

No. 1-25-2283

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).

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

STEPHEN MURPHY,	)	Appeal from
	)	the Circuit Court
Plaintiff-Appellant,	)	of Cook County
	)	
v.	)	23L4666
	)	
ILLINOIS ORTHOPEDIC NETWORK, PLLC,	)	Honorable
LILIANA O'SHEA, and TERRIS MURPHY,	)	John J. Tully, Jr.,
	)	Judge Presiding
Defendants-Appellees.	)	

JUSTICE McBRIDE delivered the judgment of the court.
Justices Ellis and D.B. Walker concurred in the judgment.

O R D E R

¶ 1 Held: Attorney's absolute litigation privilege to make statements about potential lawsuit barred defamation claim; summary judgment affirmed.

¶ 2 Data consultant Stephen Murphy sued his former client's general counsel, Liliana O'Shea, contending that she defamed him with an e-mail warning that it was criminal to continue accessing the former client's confidential database and would provoke the company to pursue injunctive relief. The company, Illinois Orthopedic Network, PLLC (ION), is a Chicago-based medical care network that specializes in anesthesiology, pain management, hand surgery, otolaryngology, and plastic surgery. O'Shea addressed her e-mail directly to Murphy and ION's owners, Marc Strongin

and Irvin M. Wiesman. The trial judge entered summary judgment against Murphy, on the basis of the absolute litigation privilege that protects attorneys from civil liability for statements which they make in the course of representation. In the circuit court, Murphy had legal counsel. Here, he appeals *pro se*.

¶ 3 Murphy was a data consultant for ION while his then-wife, Terris Murphy, was the company's chief executive officer. In March 2022, ION verbally ended its association with Murphy and disabled his access to ION's servers. In July 2022, Terris Murphy filed for dissolution of marriage. It is undisputed that after Murphy's logon credentials were deactivated, he used someone else's credentials to access ION's servers. In addition, he did not relinquish the passwords that ION needed to access its Power BI platform and Microsoft Azure server. ION personnel exchanged phone calls, texts and e-mails with Murphy about the circumstances. Three of the e-mails that O'Shea and Murphy exchanged are pertinent to this appeal.

¶ 4 O'Shea sent an e-mail response to Murphy on Monday, August 22, 2022, at 10:32 a.m. which she marked "Importance: High." The subject line indicated that she was continuing a conversation about a text message. The text message was not included in the record on appeal. However, in an affidavit filed during these proceedings, O'Shea stated that Murphy "became extremely aggressive after being told [he] would no longer receive any work from ION," "kept pushing back on ION's decision," and "refus[ed] to tell ION how he accessed [its] data unless he was compensated for the information." When deposed in connection with this litigation, Strongin (one of ION's two owners) testified that after "[w]e had a discussion about Stephen inappropriately accessing our data, *** we agreed that this e-mail was the next logical step." O'Shea wrote:

"Stephen,

Your authorization has been terminated, as you have been notified multiple times. I have reviewed the correspondence you have sent and it is clear that it is blackmail. Per Drs. Strongin and Wiesman, I will be filing a police report today and moving for a preliminary injunction.

Sincerely,

Liliana O'Shea

General Counsel

Illinois Orthopedic Network, PLLC.”

¶ 5 Later that same day, at 12:35 p.m., Murphy answered O'Shea, but Murphy added ION's two owners to the e-mail's distribution list:

“General Counsel, Marc, Irv:

I don't know what you're accusing me of doing; what am I blackmailing for and trying to extort? What is the injunction for?

I consider this escalation on your end [to be] extremely ill intentioned. It feels intentionally provoking and has caused me extreme distress (you all know my personal situation).

I've been trying to clarify the contract we had between us, the signing authorities, etc[.], so that I may comply with your request (I'm currently deleting all [patient Protected Health Information] data from the secure server per your request and our BAA agreement). Since Friday at 4:47pm when I was first given written notice to comply by 8pm on Monday, I have not received clear answers to my fair questions.

Sincerely,

Stephen.”

