

Rorschach tests, are not discoverable 68 Ill Adm Code 1110.130

Frances Perspective #4, Streamwood police report turns into Psychiatric disorder. Dr Henry's psychiatric evaluation

I.2 Administrative Law Judge Canavan's Report & Recommendation

J.1 Veterinary Board's Findings of Fact & Conclusions of Law

K.1 Administrative Law Judge Daniel Bluthardt's Report & Recommendation

K.3 Order for Review: Veterinary License indefinite suspension 8/28/ 2008

K.8 Appeal Suspension Order

Endencia v Rush Behavioral Health 12 L 11388

K.8 Endencia v Rush Behavioral Health 1-13-2129; 2014 IL App (1st) 132129-U

Order Dec 2, 2014

L.1 IDFPR News Medical defamation (Black box secret of psychiatry)

L.2 Order for Review: Judge Lisa Fabiano's separation & loss of affection between myself & my daughter

L.3 Frances' Perspective #5

M Constitutional Provisions

225 ILCS 115/3 Definition of Impaired Veterinarian M.1

720 ILCS 5/12C-5 Endangering life & health of a child M.1

735 ILCS 5/2-622 Medical Malpractice Certificate Requirement M.1

18 US Code 1347 Health Care Fraud Requirement	M.2
42 US Code 1983 Civil Action for Deprivation of Rights	M.2
Fed Rules of Evidence Rule 406 Habit, Routine	M.3
18 US Code 242 Deprivation of Rights Under Color of Law	M.4
18 US Code 241 Conspiracy Against Rights	M.3
N Medicalization Writing Template	
DSM-IV-TR Multiaxial Classification	
O Is Psychiatry a Consumer Fraud? (Presentation @ Judge Fink's trial)	

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen. United States Courthouse

Room 2722 – 219 S Dearborn Street

www.ca7.uscourts.gov

Chicago Illinois 60604.

Office of the Clerk

Phone (312) 435 5850

ORDER by the Court. May 11, 2022.

	Frances Endencia
	Plaintiff-Appellant
	v
No 22-1229	American Psychiatric Association, et al
	Defendants – Appellees

Originating Case Information: District Court No: 1:21-cv-02360

Northern District of Illinois, Eastern Division. District Judge Mary M Rowland

The following is before the court: Motion for leave to transfer to the Supreme Court and Motion to Recall the Mandate, filed on May 9, 2022, by the pro se appellant.

To the extent that the appellant seeks to recall the mandate, IT IS ORDERED that the motion is DENIED.

To the extent that the appellant seeks to file a petition for certiorari, she is reminded that the petition should be filed with the United States Supreme Court and in accordance with the Supreme Court Rules. form name: c7_Order_BTC (form ID:178).

A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Endencia, Frances

v

No 09 M 3341

Behavioral Health Care Associates

ORDER

This matter coming to be heard or Defendant's Motion to Dismiss Plaintiff's Complaint, due notice given and the court fully advised in the premises, it is hereby ordered that: Defendant's motion to dismiss is granted, with prejudice, for reasons stated in open court. Specifically the plaintiff in the case is not alleging that the particular doctor deviated from the standards of his profession or the American Psychiatric Profession, she is attacking the medical procedures & the basis of psychiatry itself, and the complaint alleges that the psychiatric profession uses tests and diagnostics that are not based on scientific principles or true science. If this were a medical malpractice complaint, it would have to fail, not only because of lack of 735 ILCS 5/2-622 affidavit, but because in order to plead and prove medical malpractice complaint, there must be allegations that the individual doctor's performance did not meet the standard of the medical community. Secondly, Illinois follows *Frye v United States* and the tests utilized, psychiatrists have obviously gained general acceptance in the practice held in which they belong. It then follows that the licensed practice of psychiatry is not consumer fraud.

This is a final and appealable order under Rule 304(2)

Atty No: 44613

Name: Cassiday, Shade LLP

Atty for: As Behavioral Health Dr Reynish

Address 20 N Wacker Dr Ste 1000

City/State/ZIP Chicago IL 60606

Entered Howard Fink-0524 Signature Jan 29, 2010

DOROTHY BROWN, CLERK OF THE CIRCUIT

COURT OF COOK COUNTY, ILLINOIS

B.2

IN THE APPELLATE COURT OF ILLINOIS, FIRST DISTRICT

Frances Endencia) On Appeal from the Circuit Court of Cook County
Plaintiff-Appellant.) Court of Cook County, IL
v) 3rd Municipal District
Behavioral Health) Case Court No 09 M3 341
Care Associates) Honorable Howard Fink
Defendant-Appellees) Judge Presiding

Order

This cause on coming to be heard on Defendant-Appellees, Behavioral Health Care Associates & Alex D Reynish, Psy D's Motion to Strike Plaintiff's Brief & Dismiss Plaintiff's Appeal, due notice provided to all parties, the court being advised, it is hereby ordered.

Said motion is (x) Granted. () Denied

Justice Signature
Justice Signature
Justice Signature

ORDER ENTERED: Oct 28, 2010

Appellate Court First District

Julie A Teuscher
Cassiday, Shade LLP
20 North Wacker Drive, Suite 1000
Chicago IL 60606-2903
312 641 3100

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

Frances Endencia Case No 21-cv-02360

Plaintiff Judge Mary M Rowland

Vs

APA et al

Defendants

MEMORANDUM OPINION & ORDER

Plaintiff Frances Endencia originated this suit against more than 24 defendants regarding a variety of claims unrelated to each other. Currently before the Court is Plaintiff's motion to vacate an order of dismissal & leave to file instanter fourth amended complaint [82]. The court construes this as a motion to reconsider its dismissal of her 3rd amended complaint. For the reasons that follow, Endencia's motion to reconsider is denied.

ANALYSIS

A more detailed account of the facts can be found in this Court's opinion issued on Jan 11, 2022. *Endencia v Am Psychiatric Assn*, 21-cv-02360, 2022 WL 103707 (ND Ill Jan 11, 2022). To recap briefly, Endencia is a prolific litigator that takes issue with the suspension of her veterinary license & the events stemming from the alleged break in of her veterinary practice in 2005. Id at *1. Her complaint took issue with the practice of psychiatry, made claims of fraud against the court

against a state court judge and lawyer regarding a child guardianship case, and brought barred claims against defendants and sought criminal charges against a police officer. *Id.* The Defendants who appeared filed motions to dismiss and request sanctions against Endencia. The court granted the motions to dismiss, declined to grant sanctions against Endencia to the Northern District of Illinois Executive Committee. Endencia has since filed two new amended complaints, the present motion, and miscellaneous exhibits. See Dkts. 80-83.

A motion to reconsider is appropriate only “where a court has misunderstood a party, where the court has made a decision outside the adversarial issues presented to the court by the parties, where the court has made an error of apprehension (not of reasoning), where a significant change in the law has occurred, or where significant new facts have been discovered.” *Broaddus v Shields*, 665 F 3d 846, 860 (7th Cir. 2011), *overrules on the other grounds by Hill v Tangherlini*, 724 F 3d 965 (7th Cir 2013). Such circumstances are rare and the “party moving for reconsideration bears a heavy burden” to prove such problems exist. *Caine v Burge*, 897 F Supp. 2d 714, 717 (ND Ill 2012); *Bank of Waunakee v Rochester Cheese Sales, Inc*, 906 F 2d 1185, 1191 (7th Cir 1990). “Reconsideration is not an appropriate forum for rehashing previously rejected arguments or arguing matters that could have been heard during the pendency of previous motion.” *Caisse Nationale de Credit Agricole v CBI Indus, Inc* 90 F 3d 1264, 1270

(7th Cir 1996). It is well-established that motions for reconsideration “serve limited function.” *Id* at 1269.

Further, it was clear in this first Order that given Endencia’s previous litigation history and the Third Amended Complaint, amendment of any sort would be futile. Denial of amendment is appropriate when a. amendment would be futile. *Villars v kubiatowski*, 128 F Supp 3d 1039, 1043 (ND Ill 2015). Therefore, Endencia’s request to amend her complaint and add additional defendants through an “intervenor complaint” is denied. *See* Dkt 79 (“Plaintiff’s motion is nothing more than a rehash of arguments and facts previously considered before in this Court. Further, Plaintiff’s request to add additional defendants is denied. As stated in this Court’s prior orders, amendment would be futile and frivolous.”)

CONCLUSION

For the stated reasons, Endencia’s motion to reconsider [82] is denied. Case remains closed. Endencia remains referred to the Northern District of Illinois Executive Committee regarding her status as a restricted filer.

ENTER Dated: February 10, 2022

/s/

Mary M Rowland

United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

Frances Endencia) Case No: 21-cv-02360

Plaintiff) Judge Mary Rowland

v)

American Psych Assn et al)

Defendants)

Judgment in a Civil Case

Judgment is hereby entered (check appropriate box)

() in favor of plaintiff(s) & against defendant(s) in the amount of \$

which includes () pre-judgment interest

() does not include pre-judgment interest

Post judgment interest accrues on that amount at the rate provided by law from the date of this judgment.

Plaintiff(s) shall recover costs from defendants.

() in favor of defendant(s) & against plaintiff(s)

Defendants shall recover costs from plaintiff.

() other: in favor of all defendants. Judgment of dismissal based on Rooker-Feldman Doctrine, judicial immunity, res judicata & failure to state a claim as to American Psychiatric Association, ADT Security

System. Wheaton Youth Outreach, Lisa Fabiano, Wendy Vaughn & The Board of

Trustees for Northern Illinois University. Judgment of dismissal for improper service, failure to state a claim, and futility of amendments as to PMH Partners; Dr Joel Prince Sr, Dr Joel Prince Jr, Dr John Coyne (DVM), Dan Maloney, Dr Stafford Henry, The Knox Company, Dan Benyousky, Alexian Brothers Behavioral Health, Nathan Hamacek, Bartlett Fire/Police Department, James Keegan, Mandarino, Laura Siedleski, Steve Kisch, Bill Maffy of DCFS of Glen Ellyn, Gil Martinez & Monhinder Chadha.

This action was (check one):

() tried by a jury with Judge Mary Rowland presiding, and the jury has rendered a verdict

() tried by Judge Rowland without a jury and the above decision has been reached.

() decided by Judge Mary Rowland on motion to dismiss.

Date 1/11/2022

Thomas G Bruton, Clerk of Court, Dawn A Moreno, Deputy Clerk

**Frances E.'s (Plaintiff) Response to Judge Rowland's improper service
dismissal order.**

In pursuant to District Court's local rules Federal Rules of Civil Procedure Rule 4
(c) Service by whom made (2) Service may be affected by any person who is not a
party and at least 18 years of age....

(B) shall be dispatch through first class mail or any reliable means

**All defendants were served with USPS certified priority mail with
tracking numbers or via FedEx.**

**Judicial immunity for Administrative Law (IDFPR) Judge Canavan
& Daniel Bluthardt** (a) they knew or should have known psychiatry is void of
science & facts are distorted to create diagnosis (b) they know or should have
known that psychiatric treatment plans create drug dependency and harm the
brain, a human rights violation Amendment 14 §1 §1.4.3 IDFPR paid for Dr
Henry's services (c) the order that indefinitely suspended Dr Frances E.'s
veterinary license lacked substantiative evidence of impairment. She does not
smoke, drink alcohol, or take drugs. Psychiatrist(s)' treatment recommendations
would cause impairment & highly addictive.

Judicial immunities of Judge Lisa Fabiano & Wendy Vaughn. They
are not immune since (a) Dr Frances E is not dead. Case was filed by Wendy V. as
a probate case, Estate of Altessia Endencia 09 M 978. (b) Frances & Altessia E.
live in Bartlett, IL, not in Rockford, IL. Case lacks territorial jurisdiction.

