

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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KENNETH MATTHEWS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	No. 07 L 12990
	)	
ANGELO'S LEATHER & FURS, INC.,	)	
ANGELO KOUTRAS, Individually,	)	Honorable
	)	Sidney A. Jones, III,
Defendants-Appellees.	)	Judge Presiding.

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JUSTICE ROCHFORD delivered the judgment of the court.  
Presiding Justice Hoffman and Justice Cunningham concurred in the judgment.

**ORDER**

¶ 1 *Held:* We affirm the judgment entered by the circuit court after a jury trial where plaintiff on appeal improperly challenges a prior order granting defendants' section 2-1401 petition.

¶ 2 Following a jury trial, the trial court entered judgment against *pro se* plaintiff, Kenneth Matthews. Plaintiff *pro se* filed a timely notice of appeal, but improperly attempts to obtain review of the August 28, 2008, trial court order that had ruled on his petition under section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2008)) (Code) to vacate prior default judgments.

¶ 3 In November 2007, plaintiff filed a complaint against defendants, Angelo's Leather & Furs Inc., and Angelo Koutras, that had alleged fraud and disputed the origin and condition of an allegedly custom ordered chinchilla bomber coat that plaintiff had purchased from defendants in December 2006. Default judgments were entered against defendants in April 2008, and a citation to discover

assets was issued in May 2008. In June 2008, defendants filed a section 2-1401 petition to vacate the default judgments. On August 28, 2008, after extensive briefing, and after an evidentiary hearing had been held, the trial court granted defendants' section 2-1401 petition.

¶ 4 On September 29, 2008, plaintiff *pro se* filed a notice of appeal from that order. The notice of appeal, however, was premature because plaintiff's Rule 137 (Ill. S. Ct. R. 137 (eff. Feb. 1, 1994)) motion for sanctions against defendants was still pending in the circuit court. Accordingly, this court found that it had lacked appellate jurisdiction and granted defendants' motion to dismiss the appeal as premature. *Matthews v. Angelo's Leather & Furs, Inc., et al.*, No. 1-08-2736 (April 2, 2009) (dispositional order).

¶ 5 By June 25, 2009, the matters precluding that prior appeal had been resolved in the circuit court. On August 11, 2009, 47 days later, plaintiff filed an "emergency motion for leave to file a late notice of appeal." Defendants responded by seeking a denial of plaintiff's motion. After considering plaintiff's motion and defendants' response, this court denied plaintiff's "emergency motion for leave to file a late notice of appeal." *Matthews v. Angelo's Leather & Furs, Inc., et al.*, No. 1-09-2073 (August 19, 2009) (dispositional order).

¶ 6 On June 28, 2011, following a trial, the jury rendered a verdict in favor of defendants. On August 24, 2011, the court subsequently denied all posttrial motions filed by plaintiff, awarded attorney fees to defendants, and found that plaintiff had acted in bad faith by filing a lawsuit and by prosecuting that lawsuit in a harassing manner. That same day, after the trial, plaintiff filed a timely notice of appeal from the judgment of the trial court and from the circuit court's denial of plaintiff's posttrial motions. This appeal followed.

¶ 7 On appeal, plaintiff challenges the trial court's August 2008 order which had granted defendants' section 2-1401 petition and vacated the default judgment entered against them. Plaintiff, however, cannot contest that court order in this appeal.

¶ 8 Section 2-1401 of the Code provides a procedure by which final orders, judgments, and

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decrees may be vacated after 30 days from their entry. See 735 ILCS 5/2-1401 (West 2008); *Smith v. Airoom, Inc.*, 114 Ill. 2d 209, 220 (1986). The filing of a section 2-1401 petition constitutes a new proceeding, not a continuation of the original cause of action. *Sarkissian v. Chicago Bd. of Educ.*, 201 Ill. 2d 95, 102 (2002); *Mills v. McDuffa*, 393 Ill. App. 3d 940, 946 (2009). A ruling on such a petition is deemed a final order, appealable pursuant to Illinois Supreme Rule 304(b)(3) (Ill. S. Ct. R. 304(b)(3) (eff. Feb. 26, 2010)), and is subject to the 30-day time limit and restrictions provided in Illinois Supreme Court Rule 303 (Ill. S. Ct. R. 303 (eff. June 4, 2008)). See *Sarkissian*, 201 Ill. 2d at 102 (noting policy reason behind allowing review of orders granting relief from final judgment to avoid impractical effect of subjecting parties to time and expense of trial before it is known whether the trial court's decision to set aside existing judgment is proper).

¶ 9 In this case, plaintiff never perfected an appeal from the order entered by the circuit court which had granted defendants' section 2-1401 petition on August 28, 2008. Plaintiff initially and prematurely filed an appeal from that order on September 29, 2008, which this court dismissed (appeal no. 1-08-2736). Plaintiff subsequently sought leave to file an admittedly late notice of appeal, which this court denied (appeal no. 1-09-2073). Accordingly, we have no jurisdiction to consider the order granting defendant's section 2-1401 petition.

¶ 10 Because plaintiff advances no other issues for our review, he has waived any claims regarding the other matters stated in his timely notice of appeal, including the jury trial and posttrial matters. See Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2008) (points not argued on appeal are waived). The judgment of the circuit court is affirmed.

¶ 11 Affirmed.