¶ 6 According to O’Shea’s affidavit, she used the “reply all” option when composing the response that she sent to Murphy at 1:53 p.m., which meant that the recipients included both of ION’s owners.

“Stephen,

You were notified verbally months ago of your termination. You have failed to comply and have (1) threatened to engage in a data breach, and (2) stated that ‘it will cost [ION]’ [to learn] *** how you gained access to the server (after you knew your access had been terminated). Your behavior constitutes theft pursuant to 720 ILCS 5/16-1, constituting a felony, and punishable by a minimum of six years in jail and a maximum of thirty years in prison, if convicted, along with a \$25,000 fine.

I have a signed affidavit from [ION’s chief financial officer] relating the facts of what has transpired in the last few days[,] including your threats, that I intend[] to attach to the TRO that [will] be filed tomorrow morning, unless you comply with the following by 5pm CST today.”

¶ 7 In the next paragraph of her e-mail, O’Shea listed certain demands, including that Murphy sign documents, turn over ION’s passwords for its Power BI and Microsoft Azure accounts, and disclose how he had connected to ION’s server even though his credentials had been disabled five months earlier. O’Shea’s e-mail concluded:

“I look forward to hearing from you and hope this issue can be resolved amicably.

Sincerely,

Liliana O’Shea

General Counsel

Illinois Orthopedic Network, PLLC.”

¶ 8 Murphy complied with all of ION’s demands. The next day, August 23, 2022, at 9:18 a.m., O’Shea sent Murphy a short follow-up e-mail stating, “Since you provided all the information requested, we will not be filing any charges.”

¶ 9 This concluded ION’s disagreement with Murphy.

¶ 10 Nine months later, however, Murphy began this action. He still did not deny engaging in the objectionable access and retention of ION’s data resources. Nevertheless, he directed Count I at O’Shea and the ION corporation, contending that it was false and defamatory for the general counsel to characterize his conduct as felony theft. Count II was a contractual interference claim directed at Terris Murphy, whom he alleged instigated the end of his relationship with ION, in order to “gain leverage” in their “contentious divorce.” Murphy did not describe or attach a contract. The circuit court granted the defendants’ section 2-615 motion to dismiss the complaint as conclusory (*see* 735 ILCS 5/2-615 (West 2022)) because Murphy did not factually indicate that a false statement had been published to a third party and did not factually identify a contract.

¶ 11 In an amended pleading, Murphy restated his allegations and added a list of tasks that he performed for ION as a data consultant at the rate of \$80 per hour between 2018 and 2022.

¶ 12 O’Shea, ION, and Terris Murphy sought summary judgment on the amended complaint on grounds that there was no false statement, no publication, no contract, and no interference. After oral argument and supplemental briefing, the circuit court entered an order granting summary judgment as to Count II because Murphy’s written response conceded that his contractual interference claim against Terris Murphy was not viable. The order also indicated the court was

denying summary judgment as to Count I. That order was entered on Friday, August 22, 2025. The following Monday, August 25, 2025, however, the circuit court entered a separate order on its own motion in which it granted summary judgment as to Count I on the basis of O'Shea's absolute litigation privilege.

¶ 13 At this point in the dispute, Murphy began representing himself.

¶ 14 He filed a *pro se* motion to reconsider summary judgment as to Count I only, which the circuit court denied. Then he filed a *pro se* emergency second motion to reconsider summary judgment as to Count I only and grant leave to replead, which the circuit court denied. This *pro se* appeal, which was timely filed within 30 days of the order denying the first motion to reconsider, followed. Murphy's appeal is limited to the orders about his defamation claim against O'Shea and ION.

¶ 15 Summary judgment is properly granted when the pleadings, depositions, admissions, and affidavits on file, viewed in the light most favorable to the nonmoving party, show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. *Varela ex rel. Nelson v. St. Elizabeth's Hospital of Chicago, Inc.*, 372 Ill. App. 3d 714, 722 (2006). We review an order granting summary judgment *de novo*. *Id.* Additionally, we are to use *de novo* review when examining whether the attorney litigation privilege applies in a cause. *Popp v. O'Neil*, 313 Ill. App. 3d 638, 642 (2000) (this is a question of law).