(c)Harassment. They utilized fabricated psychiatric evidence created by Dr Chadha & forcibly detained her Alexian Bros Behavioral Health for 5 days and giving her a bill of almost \$7,000. Dr Frances E. did not meetwith Dr Chadha on Nov. 2009. (d) stressed out Altessia to lead to premature birth & death of her child (e) instrument to lead Altessia to a life of crime.

Res judicata. Case is not res judicata because of addition of defendants, change in legal theory set forth &, in case of Wheaton Outreach & Nathan H as defendants, there was no trial in original cases.

State courts does not allow the utilization of consumer fraud theory against psychiatrists. Medical malpractice is the accepted norm in psychiatry, wherefore Dr Frances E. is asking this court for a permanent injunction order to illegalize the current practices of medicalization for lack of scientific basis, & psych treatment, whose goal is to create lifetime patients with highly addictive controlled substance drugs & brain pathology. These drugs cause impairment. Children who become adults & adults mentored by psychiatrists, are unable to procure jobs because they are impaired, leading to homelessness, crime, suicide & (mass) murders.

ADT & Trustees of NIU for Wendy V.: Due to vicarious liability, they are held accountable for the actions of their employees & (ADT)dealers.

Frances Endencia

C.7

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

Frances Endencia

Case No: 19-cv-3161

Plaintiff

Judge Mary Rowland

v

American Psychiatric Association,

Dr Stafford Henry as representative

Illinois Department of Financial

& Professional Regulation

Defendants

Memorandum Opinion & Order

Frances Endencia owned The Pampered Pet Veterinary Service, which she says experienced multiple break-ins between 1999 to 2007. According to Endencia's complaint, after one such break-in in 2005, she contacted police. At the police department's recommendation, the Illinois Department of Financial & Professional Regulations required her to undergo a psychiatric evaluation. The results of the evaluation was that IDFPR suspended Endencia's veterinary license. Endencia brings this suit against Defendants for violating the Federal Trade Commission (Count I) and for negligent misrepresentation (Count II). Defendants moved to dismiss the complaint under Federal Rules of Civil Procedure 12(b)(1)

and 12(b)(6). After the motions were fully briefed, Endencia filed motions to amend her complaint and add defendants. Defendants' motion to dismiss [10] and [15] and denies Endencia's motion for leave to amend and add defendants [28] and [29].

I. Background

Pro se Plaintiff Frances Endencia ("Endencia") brings suit against the American Psychiatric Association ("APA"), Dr Stafford Henry, "representing" the APA, and the IDFPR (collectively, "Defendants for violating *the Federal Trade Commission Act (FTCA) 15 USC §§41-58* and for negligent misrepresentation. (Dk1 1, Compl.)¹ Endencia worked as a veterinarian until IDFPR suspended her license in August 2008. (*See id ¶5*)² Endencia alleges that the basis for the suspension was a psychiatric diagnosis based on APA procedures (*Id. ¶¶ 1, 7-10.*)³

As Endencia states in her complaint, her claims focus on "diagnostic tests are not "transparent to the public" are "distorted" and "not based on medical science" (*Id*

¹ The court accepts as true all of Plaintiff's well pleaded facts and draws all permissible inferences in Plaintiff's favor. *See eg Fortress Grand Corp v Warner Bros Entm't Inc*, 763 F 3d 696, 700 (7th Cir 2014) (internal citations and quotations omitted).

² Although not explicitly stated in her complaint, it appears Dr Henry completed the evaluation.

³ Her license was "indefinitely suspended: by IDFPR (Dkt 11-2, Exh 2)

¶¶8-9). She further alleges that psychiatrists (none specifically named) negligently fail to inform the public that their treatments cause harm (*Id* ¶11)

The APA argues that dismissal is appropriate under Rule 12(b)(6) because the FTC does not provide a right to private action. Endencia fails to state a claim for negligent misrepresentation, and her negligent misrepresentation claim in any event is time barred (Dkt 11). The APA also argues that she fails to allege facts that show an agency relationship between Henry & APA, such that APA could be liable for his actions (*Id*). IDFPR argues that dismissal is warranted under Rules 12(b)(6) and 12b)(1) because Endencia fails to state a claim and because IDFPR is immune from suit under 11th amendment (Dkt 15-1). Both defendants seek dismissal with prejudice.

The motions to dismiss were fully briefed on August 5, 2019. Endencia sought leave to file an amended complaint on August 27, 2019.

II. Standard

A motion to dismiss tests the sufficiency of a complaint, not the merits of the case. *Gibson v City of Chicago*, 910 F 2d 1510, 1520 (7th Cir 1990). "To survive a motion to dismiss under the 12(b)(6), the complaint must provide enough factual information to state a claim to relief that is plausible on its face and raise a right to relief above the speculative level." *Hollywood v Massage Envy Franchising LLC* 887 F 3d 329 (7th Cir 2018) (quotations and citation omitted). *See also* Fed R Civ P 8(a)(2) (requiring a complaint to contain a "short and plain statement of the claim

showing that the pleader is entitled to relief'). A court deciding a Rule 12(b)(6) motion accepts plaintiff's well pleaded factual allegations as true and draws inferences in plaintiff's favor. *Fortres Grand Corp*, 763 F 3d at 700. A plaintiff need not plead "detailed factual allegations", but "still must provide more than labels & conclusions or a formulaic recitation of the elements of a cause of action for her complaint to be considered adequate under Federal Rule of Civil Procedures 8." *Bell v City of Chi*, 835 F 3d 736, 738 (7th Cir 2016) (citation and internal questions marks omitted). Dismissal for failure to state a claim is proper "when the allegations in a complaint, however true, could not raise a claim of entitlement to relief." *Bell Atl Corp v Twombly*, 550 US 544, 558, 127 S Ct 1955, 1966 (2007)

Deciding the plausibility of the claim is a "context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *McCauley v City of Chi.*, 671 F 3d 611, 616 (7th Cir 2011) quoting *Ashcroft v Iqbal*, 556 US 662, 679, 129 S Ct 1937, 1950 (2009)). In addition, the Court construes the *pro se* complaint liberally, holding it to a less stringent standard than lawyer-drafted pleadings. *Cesal v Moats*, 851 F 3d 714, 720 (7th Cir 2017).⁴

⁴ With regard to extrinsic evidence, courts normally do not consider such evidence without converting a motion to dismiss into a summary judgment, however where a document is referenced in the complaint and central to plaintiff's claims, the Court may consider it in ruling on the motion to dismiss. *Mueller v Apple Leisure*

"[T]he party invoking federal jurisdiction bears the burden of demonstrating its existence." *Boutte v Nw Med Found* 276 F App 490, 491 (7th Cir 2008) (citation and quotations omitted).

III. Analysis

A. IDFPR Immunity

IDFPR is immune from Endencia's lawsuit. IDFPR, as a state agency, is an arm of the State for the purpose of the Eleventh Amendment. See *Kroll v Bd of Trustees of Univ of Illinois*, 934 F 2d 904, 907 (7th Cir 1991).⁵ As another court in this district recently explained: "The Eleventh Amendment bars [Plaintiff's] claims against

Corp 880 F 3d 890, 895 (7th Cir 2018) ("This rule is a liberal one - especially where...the plaintiff does not contest the validity or authenticity of the extraneous materials.") In addition, the Court may "take judicial notice of court filings and other matters of public record when accuracy of those documents reasonably cannot be questioned." *Parungao v Cnty Health Sys*, 858 F 3d 452, 457 (7th Cir 2017)

⁵ The Eleventh Amendment of the US Constitution states: "The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State." US Const amend XI

IDFPR defendants because IDFPR is a state agency..." *Li v Ill Dep't of Fin & Prof'l Regulation*, 2018 US Dist LEXIS 48734 at *7-8 (ND Ill Mar 23, 2018)

None of Endencia's allegations show that any exception to IDFPR immunity applies here. *See id.* Illinois has not consented to suit in federal court for the claims at issue. See 745 ILCS 5/1; 705 ILCS 505/8. The FTCA does not abrogate state immunity because, as explained below, there is no private right of action under the FTCA. The *Ex parte Young* doctrine, which allows state official to be sued if plaintiff is requesting prospective equitable relief for ongoing violations of law, does not apply because Endencia requests monetary damages, not an injunction, and she does not allege an ongoing violation of law. *Ex parte Young*, 209 US 123, 159-60 (1908)

B. FTC Violation (Count 1)

Endencia alleges that Defendants violated the FTCA based on deficiencies she claims exist in psychiatric tests and diagnostic procedures and because those tests are "not transparent" (Compl ¶¶ 8-10) Section 45(a) of the FTCA prohibits "unfair methods of competition" and "unfair or deceptive acts or practices in or affecting commerce". However, as Defendants argue, the FTCA does not provide a private right of action. *LaSalle St Press Inc v McCormick & Henderson Inc* 293 F Supp 1004, 1006 (ND Ill) (citing *Atlantic Refining Co v FTC*, 381 US 357, 367 (1965)). Only the FTC can charge a violation of the FTCA, *Marquette Cement Mfg v FTC* 147 F 2d 589, 594 (7th Cir 1945). *See also Boutte*, 276 F App'x at 491 ("Because

neither [federal statute] provide[d] a cause of action against these defendants, [plaintiff's] claims under these statutes are frivolous and insufficient to establish jurisdiction")

Therefore, the Court dismisses Count I with prejudice.

C. Negligent Misrepresentation (Count II)

In Count II, Endencia alleges that Defendants made negligent misrepresentations.

To adequately plead that claim, Endencia must allege:

(1) A false statement of fact; (2) carelessness or negligence in ascertaining the truth of the statement by the party making it; (3) an intention to induce the other party to act; (4) action by the other party in reliance on the truth of the statement; (5) damage to the other party resulting from such reliance; and (6) a duty on the party making the statement to communicate accurate information.

Wheaton Theatre LLC v First Am Title Ins Co 345 F Supp 3d 904, 907 (ND Ill 2018)

(quoting *First Midwest Bank NA v Stewart Title Guar Co* 843 NE 2d 327,332 (Ill 2006). Endencia states only that "[p]sychiatrists are negligent in informing the public that the treatment they prescribe cause harm by mental impairment."

(Compl ¶ 11) Her allegations do not identify any "false statement of material fact" by any Defendant. Nor does she allege any of the other elements of the claim.

The APA argues that even if Endencia adequately alleged a negligent misrepresentation claim, that claim is time-barred. Under Illinois law, a negligent misrepresentation claim must be brought within five years of the date on which

the cause of action accrued. 735 ILCS 5/13-205. *See also McMahon v Deutsche Bank AG* 938 F Supp 2d 795, 802 (ND Ill 2013). Plaintiff filed her complaint in 2019, 13 years after receiving the diagnosis and nearly 11 years after her veterinary license was suspended. (See Dkts 11-2, 1103) Therefore Endencia's negligent misrepresentation claim is time-barred.

D. The Court Will Not Grant Leave to Amend.

Because there is no private right of action under the FTCA (Count I), Endencia's negligent claim (Count II) is time-barred, and IDFPR is immune from suit, the complaint must be dismissed.

