

2019 IL App (1st) 181476-U
No. 1-18-1476, 1-18-2089, and 1-19-1035, cons.
Order filed September 26, 2019

FOURTH DIVISION

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

CHRISTOPHER STOLLER and)	Appeal from the Circuit Court
MICHAEL STOLLER,)	of Cook County.
)	
Plaintiffs,)	
)	
v.)	
)	No. 2017 L 6178
WESLEY TERRACE CONDOMINIUM)	
ASSOCIATION; RELIABLE)	The Honorable
MANAGEMENT REALTY, LTD;)	Jerry A. Esrig,
KLOVITS SHIFRIN NESBIT;)	Judge, presiding.
CASSIDAY SCHADE, LLC;)	
ALL AMERICAN)	
ATTORNEY SERVICES; MANUAL)	
CARRASCO; JACK KUBLY; and)	
PARTNERS, ASSOCIATES,)	
DIRECTORS and MEMBERS OF)	
DEFENDANTS and OTHER)	
UNKNOWN DEFENDANTS,)	
)	
Defendants)	
)	
(Christopher Stoller,)	
PlaintiffAppellant).)	

PRESIDING JUSTICE GORDON delivered the judgment of the court.
Justices Lampkin and Burke concurred in the judgment.

ORDER

¶ 1 *Held:* The scrivener's error of stating "Wesley Court" rather than "Wesley Terrace" did not detract from the clarity or the force of the trial court's order, when there was only one "Wesley" defendant in the lawsuit, when all the parties understood who the one "Wesley" defendant was, when no party suffered any prejudice from the error, and when this was merely one order in a long line of interlocutory orders, in litigation that continued for at least another year.

¶ 2 In the case at bar, plaintiffs Christopher and Michael Stoller alleged a breach of the warranty of habitability against their landlord, defendant Wesley Terrace Condominium Association and the landlord's building manager, Reliable Management Realty, Ltd. Plaintiffs admitted that they withheld rent as a result of the landlord's alleged breach. Plaintiffs also alleged a conspiracy to defraud on the part of the process servers and law firms who represented and worked for the defendant landlord and management company.

¶ 3 The trial court dismissed their complaint on the ground that plaintiffs had filed an almost-identical complaint that was still pending. Although the trial court had granted plaintiffs' motion to voluntarily dismiss the prior suit, plaintiffs had failed to pay the costs of that prior suit, as ordered by the trial

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court and statutorily required for a voluntary dismissal. 735 ILCS 5/2-1009 (West 2018).¹

¶ 4 With respect to the current suit, the trial court also ordered the payment of attorney fees and costs. For the following reasons, we affirm the trial court.

¶ 5 BACKGROUND

¶ 6 I. Trial Court

¶ 7 A. Plaintiffs' Complaint

¶ 8 On September 5, 2017, plaintiffs Christopher Stoller, 68, and Michael Stoller, 26,² filed a complaint *pro se* against their landlord and others. Plaintiffs Christopher and Michael Stoller allege, among other things, that they are disabled; that their landlord, the Wesley Terrace Condominium Association (WTCA), breached an implied warranty of habitability and attempted to defraud them out of their lease in defendant WTCA's building; and that, as a result, plaintiffs have not paid rent.

¶ 9 The complaint alleges that plaintiffs Christopher and Michael Stoller reside at the WTCA property in Oak Park, Illinois; that defendant WTCA has

¹ "The plaintiff may, at any time before trial or hearing begins, upon notice to each party who has appeared or each such party's attorney, *and upon payment of costs*, dismiss his or her action or any part thereof as to any defendant, without prejudice, by order filed in the cause." (Emphasis added.) 735 ILCS 5/2-1009 (West 2018).

² The complaint, at points, seems to include Leo Stoller, age 70, also as a plaintiff.

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its principal place of business in Oak Park, where the property is located; that defendant Reliable Management, Ltd. (Reliable), is a partner of WTCA and manages the subject property; that defendant Kovitz Shifrin and Nesbit and defendant Cassidy Schade, LLC, are law firms who represent WTCA and who aided and abetted WTCA's discrimination against plaintiffs; and that defendants All American Attorney Services and process servers Manuel Carrasco and Jack Kubly aided and abetted the other defendants by conspiring to and engaging in notary fraud.