¶ 16 Illinois generally follows the attorney litigation privilege set out in § 586 of the Restatement (Second) of Torts (1977), which provides:

“An attorney at law is absolutely privileged to publish defamatory matter concerning another in communications preliminary to a proposed judicial proceeding, or in the

institution of, or during the course and as a part of, a judicial proceeding in which he participates as counsel, if it has some relation to the proceeding.”

¶ 17 See *Popp*, 313 Ill. App. 3d at 642 (quoting § 586); *O’Callaghan v. Satherlie*, 2015 IL App (1st) 142152, ¶ 27 (observing that Illinois courts generally follow § 586 but are not limited to the Restatement’s terms and may apply privilege outside of defamation claims where counsel’s actions are in the client’s interests and pertinent to representation).

¶ 18 The privilege applies to an attorney-at-law’s out-of-court communications so long as the communication pertains to proposed, ongoing, or completed litigation or quasi-judicial proceedings. *Golden v. Mullen*, 295 Ill. App. 3d 865, 870 (1997) (holding that the established privilege encompassed post-litigation communication). The “pertinency requirement” is not strictly construed, however, and immunity will attach even to defamatory communications that are not about a specific litigation issue. *Id.*; *Popp*, 313 Ill. App. 3d at 642; *O’Callaghan*, 2015 IL App (1st) 142152, ¶ 25. As long as the communication relates to the litigation and is in furtherance of the client’s interests, the pertinency requirement is met. *Golden*, 295 Ill. App. 3d at 870; *O’Callaghan*, 2015 IL App (1st) 142152, ¶ 29; *Kurczaba v. Pollock*, 318 Ill. App. 3d 686, 706 (2000). Furthermore, all doubts about pertinency are resolved in the attorney’s favor. *Golden*, 295 Ill. App. 3d at 870; *Popp*, 313 Ill. App. 3d at 642; *O’Callaghan*, 2015 IL App (1st) 142152, ¶ 25.

¶ 19 The general public policy underlying the “privilege is to secure to attorneys as officers of the court the utmost freedom in their efforts to secure justice for their clients.” *Libco Corp. v. Adams*, 100 Ill. App. 3d 314, 317 (1981); *O’Callaghan*, 2015 IL App (1st) 142152, ¶ 24 (the privilege furthers “an attorney’s need to fully and fearlessly communicate with [the] client”). “An attorney must be at liberty to candidly and zealously represent [a] client in communications to

potential opposing parties in litigation or other proceedings without the specter of civil liability for [the] statements clouding [the attorney's] efforts.” *Atkinson v. Affronti*, 369 Ill. App. 3d 828, 833 (2006); *Tallman v. Hanssen*, 427 N.W.2d 868, 870 (Iowa 1988) (quoting *Beeck v. Kapalis*, 302 N.W.2d 90, 97 (Iowa 1981) (immunity “encourage[s] the open resolution of disputes by removing the cloud of later suits”)). “[T]he ends to be gained by permitting *** zealous advocacy[] outweigh the harm which may be done to the reputation of some persons in the course of judicial proceedings.” *Id.* at 870.

¶ 20 The privilege is an absolute one rather than a qualified or conditional privilege given that it immunizes an attorney from liability for publishing defamatory matter regardless of the attorney’s purpose for the publication, belief in its truth or even knowledge of its falsity. *Popp*, 313 Ill. App. 3d at 642; *Golden*, 295 Ill. App. 3d at 870 (the privilege “affords complete immunity, irrespective of the attorney’s knowledge of the statement’s falsity or the attorney’s motives”); *Thompson v. Frank*, 313 Ill. App. 3d 661, 664 (2000) (the privilege is “a complete bar to a claim for defamation, regardless of the defendant’s motive or the unreasonableness of his conduct.”). In other words, there is absolute immunity for remarks that are false, spoken in anger, harsh or hurtful. See Restatement (Second) of Torts § 586 cmt. a. (1977) (“These matters are of importance only in determining the amenability of the attorney to the disciplinary power of the court of which he is an officer.”)

