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2024 IL App (3d) 230391-U

Order filed November 15, 2024

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2024

<i>In re</i> ESTATE OF LILLIE MARTIN,)	Appeal from the Circuit Court
)	of the 18th Judicial Circuit,
Deceased)	Du Page County, Illinois,
)	
(Tina Hiatt and Paul Martin,)	
)	Appeal No. 3-23-0391
Petitioners-Appellees,)	Circuit No. 18-P-563
)	
v.)	
)	Honorable
Alan J. Martin,)	Paul M. Fullerton
)	Anne Therieau Hayes,
Respondent-Appellant.))	Judges, Presiding.

JUSTICE PETERSON delivered the judgment of the court.
Presiding Justice McDade and Justice Brennan concurred in the judgment.

ORDER

¶ 1 *Held:* The court did not abuse its discretion by issuing Rule 219 sanctions. The court erred by dismissing the renewed citation to discover assets based upon the Rule 219 sanctions and by closing the estate. The court did not abuse its discretion by awarding attorney fees. The court did not abuse its discretion by partially denying a motion for Rule 137 sanctions.

¶ 2 Alan J. Martin, appeals the Du Page County circuit court orders sanctioning him under Illinois Supreme Court Rule 219 (eff. July 1, 2002), dismissing his renewed citation to discover

assets, approving the final report and closing the estate, awarding attorney fees, and partially denying his motion for Illinois Supreme Court Rule 137 (eff. Jan. 1, 2018) sanctions. Alan argues that his failure to provide proper notice of subpoenas he issued was inadvertent and thus, Rule 219 sanctions were not warranted. He further argues that the court erred by dismissing his renewed citation to discover assets based upon the Rule 219 sanction, as that decision effectively turned the sanction into the “death penalty” of sanctions which he argues was not appropriate. Alan also argues that the court abused its discretion in its award of attorney fees. Lastly, Alan argues the court abused its discretion by partially denying his motion for Rule 137 sanctions. We affirm in part, reverse in part, and remand for further proceedings on Alan’s renewed petition for citation to discover assets.

¶ 3

I. BACKGROUND

¶ 4

Lillie Martin passed away on May 14, 2018, and her daughter, petitioner Tina Hiatt, filed a petition for probate of will and for letters testamentary on May 18, 2018. Hiatt was appointed independent executor, and later supervised administrator, of Lillie’s estate. Lillie’s son, Paul Martin, filed a petition to contest the validity of the will, which her other son, Alan, joined. In June 2019, Alan filed a motion for leave to file a first amended verified petition to contest the validity of the will. He attached his proposed amended petition, which included numerous exhibits. In the proposed petition, Alan alleged that (1) Hiatt fraudulently arranged for Lillie’s social security payments, which had been being deposited into Lillie’s bank account, to be deposited into a different account, (2) Hiatt had Lillie’s Fidelity Investment annuity checks sent to Hiatt’s house rather than being deposited in Lillie’s bank account, (3) large checks were being written out to “cash” from Lillie’s bank account, and (4) large sums were being charged on Lillie’s credit card that exceeded Lillie’s needs and expenditures. In support of these allegations,

Alan attached as exhibits (1) 2017 correspondence from the Social Security Administration noting the change in direct deposit information, (2) documents from Fidelity Investments dated 2017 regarding Lillie's annuity payment addressed to Hiatt, (3) a copy of a check made payable to "cash" in the amount of \$9760.97 from Lillie's account, and (4) account documents from West Suburban Bank addressed to Lillie and Hiatt. Alan also attached an email dated March 2018 from an attorney with Kabbe Law Group, advising Alan she would bring hard copies of various financial statements from UBS, PNC, Fidelity, and West Suburban to court the next day. The court denied Alan's motion to file an amended petition. The original petition to contest the will's validity was ultimately voluntarily dismissed by both Paul and Alan.

