

Case Summary

Pro-se Appellant-Plaintiff Fort Wayne Newcomer Services (“Newcomer”), a sole proprietorship, appeals a negative judgment upon its small claims complaint for breach of contract against Appellee-Defendant Fort Wayne Nissan/Infiniti (“Nissan”). We dismiss.

Issue

Newcomer presents the sole issue of whether the small claims court’s decision is contrary to law. We sua sponte raise a single dispositive issue: whether Newcomer presented a sufficient record to permit appellate review.

Facts and Procedural History

On June 7, 2006, Newcomer filed a Notice of Claim in the Allen Superior Court Small Claims Division. Newcomer alleged that Nissan owed \$4,649.40 for “marketing services per contract.” (Supp. App. 1.) On November 20, 2006, following a bench trial, the small claims court denied Newcomer damages. This appeal ensued.

Discussion and Decision

The claim was tried before the bench in small claims court. Indiana Small Claims Rule 8(A) provides: “The trial shall be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law, and shall not be bound by the statutory provisions or rules of practice, procedure, pleadings or evidence except provisions relating to privileged communications and offers of compromise.”

Despite the informality of the proceedings, the parties in a small claims court bear the same burdens of proof as they would in a regular civil action on the same issues. LTL Truck Service, LLC v. Safeguard, Inc., 817 N.E.2d 664, 668 (Ind. Ct. App. 2004). Although “the

method of proof may be informal, the relaxation of evidentiary rules is not the equivalent of relaxation of the burden of proof.” Id. Thus, it remains incumbent upon the party who bears the burden of proof to demonstrate that it is entitled to the recovery sought. Id. The burden of proof with respect to damages is with the plaintiff. Id. (citing Noble Roman’s, Inc. v. Ward, 760 N.E.2d 1132, 1140 (Ind. Ct. App. 2002)).

When a party appeals from a negative judgment, we will reverse only if the decision of the trial court is contrary to law. LTL Truck Service, 817 N.E.2d at 667. A decision is contrary to law if the evidence and reasonable inferences to be drawn therefrom lead to but one conclusion and the trial court has reached a different one. Id.

The appellant bears the burden of presenting a record from which this Court can conduct a meaningful review. Ind. Appellate Rule 10; General Collections, Inc. v. Ochoa, 546 N.E.2d 113, 115 (Ind. Ct. App. 1989). Here, Newcomer submitted no transcript of the bench trial from which this Court could ascertain whether Newcomer met its burden of proof on its breach of contract claim.¹ Newcomer asserts that the bench trial was not transcribed. However, Newcomer has not provided us with a Statement of Evidence pursuant to Indiana Appellate Rule 31 (providing for a verified statement of the evidence where no transcript is available).² Finally, Newcomer has failed to comply with Appellate Rule 46(A)(8)(a) by

¹ On April 3, 2007, the Clerk of the Indiana Supreme Court, Court of Appeals, and Tax Court requested that the Clerk of the Allen Superior Court submit a transcript. On April 16, 2007, a “Table of Contents” was filed. It included Defendant’s Exhibit A (an internal policy) and Exhibit B (an affidavit of Nissan general manager Jim Yoder regarding his communication with Newcomer proprietor Andy Picco).

² Indiana Appellate Rule 31 provides in pertinent part: “If no Transcript of all or part of the evidence is available, a party or the party’s attorney may prepare a verified statement of the evidence from the best available sources, which may include the party’s or the attorney’s recollection. The party shall then file a

supporting its argument with cogent reasoning, citations to relevant authority, and relevant portions of the Record on Appeal relied on. Accordingly, we dismiss the appeal for failure to comply with the Indiana Rules of Appellate Procedure.

Dismissed.

SHARPNACK, J., and MAY, J., concur.

motion to certify the statement of evidence with the trial court or Administrative Agency. The statement of evidence shall be attached to the motion.”