¶ 10 The complaint alleges that plaintiffs made numerous complaints to defendants WTCA and Reliable regarding the lack of smoke detectors, hanging electrical wires, broken drain pipes and bug infestation; that defendants WTCA and Reliable failed to fix the problems; and that plaintiffs have withheld their rent because defendant WTCA and defendant Reliable breached their warranty of habitability.

¶ 11 The complaint alleges that Michael Stoller moved into the WTCA property in 2015; that defendant WTCA told Christopher Stoller "that his disabled nephew Michael would not be allowed to live" at the subject property "on account of his disability"; and that Michael Stoller has been "unlawfully deprived of using the common areas of the apartment complex," such as "the community room and the laundry room."

¶ 12 The complaint alleges that in 2015 and 2016, plaintiffs were "falsely accused by [d]efendants of not cooperating with the maintenance division by not allowing access to their apartment"; and that, on February 3, 2016, defendant WTCA sent a letter to Christopher Stoller threatening to terminate his lease, although his rent was current and the lease was valid through October 2016. The letter included a "Landlord's 5 Day Notice" to plaintiffs. Defendant WTCA then "filed a fraudulent eviction lawsuit" against plaintiffs, and the trial court granted plaintiffs' motion for sanctions, after observing that plaintiffs had a lease agreement commencing on November 1, 2015, through October 31, 2016.

¶ 13 The complaint alleged that defendants then refused to renew plaintiffs' lease.

¶ 14 The numerous counts alleged in the complaint include: "Malicious Abuse of Process," "Harassment," "Violation of Prohibition on Retaliatory Conduct by a Landlord," "Willful and Wanton Misconduct/Negligence," "Aiding and Abetting," "Negligent Hiring and Supervision as to Defendant Reliable," "Failure to Comply with Applicable Law," "Fraud," "Conversion," "Intentional Infliction of Emotional Distress," "Discrimination against an Adult/Child," "Landlord Abused the Right of Access to Plaintiff's Apartment," "Defendants violated their Responsibility to Maintain," "Violation of

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Residential Landlord and Tenant Ordinance," "Material Noncompliance" with the Oak Park Municipal Code, "Equitable Estoppel," "Promissory Estoppel," "Tortious inducement of Breach of Fiduciary Duties," "Civil Conspiracy," "Tortious Interference with Contract," and additional counts.

¶ 15

B. Defendants' Motion to Dismiss

¶ 16

On October 6, 2017, defendants moved to dismiss the complaint on the ground that, on February 29, 2016, plaintiffs had filed a "virtually identical case, [*Stoller v. Wesley Court Condominium*,] Case No. 2016 L 002135 [(Cir. Ct. Cook Co.)] ('Stoller I') against most of the same defendants based on the same set of facts." On August 4, 2016, the trial court had granted plaintiffs' motion to voluntarily dismiss Stoller I, but the order granting plaintiff's motion also scheduled a hearing on August 22, 2016, on defendants' motion for costs. On August 22, 2016, the trial court's order granted defendant's motion for costs, and specified the amounts that plaintiffs had to pay defendants, and stated: "Upon payment of costs, case shall be voluntarily dismissed." After plaintiffs filed a motion to vacate, the trial court reduced the amount owed on September 8, 2016.³

³ Plaintiffs filed three separate notices of appeal in Stoller I, with the last one filed on February 1, 2017. The first notice of appeal, dated May 24, 2016, stated that it appealed the denial on May 24, 2016, of plaintiffs' motion for a "TRO and preliminary injunction." The second notice, dated September 8, 2016, stated that it appealed the order of the same date which directed the payment of costs to

¶ 17 Defendants' motion to dismiss in the instant case alleged that, as of the date of the motion, plaintiffs had not tendered any costs. Defendants sought to dismiss the present case, or Stoller II (No. 2017 L 6178), on the ground that Stoller I was still pending in the trial court, since the voluntary dismissal was to become effective only upon the payment of costs.

¶ 18 C. Defendants' Motion for Sanctions

¶ 19 On October 10, 2017, defendants also moved for sanctions, claiming that plaintiffs have "a long history of filing frivolous lawsuits against parties, and their attorneys," in Chicago and in other jurisdictions. Defendants alleged that, in the case at bar, in addition to filing frivolous claims against defendants' attorneys, plaintiffs also encumbered the property rights of individual unit owners by filing *lis pendens* notices in each of the units' property records at the Office of the Cook County Recorder of Deeds. Defendants alleged that "[p]laintiffs' *modus operandi* is to draw out each case in an effort to compel capitulation by the defendants they harass by making liberal use of *lis pendens*, motions for temporary restraining orders, requests for leave to appeal, notices of appeal, requests for stays, ARDC complaints and motions for substitution of judge."

defendants. The third notice, dated February 1, 2017, appealed the order of the same date which denied plaintiffs' motion for substitution of judge and continued plaintiffs' motion for a stay pending appeal.

