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THIRD DIVISION
June 20, 2018

No. 1-17-0078

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

JANE DOE,)	
)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County
)	
v.)	No. 13 L 11256
)	
JOHN DOE,)	The Honorable
)	John P. Callahan,
Defendant-Appellee.)	Judge Presiding.
)	

JUSTICE FITZGERALD SMITH delivered the judgment of the court.
Justices Howse and Lavin concurred in the judgment.

ORDER

¶ 1 *Held:* Where plaintiff failed to prove a genuine issue of material fact about whether sexual contact with defendant was a proximate cause of her infection with herpes virus or whether defendant knew or should of known of his infection as of the time he allegedly transmitted the infection to her, the trial court’s grant of summary judgment in favor of defendant was affirmed.

¶ 2 In this personal injury case, the trial court granted summary judgment in favor of the defendant on the plaintiff’s first amended complaint alleging that the defendant had wrongfully transmitted to her the herpes simplex virus type 2 (“HSV-2”), commonly known as genital

herpes. The basis of the trial court's ruling was the plaintiff's failure to show that a genuine issue of material fact existed on the elements of proximate causation and the defendant's knowledge of his HSV-2 infection at the time he allegedly transmitted it to the plaintiff. The plaintiff appeals, arguing that genuine issues of material fact existed and therefore summary judgment was inappropriate. For the following reasons, we affirm the judgment of the trial court.

¶ 3 The plaintiff and the defendant had been in a long-term intimate relationship since 1999, although they only married in September 2012. By July 2013, the defendant had filed a petition for dissolution of marriage, and the plaintiff filed a counter-petition for dissolution in August 2013. The plaintiff filed this lawsuit on October 10, 2013. The plaintiff initially filed it *pro se*, but soon thereafter counsel appeared on her behalf. Presently pending before the court is the plaintiff's first amended complaint, in which the plaintiff alleges that she was diagnosed with HSV-2 in October 2011. She alleges that the defendant was diagnosed with HSV-2 in 2005, and despite knowing of this diagnosis then, he did not disclose it to her. She alleges that, based on his failure to disclose his infection, as well as her own lack of knowledge of it, she continued to have sexual intercourse and genital-to-genital contact with him, and this is something she would not have consented to do if she had known of his infection with HSV-2. She alleges that she was infected with HSV-2 as a direct result of sexual contact with the defendant. Based on these facts, her first amended complaint seeks damages based on five theories of tort liability: (1) battery, (2) intentional infliction of emotional distress, (3) negligence, (4) fraudulent concealment, and (5) fraudulent misrepresentation.

¶ 4 In the defendant's answer to the first amended complaint, he denies that he was diagnosed with HSV-2 in 2005. He denies having any knowledge or reason to know of his infection with HSV-2 until late 2011 or early 2012. He denies that the plaintiff was infected with HSV-2 as a

direct result of sexual contact with him. The defendant also filed a counterclaim against the plaintiff, in which he alleges that it was in fact the plaintiff who transmitted HSV-2 to him. He alleges that he had no symptoms or reason to know of his HSV-2 infection until October 2011 when the plaintiff told him that she had been diagnosed with HSV-2, after which time he underwent a test and learned he was also infected. His counterclaim alleges that, prior to engaging in sexual contact with each other, both he and the plaintiff were married previously and had multiple prior sexual partners. He alleges that the plaintiff had over ten sexual partners prior to their first encounter in 1999, and that one of the plaintiff's other sexual partners transmitted the HSV-2 to her prior to 1999. In the plaintiff's answer to the counterclaim, she admits that she was previously married and had over ten sexual partners prior to first engaging in sexual contact with the defendant. She denies the allegation that one of her partners other than the defendant had transmitted the HSV-2 to her.

¶ 5 The parties proceeded to discovery. The court file reflects that both parties propounded a substantial amount of written discovery upon one another. Much of this discovery sought information about their respective sexual histories and partners prior to and outside of their relationship, which neither party was apparently willing to answer to the full satisfaction of the other. These efforts resulted in the filing of various motions and petitions concerning discovery noncompliance, including multiple motions for sanctions and petitions for contempt. The court file also reflects that between May and August 2014, the plaintiff issued ten subpoenas seeking medical records of or other health-related information about the defendant. We also observe that, during the discovery phase of this case, four different attorneys filed appearances on behalf of the plaintiff, and she ultimately proceeded *pro se* after March 28, 2016.