In response to Defendants' motions to dismiss, Endencia seeks leave to amend her complaint and add defendants. Her motion to amend was not filed in the time permitted under Federal Rule of Civil Procedure 15(a)(1), so Rule 15(a)(2) applies, which allows a party to amend with the court's leave, which is "freely given" when justice so requires". Fed R Civ P 15(a)(2). Denial of an amendment is appropriate, however, when an amendment would be futile. *Villars v Kubiakowski* 128 F Supp 3d 1039, 1043 (ND Ill 2015). An amended complaint is futile if it asserts the same facts, asserts a previously determined claim, fails to state a valid theory of liability or could not withstand a motion to dismiss. *Id* (citing *Bower v Jones*, 978 F 2d 1004, 1008 (7th Cir 1992) "Courts are within their discretion to dismiss with prejudice where a party does not make a showing that the party might cure the defects in the complaint" *Haywood*, 887 F 3d at 335; *see also li*, 2018 US Dist

LEXIS 48734, at *17(ND Ill Mar 23, 2018) (denying leave to amend because amendment is futile). Here, neither Endencia's motion to amend nor her proposed amended complaint demonstrate that the defects in this case would be cured by the amended complaint. To the contrary, her amended complaint (Dkt 28-1) is more unintelligible than her first complaint. She did not respond to any of the deficiencies raised by Defendants' motions. Instead, her amended complaint removes counts or any reference to a cause of action and adds, for example, a chart entitled "Breakdown of 2013 Psychiatric Drug Use". Her amended complaint still comes up against sovereign immunity for the IDFPR, no private right of action under the FTCA, and a time-barred state law claim.

Even assuming a timely and valid state law existed, Endencia has not shown that there is any basis for federal jurisdiction. There is no federal statutory or constitutional jurisdiction. There is no federal or constitutional, and Endencia has not shown that diversity jurisdiction exists. Complete diversity of citizenship is required under 28 USC § 1332, meaning no plaintiff is a citizen of the same state as any defendant. *See McCready v eBay Inc*, 453 F 3d 882, 891 (7th Cir 2006). Indeed her request to add defendants appears to add 3 Illinois defendants (Dkt 29) Endencia alleged that the Court has jurisdiction under "FRAP 23(A) and B(2)". (Compl ¶ 2) But shw does not assert any allegations about the class she seeks to represent or how other potential plaintiffs are similarly situated, nor did she file any motion to certify a class. "Because the allegations of the plaintiff's complaint

do not suggest that her purported class action claim satisfies any of jurisdictional requirements of the Class Action Fairness Act, the court cannot assert subject matter jurisdiction over her state law claims pursuant to 28 USC § 1332(d)" *Allen v JPMorgan Chas* (2010 US Dist LEXIS 30809, at *11 (ND Ill Mar 40, 2010).

As a final matter, Dr Henry has not appeared in this case. Endencia names him as "representative" of the APA, although the APA says he has no affiliations with the APA. APA argues that, to the extent that Endencia alleges a medical malpractice claim, that claim is barred by the doctrine of *res judicata* (Dkt 24 at 1). The Court agrees⁶ Indeed, claim preclusion applies to Dr Henry. The Illinois Appellate Court affirmed the Circuit Court of Cook County's dismissal with prejudice of Endencia's complaint , which "sounded in psychiatric malpractice" against Rush Behavioral Health and Dr Henry. *Endencia v Rush Behavioral Health* 2014 IL App (1st) 132129-U. The Illinois Supreme Count denied appeal, and the US Supreme Court denied certiorari. 2015 Ill LEXIS 573 (Ill 2015); 2015 US LEXIS 7659 (US Nov 30, 2015). Endencia also brought claims against Dr Henry in another suit in this court, which Judge Dow dismissed. (Case No 19-cv-5477, Dkt 11). And the Seventh Circuit has affirmed dismissal of Endencia's claim

⁶ Even if APA had not raised the issue, the Court could invoke claim preclusion and *sua sponte*, *Brooks, Ngwenhya v Indianapolis Pub Sch*, 2019 US App LEXIS 26639, at *4 (7th Cir Sep 4 2019) (district court may invoke claim preclusion *sua sponte*)

against the IDFPR. Dr Henry and others (See Dkt 11-5 (Case 17-2256)) ("Endencia has not stated a federal claim concerning her failed business and the state's decision to suspend her veterinary license").

As the Seventh Circuit has explained:

The doctrine of res judicata, also known as claim preclusion, applies if there is (1) a final judgment on the merits by a court of competent jurisdiction (2) an identity of the causes of action; and (3) an identity of the parties or their privies. If the doctrine applies, the plaintiff is barred from raising not only every matter that was actually determined in the first suit, but also every matter that might have been raised and determined in that suit.

Parungao v Cnty Health Syst 858 F 3d 452, 457 (7th Cir 2017) (internal citations & quotations omitted). Endencia's claim against Dr Henry, though hard to decipher also "sounds in psychiatric malpractice, as in Illinois case. Claim preclusion bars the claim. See *Li*, 2018 US Dist LEXIS 48734 at *17 (finding claim preclusion barred plaintiff's actions against two defendants even though they had not appeared in response to the complaint).

Therefore, the Court denies Endencia's motion to amend or to add defendants.

IV Conclusion

For the stated reasons, Defendants APA's and IDFPR's motion to dismiss [10] and [15] are granted. Plaintiff Frances Endencia's motions for leave to amend and add defendants [28] and [29] are denied. The case is dismissed with prejudice. Status

hearing set for 10/10/19 is stricken. The Clerk is directed to enter judgment and terminate civil case.

ENTER:

(signature)

Mary M Rowland

United States District Court

Dated: October 7, 201

UNITED STATES COURT OF APPEALS

FOR THE SEVENTH CIRCUIT, CHICAGO, ILLINOIS 60604

Submitted April 13, 2020. Decided June 29, 2020

CERTIFIED COPY Seal

Before: William J Bauer, Circuit Judge, Daniel A Manón, Circuit Judge

Frances Endencia] Appeal from the US District Court

Plaintiff-Appellant] for Northern IL, Eastern Division

v]

American Psychiatric Assn, et al] No 1:19-cv-0361

Defendants-Appellees] Mary M Rowland, Judge

ORDER

An appellant, whose brief does not address the reasons she lost in the District Court, is doomed to lose on appeal also. *Klein v O'Brien*, 884 F 3d 754, 757 (7th Cir 2018). ("An appellate brief that does not even try to engage the reasons the appellant lost has no prospects of success") (emphasis in original).

Several years ago, we affirmed the dismissal of a case that Frances Endencia brought relating in part, to the indefinite suspension of her veterinary license. *See Appeal No 17-2256 (7th Cir Nov 14, 2017)*. It's worth repeating here what we said in Endencia's earlier appeal:

"Claims of wrongdoing and broad assertions that one's rights have been violated are not enough to justify a disturbing judgment of dismissal for failure to state a claim. No where in her brief does Endencia argue the the district court got it wrong." Endencia appears to have learned nothing from her earlier visit to this court, giving credence to the adage that those who do not learn from the past are doomed to repeat it.

Now, as then, Endencia's brief offers no insight as to why the district court was wrong when it dismissed Endencia's case with prejudice. Endencia's brief addresses none of the multiple grounds for dismissal of her case - there is no private right of action under the Federal Trade Commission Act, the negligent representation claim is time-barred, and the state agency is immune from suit. *See United States v Boliaux*, 915 F 3d 493, 496 (7th Cir 2019) (if an appellant loses in the district court on multiple grounds, appellant must contest all on appeal). Nor does the brief address the district court's determination that any amendment to Endencia's complaint would be futile, commenting that the amended complaint "is more unintelligible than her first complaint". Instead, Endencia sets off in a path of her own choosing, critiquing the practice of psychiatry in general - it is "consumer fraud" and "not objective and not scientific" and more particularly blaming the use of psychiatric evaluations for the suspension of her veterinary license. As briefed, Endencia offers no argument that squarely takes on the district court's rationale for the decision, offering no explanation at all that would aid our review, and

therefore she has waived appellate review. *See Owens v Godinez*, 860 F 3d 434, 437 (7th Cir 2017) (appellant waived appellate review of rulings not challenged.)

Like Endencia's earlier appeal, we see no reason to disturb the district court's judgment, *see Anderson v Hardman*, 241 F 3d 544, 545 (7th Cir 2001) (appellate court will not research and construct *pro se* litigant's arguments on appeal), and it is **SUMMARILY AFFIRMED**

IN THE UNITED STATES DISTRICT COURT,
FOR THE NORTHERN ILLINOIS

Frances Endencia

Case No:

Plaintiff

1:21-cv-02360

V

Judge Mary Rowland

IDFPR

Magistrate Judge: Cole

Defendants

Notice of Appeal

Notice is hereby given that Plaintiff in Pro sec, Frances Endencia of the above-named case, hereby appeals to the United States Court of Appeals for the Federal District Order judgment dated on January 11, 2022.

A Fourth Amended Complaint with 2 sub-complaints and exhibits have been electronically filed since January 12, 2022.

February 10, 2022

/s/ Frances Endencia Plaintiff in pro sec

73 S Lincoln Ave 1R Aurora IL 60505

fendencia@gmail.com

D

Mar 2005. Frances' Background Perspective #1

When I purchased the business from PMH Partners (Prince-Maloney-Henry) there was major accounting fraud and I inherited ADT Security System. Unknown to me at that time, the system can be turned on & off from customer's side and ADT's side (Streamwood Police were their employees monitoring the surveillance system). From 1999-2007, I experienced break-ins and theft where PMH Partners turned off security from ADT (Streamwood Police) side and they would pick the locks, enter my business, and take whatever they want, with no evidence of break-in (no broken glass or tampering of doors). Village of Streamwood has ordinance requiring business owners to provide them with keys. In 2004, I won my accounting fraud case against PMH partners. In March 2005, they staged a break-in to cause my veterinary license to be indefinitely suspended using psychiatrist partner, Dr Henry. He recommended psychiatric drugs to cause impairment. I came in on Sunday morning to find a lot of blood with no source of bleeding, a dead dog & cat roaming. I called Streamwood Police (a mistake) & Papay Mandarino, Kisch, Siedleski came. After they left, James Keegan called me by phone and asked me to come to the police department the next day. When I met with him, he asked me about the incident and was mischievously laughing the entire time. Another incident of break-in occurred where one of my patients was bled with a dirty needle but did not die. It developed into a mass which I took care of. Based on Keegan's mischievous laughter at the interview, I did not report the

second case. Keegan called IDFPR a month later. (I had no conversations with Siedleski, as stated in report. My conversations with Keegan was put in as Siedleski conversing with me. In Papay's report, he states that he can see blood oozing from the cat's wound...I was with him & there was none. There was one blood-stained paw only, indicating someone dipped the paw in blood and made pawprints like cat walking in facility.

STREAMWOOD POLICE DEPARTMENT CRIME REPORT

Case No. 0503200 Report No 0503200.1

Report Date 3/13/2005 9:44:00 AM. Case Report Status A-Approved

Occurred on 3/12/2005 4:59 PM (and Between) 3/13/2005 3/13/2005 8:00 AM

Location 140 N Barrington Road

Dest 52-53 – NORTH OF WOODLAND HEIGHTS BLVD EAST OF PARK BLVD

Sub-beat Disposition: Active

GEO3 52-01. Clearance Reason

GEO4 52-26. Date of Clearance

Vehicle Activity **Reporting Agency:**

Vehicle Traveling Streamwood Police

Cross Street Division

Means Notified

E 2

Motive**Other Motives**

Date Entered 3/13/2005 3:02:52 PM Entered By 52-6903-2 Papay, David

Date Verified: Verified By: Date Approved 3/13/2005 2:46:33 PM

Approved By 52-4965-1-Kisch, Steve Connecting Cases

Reporting Officer. 52-6903-2-Papay, David

Assisted By 52-5449-1-Mandarino, James. 52-4965-1-Kisch, Steve

52-7899-1-Siedleski, Laura

Report Narrative: In summary, on 31305 I responded to 140-4 N Barrington Rd (Pampered Pet Veterinary Service), in reference to a suspicious incident. Upon arrival I spoke with Dr Frances V. Endencia who advised that sometime between approximately 17:00 yesterday and approximately 08:00 today, someone entered the veterinary facility, tampered with a cat that just had surgery, and killed a dog that just had surgery; both animals had been caged, with the cat above the dog. Droplets of blood were found in the cat's cage, and the floor, leading from the cage to the front lobby. A large amount of blood was found under a couch in the front lobby floor and bloody paw prints were found leading from the couch to the front of the office, then droplets of blood were found in the floor leading from the front door to behind the desk in the front office. Dr Endencia advised that a black cloth was left in the cat cage and Dr Endencia did not know who put it there or where it came from. Dr Endencia advised that the cat was found under the desk but Dr Endencia was adamant that the blood was not from the cat. OIC Kisch

decided to contact the evidence technician to process the scene.