¶ 20 Defendants' sanctions motion alleged that, shortly after moving into the subject property, plaintiffs stopped paying rent for their unit, which caused WTCA to file an action (*WTCA v. Stoller*, 16 M4 881) (the landlord action) that is still pending in the Fourth Municipal District. Then plaintiffs filed *Stoller I*, where defendants are still waiting for plaintiffs' payment of costs. Next plaintiffs filed *Stoller II*, the current case.

¶ 21 Defendants' sanctions motion alleged that, in connection with the original landlord action (No. 16 M4 881), defendant WTCA issued a "five days' notice" to plaintiff Christopher Stoller seeking past-due rent. On February 29, 2016, defendant WTCA filed a forcible entry and detainer action against Christopher and Michael Stoller, alleging past due rents in the amount of \$2252.28 (the landlord action). On the same day, February 29, 2016, plaintiffs filed *Stoller I*. On May 24, 2016, plaintiffs filed a motion for a temporary restraining order and a preliminary injunction to stay the landlord action. Plaintiff later filed the complaint in *Stoller II*, as well as three notices of appeal in *Stoller I*, which were already discussed above. *Supra* ¶¶ 8, 16 n.3. Also as noted, plaintiffs filed *lis pendens* notices against each individual unit with respect to the case at bar. On August 30, 2017, the trial court granted defendants' motion to release the *lis pendens*. During the argument on the motion to release, the trial court referred to the *lis pendens* notices as "atrocious" conduct.

¶ 22

D. Plaintiffs' Response

¶ 23

On November 2, 2017, plaintiffs responded to defendants' motion for sanctions and cross-moved for sanctions based on defendants' allegedly "frivolous" motion to dismiss. Plaintiffs argued that defendants' motion was based on the assertions that *Stoller I* and *Stoller II* are substantially the same action and that *Stoller I* is still pending. Plaintiffs argued that the latter assertion is false, thereby rendering defendants' motion "frivolous."

¶ 24

E. February 15, 2018, Order

¶ 25

On February 15, 2018, the trial court issued a memorandum order, which is one of the orders at issue on this appeal. In the order, the trial court observed that plaintiffs had moved to voluntarily dismiss *Stoller I* on August 4, 2016, pursuant to section 2-1009 of the Illinois Code of Civil Procedure (735 ILCS 5/2-1009 (West 2018)), which permits plaintiffs to voluntarily dismiss their case, but only upon payment of costs. The trial court found that *Stoller II* "represents another action pending between the same parties for the same cause" as *Stoller I*. Thus, the trial court found that "plaintiff's right to file this case, which is essentially a re-filing of *Stoller I*, depends entirely upon whether the costs of *Stoller I* were paid prior to the filing of *Stoller II*." As a result, the trial court ordered "plaintiffs to provide, within 14 days, evidentiary proof that the costs were paid prior to the filing of *Stoller II*."

¶ 26 F. More Motions and Orders

¶ 27 On February 20, 2018, plaintiffs moved to stay the February 15 order on the ground that: "The matter of whether Stoller has an obligation to pay the said costs is now up on appeal [in] Case No. 16-1451 and is fully briefed waiting for decision." However, on May 11, 2018, this court dismissed defendant's appeal 1-16-1451 "due to plaintiff's failure to comply with the rules of appellate procedure governing the requirements for appellate briefs." *Stoller v. Wesley Court Condominium*, 2018 IL App (1st) 161451-U, ¶ 1.

¶ 28 On March 6, 2018, the trial court denied plaintiff's motion for a stay and granted defendants' motions to dismiss and for sanctions, and directed defendants to submit a petition for attorneys' fees. That same day, plaintiffs filed a notice to appeal the March 6, 2018, order. On March 27, 2018, defendants submitted a petition for attorneys' fees, pursuant to "the enclosed table of attorneys' fees and costs. Exhibit A." The fees on Exhibit A totaled \$20,456.⁴ On April 23, 2018, plaintiffs also filed a motion for sanctions.

