NOTICE
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2026 IL App (5th) 250405-U

NO. 5-25-0405

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

ASHFORD FARMS HOMEOWNERS' ASSOCIATION, Plaintiff-Appellee, v. VINCENT WILLIAMS and LEKEISHA WILLIAMS, Defendants-Appellants.	)	Appeal from the Circuit Court of St. Clair County. No. 23-CH-49 Honorable Leah A. Captain, Judge, presiding.

JUSTICE CLARKE delivered the judgment of the court.
Justices Boie and Sholar concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's finding that the defendants violated the plaintiff homeowners' association's restrictive covenants was not against the manifest weight of the evidence, where the defendants installed a fence without obtaining approval, as required and did not present any evidence of selective enforcement. Additionally, the defendants' claim that the plaintiff effectively approved their fence placement is deemed forfeited, as that claim was not presented to the trial court. The judgment of the trial court is affirmed.

¶ 2 The plaintiff, Ashford Farms Homeowners' Association, filed a complaint for specific performance against the defendants, Vincent and Lekeisha Williams, after the defendants erected a fence on their property without architectural approval, in violation of the association's restrictive covenants. Following a bench trial, the St. Clair County trial court entered an order on April 14, 2025, directing the defendants to move their fence to a location approved by the plaintiff's

architectural committee. The defendants appeal *pro se*[1] from that order, arguing (1) their fence complied with the subdivision's restrictive covenants, (2) the plaintiff engaged in selective enforcement against them, and (3) the plaintiff effectively approved the placement of their fence by not responding to their proposal in a timely manner. For the following reasons, we affirm the judgment of the trial court.

¶ 3 I. BACKGROUND

¶ 4 On July 6, 2023, the plaintiff, an Illinois not-for-profit corporation and homeowners' association, filed a complaint for specific performance against the defendants, who owned a home located at 3438 Caton[2] Run Crossing in St. Clair County. The complaint alleged that in June 2011, an "Indenture of Trust and Restrictions" (Covenants) was filed with the St. Clair County Recorder of Deeds (document No. A01615932) for the property known as Ashford Farms, St. Clair County, Illinois (subdivision). The Covenants called for the creation of a homeowners' association, namely, the Ashford Farms Homeowners' Association (Association), to maintain the subdivision and enforce the Covenants. The defendants' property was contained within the subdivision and therefore subject to the Covenants.

¶ 5 Applicable here, article VI of the Covenants, titled "Architectural and Environmental Control," required homeowners to obtain approval from the board of trustees (Board) and/or architectural committee before erecting a fence on their lot. Specifically, that article provided, as relevant here:

> "1. Architectural Approval. From and after such time as a Lot becomes subject to assessment as provided in Article VIII of this Indenture, no building, fence, wall, driveway, deck, patio, patio enclosure, screened porch or other structure, swimming pool, tennis courts or improvement shall be commenced, erected or maintained on such Lot, nor shall any exterior addition to, removal of all or any part thereof, or exterior change or alteration

[1]The defendants were represented by counsel at times below.
[2]We note that Caton is misspelled in the complaint, and elsewhere, as "Canton."

(structural or nonstructural) in any improvement on such Lot be made, nor shall any tree with a three inch (3") or greater caliper be removed, nor shall the grade or slope of any Lot be changed, nor shall any item, apparatus or device be attached to or the color or other exterior appearance of any structure upon any such Lot be changed until the plans and specifications showing the degree, nature, kind, shape, size, square footage, height, elevation, materials, colors, location and configuration of the same shall have been submitted to and approved in writing by the Trustees, or, if so appointed by the Trustees in their sole discretion, by an architectural committee composed of three (3) or more representatives."

Likewise, article IX of the Covenants, titled "Restrictions," included a provision regarding fences, which provided:

"18. Fences. No fences or screening of any kind shall be erected or maintained on any Lot between the rear of the residence constructed on such Lot and the street upon which such Lot fronts. Fences may be maintained on other portions of the Lots only with written consent of the Architectural Control Committee as to location, material and height, and the decision of such committee to approve or reject a fence shall be conclusive. Nothing herein contained shall prevent placement of fences by the Trustees on the Common Ground."