¶ 6 On May 19, 2016, the trial court entered an order setting the case for trial beginning

January 17, 2017. On June 13, 2016, the trial court entered two orders providing for the completion of discovery prior to trial. All depositions other than those of the parties' controlled expert witnesses were to be completed by September 10, 2016. The plaintiff was given a deadline of September 17, 2016 for the disclosure of any controlled expert witnesses, with their depositions to occur no later than October 17, 2016. The deadline for the defendant to disclose any controlled expert witnesses was also set for October 17, 2016, with their depositions to be completed by November 17, 2016. The second order entered on June 13, 2016, provided that the plaintiff was "precluded from supplementing any discovery answers or producing additional documents as of now." Neither the plaintiff nor the defendant ever disclosed any controlled expert witnesses, and it does not appear that either party took any depositions during the pendency of the case.

¶ 7 On November 18, 2016, the defendant filed a motion for summary judgment on all counts of the first amended complaint. The defendant argued that the plaintiff lacked any evidence to prove that sexual contact with him was a proximate cause of her infection with HSV-2, or to prove that he knew or should have known of his infection with HSV-2 as of the time the plaintiff alleges he transmitted it to her. The defendant supported this motion by filing his affidavit pursuant to Illinois Supreme Court Rule 191 (eff. Jan. 4, 2013). On November 30, 2016, the plaintiff filed a response to the defendant's motion for summary judgment. The plaintiff did not file any affidavits with her response brief. The contents and arguments of the defendant's motion and affidavit and the plaintiff's response brief are discussed in greater detail below.

¶ 8 On December 8, 2016, the trial court held oral argument. At the beginning of that hearing, the trial court offered both parties the opportunity to make any oral argument in support of their written briefs. Both parties declined the opportunity to make any statement. The trial court then

granted the defendant's motion for summary judgment on the plaintiff's first amended complaint. The defendant thereafter voluntarily dismissed his counterclaim. The plaintiff then filed this *pro se* appeal, arguing that genuine issues of material fact existed and therefore the trial court's grant of summary judgment in favor of the defendant was inappropriate.

¶ 9

ANALYSIS

¶ 10

Our review of the trial court's grant of summary judgment is *de novo*. *Home Ins. Co. v. Cincinnati Ins. Co.*, 213 Ill. 2d 307, 315 (2004). "Summary judgment is proper where, when viewed in the light most favorable to the nonmoving party, the pleadings, depositions, admissions, and affidavits on file reveal that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." *Id.*; 735 ILCS 5/2-1005(c) (West 2016). "Summary judgment is to be encouraged in the interest of prompt disposition of lawsuits, but as a drastic measure it should be allowed only when a moving party's right to it is clear and free from doubt." *Pyne v. Witmer*, 129 Ill. 2d 351, 358 (1989).

¶ 11

On appeal, the plaintiff devotes most of her argument to the question of whether the allegations of her first amended complaint state valid causes of action in tort for the defendant's wrongful transmission of HSV-2 to her. However, as this case comes to us on summary judgment, resolving the question of which counts of the first amended complaint state valid causes of action would not end our inquiry, if the plaintiff cannot also show that a genuine issue material fact exists as to each essential element of any valid cause of action. One essential element that the plaintiff would have to establish under any theory of tort liability is that sexual contact with the defendant was a proximate cause of her HSV-2 infection. "An essential element of a plaintiff's cause of action for any tort is that there be a proximate causal relationship between the act or omission of the defendant and the damages which the plaintiff has suffered."

Lewis v. Lead Indus. Ass'n, Inc., 342 Ill. App. 3d 95, 102 (2003).

¶ 12 A second element that the plaintiff would be required to establish under any theory of tort liability is that the defendant knew, or should have known, that he was infected with HSV-2 as of the time he transmitted it to her. “[I]n a negligence action, knowledge of the facts out of which the duty to act arises is essential.” *Turner v. Northern Illinois Gas Co.*, 401 Ill. App. 3d 698, 707 (2010) (quoting *Adams v. Northern Illinois Gas Co.*, 211 Ill. 2d 32, 48 (2004)). For an act or omission to be regarded as negligent, the defendant must have known, or ought to have known from the circumstances, that the allegedly negligent act or omission endangered another. *Id.* This statement is no less true with intentional torts than it is with negligence. Here, unless the defendant knew or had reason to know of his own HSV-2 infection, then his act of having sex with his longtime intimate partner, without warning her that he had HSV-2 or otherwise taking precautions against transmitting it to her, cannot be considered a negligent or tortious act. If the plaintiff is unable to show that a genuine issue of material fact exists as to either of these necessary elements of her cause of action, then summary judgment in favor of the defendant is proper. *Hussung v. Patel*, 369 Ill. App. 3d 924, 931 (2007).