¶ 21 Murphy argues that O’Shea’s defamatory communication was not shielded by the absolute litigation privilege because O’Shea was referring to a criminal proceeding that did not exist and never materialized. We will assume for purposes of this appeal that O’Shea’s statement was defamatory. According to Murphy, section 586 requires that “O’Shea ‘participate as counsel’ in

that proceeding” (emphasis added), meaning that O’Shea could invoke the privilege only if she provided representation in the criminal case she described when she warned him that her client was on the verge of filing a civil action concerning his inappropriate access to its data resources. The appellees respond that Murphy misinterprets the privilege and that O’Shea’s e-mail is absolutely protected because it was in anticipation of litigation seeking an injunction.

¶ 22 Murphy’s argument is not based on the language of the Restatement or any other authority. The Restatement and Illinois law indicate that the attorney’s absolute privilege applies to the e-mail that O’Shea sent to Murphy in anticipation of a civil action about his misuse of ION’s data resources. Murphy has never denied accessing ION’s confidential information without its permission. O’Shea demanded that Murphy stop his misconduct and communicated that if he did not comply with her demands, ION intended to seek immediate injunctive relief. According to § 586, “[a]n attorney at law is absolutely privileged to publish defamatory matter concerning another in communications preliminary to a proposed judicial proceeding.” Restatement (Second) of Torts § 586 (1977). Furthermore, O’Shea’s e-mail is analogous to the demand letters that were sent in various other Illinois disputes, such as *Rosenbaum v. Samler*, 2025 IL App (1st) 240039.

¶ 23 “A demand letter ‘explains [a party’s] legal position in a dispute and requests that the recipient take some action (such as paying money owed), or else risk being sued.’ ” *Id.* ¶ 59 (quoting Black’s Law Dictionary (12th ed. 2024)). After Steven Samler’s mother died at the age of 103, he found out that she had changed her trust to name her financial advisor, Kenneth Rosenbaum, as a contingent beneficiary, which substantially reduced the interests of her three grandchildren. *Id.*, ¶ 1. Samler’s attorneys sent Rosenbaum letters that threatened legal action if he failed to disclaim his interests. *Id.* ¶¶ 10-11. Rosenbaum worked for a large wealth management

and investment banking firm and his employer's compliance department read one of the threatening letters before he saw it. *Id.* ¶ 11. The firm's legal department also read the letter and forwarded it to the Financial Industry Regulatory Authority (FINRA), which opened an investigation. *Id.* ¶ 11. Steven cooperated with the FINRA investigation and he and the grandchildren followed through on the threats to sue Rosenbaum for undue influence and financial exploitation. *Id.* ¶¶ 12-13. FINRA, however, closed its investigation without taking action and Rosenbaum prevailed on summary judgment in the circuit court. *Id.* Rosenbaum then sued Steven and the grandchildren, based in part on the defamatory letter. *Id.* ¶ 15. However, the circuit court dismissed the action due to the attorney's absolute privilege (*id.* ¶17) and the appellate court affirmed. The letter satisfied the "pertinency requirement" because it related to future litigation and furthered the attorney's representation of his clients. *Id.* ¶¶ 56-57. It came within the scope of the privilege and was not actionable. *Id.* ¶ 57.

¶ 24 *Rosenbaum*, 2025 IL App (1st) 240039, is just one example and is similar to communications that were found privileged in *Atkinson*, 369 Ill. App. 3d 828, 833 (an attorney should be able "to settle or resolve cases favorably for his client without resorting to expensive litigation or other judicial processes"); *Popp*, 313 Ill. App. 3d 638; and *Golden*, 295 Ill. App. 3d 865.