The dead dog was still left in the cage were Dr Endencia said the dog was left the night before. Dr Endencia advised that the dog had a procedure yesterday afternoon, and the dog was coming out of the anesthesia when Dr Endencia left the facility. Dr Endencia advised that the owner had already picked up the cat that was let out of the cage before the police were called.

The cat owner, Laura Henry, was contacted & she brought the cat to the facility. I was able to see blood coming from the wound on the underside of the cat and blood on one of the paws indicating that the blood on the floor probably came from the cat. The dog owner, Karen Michael, was also contacted and arrived at the facility. Mrs Michael advised that she was already at the facility prior to police being called and was aware of her dog passing.

After the animal owners had left, Dr Endencia and I made contact with the alarm company, ADT. ADT advised that their records show that the alarm was set for th3 facility at 1659 on 31205 and was not disarmed until 0839 this morning using code E401.

ET Siedleski then arrived and processed the scene. I advised Dr Endencia of the case number. I advised Dr Endencia that she needed to make a detailed audit of the narcotics and medications at the facility to see if any were missing. When I advised Dr Endencia to have the audit ready for the detectives within the next few days, Dr Endencia then stated she was missing narcotics back in

December 2004, and suspected another employee was stealing them.

I was unable to contact with Mr Mazur. Nothing follows.

Offense Details: Public Complaint – suspicious

incident circumstances

Offense Description: 7334-Public Complaint:Suspicious incident /circumstances

IBR Code

IBR Setup

Location: 09-Drug Store/Doctors Office/Hospital

Offense Complete? No

No Prem Entered

Printed For _____

Printed: September 19, 2006 9:22 PM

Streamwood PD

401. E Irving Park Road Streamwood IL 60107

Tel: 630-738-3700 Fax: 630-837-8397

Case / Report No: 05-03200.4

CAD / CDC No. 05-03200

Occurred From Date 3-12-2009 Time: 16:59

Occurred To Date: 3-13-2005 Time: 08:00

Reported Date: 04-05-2005 Time: 00:00

Narrative Supplement

Felt confident that indeed it was planted, and she would pay for the testing. I denied her request.

Based upon the conclusion of my investigation and Dr Endencia's behavior, I contacted the Illinois Department of Professional Regulation to have her privilege as a doctor examined. It is my belief that Dr Endencia should not be practicing veterinary medicine until she is examined for mental fitness. I also notified Bartlett PD where she resides and notified them of Dr Endencia's situation.

Case TOT

Department of Professional Regulation: burglary investigation unfounded.

Approved by: 4851-KEEGAN, JAMES ON 4/5/2005 12:12:56 PM

ADMINISTRATIVE REVIEW

Completed by: Siedleski, Laura

Date / Time: 04-06-2005 00:00

IN THE UNITED STATE DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

Frances Endencia

Plaintiff

v. No 08 C 541

ADT Security Inc

Defendant

MEMORANDUM OPINION

SAMUEL DER-YEGHAYAN, District Judge

This matter is before the court on Defendant ADT Security Inc's ("ADT") motion to dismiss. For the reasons stated below, we grant the motion to dismiss.

BACKGROUND

Plaintiff-Frances Endencia ("Endencia") alleges that she was formerly the owner of "Pampered Pet Veterinary Service" ("Clinic") (TA Compl Par 1). She indicates that on June 8, 2001, she hired ADT to provide security services for the Clinic. Endencia claims that despite the security system, vandals were able to break into the Clinic on multiple occasions and the security system never went off. Endencia contends that she eventually decided to upgrade her ADT system by purchasing a surveillance camera. However, vandals allegedly again broke into the Clinic. During the incident ("Incident"), the vandals allegedly smeared blood in a room in

the Clinic and took a dog that was kept in a cage at the Clinic. Endencia claims that she filed a police report about the Incident, but, instead of investigating the Incident, the police allegedly "manipulated the situation that lead [sic] to a complaint with the Illinois Department of Professional Regulations that leads [sic] to an order of suspending [Endencia's] veterinary license." (TA Compl Par 4) Endencia also claims that later there was an additional break-in at the Clinic, and blood was taken from an animal at the Clinic and smeared under his bedding. Endencia claims that due to the failure of ADT's security system the police engaged in misconduct that resulted in her losing her license and business. Endencia brought the instant action against ADT and indicate in her *pro se* third amended complaint that ADT was negligent.

LEGAL STANDARD

In ruling on a motion to dismiss brought in pursuant to Rule (12)(b)(6), the court must draw all reasonable inferences that favor plaintiff, construe the allegations of the complaint in the light most favorable to the plaintiff, and accept as true all well-pleaded facts and allegations in the complaint. *Thompson v Ill Dep't of Prof'l Regulation*, 300 F 3d 750, 753 (7th Cir 2002); *Perkins v Silverstein*, 939 F 2d 463, 466 (7th Cir 1991). In order to withstand a motion to dismiss, a complaint must allege the "operative facts" upon which each claim is based. *Kyle v Morton High Sch*, 144 F 3d 148, 454-55 (7th Cir 1998); *Lucien v Preiner*, 967 F 2d 1166, 1168 (7th Cir 1992) A plaintiff is required to include allegations in the complaint that

"plausibly suggest the plaintiff has a right to relief, raising the possibility above "speculative level" and "if they do not, the plaintiff pleads itself out of court". *EEOC v Concentra Health Services Inc*, 496 F 3d 773, 776 (7th Cir 2007) (quoting in part *Bell Atlantic Corp v Twombly*, 127 S Ct 1955 1965(2007). Under the current notice pleading standard in federal courts a plaintiff need not "plead facts that, if true, establish each element of a 'cause of action...'" *See Sanjuan v Amer Bd of Psychiatry and Neurology Inc*

Jan 18, 2006. Frances Background Perspective #2

A year after the incident, I received an order requiring psychiatric evaluation by Dr Ludwig, DVM. (Dr Ludwig is not a judge) with PMH Partner, Dr Henry. Evaluation to be paid by IDFPR (so they do whatever they wanted with the record)

STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL & PROFESSIONALREGULATION DIVISION
OF PROFESIONAL REGULATION

Dept of Financial & Professional Regulation of Stateof Illinois.

Complainant

v.

No: 200501942

Frances V Endencia DVM License Nos 90006620, 390002750, 390002749,
390002751, 390003752, 390003482.

Respondent

.....
ORDER

The Division of Professional Regulation of the Department of Financial & Professional Regulation of the State of Illinois having Petitioned the Illinois for an ORDER requiring FRANCES V ENDENCIA, DVM, Respondent License No 90006620 & Controlled Substance License Nos 390002750, 390002749, 390002751, 390003752, 390003482 to submit to mental and physical examinations by designated physicians specializing in psychiatry & internal medicine, pursuant to Illinois Veterinary Medicine & Surgery Practice Act, and a showing having been made to the chairperson of the Illinois Veterinary Licensing & Disciplinary Board that Respondent may be mentally and physically impaired and thereby unable to practice veterinary medicine & surgery with reasonable judgment skill or safety in compliance with acceptable & prevailing

standards.

IT IS HEREBY ORDERED pursuant to the Illinois Veterinary Medicine & Surgery Practice Act that:

1. Frances V Endencia DVM, Respondent, shall submit to mental and physical examinations each conducted by a physician and surgeon who specializes in psychiatry, addictionology, and internal medicine, if needed, and who is designated by the Illinois Veterinary Licensing & Disciplinary Board, and Respondent shall submit to any further examinations or testing deemed necessary by the examining physician, to determine whether Respondent is mentally and physically impaired, which results in his inability to practice veterinary medicine and surgery with reasonable judgment, skill, or safety in compliance with acceptable prevailing standards.
2. The examinations shall be conducted at a time convenient to both Respondent and the examining physicians, but within thirty (30) days from service of this Order on Respondent.
3. The cost of the examinations and any testing & the preparation of a detailed report shall be paid by the Illinois Department of Financial & Professional Regulation, Respondent may have, at her own expense, another physician of her choice present during all aspects of the examination.
4. The results of these examinations shall be reported by the examining physicians in a detailed report, setting forth their

findings & conclusions about whether Respondent is mentally & physically impaired, resulting in an inability to practice veterinary medicine & surgery with reasonable judgment, skill or safety in compliance with acceptable prevailing standards. This written report shall be directed to the Illinois Veterinary licensing and Disciplinary Board with a. copy provided to the Respondents and the Health Related Prosecutor of the Department of Financial and Professional Regulation, Division of Professional Regulation.

5. Failure of Respondent to comply with this Order, without reasonable cause shall constitute grounds to suspend her Certificate of Registration as a Regulated Veterinarian and Controlled Substance License, both active and inactive, pursuant to the Illinois Veterinary Medicine and Surgery Practice Act.

SO ORDERED THIS 18TH DAY OF JANUARY 2006

VETERINARY LICENSING AND DISCIPLINARY BOARD of the State of
Illinois

BY: (signature) Georgianne Ludwig, Chairperson

Illinois Veterinary Licensing & Disciplinary Board

Frances' Background Perspective #3

Dr Stafford Henry's diagnostic tests were Rorschach tests, word, picture games, Streamwood police report & interviews resulted in psychiatric diagnoses. Lab tests were normal except for high blood pressure. I was puzzled. A trip to psychiatric library gave answers (medicalization)

I made a discovery request to produce diagnostic tests. Atty Mago responded that it is not discoverable in pursuant to 68 Ill Adm Code 1110.130.

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL & PROFESSIONAL REGULATION

DIVISION OF PROFESSIONAL REGULATION

State of Illinois.

Complainant

V

200501942

Frances V Endencia, DVM

Respondent

DEPT'S 2ND SUPPLEMENTAL ANSWER TO DISCOVERY REQUEST

TO: Frances V Endencia, DVM, The Pampered Pet Veterinary Service
140 N Barrington Road, Streamwood IL 60107

PERSONAL AND CONFIDENTIAL

NOW COMES the Department of Financial & Professional Regulation, Division of Professional Regulation (herein⁷ after referred to as the "Department"), by one of its attorneys, Lou Mago, and in supplementing Department's Answer to Discovery for a second time in accordance with the court order dated July 30, 2007, states as follows:

1. Copy of Letter from Department Prosecuting Attorney, Lou Mago, dated August 21, 2007, addressed to Respondent Frances V Endencia, DVM., informing said Respondent of option to enter into a private care, counselling and treatment agreement agreed to in principle by it. Veterinary Licensing & Disciplinary Board member and former Board Chairperson Georgianne Ludwig, DVM (3 pp) [attached hereto as DPR Exhibit #4 for identification (ID) Objection to Respondent's Motion for Production Request

To the extent the Respondent's Motion for Production Request includes seeks any information other than the specifically set forth in 68 ILL Adm Code 1110.130(b) & (d), the Department objects that the production request seeks information from the Department's Medical and Psychiatric Expert, Stafford Henry, MD., specifically items #3 - #5 of Respondent's Motion for Production Request, which is not discoverable under the Rules of the Department nor arguably relevant to the issues presented in the case. The Department has produced all documents & other information within its possession to which Respondent is entitled pursuant to the

rules of the Department. As a courtesy copy to the Respondent, a copy of Respondent's Motion for Production Request & Respondent's Complaint was forwarded to the Department's Medical & Psychiatric Expert, Stafford Henry, MD on November 26, 2007, for said expert's information.