¶ 29 On May 29, 2018, the trial court ordered plaintiffs to obtain attorneys in 28 days "or the Court will entertain appt. of a guardian ad litem." On June 25, 2018, an attorney entered an appearance for plaintiffs. On July 11, 2018, the

⁴ Defendants also filed a motion for a protective order with respect to Exhibit A, alleging that it contained "confidential proprietary information." The motion for a protective order was denied on April 3, 2018.

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trial court entered an order denying plaintiffs' motions (1) to vacate the trial court's February 15 and March 6 orders; and (2) to stay their enforcement pending plaintiffs' appeal. As noted above, this court had already dismissed the appeal two months earlier, on May 11, 2018. *Stoller*, 2018 IL App (1st) 161451-U, ¶ 1.

¶ 30 On July 11, 2018, the trial court also amended its March 6, 2018, sanctions order "to only be granted as to Christopher Stoller." The trial court found "that to the extent the complaint named Michael Stoller as a plaintiff in this case, Michael Stoller did not have the capacity to file this cause in his own name and to the extent the suit was filed by Christopher Stoller on Michael Stoller's behalf, it was improper as Christopher Stoller did not have proper capacity to do so." The trial court further stated: "To the extent [that] Christopher Stoller did bring the suit on Michael Stoller's behalf, the Court finds it was done in [an] attempt to [de]fraud the court." On the same day, July 11, plaintiffs filed a notice to appeal the July 11 orders. The notice was signed by Christopher Stoller and by Leo Stoller as guardian for Michael Stoller.

¶ 31 The trial court then entered an order barring Christopher, Michael and Leo Stoller "from filing any future motions or pleadings in this case" unless they were signed by an attorney of record who had filed an appearance for them. On August 13, 2018, Leo Stoller, age 72, represented by counsel, filed

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motions (1) for substitution of judge as the father and legal guardian of Michael Stoller, age 26; (2) to transfer the case to the elder division; and (3) for an evidentiary hearing on defendants' fees. On August 13, 2018, the trial court entered an order striking all three motions because they were "improperly noticed for hearing." The order also directed defendants to add to the fee petition the fees and costs for the attorneys attending "this morning."

¶ 32 Plaintiffs again filed a motion for substitution of judge, as well as other motions. On September 4, 2018, the trial court entered an order denying the motion for substitution of judge; denying the motion for an evidentiary hearing, with respect to pre-hearing discovery; denying the motion to strike the fee petition; continuing Leo Stoller's motion to strike him from the proceeding; and scheduling an evidentiary hearing on sanctions for September 21, 2018. Plaintiffs, of course, immediately filed a notice to appeal the order on the same day and filed another motion for substitution of judge on September 18, 2018.

¶ 33 On September 21, 2018, the trial court entered a written order, stating that "[a]ll rulings are reflected in [the] report of proceedings." (However, a report of proceedings was not filed in this case.) On September 25, 2018, plaintiff Christopher Stoller filed a notice of appeal. However, the September 21 order attached to the notice of appeal is unsigned and is very different from the September 21 order appearing earlier in the record, which is signed. The

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order attached to the notice does not state that the rulings are reflected in the transcript and states instead that "all of plaintiffs' motions are denied." Also on September 25, 2018, Leo Stoller filed a motion to stay proceedings pending appeal.

¶ 34 On September 26, 2018, the trial court entered an order striking the September 25 filings, because: "As all parties are aware, the purported order attached thereto was never entered by the court and was erroneously stamped by the clerk." In response, Leo Stoller filed a motion claiming that the trial court had no authority to interfere, since a notice of appeal had already been filed. Stoller had also filed a motion for a stay pending appeal of the September 21 order, which was denied on October 13, 2018.

¶ 35 On October 19, 2018, defendants filed their closing brief for sanctions, arguing: "The evidence presented at the September 21, 2018 hearing and perhaps more blatantly, the conduct of Leo Stoller and [his] attorney [Philip] Kiss at the hearing, plainly demonstrate a deliberate and willful disregard for this Court's authority. Moreover, the conduct did not stop there, but has continued with actions such as a threatened complaint against Judge Esrig with the judicial inquiry board. Most recently, on October 16, 2018, Leo Stoller, presented a motion to stay this Court's further proceedings based upon a notice of appeal from an order that Leo Stoller and Philip Kiss know full well was

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never entered by this Court." Attached to the brief was an order, dated March 8, 2007, issued by the "Executive Committee" of the "United States District Court[,] Northern District of Illinois[,] Eastern Division," enjoining Leo Stoller from filing any new civil action in that court without first obtaining leave to file. The order articulated the procedure for him to follow to obtain leave. On October 19, 2018, defendants also filed an updated petition for attorney fees and costs, with updated spreadsheets. Exhibit A, which was a spreadsheet detailing the fees and costs incurred in representing defendants WTCA and Reliable, totaled \$33,596.50. Exhibit B, which was a spreadsheet detailing the fees and costs incurred in representing defendant Cassidy Schade, LLC, totaled \$10,385.