¶ 25 In addition, O'Shea's e-mail to Murphy is similar to the communications in *Simon v. Oltmann*, 98 C 1759, 2001 WL 1035719, at *3 (N.D. Ill. Aug. 31, 2001), which stated that the recipients had misappropriated proprietary and confidential information and advised them that the letters were pre-litigation offers to settle the case. Cross-claims were filed in federal court, however, and one of the letter recipients argued that the communication was just an attempt to

extort money and that the client did not intend to sue, as evidenced by the fact that the recipient sued first and the client did not file for seven months and, by then, was no longer represented by the letters' author. *Id.* at *7. Applying Illinois law, the district court judge found that “the letters to which [the litigant] so vehemently objects are nothing more than ordinary demand letters. The letters invite cooperation and resolution of the dispute prior to formal litigation, a public interest deserving of protection.” *Id.* at *8. The court also found that waiting seven months was irrelevant because the “letters make clear that [the client] would file suit if [the recipients] did not pursue a settlement.” *Id.*

¶ 26 Other jurisdictions have also applied the privilege to attorney demand letters. For instance, a California court applying § 586 and California law contemplated an attorney's letter which stated that unless the recipient settled, the client intended to sue for violation of federal and state law, fraud, and misrepresentations. *Lerette v. Dean Witter Organization, Inc.*, 60 Cal. App. 3d 573, 575 (Ct. App. 1976). The court found that the letter was absolutely privileged and emphasized the value of attempting to avoid litigation:

“As any competent attorney is aware, access to the courts is not an end in itself but only one means to achieve satisfaction for a client. If this can be obtained without resort to the courts—even without the filing of a lawsuit—it is incumbent upon the attorney to pursue such a course of action first. [Citation.] It is equally well established legal practice to communicate promptly with a potential adversary, setting out the claims made upon him, urging settlement, and warning of the alternative of judicial action. [Citation.]” *Id.* at 577.

¶ 27 The sentiment was echoed by a New Jersey court's observation that “the ability of an attorney to communicate freely when a matter is in controversy is just as important in the

preliminary negotiating stage as it is on the day the suit papers are filed with the court.” *DeVivo v. Ascher*, 228 N.J. Super. 453, 460 (App. Div. 1988). The court recognized that withholding absolute privilege from attorneys for statements made prior to litigation “might tend to lessen the attorney’s efforts on behalf of his clients” and that an attorney “preparing for litigation must not be inhibited by fear of reprisal in the form of actions for defamation.” *Id.* at 459. See also *Waterloov Gutter Protection Systems Co., Inc. v. Absolute Gutter Protection, L.L.C.*, 64 F. Supp. 2d 398, 416 (D.N.J. 1999) (concerning attorney letters that were “nothing more than demand letters, alleging infringement, requesting that the infringement cease, and inviting cooperation and resolution of any disputes before resort to formal suit,” court held that the letters were “within the ambit of the privilege if they are sent to achieve the objects of litigation and if they have some logical relation to the litigation”).

¶ 28 O’Shea’s communication came within the attorney litigation privilege because it was preliminary to a proposed judicial action about Murphy’s unauthorized use of ION’s data resources and the contents of the e-mail were pertinent to the anticipated civil suit in which ION would seek injunctive relief. Like the attorney communications we discussed above, O’Shea’s e-mail obtained results for her client without resorting to the courts. She followed the “well established legal practice to communicate promptly with a potential adversary, setting out the claims made upon him, urging settlement, and warning of the alternative of judicial action.” *Lerette*, 60 Cal. App. 3d at 577).

¶ 29 However, Murphy contends that privilege should not apply because O’Shea did not follow through on her threat to file a police report or her statement that his misconduct amounted to a felony and she did not draft an order for injunctive relief. He points out that less than a day after

he capitulated to her demand e-mail, she confirmed, “Since you provided all the information requested, we will not be filing any charges.” Murphy’s understanding of the privilege is erroneous because it would require O’Shea to file an unwarranted civil complaint and motion for injunctive relief in order to invoke the privilege. His interpretation is not supported by any authority and it is contrary to sound public policy.

¶ 30 For these reasons, we conclude that summary judgment was appropriately entered against Murphy’s defamation count against O’Shea and ION.

