis added.]" Ill. S. Ct. R. 303(a)(1) (eff. Jan. 1, 2015). Nonetheless, parties cannot merely file successive and repetitive motions to defeat this rule and delay appeal. *Deckard v. Joiner*, 44 Ill. 2d 412, 418 (1970). Successive postjudgment motions do not extend the time within which to appeal. *Holloway v. Kroger Co.*, 253 Ill. App. 3d 944, 947 (1993).

¶ 21 In the months following the final judgment on January 6, 2015, Staples filed citations to discover assets, rules to show cause, and five additional section 2-1602 petitions to revive the December 13, 1988 vacated order of default. We have already concluded that the January 6,

2015 order settled the merits of controversy as it then existed between the parties. However, none of Staples' postjudgment motions or petitions even made reference to the January 6, 2015 order, let alone called for its reconsideration. Staples also did not include any new basis for a revival of judgment which had been vacated. Therefore, they were not directed against the January 6, 2015 final judgment, so as to toll the time for filing a notice of appeal, pursuant to Rule 3030(a)(1). Additionally, she never filed any notices of appeals following *any* of the orders denying the postjudgment pleadings, other than the September 16, 2015 order denying her sixth petition to revive the vacated judgment against Northwestern.

¶ 22 When confronted with similar circumstances in *Deckard*, our supreme court found that the successive and repetitive postjudgment motions were merely attempts to have the trial court review its own orders. *Deckard*, 44 Ill. 2d at 418. The supreme court held that such motions or petitions may not be utilized to toll the time for appeal. *Id.*

¶ 23 It is apparent to us that by filing successive postjudgment motions and additional petitions, which raised no new arguments, Staples did not extend the time to appeal. Her actions were simply not in accordance with either the supreme court rules on appellate jurisdiction or the goal of finality in trial court judgments. As Staples failed to timely file a notice of appeal or toll the time to file a notice of appeal following the January 6, 2015 final judgment, we lack jurisdiction to review that judgment or the subsequent denials of her successive petitions seeking the same relief.

¶ 24 **CONCLUSION**

¶ 25 For the reasons stated, we dismiss this appeal from the circuit court of Cook County for lack of appellate jurisdiction.

¶ 26 Appeal dismissed.