¶ 13 In support of the defendant’s argument that the plaintiff lacked evidence with which to prove that sexual contact with him was the proximate cause of her HSV-2 infection, the defendant relied on the plaintiff’s interrogatory answers on file. In those answers, the plaintiff admitted to having ten sexual partners prior to her first encounter with the defendant, and to having unprotected sex with six of those men. She admitted she had lost contact with those men after she married. Based on this, the defendant argued, she would be unable at trial to rule out the possibility that any of these other men had HSV-2 and transmitted it to her. The defendant argued it would be impermissible “surmise and conjecture” for her to assert that her HSV-2

infection was caused by sexual contact with the defendant, instead of by one of these men.

¶ 14 In support of his argument that the plaintiff lacked evidence to prove that the defendant knew or should have known about his HSV-2 infection as of the time he allegedly transmitted it to her, the defendant filed an affidavit in which he stated that the plaintiff first told him of her diagnosis on October 10, 2011. He stated that this disclosure prompted him to see his own doctor to be tested for HSV-2, and that occurred on October 17, 2011. He attached to his affidavit lab results from that date indicating a “positive” result for HSV-2. He stated that it was only after his doctor informed him of the results of this test that he learned for the first time he was infected with HSV-2. He stated that prior to being told of these test results, he had no lesions or other symptoms of HSV-2 that led him to suspect that he could have been infected. He stated that no partner of his other than the plaintiff had displayed symptoms of herpes, informed him of a herpes infection, or given him any other reason to believe he could have been infected with herpes. Finally, he stated in his affidavit that his medical records do not disclose any symptoms of HSV-2, diagnosis of HSV-2, or testing of HSV-2 prior to the testing done on October 17, 2011. He supported this statement by attaching to his affidavit all of his medical records that had been produced by both parties in this case.

¶ 15 In the trial court, the plaintiff filed a response to the motion for summary judgment. The substance of her response brief was only about 2½ pages in length. She argued that the defendant had not shown the absence of a genuine issue of material fact, although she did not elaborate on this statement by discussing any facts specific to this case or to the defendant’s motion. She did not support this statement by filing any counteraffidavits, deposition testimony, admissions of the defendant, or other factually-supported documentation. She argued the defendant did not attach records or affidavits in support of his motion, that he failed to provide underlying facts

admissible in evidence, and that he failed to cite case law. Finally, she argued that discovery was still “ongoing,” and she expected additional discovery would result in additional information to support her claims, specifically concerning the defendant’s knowledge of his HSV-2 infection.

¶ 16 On appeal, the plaintiff argues that the trial court erred in its determination that no genuine issue of material fact existed as to whether sexual contact with the defendant was a proximate cause of her HSV-2 infection. In her brief, the plaintiff argues that she was exposed to HSV-2 during a specific sexual encounter with the defendant on or about September 18, 2011. She argues that the symptoms she developed in October 2011 were consistent with a primary outbreak of herpes, not a recurrence of a latent infection, and her medical records support the fact that she was free of infection with HSV-2 prior to this time. She argues she had no sexual partners other than the defendant during their relationship, and thus “but for” sexual contact with the defendant, she would not have contracted an HSV-2 infection.

¶ 17 She further argues on appeal that the trial court erred in concluding that no genuine issue of material fact existed as to the defendant’s knowledge of his HSV-2 infection as of the time he allegedly transmitted it to the plaintiff. She argues in her brief that, at trial, she could establish the defendant’s knowledge of his infection as of 2003 by calling a witness she identifies as “Jane Doe #2.” According to the plaintiff, Jane Doe #2 would testify that she also had been infected with HSV-2 from sexual contact with the defendant in 2003. The plaintiff argues she could corroborate this with her own testimony that she observed a suspicious cold sore on the defendant’s lip in 2003 and asked him what it was. She also argues that the defendant’s knowledge of his infection could be established by her testimony that she had frequently observed the defendant put alcohol and a bandage on what he told her was a cut on his lip, and, after her first outbreak of herpes, the defendant told her to treat it by putting alcohol on it. The

plaintiff would explain that she now believes those cuts on the defendant's lips were actually herpes sores, and the fact that he treated them in the same way he later advised the plaintiff to treat her own herpes outbreak is evidence that he had knowledge of his infection.