The Department reserves the right to supplement this Discovery response should it determine that other evidence or other witnesses may be presented at hearing herein.

Respectfully Submitted,

DEPARTMENT OF FINANCIAL & PROFESSIONAL REGULATION of the

State of Illinois

Dean Martinez, SECRETARY

DIVISION OF PROFESSIONAL REGULATION

BY (signature)

Lou Mago

Attorney for the Department

Lou Mago

Attorney for the Department of Financial & Professional Regulation of the State of Illinois Division of Professional Regulation

100 West Randolph Suite 9-300

Chicago IL 60601 312-814-4549

State of Illinois) ss

County of Cook)

UNDER PENALTIES, as provided by law pursuant to

Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that I caused a copy of the attached **DEPARTMENT'S SUPPLEMENTAL ANSWER TO DISCOVERY REQUEST AND Department's Objection in part to Respondent's Motion for Production** to be deposited for mailing via first class United States mail, in the Department's United States mailbox located at 100 West Randolph Street, Suite 9-300, Chicago Illinois 60601, before 5:00 pm with proper postage prepaid on the 29th day of November, 2007 to all parties at the addresses listed on the attached document.

Lou Mago's signature

Affiant

IDFPR v Frances V Endencia DVM

Case No 200501942

License Nos 90006620, 390002750, 390002751, 390002752, 390002749, 390003482

.....

H.4

Frances Background Perspective #4

April 19, 2006 – August 2006. Dr Henry arranged the schedule as to when I should be coming in. There was no hesitancy on my part. I signed an agreement with Rush Behavioral Health to keep my information private. Dr Henry lied in his report that I consented to having his record utilized in IDFPR court.

Diagnostic tests were Rorschach Test, pictures where I was asked to interpret (silly personality test games)

All my lab tests were normal except mild high blood pressure. No evidence of alcohol, drug or nicotine use in my body was found to cause impairment. His final reports gathered from various team members are distorted facts, lacking in science, where Streamwood Police Report got rewritten in psychiatric medical lingo (medicalization) I decline to include it here. He & the court never showed me pictures that he described in his report.

Shortly after September 11, 2006, I met with Dr Henry & he showed me his report and the whole report was a lie. Facts were all distorted. He wanted me to pay more money, in addition to IDFPR's payments. I declined. Mazur's wife is a Streamwood Police Officer.

I hired & paid lawyers but they wanted me to follow IDFPR's recommendations of treatment plans etc. Trial was on December 11-12, 2006 – IDFPR v Endencia 2005-01942, Judge Canavan presiding

STATE OF ILLINOIS
DEPT OF FINANCIAL & PROFESSIONAL REG DIVISION OF
PROFESSIONAL REGULATION

State of IL

Complainant Case No: 2005-01942

V

Frances V Endencia, DVM

Veterinarian License No 900006620, Controlled Substance License Nos
390002750, 390002749, 390003482

Respondent

ADMINISTRATIVE LAW JUDGE' (Canavan) REPORT & RECOMMENDATION

This report is being filed with the Illinois Veterinary License & Disciplinary Board (hereinafter “Board”) by Administrative Law Judge James Canavan pursuant to 225 ILCS 715 /25.9

BACKGROUND OF THE CASE

Frances V Endencia, DVM (hereinafter "Respondent") is presently the holder of a Certificate of Registration as a Licensed Practical Veterinarian, License No 900006620, issued by the Department of Financial & Professional Regulation (hereinafter "Department") in October 1991. Said license is presently active status.

The Respondent is presently the holder of Controlled Substance Licenses, Licenses Nos 390002749, 390002751, 390002752 and 390003482. Said licenses are all presently in Not Renewed Status.

In March of 2005 the Department received a complaint from the Village of Streamwood Police Department concerning an investigation that they conducted when the Respondent contacted them concerning possible break-ins into her clinic. Upon conducting their investigation, the officers found blood in the clinic and a pet dog that apparently had passed away during the night. When they questioned the Respondent about their discoveries, her response was very unusual and there seems to be a question of impairment.

On January 18, 2006, Georgianne Ludwig, DVM, the chairperson of the Illinois Veterinary Licensing and Disciplinary Board, entered an order to compel the examination of Respondent to find out if there was a possible impairment about Respondent.

On April 19, 2006, an appointment was scheduled for Respondent with Dr Henry and his staff from Rush Behavioral Health in Oak Park. On that date the Respondent did present at Rush Behavioral Health but refused to complete the examination.

Finally, in August of 2006 the Respondent did complete the examination with Dr Henry.

On September 11, 2006, Dr Henry prepared his Multi-disciplinary Assessment

Program Summary Report in which he diagnoses certain psychological disorders and recommended that Respondent enter into an Agreement of Care, Counselling and Treatment. Shortly after September 11, 2006, the Respondent received a copy of Dr Henry's report and did not agree with his findings and recommendation and refused to enter into an agreement of care, counseling, and treatment.

On February 17, 2007, the Department filed a complaint alleging the Respondent violated the Illinois Veterinary Medicine and Surgery Practice Act by refusing to seek care, counseling and treatment as recommended by the Multidisciplinary Assessment Program team at Rush Behavior Health.

The case proceeded to formal evidentiary hearing on December 11 & 12, 2007 before Administrative Law Judge James Jeffrey Canavan. Dr Georgianne Ludwig and Dr Ajas Alvi from the Illinois Veterinary Licensing and Disciplinary Board were present during both days of the hearing. The Department was represented by Lou Mago. Respondent was present and represented herself.

The Administrative Law Judge received the complete record of this proceeding on January 7, 2008.

SUMMARY OF EVIDENCE

Exhibits:

The Department introduced the following exhibits into evidence:

Exhibit No 1: The Multidisciplinary Assessment

Program Summary Report prepared by Dr Henry and the Rush Behavioral

Health Team dated September 11, 2006.

Exhibit No 2: The curriculum vitae of Dr Stafford Christopher Henry

Exhibit No 3: The January 18, 2006 order signed by Dr Ludwig ordering Respondent to submit to an examination with Dr Henry.

Exhibit No 4: Letter sent to Respondent by the Department wherein it was offering Respondent an opportunity to enter into an Agreement of Care, Counseling and Treatment.

The Respondent introduced the following exhibits into evidence:

Exhibit B: An unfiled countersuit complaint by the Respondent against Dr Henry and the American Psychiatric Association.

Exhibit D: Streamwood Police Crime Report

Exhibit G: Cancellation of debt for a John Coyne and a complaint where the plaintiff is PMH Partners vs Pampered Pet Veterinary Service.

Exhibit H: Village of Streamwood ordinance

regarding the local police department and fire department and their receipt of keys from business owners operating in Streamwood.

Exhibit I: Unsigned, handwritten document pertaining to other business owners and their experience who operated in the same strip mall as Respondent.

Exhibit J: Photograph of front window of Respondent's clinic

Exhibit K: Photograph of lockbox

Exhibit L: Photograph of hole in a partitioning wall of Respondent's clinic.

Exhibit M: Photograph of ADT Truck parked behind the Streamwood Police Department in the parking lot.

Exhibit P: A police report filed with the Streamwood Police Department by Respondent.

Witnesses

The Department called the following witnesses to testify:

1. Dr Frances Endencia, Respondent
2. Dr Stafford Henry,

The Respondent called the following witnesses to testify:

1. Mr. Gil Martinez

The Respondent also testified in her behalf.

FINDINGS OF FACT

The Administrative Law Judge being fully advised in the premises, finds as follows:

1. Respondent has been a licensed Practical Veterinarian since 1991. She received her DVM degree in the Philippines. She came to the US in 1987 and attended Oklahoma State University and finished her ECFVG program and got licensed shortly thereafter.

Respondent is presently working full time at Escanaba Animal Hospital with a former colleague, Dr Raju. Respondent testified that Dr Raju is planning to sell and would like he to take over the business. When Respondent was questioned about March 2005 incident which lead to the Streamwood Police making a complaint to the Department, the Respondent testified that along with her clinic, surrounding businesses were experiencing break-ins at this time. She testified she believed her former employee, Fred Mazur, was responsible for the incident; that he was exhibiting unusual behavior before he left.

2. With regard to the allegation of violating the Illinois Veterinary Medicine and Surgery Practice Act by refusing to seek care, counseling and treatment as recommended, Respondent admitted that she did receive and review Dr Henry's report and state she does not agree with the diagnoses and recommendation made and refused to enter into continuing care, counseling & treatment.
3. When Dr Ludwig asked Respondent why she didn't seek another therapist or psychologist since she did not agree with Dr Henry's analysis, Respondent answers that she did not want to waste money.

The final witness to be called by the Department was Dr Stafford Henry. Dr

Henry testified that he is the medical director for the Multidisciplinary Assessment Program at Rush Behavioral Health, Rush Presbyterian, St Luke's Medical Center in Chicago; that the Department referred this matter to him requesting that he and his team perform a general psychiatric evaluation; assess for the presence of substance abuse and / or dependence; explore and discuss circumstances surrounding behavior which brought the Respondent to the attention of the Department; look for and assess for any psychiatric symptoms or conditions; and determine if there are any recommendations which might assist her in better functioning.

4. Dr Henry further testified that the assessment of the Respondent was performed and completed by himself and his team and to a reasonable degree of medical and psychiatric certainty he believes the Respondent did provide a sufficient database upon which he and his team were able to arrive at opinions and impressions; that his opinion with regard to Respondent's primary psychiatric diagnoses is that Respondent suffers from a psychiatric condition known as delusional disorder of the persecutory type. In the Respondent's case, Dr Henry stated that her delusion is centered on an unrealistic belief that others have harmed her, have harassed her, and it was his opinion that her beliefs is not based on reality.

Dr Henry was also asked during direct examination whether he believes Respondent has impairment. He testified that in his opinion she is impaired

due to the presence of a delusional disorder of the persecutory type and believes there is potential that this can interfere with one's capacity to practice veterinary medicine.

5. Dr Henry testified there is no evidence of competency concerns on the part of the Respondent, that his opinion that she is impaired is based on her perception of things that are going on around her and he is of the opinion that the Respondent needs treatment.
6. Dr Henry testified that the Respondent's treatment should include:
 - a. That the Respondent come under the auspices of the Illinois Health Professional Program.
 - b. That Respondent should come under the care of a psychiatrist for treatment of her delusional disorder.
 - c. That Respondent receive some form of psychotherapy to enhance her insight and facilitate her compliance with psychiatric treatment
 - d. That Respondent have a mentor, someone with whom she is in contact with, someone who can come in and contact her

7. During Respondent's case in chief she called one witness, Mr Gill Martinez. Mr Martinez testified that he has known Respondent for about six years and that he was a part time employee of the Respondent. He testified that one day when he was taking the garbage out he

noticed a 40 or 50 pound bag of dried food and two cases of can dog food underneath some empty boxes in the dumpster. When he asked Respondent why she was throwing food away, she said she hadn't and that's when she found out that somebody was stealing from her.