Article X of the Covenants, titled "General Provisions," provided that general provisions applying to the Covenants included the following:

"2. Enforcement. Enforcement of any of these covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any such covenants and may be brought to restrain any such violation and/or to recover damages therefor together with reasonable attorney's fees and court costs."

According to the plaintiff, the defendants' fence was not approved by the Board or architectural committee.

¶ 6 Moreover, the defendants' fence required approval from the Village of Shiloh (Village), since it was "situated to come up to the front of the house." According to the plaintiff, the Board agreed to allow the defendants' fence to be built to the halfway point of their home with approval from the Village. Yet the defendants "failed to bring their fence to the [halfway] point of their

home." Accordingly, the defendants violated the Covenants by failing to obtain the proper approvals and move their fence to the halfway point of their home.

¶ 7 On March 17, 2023, the defendants were notified that their property was not in compliance with the Covenants, and that they had 30 days to comply with the terms therein. Notwithstanding, the defendants "refused to bring their property into compliance with the Covenants." The plaintiff thus asked the trial court to grant judgment in its favor, order the defendants to specifically perform and comply with the Covenants, and award the plaintiff attorney fees and costs.

¶ 8 On November 6, 2023, the defendants, through counsel, filed an answer to the complaint. The defendants admitted, among other things, that their fence was not approved by the Board or architectural committee and that it required Village approval. Additionally, the Board allowed them to build their fence to the halfway point of their home, but they failed to do so. The defendants further admitted that they were notified of their noncompliance and given 30 days to bring their property into compliance with the Covenants.

¶ 9 The defendants also set forth affirmative defenses, asserting their fence complied with the Covenants. They relied on section 2(a) of article VI of the Covenants, governing "Architectural Restrictions," which stated, as relevant here:

> "(a) No fence, hedge or mass planting shall be erected, place[d] or altered on any Lot nearer to any street than the minimum building set-back line without the approval of the Architectural Control Committee and appropriate governmental authorities. Further, no fence may be erected in any drainage or sewer easement."

The defendants argued that their fence did not extend "beyond the minimum set-back lines," and that nothing in the Covenants prohibited the fence from passing beyond the midway point of the house. Moreover, they asserted that the Village of Shiloh had no permitting process for fencing and did not approve or reject fence placements. Given the foregoing, the defendants argued there

was no reason the plaintiff would have rejected the defendants' fence proposal had they submitted one prior to installation.

¶ 10 The next month, the plaintiff filed an answer to the affirmative defenses, wherein it denied, *inter alia*, that the defendants' fence complied with the Covenants and was allowed to extend beyond the midway point of the house. The defendants' counsel, meanwhile, withdrew from the case.

¶ 11 The matter proceeded to a bench trial on October 8, 2024. Counsel for the plaintiff, along with Kristi Pulcher, the property manager for the Association, and the defendants, appearing *pro se*, were present.

¶ 12 Pulcher testified that the Covenants required homeowners in the Association, like the defendants, to obtain prior approval before completing any exterior projects, including installing fences. Additionally, the Covenants provided that "no fence or screening of any kind shall be erected or maintained on any lot between the rear of the residence constructed on such lot and the street upon which such lot fronts." Fences could be maintained on other portions of the lots, but only with the written consent of the architectural committee, whose decision was conclusive. Pulcher further testified that the defendants submitted paperwork for approval of a fence, but the Board denied their request "because it did not meet the criteria for placement." There were further discussions with the Board, during which the Board deviated from its position "on all the other fences in the neighborhood and said that [the defendants] could bring the fence to the middle portion of the house," or where the house peaks.

¶ 13 According to Pulcher, the defendants clearly violated the Covenants because they placed their fence "all the way at the very front corner of the house both on the garage side and the other side of the house." Pulcher informed the defendants that they needed to move their fence back.

She also informed the defendants that the Board was trying to cooperate with them by allowing them to move the fence to the center peak of the house. The defendants, however, did not comply. Consequently, Pulcher instructed counsel to send a letter to the defendants advising them that legal action would be taken if they did not move the fence back. Still, they did not comply. Pulcher testified that the Covenants permitted her to seek attorney fees and costs associated with the litigation.