¶ 36

On October 22, 2018, Leo Stoller responded with his own motion for sanctions. Attached to his response was an order, dated October 29, 2012, by the Seventh Circuit Court of Appeals, stating: "On December 4, 2009, we imposed a filing bar *** directing the clerks of all federal courts in this circuit to return unfiled any papers submitted either directly or indirectly by Leo D. Stoller in civil cases." The 2012 order lifted the filing bar, stating that "Stoller, however, is warned that any repeat of the conduct that led to the filing bar will result in its reinstatement." However, the order found "that Leo D. Stoller is not

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permitted to proceed in forma pauperis in any federal court in this circuit under any circumstances."

¶ 37 On October 23, 2019, counsel moved to withdraw as attorney for Michael Stoller. However, on November 6, 2018, the trial court issued a written order denying his motion "for the reasons stated on the transcript of proceedings." The record before us does not contain a transcript of proceedings.

¶ 38 On November 15, 2018, the trial court entered an order continuing defendants' petition for fees and costs and plaintiffs' motion for sanctions, and setting a "case management conference" on January 4, 2019. The order noted that, if an order disposing of the issues had "been entered before that date, no appearance by counsel will be necessary." On January 4, 2019, the trial court entered a "Case Management Order," stating that "CMC," or case management conference, was "previously stricken."

¶ 39 On January 7, 2019, plaintiff Christopher Stoller, acting *pro se*, submitted a request for preparation of the record on appeal. For his address, he provided the unit number of his residence in defendant WTCA's building, indicating that he still resided there. The January 7, 2019, request for preparation of the record is the last document that appears in the common law record before us; and no report of proceedings was ever filed in this appeal.

¶ 40

II. This Appeal

¶ 41

In this appeal (1-18-1476), the notice of appeal stated that it appealed "the final judgments of Judge Esrig issued on July 11 2018 attached hereto." The "relief sought" was the "reversal of Judge Jerry Esrig's Final Order dated Feb. 15, 2018, March 6, 2018 and July 11 2018." On July 31, 2018, this court granted plaintiff Christopher Stoller leave to proceed *in forma pauperis* in this appeal (1-18-1476). On August 23, 2018, this court dismissed for want of prosecution another appeal (No. 1-18-0460) by plaintiffs from the same trial court case, 2017 L 6178. On September 17, 2018, this court denied plaintiff Christopher Stoller's "Emergency" motion to stay this appeal (1-18-1476).

¶ 42

On December 12, 2018, this court consolidated appeal nos. 1-18-1476 and 1-18-2089, which are—like the appeal we dismissed for lack of prosecution—also both appeals from the trial court's 2017 L 6178. The notice of appeal in 1-18-2089 added to the list of orders already appealed from, the order dated September 21, 2018, which is the order that the trial court found that it had never entered. We ordered the clerk of the circuit court to prepare a single consolidated record for both appeals (nos. 1-18-1476 and 1-18-2089) and granted an extension of time to file the record.

¶ 43

On February 19, 2019, the record in this appeal was filed in this court. On April 25, 2019, plaintiff Christopher Stoller, acting *pro se*, filed an

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appellant's brief. On May 5, 2019, an attorney filed an appearance for plaintiff Michael Stoller, but did not file a brief or join in the appellant's brief.

¶ 44 On May 11, 2019, plaintiff Christopher Stoller moved for leave to file an amended notice of appeal in this appeal (1-18-1476), stating that the trial court had issued an order on May 10, 2019, that "terminates the litigation between the parties on the merits and disposes of the rights of the parties, on the entire controversy." This court denied the motion, stating that "[t]o appeal the order of May 10, 2019, a separate notice of appeal must be filed in the circuit court" and that an "additional record, including material not in the record that has already been filed, will also be required."