¶ 18 We are unable to consider these arguments on appeal by the plaintiff, because she did not present them to the trial court and support them with affidavits or other documentary evidence that the trial court could have considered as evidence on summary judgment. By failing to do this, there exists no evidence in the record that provides factual support for the plaintiff's arguments on appeal. "[U]pon appellate review of a summary judgment ruling, the appellant may only refer to the record as it existed at the time the trial court ruled, outline the arguments made at that time, and explain why the trial court erred in granting summary judgment." *Rayner Covering Sys., Inc. v. Danvers Farmers Elevator Co.*, 226 Ill. App. 3d 507, 509-10 (1992). Our consideration of the plaintiff's arguments on appeal is likewise limited to those which were made to the trial court at the summary judgment hearing. *Id.* at 511. In this case, the plaintiff's response brief in the trial court merely asserted that the defendant had not proven the absence of a genuine issue of material fact, without any elaboration of explanation of this statement. A mere assertion such as this is not sufficient to defeat a defendant's factually-supported motion for summary judgment. *Bank of America, N.A. v. Adeyiga*, 2014 IL App (1st) 131252, ¶ 69. Contrary to the plaintiff's assertion in her brief in the trial court, we find that the defendant's motion was sufficiently supported by factual documentation and applicable case law to shift the burden to the plaintiff to prove that there was no genuine issue of material fact. *Id.* "In the face of supporting affidavits from the moving party, the nonmovant must submit counteraffidavits (or refer to depositions or admissions on file) in order to raise an issue of fact sufficient to survive summary judgment." *Sacramento Crushing Corp. v. Correct/All Sewer, Inc.*, 318 Ill. App. 3d 571, 575

(2000); see also *Carruthers v. B.C. Christopher & Co.*, 57 Ill. 2d 376, 380 (1974). By failing to file any counteraffidavits with her response to the motion for summary judgment, or at least refer to deposition testimony or admissions on file, the plaintiff failed to raise any genuine issue of material fact before the trial court in response to the defendant's motion for summary judgment.¹

¶ 19 The consequence of the plaintiff's failure to file counteraffidavits is that the uncontested facts set forth in the defendant's affidavit must be accepted as true for purposes of deciding the motion for summary judgment, notwithstanding the fact that contrary assertions may appear in the plaintiff's pleadings or briefs. *Sacramento Crushing Corp.*, 318 Ill. App. 3d at 576; *Purtill v. Hess*, 111 Ill. 2d 229, 241 (1986). Thus, we must accept as true the defendant's statements in his affidavit that prior to October 10, 2011, he never knew he was infected with HSV-2, never experienced any symptoms that led him to suspect an infection, and never received information from any partner that would have put him on notice that he might have such an infection. We must further accept as true that the defendant's medical records do not disclose any symptoms of HSV-2, diagnosis of HSV-2, or testing of HSV-2 prior to the testing of October 17, 2011.²

¶ 20 Given the facts that we must accept as true, we conclude that the defendant is entitled to judgment as a matter of law on the basis that the plaintiff has failed to prove that a genuine issue

¹ In this court, the plaintiff filed an affidavit with her brief on appeal. This affidavit is a document that was never before the trial court, and thus we have not considered it in deciding this appeal. *Urban Sites of Chicago, LLC v. Crown Castle USA*, 2012 IL App (1st) 111880, ¶ 42.

² The defendant's medical records, which were apparently attached to the version of his affidavit that was submitted to the trial judge, are not included in the record on appeal. In place of the exhibit that is purportedly these medical records, the record on appeal contains only a page stating, "To Be Produced at Hearing." It is the appellant's burden to present a sufficiently complete record of the proceedings in the trial court to support a claim of error. *Midstate Siding & Window Co., Inc. v. Rogers*, 204 Ill. 2d 314, 319 (2003). We resolve against the appellant any doubts which may arise from the incompleteness of the record and presume the order entered had a sufficient factual and legal basis. *Id.* Especially in light of the plaintiff's failure to cite any contradictory evidence, we must assume that what was presented to the trial court supports this statement by the defendant about his medical records.

of material fact exists about whether the defendant knew, or should have known, that he was infected with HSV-2 prior to the time he transmitted it to her. As discussed above, establishing such knowledge would be essential for the plaintiff to successfully impose liability on the defendant for the otherwise non-negligent, non-tortious act of engaging in sex with a longtime intimate partner without warning her that he had HSV-2 or otherwise taking precautions against transmitting it to her. See *Turner*, 401 Ill. App. 3d at 707. Because the plaintiff failed to establish this element, the defendant is entitled to summary judgment.

