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2023 IL App (3d) 220390-U

Order filed December 14, 2023

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2023

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|---|---|-------------------------------|
| KENNETH R. MANNIE SR., |) | Appeal from the Circuit Court |
| |) | of the 18th Judicial Circuit, |
| Plaintiff-Appellant, |) | Du Page County, Illinois, |
| |) | |
| v. |) | |
| |) | Appeal No. 3-22-0390 |
| HEALTH CARE SOLUTIONS TEAM, |) | Circuit No. 21-L-1365 |
| PETER BENSON, and ASSURANT HEALTH, |) | |
| |) | |
| Defendants |) | Honorable |
| |) | Angelo J. Kappas, |
| (Health Care Solutions Team, Appellee). |) | Judge, Presiding. |

PRESIDING JUSTICE HOLDRIDGE delivered the judgment of the court.
Justices Hettel and Peterson concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court struck the appellant’s brief and dismissed the appeal.

¶ 2 The plaintiff, Kenneth R. Mannie, Sr., filed a complaint founded in insurance, mail, and bank fraud against the defendant, Healthcare Solutions Team.¹ The defendant filed a motion to

¹The complaint also named Peter Benson (Mannie’s former supervisor) and Assurant Health as defendants but only Healthcare Solutions Team appeared and is a party to this appeal. We note the

dismiss, which the circuit court granted. Mannie appeals.

¶ 3

I. BACKGROUND

¶ 4

Mannie worked as a licensed insurance agent and sold insurance products for Assurant Health. In November 2012, he applied for his own supplemental insurance policies with Assurant Health and was issued policies for accident-only and dental indemnity. In November 2013, Mannie called Assurant Health to discuss the policies and update his home address. At that time, Mannie did not indicate he no longer wanted the policies or request their termination.

¶ 5

In May 2014, Mannie called Assurant Health to cancel the supplemental policies. He confirmed this request in writing on May 20, 2014, and demanded a reimbursement of \$1,013.54 in premiums that he contended had been wrongly deducted from his bank account since December 2012. Assurant Health canceled the policies and issued him a reimbursement check for March and April 2014. Mannie demanded his full requested refund, which a grievance panel denied on August 5, 2014. Mannie filed a complaint with the Illinois Department of Insurance (Department). The Department reviewed his complaint and determined that Assurant Health did not violate the terms and conditions stated in the policy or any Illinois insurance law.

¶ 6

On July 9, 2019, Mannie filed a complaint in the circuit court of Cook County (case No. 2019 M6 007967) for insurance, mail, and bank fraud against the Illinois Department of Insurance, Assurant Insurance Company, Peter Benson (his former supervisor), and Healthcare Solutions Team, LLC. On August 1, 2019, the complaint was dismissed for want of prosecution.

¶ 7

Thereafter, Mannie filed three new lawsuits identical to the July 9, 2019, lawsuit in the circuit court of Cook County: August 13, 2019 (case No. 2019 L 008981); October 10, 2019 (case

complaint incorrectly stated the defendant's name as "Health Care Solutions Team" instead of "Healthcare Solutions Team."

No. 2019 L 011228); and November 20, 2019 (case No. 2019 L 012903). The two former lawsuits were dismissed and reinstatement was denied. The parties proceeded on the latter lawsuit. The defendants filed a motion to dismiss, which the court granted and dismissed the complaint with prejudice. The court's written order provided (1) the complaint was merely a recitation of allegations previously plead and dismissed in prior actions, (2) Mannie failed to address any of the matters raised by the defendants in their motion to dismiss, (3) Mannie's response was "nothing more than a hodgepodge of conclusory statements sloppily thrown together without an ounce of support," and (4) the complaint was barred by *res judicata*. Mannie filed a motion to reconsider, which was denied in an order providing that it was a final order disposing of all claims.

¶ 8 On July 13, 2022, Mannie filed the complaint at issue in this case in the circuit court of Du Page County. The complaint alleged the defendant engaged in insurance, mail, and bank fraud—stemming from Assurant Health's issuance of the policies and withdrawal of his insurance premiums from his bank account. Mannie also alleged that the defendant used a fictitious mailing address. The defendant filed a combined motion to dismiss pursuant to section 2-619.1 of the Code of Civil Procedure (Code) (735 ILCS 5/2-619.1 (West 2022)). The defendant argued the complaint (1) was barred by *res judicata* as evidenced by the Cook County cases, (2) was barred by the statute of limitations as the complained action occurred in May 2014, and the complaint was filed in July 2022 beyond the seven-year limitations period; and (3) consisted of pure argument and failed to set forth actions attributable to the defendant on dates giving rise to a cognizable cause of action.

¶ 9 The court granted the motion to dismiss and dismissed the complaint with prejudice. As to section 2-615 of the Code, the court found no facts were pled and it was unclear if Mannie was proceeding on one cause of action or others for this claim of illegal insurance. As to section 2-619 of the Code, the court found the action was barred by *res judicata* and the statute of limitations

had run.

¶ 10 Mannie appeals.

¶ 11 II. ANALYSIS

¶ 12 Mannie contends the court erred when it dismissed his complaint. However, he only argues the allegations set forth in the complaint and fails to address the motion to dismiss that was granted. The defendant argues (1) Mannie forfeited all arguments for reversal as his brief fails to comply with Illinois Supreme Court Rule 341(h) (eff. Oct. 1, 2020); and (2) the court properly dismissed the complaint (a) under the doctrine of *res judicata*; (b) as it was barred by the statute of limitations; and (c) because it failed to state a cause of action.

¶ 13 We first address the defendant's argument that Mannie's appellate brief fails to comply with Rule 341(h)(7). It argues Mannie's sole point of error is that the court did not allow his case to be heard and only argues the merits of his case. We agree Mannie fails to present a proper appellate argument as to the reasons why the court erred when it dismissed his complaint.

¶ 14 Mannie, a self-represented litigant, is not entitled to more lenient treatment than attorneys. Parties that choose to represent themselves without a lawyer must comply with the same rules and are held to the same standards as licensed attorneys. *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 78. We will not raise issues on behalf of a party as it is entirely improper and would transform this court's role from that of a jurist to that of an advocate. *People v. Givens*, 237 Ill. 2d 311, 324 (2010). Moreover, an appellant forfeits any argument by failing to raise it in their opening brief. *BAC Home Loans Servicing, LP v. Mitchell*, 2014 IL 116311, ¶ 23; Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) (points not argued in the appellant's brief are forfeited and shall not be raised in the reply brief, in oral argument, or on petition for rehearing). We strike Mannie's brief and dismiss the appeal. See *Rosetone Investments, LLC v. Garner*, 2013 IL App (1st) 123422, ¶ 18

(where an appellant’s brief contains numerous court rule violations that impede the appellate court’s review of the case, it is within the appellate court’s authority to strike the brief and dismiss the appeal).

¶ 15 Despite Mannie’s forfeiture, we would nonetheless find the court properly dismissed the complaint for failure to state a claim upon which relief may be granted. See 735 ILCS 5/2-615 (West 2022). The complaint merely contains unsupported conclusions and accusations with no supporting factual allegations. Illinois is a fact-pleading jurisdiction, which required Mannie’s complaint to be both legally and factually sufficient. *Chandler v. Illinois Central Railroad Co.*, 207 Ill. 2d 331, 348 (2003). The complaint must assert a legally recognized cause of action and plead facts which bring a particular case within that cause of action. Here, it is evident the complaint failed to satisfy these requirements.

¶ 16 III. CONCLUSION

¶ 17 For these reasons, we strike the appellant’s brief and dismiss the appeal.

¶ 18 Dismissed.