¶ 14 On cross-examination, Pulcher testified that a variance was given to another homeowner with a fence due to a court judgment, but that no other homeowners were given variances to install fences up to the front of the homes, like the defendants' fence. The trial court then admitted into evidence a photograph from the defendants depicting another home in the Association that had a fence erected up to the front of the house. Pulcher admitted the fence went to the front of the house, but she explained that the homeowner installed the fence without approval. The Board subsequently obtained a court judgment ordering the homeowner to remove the fence. The judgment was entered in 2023 (see St. Clair County case No. 23-CH-42).

¶ 15 Lekeisha Williams testified that at least three or four homes in the Association did not meet the fencing requirements that the Board had required of the defendants. Lekeisha admitted she did not know whether any judgments had been entered against those homeowners. Moreover, the defendants had been having problems with trespassers on their property, specifically near their bedroom window, leading them to call the police on multiple occasions. Lekeisha had photographs of the incidents. According to Lekeisha, the location where the defendants were permitted to build their fence would not have encompassed the area where the trespassers had been. In other words, it would not have covered the area near the defendants' bedroom window. Lekeisha presented

exhibits to the trial court depicting a trespasser near the defendants' bedroom window and that trespasser running through their yard.

¶ 16 According to Lekeisha, the defendants spoke to the Association about their safety concerns, and asked the Association to consider making the subdivision a gated community. Lekeisha claimed she did not feel safe given the trespassing incidents, which is why the defendants wanted to place a fence up to the front of their house. Lekeisha further claimed that before those incidents occurred, the defendants' car was stolen from their yard. Other incidents occurred at their business, as well. On cross-examination, Lekeisha admitted she had not seen any written evidence that other homeowners in the subdivision were granted approval from the architectural committee to build similarly situated fences up to the front of their homes.

¶ 17 Vincent Williams testified that his family had experienced many safety-related incidents in a short time frame, including trespassers in their yard, knocking on their door and ringing the doorbell, and having their car stolen. Consequently, Vincent "felt that [they] needed to erect a fence." Vincent explained that the safety of his family was his top priority, and that he had even decided to become a registered gun owner given the recent incidents. Vincent further explained that they owned a pharmacy that had been broken into twice, and he was not sure whether they were being targeted. According to Vincent, the fence was erected around their windows and electrical box to secure them.

¶ 18 Vincent testified that another homeowner had a fence just like the defendants' fence, so he did not understand why they were being treated differently. The trial court admitted into evidence exhibits from the defendants depicting that homeowner's fence, a trespasser running through their yard, and a 2018 article about the defendants and why they had moved to the area and the subdivision. Vincent claimed that since the fence was installed, there had been no further incidents.

Vincent specifically attributed this to the "positioning of the fence." The defendants therefore wanted the fence to remain in its current location.

¶ 19 In closing, counsel for the plaintiff argued this was a simple case, that the subdivision was governed by the Covenants, that all homeowners in the subdivision agreed to be bound by those Covenants, and that Lekeisha acknowledged the Association had discretion to approve or deny requests for variances. Additionally, the defendants were granted a partial variance permitting them to build their fence to the mid-point of the house. Counsel argued the defendants were not discriminated against as the Association also successfully pursued legal action against the other homeowner who had built a fence in violation of the Covenants. Counsel thus asked the trial court to order the defendants to move their fence to the location previously approved by the Board and to award the plaintiff attorney fees and costs.

¶ 20 The defendants argued that their fence was not in violation of the Covenants because it did "not come to the very front, like out to the street level of the home," which is what was described in the Covenants. And, according to the defendants, the Association had not prosecuted all the homeowners in the subdivision whose fences did not meet the same requirements to which the defendants were being subjected. Moreover, the Association did not initiate legal action against the other homeowner until after the defendants built their fence, even though the other fence had been installed years earlier. Thus, it appeared the Association was targeting the defendants specifically. Finally, the defendants were only requesting an exception for their fence due to safety concerns.