¶ 5 On March 19, 2021, Hiatt filed the final report of the supervised representative and motion to close the estate and noticed the matter for April 14, 2021. On April 14, Alan filed a petition for issuance of citation to discover and recover assets from Hiatt. The matter was continued until May 27, 2021, and at that time, attorney Nathaniel Tate appeared on behalf of Hiatt, in her individual capacity. Hiatt, in her individual capacity, filed a motion to dismiss on various bases, including *res judicata*, alleging that the claims set forth in the petition had been adjudicated in a prior matter involving a guardianship over Lillie. The court construed the petition as a petition for a citation to recover assets and dismissed it on the ground that it failed to state a claim. The court denied Hiatt's motion to dismiss based upon *res judicata*, as the court found that the claims clearly had not been adjudicated in the guardianship matter.

¶ 6 Alan filed an amended petition for issuance of citation to discover and recover assets in December 2021. Hiatt again moved to dismiss the petition. The court dismissed the petition without prejudice. Alan filed an amended petition for citation to discover assets and Hiatt again moved to dismiss. A hearing was held on the motion to dismiss before Judge Hayes on May 25,

2022. At the hearing, Tate requested sanctions on the basis that Alan had issued various subpoenas, including ones seeking records related to Hiatt's personal accounts, without giving proper notice to the involved parties or filing them with the court. Tate further argued that Alan used the improperly obtained information to file his various petitions for citation and that Alan failed to give proper notice so he could circumvent the court's authority to determine whether the information he sought through the subpoenas was relevant.

¶ 7 The court asked Alan if he had issued subpoenas relative to the issues in his petition for citation to discover. Alan advised he would need to check with his paralegal. The court noted that if he had already obtained the information sought in the petition for citation to discover assets, it would render the petition moot. Hiatt's counsel in her representative capacity, Nina Neuber with Kabbe Law Group, joined in the request for sanctions. Neuber noted that the subpoenas included Hiatt's social security number, and that Alan improperly obtained records that were not relevant to the probate proceedings. Neuber indicated that after the banks complied with the subpoenas, Hiatt received notice of some of the subpoenas but had not been given an opportunity to object and have the court determine the relevance of the documents prior to them being produced. Paul's counsel also joined in the arguments made by Tate and Neuber. The court ordered Alan to file any subpoenas he had issued and scheduled an additional hearing. In his responsive filing, Alan included an affidavit from his paralegal, indicating that she did not prepare and file a separate case notice regarding the subpoenas because she misunderstood the applicable rules. It also included copies of subpoenas issued between February 19, 2021, and March 19, 2021, as well as the riders attached to the subpoenas, which included irrelevant material such as Hiatt's booking card and guilty plea from 2013. The subpoenas were issued to

the Social Security Administration, West Suburban Bank, Fidelity Brokerage Services, Fidelity Investments Life Insurance, PNC Bank, Discover Financial Services, and Bank of America.

¶ 8 Neuber filed a motion for a court order compelling destruction of all records obtained through the subpoenas issued by Alan and a motion for sanctions against Alan pursuant to Illinois Supreme Court Rules 137 and 219. Neuber argued that Alan violated the applicable rules (1) by failing to obtain leave of court to serve discovery when no dispute was pending and the matter was set for status for closing, (2) by failing to give proper notice of the subpoenas, and (3) by failing to file the subpoenas with the court. She further argued that the documents sought were not relevant to the administration of the estate and that statements made in, and documents attached to the riders and attachments to the subpoenas, were inappropriate and improper. Tate also filed a motion for Rule 219 sanctions against Alan, essentially on the same bases as Neuber's motion.

¶ 9 Alan filed a combined response to the motions for sanctions. He indicated that the failure to file the subpoenas was due to his paralegal's misunderstanding and that her failure to provide any documents to the other parties was a matter of inadvertence. He further argued that Hiatt had actual notice of some of the subpoenas as early as March 2021, and that he was not hiding any information, as he attached some of the documents obtained through the subpoenas to his first petition for citation to discover and recover assets.

¶ 10 During a hearing on the motions for sanctions, Alan conceded that he did not provide notice of the subpoenas or file them with the court. Following the hearing, the court issued a written order in which it set forth its finding that Alan violated both local court rules and Illinois Supreme Court rules regarding discovery. Specifically, the court found that Alan violated local court rule 7.02 of the 18th Judicial Circuit and Illinois Supreme Court Rules 201(m) and (o) (eff.

