

Appeal No. 5-18-0453

IN THE APPELLATE COURT OF ILLINOIS
FIFTH JUDICIAL DISTRICT

CITY OF MADISON,)	Appeal from Madison County
)	
Plaintiff/Appellee,)	Circuit Court No.: 18-OV-400153
)	
vs.)	Trial Judge: Hon. Ronald R. Slemer
)	
KEVIN LINK,)	
)	
Defendant/Appellant.)	

**PLAINTIFF/APPELLEE'S MOTION TO STRIKE DEFENDANT/APPELLANT'S
BRIEF AND DISMISS THE REVISED APPEAL AND MOTION TO EXTEND THE
DUE DATE OF PLAINTIFF/APPELLEE'S BRIEF**

Plaintiff/Appellee, City of Madison, by its undersigned attorney, moves this Court to strike Defendant/Appellant, Kevin Link's, Revised Brief filed March 6, 2019 and dismiss this appeal, and further, moves to extend the due date of Plaintiff/Appellee, City of Madison's, Brief. In support of these Motions, Plaintiff/Appellee states:

1. Defendant/Appellant's Revised Brief continues to make vague and generalized contentions of error which combine unsupported facts with legal conclusions which are unsupported by any citation to authority.
2. Defendant/Appellant's Statement of Facts and Appendix contains references to matters outside the record in violation of Supreme Court Rule 341(h)(6) and the Court's prior Order denying Defendant/Appellant's Motion to Supplement The Record and in violation of this Court's Order of February 4, 2019.

3. Defendant/Appellant's Argument contains no citation to authority in violation of Supreme Court Rule 341(h)(7) and makes numerous references to matters outside the record.

4. Defendant/Appellant's Revised Brief contains no standard of review with citation to authority in violation of Supreme Court Rule 341(h)(3).

5. Defendant/Appellant's Revised Brief does not include the Order denying Defendant/Appellant's Post Trial Motion which contains findings of fact by the trial Judge in violation of Supreme Court Rule 342(a).

6. Defendant/Appellant was advised by this Court's prior Order of February 4, 2019 that failure to file a brief in compliance with Supreme Court Rules will result in a dismissal of the appeal.

7. The Illinois procedural practice rules are not merely suggestions but have the force of law. *Geers v. Brichta*, 248 Ill. App. 3d 398, 400, 618 N.E.2d 531 (1st Dist.), *appeal denied*, 153 Ill. 2d 559, 624 N.E.2d 807 (1993); *Ryan v. Katz*, 234 Ill. App. 3d 536, 537, 600 N.E.2d 1206 (2^d Dist. 1992). Absent substantial compliance with these rules, this Court, in the proper exercise of its discretion, may sanction a litigant by striking a Brief and dismissing the appeal. *Geers* 248 Ill. App. 3d at 400; *Matter of Estate of Brown*, 207 Ill. App. 3d 139, 142-43, 565 N.E.2d 312 (4th Dist. 1990). Adherence to the rules is not an inconsequential matter, given that the purpose of the rules is to require parties to proceedings before a reviewing court to present clear and orderly arguments so that the court may properly ascertain and dispose of the issues involved. *Collier v. Avis Rent a Car System*, 248 Ill. App. 3d 1088, 1095, 618 N.E. 2d 771 (1st Dist. 1993).

8. It is well settled that “[r]eviewing courts are entitled to have issues clearly defined. . .and not a depository in which an appellant is to dump the entire matter of pleadings, court action, argument and research as it were upon the court. *Thanopoulos v. Pickens*, 87 Ill. App. 3d 906, 909, 409, N.E.2d 477 (1st Dist. 1980) (citation and internal quotations marks omitted). Moreover, “while pro se litigants are held to a lesser standard in complying with the rules for appealing to the Appellate Court, there is a minimum which even they must meet before the Appellate Court can adequately review the lower Court’s decision.” *Rock Island County v. Boalby*, 242 Ill. App. 3d 461, 462-63, 610 N.E.2d 769 (3d Dist. 1993); *In the Interest of A.H.*, 215 Ill. App. 3d 522, 529-30, 575 N.E.2d 261 (4th Dist. 1991). This Court’s task is not “to divine the truth from the interstices of the parties’ filings or to sift through the record in order to gain a proper understanding of the case” before it, and even though Link is proceeding pro se, he should be admonished that the lack of legal training will not be deemed a license which relieves him of the obligation to comply with the Supreme Court procedural rules. *First Illinois Bank & Trust v. Galuska*, 255 Ill. App. 3d 86, 94, 627 N.E.2d 325 (1st Dist. 1993). It is not this Court’s duty to comb the record in search of the “facts” on which Link bases his claims. Nor is it this Court’s duty to create arguments to support Link’s claims.

9. Supreme Court Rules are a limitation on the parties, not on the Court, and violation of the rules does not divest this Court of jurisdiction. *Zadrozny v. City Colleges of Chicago*, 220 Ill. App. 3d 290, 293, 581 N.E.2d 44 (1st Dist. 1991). However, when an appellant’s presentation is so inadequate that an informed review of the issues is impossible, this

Court is empowered to dismiss the appeal. *Wilson v. Continental Body Corp.*, 93 Ill. App. 3d 966, 969, 418 N.E.2d 56 (1st Dist. 1981).

10. Plaintiff/Appellee also requests this Court to extend the due date of its Brief for thirty-five (35) days beyond April 15, 2019, for the reasons set forth in the Affidavit of John T. Papa filed herein.

11. A proposed Order is attached hereto.

WHEREFORE, Plaintiff/Appellee, City of Madison, requests that this Court strike Defendant/Appellant's Brief and dismiss this appeal and, further, requests the due date of Plaintiff/Appellee's Brief be extended as requested.

Plaintiff/Appellee
City of Madison

By: 

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CERTIFICATE OF FILING AND PROOF OF SERVICE

I certify that on March 20, 2019, I electronically filed and transmitted the foregoing Defendant/Appellee's Motion to Extend Time to File Brief with the Clerk of the Appellate Court 5th District, by using the Odyssey eFileIL system. I further certify that a true and correct copy of the foregoing was mailed, with postage fully prepaid and by depositing said envelope in a U.S. Post Office Mailbox in Granite City, Illinois, to:

Kevin Link
P.O. Box 22
Granite City, IL 62040