¶ 21 The trial court entered a written order on April 14, 2025. After reviewing the relevant testimony and evidence from the parties' bench trial, the court ruled in favor of the plaintiff. In reaching its conclusion, the court noted that it agreed with Lekeisha's testimony that it was unclear

from the Covenants what was meant by "front" of the house with respect to the fence placement. Notwithstanding, the court found, *inter alia*, that it was undisputed that the defendants and the Board discussed proper fence placement, and the defendants were aware that the Board had authority over approval and denial of such placement. Additionally, the defendants "did not present any evidence showing that any additional homes had fences up to the front of their homes," except for the fence located at 3431 Caton Run, which was ordered to be removed (see St. Clair County case No. 23-CH-42). With respect to the defendants' discrimination allegation at trial, the court found that "no discrimination suit was ever filed nor were there any discriminatory allegations made in any pleading filed by the [d]efendants."

¶ 22 The trial court found the plaintiff had met its burden of showing that the defendants' fence violated the Covenants because the architectural committee did not approve its current placement, which was required under articles VI and IX of the Covenants. Accordingly, the court directed the defendants to move their fence to the location previously approved by the Board/architectural committee within 120 days. The court denied the plaintiff's request for attorney fees, stating the parties were responsible for their own costs and fees associated with this action.

¶ 23 This appeal followed.

¶ 24 II. ANALYSIS

¶ 25 At the outset, we must address the plaintiff's motion, taken with the case, to strike some of the facts and arguments contained in the defendants' brief. According to the plaintiff, the defendants included "numerous purported facts which are outside the record on appeal," and they set forth an argument that was never made to the trial court, thereby forfeiting the issue for appellate review. The plaintiff asks us to strike the improper parts of the defendants' brief.

¶ 26 Generally, parties may not rely on matters outside the record to support their positions on appeal. *In re Commitment of Moore,* 2023 IL App (5th) 170453, ¶ 90. "References to evidence outside the record are not permitted and should be stricken." *Kilpatrick v. Baxter Healthcare Corp.*, 2023 IL App (2d) 230088, ¶ 11. Where, as here, the party's brief fails to comply with that rule, we may strike the brief, or parts thereof, or simply disregard the inappropriate materials. *In re Commitment of Moore,* 2023 IL App (5th) 170453, ¶ 90. To the extent the defendants have relied on facts outside the record in this case, we will not consider them.

¶ 27 Additionally, as will be discussed more fully below, the defendants' third and final argument, *i.e.*, whether the architectural committee effectively approved their fence placement, was never presented to the court below. It is well-settled that issues not raised before the trial court are deemed forfeited and may not be raised for the first time on appeal. *Enbridge Pipeline (Illinois), LLC v. Hoke,* 2019 IL App (4th) 150544-B, ¶ 38. We will not strike the argument, but we deem the issue forfeited. In sum, although we will not strike the defendants' brief or any portion thereof, we will not consider any fact or claim that is not supported by the record or properly before this court. Accordingly, we deny the plaintiff's motion to strike parts of the defendants' appellate brief.

¶ 28 Turning to the merits of the appeal, the defendants first contend that the trial court erroneously granted judgment in favor of the plaintiff and ordered the defendants to move their fence because the fence complied with the Covenants. We disagree.

¶ 29 A permanent injunction is appropriate when the plaintiff demonstrates it is suffering an irreparable, continuing harm and no adequate remedy at law exists. *Standlee v. Bostedt*, 2019 IL App (2d) 180325, ¶ 51. The trial court's factual findings as to these elements will not be reversed unless they were against the manifest weight of the evidence. *Id.* "These elements may be

supplanted in certain circumstances, such as here, when a violation of a covenant alone is cause to enjoin the prohibited activity." *Id.*

¶ 30 "The purpose of a declaration and restrictive covenant is to carry out a general scheme of improvement or development of real property." *Id.* ¶ 52. Over the years, it has become increasingly common for the declaration of covenants to establish a homeowners association with the power to enforce restrictive covenants. *Id.* ¶ 54. Courts generally defer to the association's decision when individuals challenge an association decision. *Id.* In construing restrictive covenants in a declaration, we apply the general rules of contract interpretation. *Id.* ¶ 55. The fundamental rules of contract interpretation are well settled. *Id.* Our primary objective in interpreting a contract is to ascertain and give effect to the parties' intentions as expressed through the contract's language, read as a whole and construed in connection with the circumstances surrounding its execution. *Id.* Courts cannot alter, change, or modify the existing terms of a contract, nor can they add new terms or conditions to which the parties do not appear to have assented; rather, courts have "a duty to harmonize seemingly discordant provisions of a contract to avoid a construction that would render some of those provisions meaningless." *Id.*