8. The Respondent testified on her own behalf that from the period of 1999 to 2007 there were multiple occurrences of vandalism to her clinic. However, she only contacted the Streamwood Police Department once, which was regarding the March 2005 incident. At first Respondent thought her employees were stealing from her but later felt it might have been the two veterinarians she purchased the business from and a conspiracy between the Streamwood Police and ADT Security.
9. Regarding Dr Henry's assessment of her examination, Respondent stated that Dr Henry provided a diagnosis that was imaginary and not factual and that by doing so, he is saying there is no vandalism; that he is trying to protect the vandalizer. Respondent state that she faults Dr Henry for not referring the case to a proper investigating officer.

DISCUSSION

The Department has proven clear and convincing evidence that Responded violated the Illinois Veterinary Medicine & Practice Act. The purpose of an

Agreement of care, counselling and treatment in a case like this is to help the individual function better while also implementing safeguards to ensure that the individual follows the guidelines for both herself and public safety.

The Respondent never once testified that she believes she might have a problem. Even after multiple tests and meetings with Dr. Henry and his team, she still believes they are all wrong and that she has no problem. She blames others for things that are happening around her.

CONCLUSION OF LAW

Based on the above findings of fact, the Administrative Law Judge concludes as a matter of fact the following:

1. The Illinois Veterinary Licensing & Disciplinary Board has jurisdiction over the subject matter and the parties of this case.
2. The Department proved by clear and convincing evidence that the Respondent violated the Illinois Veterinary Medicine and Surgery Practice Act

RECOMMENDATIONS

Based on the above findings of fact and conclusions of law, the Administrative Law Judge recommends to the Illinois Veterinary Licensing and Disciplinary Board that the certificate of Registration, No 900006620, heretofore issued to Frances V. Endencia to practice as a licensed practical veterinarian in the State of Illinois be indefinitely suspended until such time that the Respondent enters into an

Agreement of care, counseling and treatment with the Department, at which time the Respondent's license will then be put on probation for a minimum of five years starting from the date the agreement is signed.

Respectfully submitted,

James Jeffrey Canavan signature

Administrative Law Judge

I.12

STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL & PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION

Department of Financial & Professional Regulation of the State of Illinois

Complainant

v No 2005-01942

Frances V Endencia, DVM Veterinarian License Nos 090-006620, Controlled Substance License Nos 390-00275, 390-002751, 390-002752, 390-002749, 390-003482

Respondent

**FINDINGS OF FACT, CONCLUSION OF LAW AND RECOMMENDATION TO
THE DIRECTOR**

Now comes the Veterinary License & Disciplinary Board of the Division of Professional Regulation of the State of Illinois and after reviewing the record in this matter, a majority of its members hereby makes the following Findings of Fact, Conclusions of Law and Recommendation to the Director:

FINDINGS OF FACT

1. The Board adopts the Findings of Fact contained in the Report and Recommendations of Administrative Law Judge James Jeffrey Canavan and incorporated them herein.

CONCLUSIONS OF LAW:

1 The Board adopts the Conclusions of Law recommended at the time of
her Petition for Restoration

Dated this Day on May, 2008

(signature) Donna Alexander, DVM Member

(signature) Alicia M Ragni, DVM Member

(signature) Paula E Keats, Public

(signature) Kenneth Church, DVM

(signature) Ajaz Alvi, DVM

(signature) Georgiane Ludwig, DVM

STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL & PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION

IDFPR)
Complainant) 2005-01942
v)
Frances Endencia, DVM)
Respondent)

Administrative Law Judge's Report (BLUTHARDT) & Recommendation

Background of the Case

¶ 1 In March of 2005, the Department received a complaint from the Village of Streamwood Police Department concerning an investigation that they conducted when the Respondent contacted them concerning possible break-ins into her clinic. Upon conducting their investigation, the officers found blood in the clinic and a pet dog that apparently passed away during the night. When they questioned the Respondent about their discoveries, her responses were unusual and there seemed to be a question of some impairment.

¶ 2 On April 19, 2006 – August 2006, Respondent met with Dr Henry and his staff at Rush Behavioral Health in Oak Park.

¶ 3 On September 11, 2006, Dr Henry prepared his Multi-disciplinary Assessment

Program Summary in which he diagnosed certain psychological disorders and recommended that Respondent enter into an Agreement of Care, Counselling and Treatment.

¶ 4 Shortly after September 11, 2006, the Respondent received a copy of Dr Henry's report and did not agree with its findings & recommendations & refused to enter into an Agreement of Care, Counselling & Treatment.

¶ 5. On February 27, 2007, the Department filed a complaint alleging the Respondent violated the Illinois Veterinary Medicine & Surgery Practice Act by refusing to seek care, counselling & treatment as recommended by Multidisciplinary Assessment Program Team.

¶ 6. Formal evidentiary hearing was on December 11-12, 2007, before Administrative Law Judge Jeffrey Canavan. Drs Ludwig and Alvi were present.

¶ 7 The Administrative Judge received the complete record on January 7, 2008.

Discussion

¶ 8 The Department has proven clear and convincing evidence that Respondent violated the Illinois Veterinary Medicine & Surgery Practice Act. The purpose of the Agreement of Care, Counselling & Treatment in a case like this is to help the individual function better while also implementing safeguards to ensure that the individual follows the guidelines for both herself and public safety.

¶ 9 The Respondent never once testified that she believes she might have a

problem, even after multiple tests and meetings with Dr Henry & his team, she still believes they are all wrong and that she has no problem. She blames others for things that are happening around her.

Recommendation

¶ 10 Based on the above findings of Fact & Conclusion of Law, the Administrative Law judge recommends veterinary license suspended indefinitely until such time the Respondent enters into an agreement of care and be put on probation for five years starting from the date the agreement is signed.

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL & PROFESSIONAL

REGULATION

DIVISION OF PROFESSIONAL REGULATION

Dept of Financial & Professional

Regulation of State of Illinois

Complainant

Case No: 200501942

vi

Frances V Endencia, DVM

Vet License No 90006620

Controlled Substance Nos: 309992760, 309927

K.3

ORDER

This matter having come before me on the findings of fact, conclusions of law and recommendations to the DIRECTOR OF PROFESSIONAL REGULATION OF THE DEPARTMENT OF FINANCIAL & PROFESSIONAL REGULATION of the State of Illinois [hereinafter referred to as "Department"] issued by the Illinois Veterinary Licensing & Disciplinary Board and approved by members of said board as of May 8, 2008; due and proper service having been served; Respondent having filed Motion for Transfer of this matter to the Supreme Court of Illinois and having reviewed the record in this cause, having reviewed Motion to Transfer of this matter to the Supreme Court of Illinois, and being duly advised on the premises, NOW, THEREFORE, I DANIEL E BUTHARDT, DIRECTOR OF THE DIVISION OF PROFESSIONAL REGULATION of the DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION of the State of Illinois, do hereby find as follows:

1. That I, as Director for the Department have jurisdiction of the parties and the subject matter herein.
2. The Respondent was afforded the opportunity to respond to the allegations contained in the Department's complaint and was allowed to present evidence on Respondent's own behalf and cross examine Department witnesses

during the proceedings before an Administrative Law Judge at the Department on December 11- 12, 2007.

3. Though I had the opportunity to review the Respondent's Motion to Transfer this matter to the Supreme Court of Illinois, the Rules for Administration of the Rules of Practice in Administrative Hearing Title 68 Professional Occupations Chapter VII: Department of Professional Regulation subchapter a: Administrative Rules Part 1110.210 entitled "Motions", specifically limit motions to those stated under this section and does not include a motion as presented by Respondent for Motion to Transfer of this matter to the Supreme Court of Illinois. Should this matter be heard by the Supreme Court of Illinois, I would opine that the Respondent would have the opportunity to do so, through the appropriated appeal provisions of the Illinois Administrative Review Act, once a final administrative order has been entered in this matter by this Department's Director.
4. In reviewing the content of Respondent's Motion, I considered such Motion within the context of a request for rehearing, but I conclude that a rehearing of this matter is not necessary for a clear understanding of the issue presented.
5. That Respondent has failed to allege facts sufficient to demonstrate that substantial

justice was not done in this case, to warrant action contrary to the recommendation of the Illinois Veterinary Licensing & Disciplinary Board (hereinafter referred to as the 'Board').

6. That Respondent has failed to allege facts sufficient for setting forth an appropriate basis to warrant action contrary to the recommendation of the Board.
7. The Respondent has failed to allege errors of law sufficient for an appropriate basis to warrant action contrary to the recommendation of the Board.
8. That substantial justice has been done in this case. THEREFORE, I, DANIEL E BLUTHARDT, DIRECTOR OF THE DIVISION OF PROFESSIONAL REGULATION of the DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION of the State of Illinois, do hereby adopt the Findings of Fact, Conclusions of Law and Recommendation of the Illinois Veterinary Licensing & Disciplinary Board and approved by members of said Board as of May 8, 2008, in this matter.

I hereby ORDER that the Veterinary License previously issued to Respondent, Frances V Endencia, License Number 090-00620 and all subordinate licenses, including Respondent's Controlled Substance Registrations Nos 390-002749, 390-002750, 390-002751, 390-002752 & 390-003482, shall be INDEFINITELY SUSPENDED, as of the effective of this order.

I further order that with any filing of a Petition for Restoration, that Respondent must provide evidence that she has entered into a therapeutic relationship with a licensed psychiatrist and shall demonstrate to the satisfaction of the Department and the Board that she is safe to return to the practice of Veterinary Medicine.

DATED THIS 29th day of August 2008.

Department of Financial & Professional Regulation of the State of Illinois

Dean Martinez, Secretary

Division of Professional Regulation by:

/s/ Daniel E Bluthardt, Director

Ref: License Nos 16003106, 316000746

Case Nos: 200603531 [merged cases 200603707-200603709]

DEB:GMK-lm

K.7

UNPUBLISHED OPINION.CHECK COURT RULES BEFORE CITING.

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in limited circumstances allowed under Rule 23(e)(1).

Appellate Court of Illinois, First District

Frances Endencia, Plaintiff-Appellant,

v

No 1-13-2129

RUSH BEHAVIORAL HEALTH and Stafford Henry, MD

Defendants-Appellees

Dec 2, 2014

Appeal from the Circuit Court of Cook County No 12 L 11388 Honorable Eileen M Brewer, Judge Presiding

Order

Presiding Justice SIMON delivered the judgment of the court.

*1 ¶ *Held.* Dismissal of Plaintiff's Complaint with prejudice affirmed where plaintiff's claim in psychiatric malpractice and plaintiff failed to file a section 2-622 certificate.

¶ 2 Plaintiff Frances Endencia filed an action against Rush Behavioral Health (RBH) and Dr Stafford Henry (defendant) in relation to a psychiatric report authored by defendant. Plaintiff, *pro se*, now appeals the trial court's order

granting defendant's motion to dismiss plaintiff's complaint with prejudice.

¶ 3 The record shows that the plaintiff filed the complaint at issue on October 5, 2012, and listed RBH as the sole defendant. Therein, she alleged that on August 29, 2008, the Illinois Department of Financial & Professional Regulation (IDFPR) suspended her veterinary license based on a psychiatric report authored by defendant. Plaintiff further alleged that the report was not based on science or facts, but upon "medical slander," and she sought "removal of print and internet reports" and payment for her loss of monthly income. Summons was issued against defendant in relation to this case on October 5, 2012, and he was personally served on January 11, 2013.

¶ 4 Plaintiff filed an affidavit on March 1, 2013. Therein, she alleged *inter alia*, that she was seen by defendant at RBH from April 19, 2006 through mid-August 2006, at the request of IDFPR, and the defendant, RBH, and its staff created evidence as "quack doctors" and made a "creative psychiatric diagnoses" of her, which was then reported to IDFPR.