July 1, 2014) by failing to provide notice and file copies of the subpoenas, along with their riders. The court noted that by failing to do these things, it made it impossible for any party to move to quash the subpoenas. The court further noted that the subpoenas were issued at a time when no adversarial proceeding was pending and leave of court to engage in discovery was not sought or granted. The court found that the subpoenas sought records of individuals not relevant to the estate and listed full account and social security numbers, which was also a violation of Illinois Supreme Court Rules. The court also found it egregious that the rider to the subpoenas included irrelevant material and disparaging remarks. The court noted that besides being completely irrelevant to the subpoena request, the rider was highly inflammatory. The court also stated that Alan failed to mention in his petition for issuance of citation to discover that he issued the subpoenas or received documents pursuant to the subpoenas. The court determined that Alan used the discovery procedures to go on a fishing expedition, seeking irrelevant documents, and that he abused the discovery procedures in violation of Rule 219. The court noted that pursuant to Rule 219(d), it could order that information obtained through abuse of the discovery procedures be suppressed. The court quashed the subpoenas *nunc pro tunc* to the date of issuance. The court also ordered Alan to destroy all documents and information obtained from the subpoenas and to pay the reasonable expenses incurred as a result of his misconduct, including reasonable attorney fees incurred by Hiatt, both individually and as representative of Lillie's estate. The court further stated that Alan was "not barred from filing any future pleadings, however, he may not utilize any of the information obtained through the aforementioned subpoenas in any subsequent pleadings." The court held that any further discovery was to be supervised by the court. The court denied Hiatt's requests for Rule 137 sanctions. The court stated that "given this court is barring [Alan] from utilizing any information

he obtained from the improperly issued subpoenas, his most recent petition entitled Amended Petition for Citation to Discover Assets from Respondent Tina Hiatt and filed March 16, 2022, is stricken. To the extent Alan Martin chooses to file a subsequent pleading, it may not be based on any of the information obtained from the aforementioned subpoenas.” Judge Hayes entered this order.

¶ 11 Neuber filed a petition for attorney fees and costs on behalf of the estate. The petition alleged that Alan filed his petition for citation to discover and recover based in large part on the documents and information he obtained from the improper subpoenas. It sought \$5820 in attorney fees and \$32.03 in costs that were incurred in responding to the petition and additional resultant filings. Neuber’s affidavit setting forth the rates and services provided, as well as the invoices, were attached to the petition. Neuber later filed an amended petition to make a correction to a time entry and to include additional fees incurred. The amended petition sought \$6030 in attorney fees and \$32.03 in costs. Tate also filed a petition and amended petition seeking attorney fees and costs incurred by Hiatt in her individual capacity. Tate sought \$16,344.75 in attorney fees. He attached to the petition a copy of his contract with Hiatt, which set forth his fee schedule, a modified fee schedule and his affidavit attesting to the fees incurred. He later filed a copy of his invoices.

¶ 12 Alan filed a motion to reconsider and vacate the sanction order. Alan argued that any noncompliance was inadvertent. He further argued that a suppression sanction which bars evidence is a drastic sanction. Alan also argued that the court’s order that the documents he received via the subpoenas should be destroyed was improper, as destruction would preclude appropriate appellate review. Additionally, he argued there was no basis for quashing the subpoenas or ordering that they be quashed *nunc pro tunc*. Hiatt filed a motion to dismiss Alan’s

motion to reconsider. Alan also filed responses to both fee petitions. He challenged various time entries and argued that fees must be limited to those actually incurred due to the misconduct. Alan also argued that an evidentiary hearing on the fees was necessary if the court did not deny the petitions outright. Additionally, Alan filed a combined reply in support of his motion to reconsider, a response to Hiatt's motion to dismiss, and a motion for Rule 137 sanctions against Hiatt.