¶ 31 Restrictive covenants are not favored, and they will only be enforced when the covenants are reasonable, clear, and definite. *Id.* ¶ 56. While doubts and ambiguities are resolved in favor of free use and against restrictions, this generalization will not be applied to defeat the obvious purpose of a restriction. *Id.* "As such, before resolving doubts in favor of free use and against restrictions, the court may turn to any aid, rule, or canon of construction to ascertain the parties' intent." *Id.* It is well established that the trial court's interpretation of a contract is a matter of law, subject to *de novo* review. *Id.* ¶ 57. However, if the lower court turned to parol evidence to

ascertain the parties' intent, we defer to its credibility and factual determinations unless they were against the manifest weight of the evidence. *Id.*

¶ 32 After reviewing the record before us, we cannot say the trial court's finding that the plaintiff met its burden of showing the defendants' fence violated the Covenants was against the manifest weight of the evidence. As set forth at length above, it was undisputed that the architectural committee had to approve any exterior projects, including the installation, location, and placement of fences. Lekeisha even admitted on cross-examination that the architectural committee had "absolute discretion" to approve or deny fence installation and placement. It was also undisputed that the architectural committee denied the defendants' request to build a fence up to the front of their home because "it did not meet the criteria for placement." The architectural committee did, however, grant the defendants a partial variance, permitting them to build a fence to the mid-point of their home where the house peaks.

¶ 33 Notwithstanding, the defendants built a fence up to the front of their home, clearly violating the Covenants' approval requirement. The Association's property manager, Kristi Pulcher, informed the defendants that they needed to move their fence, yet they still did not comply, leading the Association to take legal action. While the defendants argue their fence complied with the Covenants, specifically article IX, since it was not placed up to "the street upon which" their lot fronts, this ignores that their fence installation and placement still required approval from the architectural committee whose decision was conclusive. Pursuant to section 18 of article IX, no fences could be constructed between the rear of the home "and the street upon which such Lot fronts." Section 18 expressly stated, "Fences may be maintained on other portions of the Lots only with written consent of the Architectural Control Committee as to location, material and height, and the decision of such committee to approve or reject a fence shall be conclusive." This language

makes it clear that the architectural committee had to approve the defendants' fence placement, even though it was not placed all the way to the street.

¶ 34 Moreover, as stated, we have a duty to interpret a contract in a manner that does not render any provisions meaningless. See *Insurance Benefit Group, Inc. v. Guarantee Trust Life Insurance Co.*, 2017 IL App (1st) 162808, ¶ 38. Thus, if we accepted the defendants' argument that article IX permitted them to build a fence up to the front of their home so long as it did not extend to the street, this would render article VI, which required architectural committee approval for any fence placement, meaningless. Reading the provisions together, as we must, we agree with the lower court that the defendants were required to obtain approval from the architectural committee regarding the placement of their fence. Additionally, the architectural committee could, and did, grant the defendants a partial variance allowing them to place their fence up to the midway point of the house; however, under no circumstances could the defendants, or any other homeowner, place a fence up to the street on which their lot fronts. Rather than complying with the partial variance they were granted, the defendants extended their fence all the way to the front of their home without obtaining the architectural committee's approval.

¶ 35 Additionally, it is important to note the plaintiff has correctly observed that the defendants' argument as to this issue primarily consists of nothing more than "vague" allegations of error and is completely devoid of any citations to legal authority to support their claim, in violation of Illinois Supreme Court Rule 341(h)(7) (eff. Oct. 1, 2020). According to the plaintiff, this alone is reason to find the defendants' argument forfeited. Although we recognize that the defendants are not attorneys educated in the practice of law, they must still comply with the same rules and are held to the same standards as licensed attorneys. See *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 78 (noting that Illinois courts have strictly adhered to this principle and will not apply a more

lenient standard to *pro se* litigants). "Mere contentions, without argument or citation to authority, do not merit consideration on appeal." *In re Commitment of Moore*, 2023 IL App (5th) 170453, ¶ 73.