¶ 45 On June 6, 2019, this court granted plaintiff Christopher Stoller's *pro se* motion to consolidate appeal no. 1-19-1035 into the previously consolidated appeal nos. 1-18-1476 and 1-18-2089. We found: "The record already filed in appeal no. 1-18-1476 shall stand as the record in all three appeals. If any party wishes to supplement the record with materials not already included in that record, the party should file a motion requesting leave to file a supplemental record *instanter*, submitting the certified supplemental record along with that motion." We also granted his motion to file an amended brief. The notice of appeal for appeal no. 1-19-1035 added to the list of previously appealed trial

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court orders, the orders dated August 13, 2018, September 23, 2018, and May 10, 2019.

¶ 46 On August 7, 2019, on this court's own motion, we took these consolidated appeals for consideration on the appellant's brief only. The only brief submitted on appeal is from plaintiff Christopher Stoller, appearing *pro se*.

¶ 47 ANALYSIS

¶ 48 In his brief to this court, plaintiff Christopher Stoller raises claims with respect to the trial court's orders entered February 15, 2018; March 6, 2018; July 11, 2018; and May 10, 2019.

¶ 49 First, we observe that the May 10, 2019, order is not in the common law record that we received from the circuit court. "It is the appellant's burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and any doubts that may arise from the incompleteness of the record will be resolved against the appellant." *In re Linda B.*, 2017 IL 119392, ¶ 43.

¶ 50 In the appeal at bar, we permitted the appellant to consolidate appeals from subsequent orders, but warned him repeatedly that he needed to ensure the completeness of the record on appeal. For example, when plaintiff Christopher Stoller moved for leave to file an amended notice of appeal on the ground that the trial court had issued an order on May 10, 2019, that "terminates the

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litigation between the parties on the merits and disposes of the rights of the parties, on the entire controversy," we denied his motion, but instructed him on exactly what he needed to do. We explained that, "[t]o appeal the order of May 10, 2019, a separate notice of appeal must be filed in the circuit court" *and* that an "additional record, including material not in the record that has already been filed, will also be *required*." (Emphasis added.)

¶ 51 When we granted his motion to consolidate, we found: "The record already filed in appeal no. 1-18-1476 shall stand as the record in all three appeals. If any party wishes to supplement the record with materials not already included in that record, the party should file a motion requesting leave to file a supplemental record *instanter*, submitting the *certified* supplemental record along with that motion." (Emphasis added.)

¶ 52 The facts of this case illustrate the wisdom of relying only on a certified record, received directly from the circuit court. In the case at bar, the appellant, Christopher Stoller, filed a notice of appeal from an order that the trial court found that it had never entered.

¶ 53 As we noted above, on September 21, 2018, the trial court held an evidentiary hearing and entered a written order, stating that "[a]ll rulings are reflected in [the] report of proceedings." However, instead of ensuring that a report of proceedings was included with the record, plaintiff Christopher Stoller

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chose instead to file a notice of appeal with a different order attached. The September 21 order attached to his notice of appeal is unsigned and is very different from the actual, signed September 21 order in the record. The order that plaintiff Christopher Stoller attached to his notice omits any reference to the rulings reflected in the transcript, but instead states that "all of plaintiffs' motions are denied." On September 26, 2018, the trial court found: "As all parties are aware, the purported order attached thereto was never entered by the court and was erroneously stamped by the clerk."

¶ 54

These events illustrate the wisdom of relying on only a certified record—particularly in this case. The appellant failed in his burden to provide a complete record from which we can resolve his claims concerning the May 2019 order—namely, the complete lack of a certified record with the order itself—therefore, we must presume that the trial court's order is correct and affirm it. In the absence of a sufficiently complete record on appeal, a reviewing court will "presume[] that the order entered by the trial court was in conformity with law and had a sufficient factual basis." *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). See also *People v. Chatman*, 2016 IL App (1st) 152395, ¶ 66; *Webster v. Hartman*, 195 Ill. 2d 426, 432 (2001) (on appeal, the appellant has the burden to present a sufficiently complete record).