¶ 13 Judge Hayes heard the motion on December 2, 2022. The court denied Hiatt's motion to dismiss Alan's motion to reconsider and denied Alan's request for Rule 137 sanctions in relation to the motion to dismiss. In discussing Alan's motion to reconsider, the court questioned what the purpose could be of putting in a subpoena rider that Hiatt was a drug addict and alcoholic and attaching her booking card and sentencing order. The court stated that "never in my career – and I'm a former trial lawyer so I'm very familiar with subpoenas and riders and as a judge, I have never in my career seen anything like the riders in this case. It *** almost leaves the Court searching for words." The court continued "if this conduct in this Court's opinion is not sanctionable pursuant to 219, I don't know what is." Further, the court stated "[i]t really defies logic and in this Court's mind it is per se improper." The court stated that Rule 219 gave the court authority to prevent Alan from filing anything further and the court considered that sanction but felt that it was not commensurate with the violation. As to the reconsideration of striking Alan's amended citation to discover, the court stated that the issue had been moved into the probate court and Alan had the right to file his citation but that when the court reviewed the citation it was "the same areas of subject matter as the subpoenas." The court also stated that it was important to note that Alan failed to mention in the citation that he had issued subpoenas and received records. The court denied Alan's motion to reconsider. However, instead of requiring

Alan to destroy the documents obtained via the subpoenas, he was to file those documents under seal and then destroy any other copies he had. The court awarded Neuber fees in the amount of \$4890, after finding that the fees requested were reasonable and disallowing fees prior to the date the issue of the subpoenas arose. Alan did not request an evidentiary hearing regarding the fees or attempt to call any witnesses. In awarding the fees, the court noted that it found the time spent by Neuber to be fair and reasonable and that the majority of Neuber's time entries related specifically to the subpoena issue, with the exception of a few entries that the court disallowed. Following another hearing, the court awarded Hiatt \$3864 for Tate's fees. Alan did not request an evidentiary hearing during argument on the fees and the court excluded various fees requested by Hiatt. The court found that the rate charged by Tate was reasonable and specifically found that the \$3864 it was awarding was related to the subpoena issue.

¶ 14 Alan filed a motion for Rule 137 sanctions against Hiatt in her individual capacity and Tate. He alleged that Hiatt and Tate made numerous false and unfounded filings including (1) filings stating that Alan's petition for citation was barred by *res judicata* due to rulings in the guardianship proceeding; (2) filings arguing the no contest provision of the will disqualified Alan and he did not have standing; and (3) false billing submissions and affidavit in support of Hiatt's fee petition. The motion included a chart detailing the alleged false statements and filings.

¶ 15 Hiatt filed a motion to close the estate, which requested that the court approve the final report of the supervised representative, discharge Hiatt as supervised representative, and close the estate. Alan filed a renewed petition for citation to discover assets from Hiatt. The petition alleged that Hiatt took control of Lillie's financial accounts and that large checks made payable to "cash" were written from Lillie's West Suburban Bank account. The petition further alleged that Hiatt exercised control over Lillie's Fidelity account, with Fidelity directly mailing account

documents to Hiatt at her home. Alan requested that Hiatt be required to produce all financial records pertaining to Lillie and that she be required to appear to be examined under oath. During a hearing on his petition, Alan argued that his renewed petition was reviewed to make sure anything even arguably related to the subpoenaed documents was removed and gave specific examples of information he deleted from the citation. Judge Fullerton found that the citation was almost the same as the previous citation that Judge Hayes struck. The court found that “[a]ll of the information [Alan was] looking to obtain relates *** to the documents that would come from [the] subpoenas. Whether they’re in *** Hiatt’s hands or not, they’re information that comes from those subpoenas.” The court continued that the renewed petition was almost the same as the previous amended petition and would not be allowed. The court approved the final report and granted the motion to close the estate.

¶ 16 Judge Hayes conducted a hearing on Alan’s motion for Rule 137 sanctions. The court then issued a detailed written decision. As to Alan’s arguments regarding false billing, the court specifically found that although some attorney fees may not be awarded by the court, such fees may be properly charged to a client through a contract and that Alan had failed to establish the affidavit supporting the billing was false. The court also found that Tate’s disagreement with the court’s legal position was not sanctionable. The court found that an argument contained in Hiatt’s motion to dismiss Alan’s petition for citation to discover, that the citation was barred by *res judicata*, was not well grounded in fact or law and a reasonable inquiry into the record would have revealed that. As such, the court allowed Alan to file a petition setting forth the amount of reasonable expenses he incurred due to the *res judicata* argument.

