

No. 1-16-0010

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).

SHAHIDA FOZIA KHAN,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	No. 10 L 1210
)	
BRENDA CARSON,)	Honorable
)	Kathy M. Flanagan,
Defendant-Appellee.)	Judge, presiding.

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

ORDER

¶ 1 *Held:* We dismiss the appeal due to plaintiff's failure to comply with the rules of appellate procedure governing the requirements for appellate briefs.

¶ 2 Plaintiff Shahida Fozia Khan *pro se* appeals from a December 4, 2015, circuit court order denying her motion to reinstate this case. The circuit court found that it did not have jurisdiction because the matter was dismissed for want of prosecution for the sixth time on January 9, 2013, and that dismissal had never been vacated. We dismiss.

¶ 3 The record shows that on January 27, 2010, plaintiff *pro se* filed a complaint against defendant Brenda Carson for injuries plaintiff allegedly sustained in a January 28, 2008, car accident. The complaint was dismissed for want of prosecution (DWP) on May 4, 2010.

Thereafter, plaintiff retained counsel, who vacated the DWP and filed an amended complaint on

June 17, 2010. In October 2010, the case was again DWP'd and that DWP was later vacated. On January 6, 2012, plaintiff's retained counsel filed a motion to withdraw. While that motion was pending, plaintiff *pro se* filed several motions. On February 6, 2012, the court granted counsel's motion to withdraw and instructed plaintiff to file a supplemental appearance or retain counsel to do so.

¶ 4 When the matter was recalled for a status hearing on whether plaintiff had retained new counsel, it was continued until April 6, 2012. On that date, the case was DWP'd. Plaintiff successfully vacated that DWP. The case was then DWP'd several more times and plaintiff successfully vacated all of those DWP's while acting *pro se*. On January 9, 2013, the case was DWP'd for the sixth time.

¶ 5 On January 15, 2013, plaintiff *pro se* filed a "motion to allow continuation with conditions" in which she requested the court to vacate the January 9, 2013, DWP. On January 23, 2013, the matter, including plaintiff's motion, was continued to February 14, 2013, to allow plaintiff to retain counsel. On February 11, 2013, plaintiff *pro se* filed a motion to set aside the January 9, 2013, DWP order and the January 23, 2013, case management order.

¶ 6 On February 14, 2013, the court held a hearing on plaintiff's motion to vacate the January 9, 2013, DWP order. The matter was continued to February 21, 2013, on which date the court entered an order finding that plaintiff's former counsel had not waived its attorney fees, and ordered plaintiff to reimburse her former counsel's costs. The matter was set for status on May 21, 2013.

¶ 7 On March 22, 2013, plaintiff *pro se* filed a motion to set aside part of the February 21, 2013, order. On March 28, 2013, plaintiff *pro se* filed a motion to grant refunds, alleging that she

was qualified to sue as an indigent person and had received an order in September 2012, allowing her to do so. On April 5, 2013, the trial court denied plaintiff's pending *pro se* motions.

¶ 8 On May 3, 2013, plaintiff appealed from the court's February 21, 2013, and April 5, 2013, orders. On September 30, 2014, this court dismissed plaintiff's appeal for lack of jurisdiction after finding that the orders plaintiff appealed from were not final and appealable. See *Shahida Fozia Khan v. Brenda Carson*, 2014 IL App (1st) 131454-U.

¶ 9 On October 17, 2014, plaintiff *pro se* filed a "motion to request case management call." The court denied the motion on November 17, 2014. On December 4, 2014, plaintiff *pro se* filed a letter with the court, alleging that she understood the case to have been reinstated. On September 4, 2015, plaintiff *pro se* filed a "Motion to reinstate/continue the case and review of status." On September 21, 2015, plaintiff *pro se* filed a "Motion to reinstate/continue the case and review of status-refiling." On October 21, 2015, the trial court entered an order finding that plaintiff's motion to reinstate needed to be presented to the presiding judge of the Law Division and denied the motion without prejudice.