¶ 55 We now turn to the other orders, which were entered on February 15, 2018; March 6, 2018; and July 11, 2018. On February 15, 2018, the trial court issued a memorandum order, observing that plaintiffs had moved to voluntarily dismiss *Stoller I* on August 4, 2016, pursuant to section 2-1009 of the Illinois Code of Civil Procedure (735 ILCS 5/2-1009 (West 2018)), which permits plaintiffs to voluntarily dismiss their case, but only upon payment of costs. The trial court found that *Stoller II* "represents another action pending between the same parties for the same cause" as *Stoller I*. Thus, the trial court found that "plaintiff's right to file this case, which is essentially a re-filing of *Stoller I*, depends entirely upon whether the costs of *Stoller I* were paid prior to the filing of *Stoller II*." As a result, the trial court ordered "plaintiffs to provide, within 14 days, evidentiary proof that the costs were paid prior to the filing of *Stoller II*." There is no evidence in the record before us that such evidentiary proof was ever submitted. On March 6, 2018, the trial court granted defendant's motions to dismiss and for sanctions, and directed defendants to submit a petition for attorneys' fees. On July 11, 2018, the trial court entered an order denying plaintiffs' motions to vacate the trial court's February 15 and March 6 orders.

¶ 56 On this appeal, plaintiff argues primarily: (1) that the trial court's March 6 order erroneously named the "Wesley Court Condominium Association" as

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the recipient of the sanctions ordered against plaintiffs, when the correct name should have been "Wesley Terrace Condominium Association," and (2) that defendants failed to prove that their asserted attorney fees and costs were fair and reasonable.

¶ 57 Plaintiff does not argue in his brief either: (1) that Stoller I and Stoller II are different lawsuits; or (2) that plaintiffs paid the costs required for the dismissal of Stoller I. As a result, these claims are forfeited.

¶ 58 First, the scrivener's error of stating "Court" rather than "Terrace" did not detract from the clarity or the force of the trial court's order, when there was only one "Wesley" defendant in the lawsuit, when all the parties understood who the one "Wesley" defendant was, when no party suffered any prejudice from the error, and when this was merely one order in a long line of interlocutory orders, in litigation that continued for at least another year. It is particularly hard to believe that plaintiff was confused in light of the fact that he lived on Wesley Terrace and this lawsuit is about his residence. If plaintiff believed that the substitution of "Court" for "Terrace" in one interlocutory order somehow prejudiced him, he could have sought to correct the mistake in a motion for a *nunc pro tunc* order long after the order was entered. *E.g. Welton v. Ambrose*, 351 Ill. App. 3d 627, 632 (2004).

¶ 59 Second, plaintiff claims that defendants failed to prove the reasonableness of their claimed attorney fees and costs, but plaintiff failed to provide any reports of proceedings where those matters would have been proven, argued and decided. For example, the trial court held an evidentiary hearing on sanctions on September 21, 2018, and entered an order that same day, stating that "[a]ll rulings are reflected in [the] report of proceedings." However, a report of proceedings was never filed in this case. On November 15, 2018, the trial court continued defendants' petition for fees and costs and set a "case management conference" for January 4, 2019. On January 4, 2019, the trial court entered an order stating that the previously scheduled conference was "stricken." As we previously noted, the last document in the record before us was the January 7, 2019, request for the preparation of the record. Thus, we have no way of knowing whether the trial court held any further evidentiary hearings; and, if it did, they—like the September 21 evidentiary hearing—are not in our record.

¶ 60 As noted above, when the appellant fails in its burden to provide a complete record, we must presume that the trial court's order was correct, and must affirm. *O'Bryant*, 99 Ill. 2d at 391-92. See also *Chatman*, 2016 IL App (1st) 152395, ¶ 66; *Hartman*, 195 Ill. 2d 426, 432 (2001).

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¶ 61 In addition, a trial court's decision to award attorney fees is generally not reversed absent an abuse of discretion. *E.g., Peleton, Inc. v. McGivern's Inc.*, 375 Ill. App. 3d 222, 225 (2007). "The rationale for this standard is that a party challenging a trial court's decision regarding attorney fees is actually challenging the trial court's discretion in determining what is reasonable." *Peleton*, 375 Ill. App. 3d at 225 (quoting *Guerrant v. Roth*, 334 Ill. App. 3d 259, 262-63 (2002)). An abuse of discretion occurs when no reasonable person could take the view that the trial court took, and we cannot find that on the limited record presented to us. *Langenhourst v. Norfolk Southern Ry. Co.*, 219 Ill. 2d 430, 441 (2006).

¶ 62

CONCLUSION

¶ 63

The trial court's orders in No. 2017 L 6178 are affirmed. No other appeal from this trial court case is permitted in this court.

¶ 64

Affirmed.