¶ 17 Alan filed a motion to reconsider the order dismissing his petition for citation to discover and closing the estate. The court denied the motion. Alan appeals.

¶ 18

II. ANALYSIS

¶ 19

Alan argues that the court abused its discretion by sanctioning him pursuant to Illinois Supreme Court Rule 219 for failing to provide proper notice of the subpoenas because he alleges that the failure was inadvertent. Illinois Supreme Court Rule 219(c) (eff. July 1, 2002) provides that the court may sanction a party who “unreasonably fails to comply” with discovery rules or orders and provides a list of potential remedies for the violation. Additionally, Rule 219(d) provides that “[t]he court may order that information obtained through abuse of discovery procedures be suppressed. If a party wilfully obtains or attempts to obtain information by an improper discovery method, wilfully obtains or attempts to obtain information to which that party is not entitled, or otherwise abuses these discovery rules, the court may enter any order provided for in paragraph (c) of this rule.” “The decision to impose a particular sanction—if any—lies within the trial court’s discretion, and only a clear abuse of discretion justifies reversal.” *Bachman v. General Motors Corp.*, 332 Ill. App. 3d 760, 791 (2002). “In considering whether a particular sanction is appropriate, a court must consider the conduct of the offending party and the effect of that conduct upon the opposing party.” *Id.* Here, there is no dispute that Alan failed to give proper notice of and file the subpoenas. Although he alleged that the failure was inadvertent, the court was not required to accept his representation. Moreover, the court found that the riders to the subpoenas were egregious and contained irrelevant and inflammatory information. Further, the court found that Alan’s failure to give notice prevented the other parties from being able to move to quash the subpoenas and the subpoenas sought some irrelevant information. The court determined that Alan abused the discovery process. As such, the court

prohibited Alan from using the information improperly obtained through the subpoenas.¹ Based on the foregoing, we conclude that the court properly sanctioned Alan under Illinois Supreme Court Rule 219 and accordingly, properly denied his motion to reconsider.

¶ 20 However, we agree with Alan that the court erred by disallowing Alan’s renewed citation to discover assets based upon the Rule 219 sanction and closing the estate. Alan essentially argues that the court erred in applying the sanction to his renewed citation and effectively imposed the “death penalty” of sanctions. Here, the court dismissed Alan’s renewed citation to discover assets because it related to the same subject matters as the improperly issued subpoenas, which essentially turned the prior sanction order into a sanction of dismissal with prejudice. However, the previously issued sanction only barred Alan from utilizing information obtained through the improperly issued subpoenas—it did not bar him from using any related information which he might properly obtain. In other words, just because certain information was contained within the subpoenaed documents, Alan was not barred from utilizing such information if he properly obtained it independent of the improper subpoenas in compliance with supreme court and local rules. Further, nothing prohibited Alan from obtaining that information through such proper avenues.² Notably, based upon a review of previous filings by Alan, it is clear that he had obtained some financial information in the guardianship proceedings and that his current revised petition is, at least in part, based on the information he properly had in his possession. As an example, one of his allegations was that large checks were being written out to “cash,” which

¹Alan also argues that the court improperly quashed his subpoena’s *nunc pro tunc*. Regardless of the propriety of such order, it had no practical effect, as the subpoenas had already been responded to and Alan was barred by the sanction order from utilizing any information obtained through the subpoenas.

²Notably, after sanctioning Alan, the court noted that all further discovery would be supervised by the court, but Alan did not seek leave to properly issue and notice any further subpoenas.

was supported by documents Alan had attached to his motion to amend his petition to contest the validity of the will, which long predated the improper subpoenas.

¶ 21 To the extent that Judge Fullerton construed and applied Judge Haye’s sanction order as prohibiting Alan from utilizing any information related to the subpoenaed materials, regardless of how it might be subsequently obtained, such a sanction would be an abuse of discretion as it would bar Alan from pursuing his citation regarding Lillie’s financial information and would be akin to a dismissal with prejudice. See *In re Marriage of Booher*, 313 Ill. App. 3d 356, 359 (2000) (“Dismissal or entry of a default judgment is a severe sanction and should be invoked only in cases where the party’s actions exhibit a deliberate, contumacious, or unwarranted disregard of the court’s authority and after all the other court’s enforcement powers have failed to advance the litigation.”); *Shimanovsky v. General Motors Corp.*, 181 Ill. 2d 112, 123 (1998) (“A just order of sanctions under Rule 219(c) is one which, to the degree possible, insures both discovery and a trial on the merits.”).