¶ 10 On October 30, 2015, plaintiff *pro se* filed a "Motion to reinstate/continue the case and review of status-updated 10/29." On December 4, 2015, the court denied plaintiff's motion to reinstate the case after finding that it did not have jurisdiction because the matter was dismissed for want of prosecution for the sixth time on January 9, 2013, and that dismissal had never been vacated.

¶ 11 On December 31, 2015, plaintiff *pro se* filed a notice of appeal from the orders entered on: February 21, April 5, and May 21 of 2013; November 17, 2014; and October 21, October 30, and Decemebr 4 of 2015. Although no brief was filed in response to this appeal, we may

consider the issue raised pursuant to the principles set forth in *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 131-33 (1976).

¶ 12 We initially note that plaintiff's brief fails to comply with several requirements of Illinois Supreme Court Rule 341 (Ill. S. Ct. R. 341 (eff. Feb. 6, 2013)). "Rule 341 governs the form and content of appellate briefs." *McCann v. Dart*, 2015 IL App (1st) 141291, ¶ 12. Rule 341(h) provides that all briefs should contain a statement of "the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment" and an argument "which shall contain the contentions of the appellant and reasons therefor, with citation of the authorities and the pages of the record relied on." Ill. S. Ct. R. 341(h)(6), (7) (eff. Feb. 6, 2013).

¶ 13 Here, without detailing the numerous shortcomings of plaintiff's brief, we point out that her statements of facts and argument are grossly inadequate. Plaintiff's brief provides little understanding of the case and does not cite to any pertinent legal authority. See *Gandy v. Kimbrough*, 406 Ill. App. 3d 867, 875 (2010) (this court is not a depository in which the burden of argument and research may be dumped); *People v. Hood*, 210 Ill. App. 3d 743, 746 (1991) ("A reviewing court is entitled to have the issues clearly defined with pertinent authority cited and is not simply a depository into which the appealing party may dump the burden of argument and research.").

¶ 14 It is well-settled, that plaintiff's *pro se* status does not relieve her of the obligation to comply with Rule 341. See *People v. Richardson*, 2011 IL App (4th) 100358, ¶ 12 (parties choosing to represent themselves without a lawyer must comply with the same rules and are held to the same standards as licensed attorneys); *In re Estate of Pellico*, 394 Ill. App. 3d 1052, 1067 (2009) ("*pro se* litigants are presumed to have full knowledge of applicable court rules and procedures and must comply with the same rules and procedures as would be required of

litigants represented by attorneys.”). Compliance with these procedural rules is mandatory and this court may, in its discretion, strike a brief and dismiss and appeal for failure to comply with Rule 341. *Dart*, 2015 IL App (1st) 141291, ¶ 12; *Alderson v. Southern Co.*, 321 Ill. App. 3d 832, 845 (2001). Here, in our discretion, we strike plaintiff’s brief and dismiss the appeal. See *Dart*, 2015 IL App (1st) 141291, ¶ 20.

¶ 15 That said, even if we were to reach the merits of the appeal, we would find that, given this prolonged litigation, the trial court did not abuse its discretion in denying plaintiff’s motion to reinstate the case. The record shows that plaintiff *pro se* filed this suit on January 27, 2010. As acknowledged by plaintiff in her one-page, handwritten complaint, this was the day before the Statute of Limitations would have expired. The complaint was DWP’d. Although plaintiff retained counsel, who vacated the DWP and filed an amended complaint, the case was again DWP’d and that DWP was later vacated. On January 6, 2012, plaintiff’s retained counsel filed a motion to withdraw and that motion was granted. In the subsequent months, the case was DWP’d several more times and plaintiff successfully vacated all of those DWP’s while acting *pro se*. On January 9, 2013, the case was DWP’d for the sixth time, and that DWP was never vacated. Given this procedural history, even if we were to consider this appeal on the merits, we would find that the trial court did not abuse its discretion in denying plaintiff’s motion to reinstate.

¶ 16 Appeal dismissed.