¶ 36 Forfeiture aside, the defendants did not obtain approval from the architectural committee for their fence placement, as required by the Covenants. Accordingly, we cannot say the trial court's finding that the defendants violated those Covenants was arbitrary, unreasonable, or not based on the evidence. See *Cadle Properties of Illinois, Inc. v. Fortune Investments, LLC*, 2021 IL App (1st) 200556, ¶ 23 (noting that a decision is against the manifest weight of the evidence only when the opposite conclusion is clearly evident, or when the finding is arbitrary, unreasonable, or not based on the evidence).

¶ 37 We also reject the defendants' next contention that plaintiff engaged in selective enforcement against them because other homes in the subdivision had similarly situated fences to theirs that were placed up to the front of the homes. As set forth above, the trial court found that the defendants "did not present any evidence showing that any additional homes had fences up to the front of their homes other than that of 3431 Canton[3] Run." That home was part of separate litigation (see St. Clair County case No. 23-CH-42), which ultimately resulted in a judgment against the homeowners requiring them to remove the fence. Pulcher admitted at trial that the fence went up to the front of that house, but the homeowners installed it without approval. As a result, the Association successfully pursued legal action against them.

¶ 38 Furthermore, the record and the St. Clair County court docket, of which we may take judicial notice (see *In re N.G.*, 2018 IL 121939, ¶ 32), reveal that the Association initiated legal action against the defendants and the other homeowners around the same time. The defendants

[3]We again note that the proper street name is "Caton."

assert that the other homeowners' fence had been in place for several years before the Association initiated legal action against them, and that the Association only pursued legal action "to cover the discrimination" against the defendants. The defendants, however, have not provided any evidence to support this claim. In any case, the Association ultimately pursued legal action against the homeowners of 3431 Caton Run and obtained a judgment ordering them to remove their fence because it did not comply with the Covenants. In short, the Association took the same action against the other homeowners as it did with the defendants, regardless of when it chose to initiate legal action.

¶ 39 Last, the defendants argue, for the first time, that the architectural committee effectively approved their fence placement because the committee failed to approve or reject the proposed placement within 60 days, as required by article VI of the Covenants. Section 1 of that article provides, in relevant part, that:

> "In the event the Architectural Control Committee fails to approve or disapprove any design, materials, colors or location within sixty (60) days after all required plans and specifications have been submitted to it (and fees, if required, have been paid), approval will not be required and this provision will be deemed to have been fully complied with."

¶ 40 The plaintiff asserts, and we agree, that the defendants forfeited review of this issue by failing to raise it in the trial court. See *Village of New Athens v. Smith*, 2021 IL App (5th) 200257, ¶ 22 (noting that the parties' failure to raise an issue in the trial court generally results in forfeiture of that issue on appeal). While we may overlook forfeiture and address an issue to obtain a just result or maintain a sound body of precedent, we decline to do so because there is no basis on which we could rule for the defendants on this claim. In other words, the defendants did not present any evidence to support that claim below, depriving the plaintiff of an opportunity to respond. Consequently, we cannot determine if the plaintiff could have rebutted that argument if it had been

given the opportunity to do so in the trial court. See *Forest Preserve District of Du Page County v. First National Bank of Franklin Park*, 2011 IL 110759, ¶ 28 ("The doctrines of forfeiture and waiver, however, should not be ignored if it is clear that the party claiming forfeiture would have been able to refute or overcome the arguments if it had been given the opportunity to do so in the trial court.").

¶ 41 Furthermore, as plaintiff has correctly observed, the defendants have attempted to support their argument with purported facts that are outside the record on appeal. As we have already addressed, we may not consider alleged facts or documents that are not part of the record on appeal. See *Kilpatrick*, 2023 IL App (2d) 230088, ¶ 11 (noting that evidence not contained in the certified record on appeal cannot be used to supplement the record and is not properly before a reviewing court). Without a complete record, we must presume that the lower court acted in conformity with the law and had a sufficient factual basis for its ruling. *Id.* For those reasons, we decline to address the defendants' argument, finding the issue forfeited.

¶ 42 III. CONCLUSION

¶ 43 For the foregoing reasons, we affirm the trial court's judgment. Additionally, as set forth, we deny the plaintiff's motion to strike portions of the defendants' appellate brief.

¶ 44 Motion denied; judgment affirmed.