¶ 5 On March 12, 2013, plaintiff filed a "motion to dismiss" requesting that the court enter an order of default against the defendant. On April 10, 2013 defendant filed an appearance in this case, as well a motion to vacate any and all default judgments against him. On that same date, the court granted his motion to vacate default judgment and granted defendant an extension of time to answer or otherwise plead.

¶ 6 On April 24, 2013, defendant filed a motion to dismiss plaintiff's complaint pursuant to section 2-619(a)(9) and 2-622 of the Code of Civil Procedure (Code) (735 ILCS 5/2-619(a)(9) and 5/2-622 (West 2012). Therein, defendant argued that plaintiff's cause of action against him is based upon psychiatric malpractice, and thus, pursuant to section 2-622 of the Code, plaintiff was required to file the report of a healthcare professional certifying that there is a reasonable and meritorious cause for filing a medical malpractice complaint. Defendant argued that plaintiff's failure to comply with section 2-622 was grounds for dismissal under section 2-619 of the Code, and thus, requested that the court dismiss plaintiff's complaint with prejudice.

¶ 7 On April 29, 2013, plaintiff filed a "Motion to Amend Defendant", in which she sought to "amend the defendant to Stafford Henry, since he is the author of the assessment provided to IDFPR." On that same date, the trial court entered and continued defendant's motion to dismiss and ordered that plaintiff file a section 2-622 report on or before June 12, 2013.

*2 ¶ 8 On May 16, 2013, plaintiff files a "Motion to Objection to Requirement 735 ILCS 5/2-622(a)1" in which she stated that she was "asserting her *Miranda* rights to self-incrimination and refusing to comply" with section 2-622 of the Code. Therein, she argued, *inter alia*, that psychiatrists are "medical tattlers" who are trained to create brain pathology and to create toxic opinions for financial gains. She further claimed that defendant was unprofessional and unethical for writing

his report.

¶ 9 On May 20, 2013, the circuit court ordered plaintiff to file her section 2-622 report on or before June 12, 2013, or defendant's motion to dismiss her complaint would be granted. On June 13, 2013, plaintiff filed the medical report of Dr Ibrahim Sadek. Therein, Dr Sadek specified that his report was limited to the subject of the plaintiff's general physical health and condition. Dr Sadek specified that he could not "make any comments regarding any mental / personality diagnosis" as it would be outside the scope of his practice.

¶ 10 On June 26, 2013, plaintiff filed a "Response to the Requirement to Rule 2-622." Therein, she argued that the case at issue is not medical malpractice case, rather a case of defamation, libel and slander, and thus the Code's section 2-622 requirement should be waived.

On that same date, the court entered and continued defendant's motion to dismiss to July 1, 2013, for a determination of whether the complaint sounded in defamation or medical negligence. On July 1, 2013, the circuit court granted defendant's motion to dismiss plaintiff's complaint with prejudice. Plaintiff now appeals from that order.

¶ 11 We first address defendant's request that we strike plaintiff's statement of facts and dismiss this appeal. Defendant correctly points out that plaintiff's statement of facts fails to comply with Illinois Supreme Court Rule 341(h)(6) (eff Feb 6, 2013), which requires an appellant's brief contain a statement of facts

stated accurately or comment with appropriate references to pages of the record on appeal. Here, plaintiff's statement of facts consists of argumentative assertion and fails to include citations to the record on appeal or a recitation of facts necessary for an understanding of the case.

¶ 12. We further note that plaintiff has failed to set forth a cogent argument in her brief, and instead, devotes her argument to discussing her contention that RBH creates medical conditions and illusions, as well as listing allegations related to admissibility of scientific evidence and expert testimony, the applicability of the exclusionary rule, and whether defendant's report was illegally obtained and its admission into evidence unconstitutional "under self incrimmimation".

¶ 13 Plaintiff's mere listing of conclusory and confusing allegations or error is not argument, and does not satisfy the requirements of Illinois Supreme Court Rule 341(h)(7) (eff Feb 6, 2013). *Vancara v Karis* 238 Ill 2d 352, 369-70 (2010). Plaintiff's *pro se* status does not excuse her from complying with supreme court rules governing appellate procedure (*Coleman v Akpakpan*, 402 Ill App 3d 822, 825 (2010), and she is expected to meet a minimum standard before this court can adequately review the decision of the circuit court (*Rock Island County v Boalbey*, 242 Ill App 3d 461, 462 (1993)). Plaintiff has not done so here.

*3 ¶ 14 That said, striking an appellate brief, in whole or in part, is a harsh sanction, and one which we will undertake only where the litigant's violation of the rules hinders our effective appellate review of the case.

Hall v Naper Gold Hospitality LLC, 2012 IL App (2d) 111151. ¶ 15. Here, plaintiff has undoubtedly violated the rules governing the proper preparation and filing of appellate briefs. However, the record of this case is slim and we have the benefit of a cogent brief filed by defendant, which identifies the relevant issue in this appeal. Accordingly, we deny defendant's motion to strike plaintiff's statement of facts and dismiss her appeal.

¶ 15 As defendant points out, the issue on appeal is the propriety of the trial court's order dismissing plaintiff's complaint with prejudice. In general, we review a trial court's ruling on a section 2-619 motion to dismiss *de novo*. *O'Casek v Children's Home & Aid Society of Illinois* 229 Ill 2d 421, 436 (2008) However, we review a trial court's dismissal of a complaint with prejudice due to plaintiff's failure to comply with section 2-622 of the Code for an abuse of discretion. *Hobbs v Lorenz*, 357 Ill App 3d 566, 569, (2003) An abuse of discretion will be found only where no reasonable person would take the view adopted by the court. *Fennell v Illinois Central RR Co* 2012 IL 113812, ¶ 21.

¶ 16 Section 2-622 of the Code provides, in pertinent part, as follows: "(a) In any action, whether in tort, contract or otherwise, in which the plaintiff seeks damages for injuries or death by reason on medical, hospital, or other healing are malpractice, the plaintiff's attorney or the plaintiff, if the plaintiff is proceeding *pro se*, shall file an affidavit, attached to the original and all copies of the complaint, declaring one of the following:

1) That the affiant has consulted and reviewed the facts of the case with a health professional who the affiant reasonably believes: (i) is knowledgeable in the relevant issues involved in the particular action; (ii) practices or has practiced within the last 6 years or teaches or has taught within the last 6 years in the same area of health care or medicine that is at issue in the particular action; and (iii) is qualified by experience or demonstrated competence in the subject of the case; that the reviewing health care professional has determined and meritorious cause for the filing of such action. *** A copy of the written report, clearly identifying the plaintiff and the reasons for the reviewing health professional's determination that a reasonable and meritorious cause for the filing of the action exists must be attached to the affidavit. **** 735 ILCS 5/2-622(a)(1) (Westlaw 2012)

The failure to file a section 2-622 certificate is grounds for dismissal under section 2-619 of the Code. 735 ILCS 5/2-622(g) (West 2012). Here, the parties disagree as to the type of action plaintiff raised against defendant. Defendant argues that plaintiff's claim is one for psychiatric malpractice, whereas plaintiff maintains that it is one for defamation, libel & slander, and is thus the subject to the section 2-622 certificate requirement.

*4 ¶ The term "medical, hospital, or other healing art malpractice" must be broadly construed. *Woodard v Krans*, 234 Ill App 3d 690,703 (1992), citing *Bernier v Burris* 113 Ill 2d 219, 226-27 (1986). In determining whether the section 2-622 certificate requirement applies to a particular case, courts look at the following factors: (1)

whether the standard of care involves procedures not within the grasp not within the grasp of an ordinary lay juror; (2) whether the activity in question was inherently one of medical judgment; and (3) the type of evidence that would be necessary to establish plaintiff's case. *Jackson v Chicago Classical Janitorial & Cleaning Service* 355 Ill App 3d 906, 909 (2005).

¶ 18 Here, in her complaint, plaintiff claimed the following: a psychiatric evaluation, defendant negligently authored a psychiatric report, which he then gave IDFPR , which agency then suspended her veterinary license based on the contents of that report. Plaintiff further alleges that defendant did not base his report on science or facts, but on medical slander, and that he created a medical condition "out of abstract pictures and put abnormal meaning to these." In a non-section 2-622 affidavit that plaintiff filed in support of her claim, plaintiff further alleged that defendant "created evidence as a quack doctor" and made a "creative psychiatric diagnoses" of her. These allegations reflect the plaintiff's claim centers upon the report written by defendant, and the way he evaluated her in order to arrive at the conclusions and recommendations that he included in that report.

¶ 19 Bearing that in mind, we turn to the first factor whether the standard of care involves procedures not within the grasp of an ordinary lay juror. It has been held that where determining the standard of care requires distinctive medical knowledge or principles, however basic, plaintiff must comply with section 2-622. *Woodard* 234 Ill App 3d at 705-06. Here the defendant employed specialized

knowledge distinctive of his field of practice in order to evaluate plaintiff and arrive at his conclusions regarding psychiatric state. We find that such specialized knowledge is not within the grasp of an average juror. See *Jackson* 355 Ill App 3d at 911 (finding that the specialized knowledge and skill acquired by occupational therapists is not within the grasp of an average lay juror.)

¶ 20 The second factor is whether defendant's activity in question was inherently one of medical judgment. Here, the activity at issue is defendant's actions in evaluating plaintiff in relation to her psychiatric state, which conclusions were reflected in the report that he gave to the IDFPR. We find that there is no question that defendant's actions in undertaking a psychiatric evaluation of plaintiff, and the conclusions and recommendations at which he arrived, were inherently ones of medical judgment. Evaluating a person and arriving at particular conclusions and recommendations regarding their current psychiatric state are determinations that can only properly be made by individuals with certain training and expertise. See *Jackson*, 355 Ill App 3d at 912 (stating this proposition in relation to occupational therapists)

*5 ¶ 21 The third and final factor is the type of evidence that would be necessary to establish plaintiff's case. In general, in a medical malpractice case, a plaintiff must offer expert testimony to establish the applicable standard of care, unless the subject or treatment is so common that a lay person could readily understand it.

Jackson 355 Ill 3d at 912, citing *Kolanowski v Illinois Valley Community Hospital*

188 Ill App 3d 821, 824 (1989). As noted above, here, the applicable standard of care is one which entails specialized knowledge that is beyond the understanding of the average lay juror. Accordingly, plaintiff will need to present expert testimony on the subject. *Jackson* 355 Ill App 3d at 913

¶ 22 Based on the foregoing, we find that the allegations in plaintiff's complaint sounded in psychiatric malpractice, and thus it was necessary for her to provide section 2-622 certificate. Although plaintiff did file medical report of Dr Sadek, we find that the report did not satisfy the requirements of section 2-622 of the Code. Dr Sadek specified that his report was limited to plaintiff's general physical health and that he could not make comments regarding any mental / personality diagnosis because it would be outside the scope of his practice. Most importantly, Dr Sadek did not opine that there is a reasonable and meritorious cause for filing plaintiff's action. Accordingly, Dr Sadek's report did not meet the requirements of section 2-622 of the Code. 735 ILCS 5/2-622(a) (1) (West 2012). Additionally, the record shows that the trial court continued defendant's motion to dismiss several times, giving plaintiff the opportunity to file the requisite section 2-622 certificate, but plaintiff failed to do so. Under these circumstances, we find that the trial court did not abuse its discretion in dismissing plaintiff's complaint with prejudice.