¶ 21 We further conclude that the defendant is entitled to judgment as a matter of law on the basis that the plaintiff has failed to prove that a genuine issue of material fact existed about whether sexual contact with the defendant was a proximate cause of her HSV-2 infection. As discussed above, the plaintiff failed to submit any evidence of proximate causation to the trial court through an affidavit, deposition, or other documentary materials that the trial court could consider as evidence on summary judgment. Thus, the only evidence properly before the trial court on this issue was that prior to the start of her relationship with the defendant, the plaintiff had been married previously, she had over ten sexual partners, she had unprotected sex with six of these partners, and she had lost contact with them after her marriage. She would therefore be unable to call any of these men as witnesses at trial to rule out the possibility that one of them had transmitted the HSV-2 to her instead of the defendant. Faced with this evidence, the plaintiff failed to present any contrary evidence to the trial court that could have shown a genuine issue of material fact concerning proximate cause. She failed to provide the trial court with evidence consistent with what she argues in her brief on appeal, such as evidence about whether the defendant had been her only sexual partner since the two began their relationship. She provided no evidence to the trial court about how recently it could be shown that she was free of infection.

She provided no evidence that could establish that her outbreak of herpes in October 2011 was a new infection as opposed to a recurrence of a latent infection.

¶ 22 By failing to present any evidence that the trial court could consider on the issue of proximate causation, the plaintiff failed to establish a basis beyond “speculation, surmise, or conjecture” that could permit a trier of fact to conclude that the defendant’s conduct caused her injury. *Berke v. Manilow*, 2016 IL App (1st) 150397, ¶ 34. This is not a sufficient basis for establishing proximate cause. *Id.* Because the plaintiff failed to make any affirmative showing of proximate cause, summary judgment in the defendant’s favor was proper as a matter of law. *Hussung*, 369 Ill. App. 3d at 931.

¶ 23 The plaintiff raises several additional points on appeal, which we will briefly address. She first argues that the trial court erred in ordering the parties to proceed in this litigation using fictitious names. When the plaintiff initially filed this case, she did so using the parties’ real names. After the defendant was served, he filed a motion under section 2-401(e) of the Code of Civil Procedure arguing that the sensitive nature of the claims presented “good cause” for the parties to use fictitious names in the litigation. 735 ILCS 5/2-401(e) (West 2016). Although the record is somewhat unclear as to exactly what occurred, this motion was initially denied on May 4, 2014, by a judge sitting in place of the assigned motion judge. After that occurred, though, the plaintiff, through her attorneys, stated in a brief filed May 20, 2014 that the “plaintiff does not object to proceeding under fictitious names or to the court impounding its file.” Then, on June 18, 2014, the assigned motion judge entered the order finding good cause for the parties to proceed using fictitious names. That order reflected that it was unopposed by the plaintiff. The plaintiff’s specific argument on appeal is that the assigned motion judge acted improperly by reversing the ruling of the substitute judge sitting in his place, when the court was presented with

no change in circumstances or additional facts that would warrant reversal. We disagree with the plaintiff and find no error. The plaintiff agreed through her attorneys to the entry of this order, and she cannot now claim it was erroneous. Moreover, the plaintiff's agreement to proceed using fictitious names was itself a change in circumstances that justified the trial court's granting of the motion despite previously denying it. Finally, the question of whether good cause existed for the parties to use fictitious names is a matter vested with the discretion of the trial court, and we find no abuse of that discretion under the facts of this case. *Doe v. Northwestern Memorial Hosp.*, 2014 IL App (1st) 140212, ¶ 36.