¶ 22 If the information improperly obtained through the initial flawed subpoena process includes relevant information relating to the issues raised in this probate litigation, it should not be forever barred where it is otherwise obtainable by proper means. This, of course, necessarily includes the possibility of reissuing the previous improper subpoenas to the extent relevance is established without resort to tainted evidence disclosed upon return of the improper subpoenas. The proper course of action is to exclude evidence that cannot otherwise be properly obtained and to sanction counsel to effectively deter such conduct in the future. See *e.g.*, *Cedric Spring & Associates, Inc. v. N.E.I. Corp.*, 81 Ill. App. 3d 1031, 1034 (1980) (quoting *Cohn v. Board of Education*, 118 Ill. App. 2d 453, 457 (1970)) (“[I]n matters of discovery *** the power vested in the trial court requires ‘*** a careful exercise of its discretion in order to balance the needs of

seeking the truth against the needless harassment of a party litigant.’ ”). Relevant evidence should be allowed if it has been obtained through compliance with the applicable discovery rules. “Pretrial discovery aims ‘to enhance the truth-seeking process, to enable attorneys to better prepare for trial, to eliminate surprise and to promote an expeditious and final determination of controversies in accordance with the substantive rights of the parties.’ ” *Dameron v. Mercy Hospital and Medical Center*, 2020 IL 125219, ¶ 18 (quoting *D.C. v. S.A.*, 178 Ill. 2d 551, 561 (1997)).

¶ 23 Thus, the court misapplied the prior sanction when it dismissed Alan’s renewed citation to discover assets. Therefore, we reverse the orders dismissing Alan’s renewed citation to discover assets and closing the estate and remand for further proceedings. In any further proceedings, the court must consider any properly pled allegations that are based upon information Alan has properly obtained. This would include, for example, allegations based upon information Alan had obtained through the guardianship proceedings or properly issued subpoenas. Further, if the citation is granted³ and Alan is allowed to proceed with examining Tina under oath, any such examination cannot be based upon the information obtained through the improper subpoenas, as we have upheld that sanction, unless the same information has also been obtained through proper channels.

¶ 24 Alan next argues that the court erred by awarding Tina \$3864 in attorney fees for her individual counsel, Tate, and \$4890 in attorney fees for her counsel in her capacity as supervised representative, Neuber. As to Tate, Alan argues that Tate was not Hiatt’s attorney at the time the subpoenas were issued and thus, could not have served him. He also argues that Tate submitted

³We make no determination as to whether the citation is sufficient or whether it entitles Alan to any of the discovery he is seeking, as we note that at least some of his prior citations had been dismissed for reasons unrelated to the Rule 219 sanction. We simply find that the court dismissed the current citation based upon a misapplication of the sanction order.

all fees incurred and not only those related to the Rule 219 violation. Further, Alan argues that Tate falsified his billing and the billing included excessive charges. Alan argues that it is unclear from the record what specific time entries were included in the court's fee award. As to Neuber, Alan argued that she improperly submitted fees regardless of whether they related to the subpoenas. Alan also argues that the time that Neuber spent on the motions for sanctions was excessive. Additionally, Alan argues that the court awarded Neuber all fees after May 25, 2022, and such fees were not all related to the subpoenas. Finally, Alan argues that evidentiary hearings should have been held prior to an award of fees.

¶ 25 The trial court's award of attorney fees as a sanction under Rule 219 is reviewed for an abuse of discretion. See *In re Estate of Andernovics*, 311 Ill. App. 3d 741, 745-46 (2000). "The only restriction imposed by Rule 219(c) is that the award of attorney fees must be related to and be the result of the specific misconduct." *Smith v. Gleash*, 325 Ill. App. 3d 79, 85 (2001). "An evidentiary hearing is not always necessary in order to determine reasonable attorney fees. A nonevidentiary proceeding is proper so long as the trier of fact can determine from the evidence presented, including a detailed breakdown to fees and expenses, what amount would be reasonable, and the opponent is not deprived of the opportunity to present evidence." *Kroot v. Chan*, 2017 IL App (1st) 162315, ¶ 37.