¶ 23 In reaching this determination, we note that the record on appeal does not contain any transcripts or any substitute report of proceedings of what transpired at the hearing that was held on July 1, 2013, the date the trial court dismissed

plaintiff's complaint with prejudice. We resolve any doubts which may arise due to this incompleteness against plaintiff. *Foutch v O'Bryan* 99 Ill 2d 389, 391-92 (1984)

¶ 24 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 25 Affirmed.

Justice Pierce and Liu concurred the judgment.

All Citations

Not Reported in NE 3d 2014 IL App (1st) 132129-U. 2014 WL 6789897

1
IDFPR ONLINE NEWS REPORT, SPRINGFIELD.

The IDFPR announced today that the Directors of Professional Regulation, Daniel E Bluthardt, Financial Institutions, Robert Meza and Insurance, Michael T McRaith, signed the following disciplinary orders in August 2008. Orders for the Division of Banking were authorized by the Director, Jorge Solis.

Veterinary Medicine

Frances Endencia, Streamwood. Veterinarian license (090-006620) & controlled substance license (390-002749) (390-002750) (390-002751) (390-002753) & (390-002482) indefinitely suspended for refusal to seek care, counselling and treatment as recommended by licensed healthcare professional in order to continue in the practice of veterinary medicine

STATE OF ILLINOIS

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT,

WINNEBAGO COUNTY, ILLINOIS

The Estate of Altessia Endencia

Minor

Case No 2009 P 378

ORDER

This matter having come on for hearing upon the Petitioner's Amended Petition to Resign as Temporary Guardian and Requesting the Appointment of a Plenary Guardian this 12th day of November 2009 and the court being advised of the premises, it is therefore, ORDERED, ADJUDGED AND DECREED that:

1. Teresita Endencia is permitted to withdraw as temporary guardian of the minor child, Altessia Endencia.
2. The Letters of Office issued on October 5, 2009 granting Teresita Endencia temporary guardianship are hereby terminated and revoked.
3. The court finds that Frances Endencia is unable and unwilling to care for the minor.
4. The court finds that it is not in the minor's interest to be placed in the care of Frances Endencia.
5. The court finds that it is in the best interest of the minor child to appoint

L2

Julia Medley as plenary guardian.

5. The court hereby appoints Julia Medley as plenary guardian of the minor child, Altessia Endencia.
6. The court grants the plenary guardian's request to remove the minor child from the State of Illinois to reside at 9106 Nebo Hill Road in the State of Missouri
7. The court finds that it is the best interest of the minor child to reside with plenary guardian at 9106 Nebo Hills Road, Libertyville in the state of MO
8. Letters of Office shall issue the appropriate Oath and Bond having been filed with the court.
9. The status and closing on June 29, 2010 at 9:00 am.

Date: 11-12-2009

Judge /s/ Lisa Fabiano

Frances' Perspective #5

Dec 2009-Jan 2010. Altessia stayed with Julie Medley for 2 months. She ran away and stayed with Nathan Hamacek's father for 2 years. They have a history of run-ins with the law. They enrolled her to be a locksmith. At one incident, I called for a locksmith from an ad in the yellow pages. Nathan H was the salesperson and I believe Altessia was in the van, modifying the locks. Since then, I had numerous break-ins, with no forced entries till today (despite changing locks numerous times). Dec 14-16, 2015, sheriff. Zaruba came to my apartment & stole all of my business & personal belongings without court order.

Constitutional Provisions

225 ILCS 115/3 Definition of Impaired Veterinarian

"Impaired veterinarian" means a veterinarian who is unable to practice veterinary medicine with reasonable skill and safety because of a physical or mental disability as evidenced by a written determination or written consent based on clinical evidence, including deterioration through the aging process, loss of motor skills, or abuse of drugs or alcohol of sufficient degree to diminish a person's ability to deliver competent patient care.

720 ILCS 5/12C-5. Endangering the life or health of a child.

(a) A person commits endangering the life or health of a child when he or she knowingly: (1) causes or permits the life or health of a child under the age of 18 to be endangered; or (2) causes or permits a child to be placed in circumstances that endanger the child's life or health.

735 ILCS 5/2-622 (a) (1) Medical Malpractice Certificate Requirement

(a) In any action, whether in tort, contract or otherwise, in which the plaintiff seeks damages for injuries or death by reason of medical, hospital or other healing art malpractice, the plaintiff's attorney or the plaintiff, if the plaintiff is proceeding pro se, shall file an affidavit, attached to the original and all copies of the complaint, declaring one of the following:

1. That the affiant has consulted and reviewed the facts of the case with a health professional who the affiant reasonably believes (i) is knowledgeable in the relevant issues involved in the particular action. (ii) practices or has practiced within the last 6 years or teaches or has taught within the last 6 years in the same area of healthcare or medicine that is at issue

18 United States Code 1347 (a) Health Care Fraud

(a)Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury, such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.

42 US Code 1983. Civil Action for Deprivation of Rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

Federal Rules of Evidence Rule 406. Habit. Routine

Evidence of a person's habit or an organization's routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness.

18 US Code § 242 Deprivation of Rights Under Color of Law

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated

sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

18 US Code § 241 Conspiracy Against Rights

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

DSM IV-TR Multiaxial Assessment

(A Psychiatric Writing Template)

Multiaxial Classification

When you make a complete diagnosis according to the DSM-IV-TR you are asked to fill out information on 5 "axes" (This word is the plural for axis, not to be confused with the plural of axe). Each "axis" is really an area of information in which information should be provided. The process of assessment is designed to collect information that is needed on each axis. The 5 axis are listed in the table below.

Axis I	Clinical Symptoms (page 5-handbook)
Axis II	Personality Disorders (page 5-handbook) Mental Retardation (page 5-handbook)
Axis III	General medical conditions which may be related to Axis I & II (page 5-handbook)
Axis IV	Psychosocial & environmental problems (current & recent stressors) page 6 handbook
	Current GAF _____ Highest GAF past year _____

Axis I & II is/are where you put information about psychological diagnosis the

person might have. (A person might have more than 1 disorder and may have disorders that are listed in both axes, I & II). Almost all psychological diagnoses are based on Axis I

The only disorders that are listed on Axis II are mental retardation & personality disorders if present.

(A personality disorder is one of specific group of disorders that are characterized by long lasting, typically lifelong) maladaptive patterns of thought & behavior that causes distress for the person and those around him or her. Conceptually, the Axis II disorders are separated out because they are lifelong disorders. However, some of the Axis I disorders (eg schizophrenia, autism) may be equally persistent, so this distinction is somewhat artificial information related to Axis I & Axis II diagnoses may be obtained as part of the clinical interview or from results of specialized psychological tests.

Axis III is where you enter information about gathered medical conditions that may be related to the psychological disorders listed on Axis I & II. For example: if a person is depressed because she has terminal cancer, the depression would be listed Axis I, and the cancer would be listed in Axis III. Remember that psychologists are not physicians, & they do not directly obtain medical information. Generally, a psychologist will obtain information relevant to Axis III from the patient interview. In some settings where physicians & psychologists work together closely, physicians may provide relevant information

directly to psychologists.

Axis IV is where you enter the information related to current & recent stressors in the person's life. For example, if a person has recently lost his job, the job would be entered in Axis IV. Other common stressors include (but are not limited to) work or academic pressure, marital difficulties, death of a parent, spouse, or child. Information relevant to Axis IV is usually obtained from the patient as part of clinical interview.

Axis V is where you enter your impressions of the patient's overall functioning. Overall level of functioning is measured by matching up your information about the patient's overall level of functioning with the description on the Global Assessment of Functioning (GAF) Scale. The information used to make this judgment is obtained from the interview with the patient, and sometimes from results of psychological testing. Remember that most people that decide to seek treatment for psychological problems will not be rated on top of the GAF scale. However, sometimes it is useful to have a basis of comparison between the current GAF and the GAF at times when the patient was functioning better. Therefore, clinicians often try to figure out what the highest GAF within the past year would have been based on information available from the interview with the patient. A reasonable goal of psychotherapy would be to restore the patient's functioning to at least the highest level of functioning achieved within the last year. The GAF scale is summarized below.

Global Assessment of Functioning (GAF) Scale

(DSM-IV-TR Axis V)

Code	Description of Functioning
91-100	Person has no problem OR has superior functioning in several areas OR is admired & sought by others due to positive qualities
81-90	Person has few or no symptoms. Good functioning in several areas. No more than everyday problems or concerns
71-80	Person has symptoms / problems, but they are temporary, expectable reactions to stressors. There is no more than slight impairment in any area of psychological functioning.
61-70	Mild symptoms in one area OR difficulty in 1 of the following: social occupational or school functioning BUT the person is generally functioning pretty well & has some meaningful relationships
51-60	Moderate symptoms OR moderate difficulty in 1 of the following: social, occupational or school functioning
41-50	Serious symptoms OR serious impairment in one of the following: social, occupational or school functioning
31-40	Some impairment in reality testing OR impairment of speech & communication OR serious impairment in several of the following: occupational or school functioning, interpersonal relationships,

judgment OR inability to function in almost all areas.

21-30 Presence of hallucinations or delusions which influence behavior OR serious impairment or ability to communicate with others OR serious impairment of judgment OR inability to function in almost all areas.

11-20 There is some danger of harm to self or others OR occasional failure to maintain personal hygiene OR the person is virtually unable to communicate with others due to being incoherent or mute.

1-10 Persistent danger of harming self or others OR persistent inability to maintain personal hygiene OR person has made serious attempt at suicide.

Psychiatry:

Medical Science or Consumer Fraud?

(presentation given *Endencia v Behavioral Health*

09 M3341

<https://docs.google.com/presentation/d/188VoU1PgPjamHaDMLuRkFLJcFH4rurO1xZzNhBireik/edit?usp=sharing>

Medical v Psychiatric Diagnostic Tests

- Medical diagnosis is based on laboratory tests, observations and factual data
- Psychiatric diagnoses are word & picture games (Rorschach)
- Behaviors, circumstances, habits are rewritten into medical-like lingo as psychiatric disorders

Psychiatric Treatment Plan

- Change behavior by altering the brain
- Lab tests are word & picture games (Rorschach)
- Dangerous controlled substance II drugs that are addicting with dangerous side effects (ex. suicide during and withdrawal of drug) & behavior changes
- These drugs are given to elderly & children
- "Stop the stigma" is a promotional tool by big pharma
- Psychiatrists / Pharma makes big killing \$84B / year
- Lifetime treatment plans

- The general public believes that a diagnosis of mental disorder is the same as a legitimate *medical* diagnosis of disease, which is false. This is common knowledge among psychiatrists, but not something they often admit to the public at large, simply because it is the foundation upon which **psychiatry is built**. The fact is, all mental disorders are contained within psychiatry's *Diagnostic and Statistical Manual of Mental Disorders*(DSM), and are arrived upon by psychiatrists literally voting on what is, or is not, considered a mental disorder. Unlike the rest of medicine, mental disorders are arrived at by a political, not medical process.

<https://www.cchrint.org/psychiatric-disorders/psychiatric-labels-are-the-problem/>

<https://breggin.com/Antidepressant-Drugs-Resource-Center>

2013 Psychiatric Database Breakdown

0-1-year-old	274,804	18-24 years	5,467,615
2-3 years	370,773.	25-44 years.	21,029,136
4-5 years	500,948	45-64 years	28,143,196
6-7 years	4,130,340.	65+ years	17,404.930
13-17. years.	3, 617,593		

Ref: www.cchr.org

Poisonous Label

**Society mistreats people with psychiatric label,
inability to get good paying jobs, defamation, loneliness, loss of family
and friends, physical & social attacks.**

In the meantime, doctors & associates pump up more drugs, claiming drugs prevent crime and suicide (false assumption) Treating with stimulants does not improve intellectual growth but sets them up for failure.