¶ 24 The plaintiff next argues that the trial court erred when it struck the word "assault" from the title of the first count of her original complaint (titled "assault and battery"). This was done pursuant to a motion to strike by the defendant under section 2-615 of the Code of Civil Procedure. 735 ILCS 5/2-615 (West 2016). When the plaintiff filed her first amended complaint, she titled her first count "battery." However, substantively the allegations of the first count of the first amended complaint were materially identical to the allegations in the first count of her original complaint. Thus, the plaintiff was fully allowed to proceed to litigate the substantive allegations of her first count, regardless of its title. We thus find that the plaintiff suffered no prejudice by the striking of the word "assault" from the title of the first count.

¶ 25 The plaintiff next argues that the trial court erred in entering an order that "[a]ny and all court filings in the present matter are to contain no reference to any disease other than HSV-2." This order was entered in response to a motion by the defendant seeking this relief, after the plaintiff had repeatedly mentioned in court filings various medical conditions of a serious and sensitive nature, other than HSV-2, which she alleged the defendant also had. The court had previously granted the defendant's section 2-615 motion to strike allegations from the original

complaint concerning these other conditions and directed the plaintiff not to include references to them in her first amended complaint. In this case, HSV-2 was the only infection or condition that the plaintiff was alleging that the defendant had transmitted to her. Given that the parties were going through a divorce at the time this order was entered, as well as the nature of the medical conditions at issue, we do not find any abuse of discretion by the trial court in entering this order. We further observe that the plaintiff does not appear to have been particularly constrained by the order of which she complains, as she found various ways to reference these other conditions in her court filings without mentioning them by name. We thus conclude that the plaintiff has not shown that this order caused her any prejudice in the ability to fully present her case.

¶ 26 The plaintiff's last argument on appeal is that we should apply a standard of strict liability to govern claims involving the wrongful transmission of sexually-transmitted diseases. After this appeal was docketed, the plaintiff filed a motion in this court seeking leave to file a second amended complaint adding a count based on strict liability, which we denied. Given this, we have no basis or reason to reach this argument on appeal.

¶ 27 Finally, the plaintiff argues for the first time in her reply brief that the trial court did not give her sufficient time to respond to the defendant's motion for summary judgment before deciding the motion. The plaintiff did not argue this point in her opening brief, and therefore this argument is forfeited. Ill. S. Ct. R. 341(h)(7) (eff. May 25, 2018) ("Points not argued [in the opening brief] are forfeited and shall not be raised in the reply brief ***").

¶ 28 **DEFENDANTS' MOTIONS FOR SANCTIONS**

¶ 29 During the pendency of this appeal, the defendant filed two motions for sanctions against the plaintiff, which we agreed to resolve with the case. It is the defendant's position that the plaintiff should be sanctioned for willfully violating the rules and orders of this court by

mentioning in her court filings the defendant's medical conditions other than HSV-2 and the parties' real names. The defendant argues that the plaintiff's only purpose in doing so is to harass and humiliate the defendant, her ex-husband.

¶ 30 Illinois Supreme Court Rule 375(a) (eff. Feb 1, 1994) provides that “[i]f after reasonable notice and an opportunity to respond, a party *** is determined to have wilfully failed to comply with the appeal rules, appropriate sanctions may be imposed upon such a party *** for the failure to comply with these rules.” Sanctions may be awarded against *pro se* appellants “under sufficiently egregious circumstances.” *Parkway Bank & Trust Co. v. Korzen*, 2013 IL App (1st) 130380, ¶ 87. Whether to impose sanctions under Rule 375 is a matter entirely in the discretion of the reviewing court. *Id.*

¶ 31 In the exercise of that discretion, we decline to impose sanctions on the plaintiff in this case. We are mindful of the fact that we previously granted the defendant's motion to restrict access to the record and all filings in this court to the parties, their attorneys, and court personnel involved in deciding this appeal. It does not appear that the plaintiff's filings in this court contained any new information about the parties' names or medical conditions that was not contained in the court record from the time the plaintiff filed her original complaint in the trial court. Thus, any harm the defendant suffered from the plaintiff's filings in this court was negligible. Further, we find that it was helpful to our full understanding of the issues on appeal to know about the related medical conditions the defendant has, which he admitted in his pleadings. We do not find that these other medical conditions were so irrelevant to the issues involved in this case that the plaintiff should be sanctioned for mentioning them in her court filings.

¶ 32 CONCLUSION

¶ 33 In conclusion, we affirm the judgment of the trial court granting summary judgment in

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favor of the defendant on the plaintiff's first amended complaint at law. We deny the two motions for sanctions filed by the defendant.

¶ 34 Affirmed.