¶ 26 Initially, we note that although Alan's written responses requested an evidentiary hearing, he did not request one in court when the hearings were held. Further, he did not attempt to call any witnesses. Moreover, the same judge, Judge Hayes, presided over the proceedings related to the subpoenas and the sanction motions. Judge Hayes is the judge who awarded the fees. She would be familiar with the proceedings and in a position to determine the reasonableness of fees incurred without holding an evidentiary hearing. Thus, we do not find any error in the failure to

hold an evidentiary hearing. Next, we note that the fact that Tate was not representing Hiatt at the time the subpoenas were issued is immaterial. Tate was retained and provided services related to the improper subpoenas and we see no abuse of discretion by the court in awarding Hiatt fees for those services. Further, in reviewing the record, it is clear the court carefully considered the fee petitions and determined which fees were reasonable and related to the subpoena issue. The court rejected fees that it believed were not reasonable or related to the subpoena issue and cut the fees requested by both Neuber and Tate, with Tate's fees being significantly cut. Although Alan complains that the fees awarded did not all pertain to the subpoena issue, he fails to set forth what specific fees he believes did relate to the subpoenas or what would be an appropriate fee and aside from one entry regarding fees for opposing an extension of time, he fails to identify which fees he believes were not related to the subpoena issue. See *People v. Edwards*, 2012 IL App (1st) 091651, ¶ 29 (“A reviewing court is entitled to have issues clearly defined with *** cohesive arguments presented; this court is not a repository into which an appellant may foist the burden of argument and research; it is neither the function nor the obligation of this court to act as an advocate or search the record for error.”). Further, the argument regarding the extension of time was presented to the circuit court and it was able to judge whether these fees were related to the subpoenas or not. Additionally, Alan fails to say what the extension was regarding, such that we cannot determine whether it related to the subpoena issue. If the extension involved anything related to the subpoena issue, fees incurred in opposition to such extension are appropriate. In light of Alan's failings in this regard, we conclude that he has failed to establish that the court abused its discretion regarding its fee awards.

¶ 27 Finally, Alan argues that the court erred by only sanctioning Hiatt for one of her allegedly false and unfounded filings. Illinois Supreme Court Rule 137(a) (eff. Jan. 1, 2018) provides that pleadings, motions, or other documents must be signed by a party or attorney and that the signature “constitutes a certificate by him that *** to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.” “If the rule is violated, the court may, upon motion or its own initiative, impose sanctions upon the individual who signed the filing, the represented party, or both.” *Lake Environmental, Inc. v. Arnold*, 2015 IL 118110, ¶ 13. The court is not required to sanction a party who violates Rule 137. *Id.* ¶ 15. The circuit court’s decision on a Rule 137 motion for sanctions is reviewed for an abuse of discretion and an abuse of discretion occurs when no reasonable person would agree with the decision. *Id.* ¶ 16. Here, the court only awarded sanctions for the motion to dismiss based upon *res judicata* which it found was not well grounded in fact or law. As to other allegations by Alan, the court found that Hiatt was allowed to argue for a different position than what the court ultimately took, and this was not sanctionable conduct. Further, the court reviewed the alleged false billing entries and determined that even if it did not believe the time was reasonable or awardable as attorney fees, it could be billed pursuant to a fee contract and not be false and sanctionable. Thus, the court did not find that there was any sanctionable conduct aside from the one issue (*res judicata*) for which it issued sanctions. The court reviewed the pleadings and heard argument before issuing a detailed order addressing the various allegations. Based on the foregoing and our review of the record, we cannot say that the court abused its discretion in denying any further sanctions.

¶ 28

III. CONCLUSION

¶ 29 The judgment of the circuit court of Du Page County is affirmed in part, reversed in part,
and the matter remanded.

¶ 30 Affirmed in part and reversed in part.

¶ 31 Cause remanded.