¶ 31 Murphy’s second argument is that circuit court erred by denying his motion to reconsider the summary judgment ruling. “The purpose of a motion to reconsider is to bring to a court’s attention (1) newly discovered evidence, (2) changes in the law, or (3) errors in the court’s previous application of existing law.” *Jones v. Live Nation Entertainment, Inc.*, 2016 IL App (1st) 152923,

¶ 29. We review the circuit court’s ruling on a motion to reconsider for an abuse of discretion. *Id.* An abuse of discretion occurs when a decision is “arbitrary, fanciful, or unreasonable or where no reasonable person would take the view adopted by the trial court.” *Id.*

¶ 32 Murphy’s motion to reconsider did not meet any of those standards. He argues that the motion identified four errors. The first is that the court applied the privilege to include O’Shea’s statement about felony theft to ION’s owners, Strongin and Wiesman, when they were not her clients in a criminal case. Murphy contended this was contrary to the holding in *Golden*, 295 Ill. App. 3d at 872, that a privilege which must be “narrow[ly]” construed did not encompass an attorney’s letter to the client and the client’s spouse. This argument is unpersuasive on appeal because O’Shea’s communication about Murphy’s misuse of data resources was limited to Murphy and her clients Strongin and Wiesman. It did not include non-client third parties.

¶ 33 Murphy also argues it was error for the circuit court to rely on authority which neither party had incorporated into their written briefs, including *Rosenbaum*, 2025 IL App (1st) 240039; *Atkinson*, 369 Ill. App. 3d 828; and *Scarpelli v. McDermott Will & Emery*, 2018 IL App (1st) 170874. On appeal, Murphy expands this list to include *Bedin v. Northwestern Memorial Hospital*, 2021 IL App (1st) 190723. This is a new argument on appeal and it is not supported by citation to any authority. Either of these deficiencies is reason for us to reject Murphy’s argument. Appellate courts are intended to review matters that have already been ruled upon and cannot review a decision that was never made. Accordingly, arguments that have not been raised in the circuit court are deemed forfeited and may not be raised for the first time on appeal. *Board of Managers of Eleventh Street Loftominium Ass’n v. Wabash Loftominium, L.L.C.*, 376 Ill. App. 3d 185, 188 (2007). In addition, appellate contentions which are not supported by legal reasoning, citation to authority and citation to the pertinent pages of the record are waived on appeal. *Id.* We find that Murphy forfeited this argument by failing to bring it in the circuit court and by failing to adequately brief it on appeal. In any event, we can think of no compelling reason why any court should or would limit its consideration to authority cited by the parties. The authority was generally relevant and some of it was pertinent to our own reasoning.

¶ 34 Murphy next argues that his motion to reconsider identified certain undisputed or disputed material facts that the circuit court incorporated in its order denying summary judgment on Friday, August 22, 2025, and the circuit court did not state these facts were resolved or were not relevant in its order granting summary judgment on Monday, August 25, 2025. These facts would indicate that O’Shea’s defamatory statement was false. Murphy specifies that the circuit court initially concluded that there were “competing narratives about Murphy’s termination” and a material

question of fact as to whether he was verbally terminated prior to his written termination on August 19, 2022. If Murphy had not been terminated before he was fired in writing, then it would not be wrongful of him to (use someone else's credentials to) access ION's data; retain Protected Health Information or PHI; or fail to disclose ION's passwords for its access to Power BI and Microsoft Azure, and his actions would not be felony theft.

¶ 35 The fact dispute that Murphy focuses on has never been material. The privilege immunizes an attorney from liability for publishing defamatory matter regardless of the attorney's purpose for the publication, belief in its truth or even knowledge of its falsity. *Popp*, 313 Ill. App. 3d at 642; *Golden*, 295 Ill. App. 3d at 870. It has never made a difference whether O'Shea accurately or inaccurately characterized Murphy's actions when she demanded that he either take certain steps or become the defendant in a civil action and motion for injunctive relief. There is no indication that O'Shea acted in bad faith when she communicated her client's concerns to Murphy. In fact, ION's owner, Strongin, confirmed at his deposition that ION wanted to stop Murphy's inappropriate access to ION's data and that Strongin discussed the e-mail with O'Shea before she sent it. However, even if Strongin's deposition had never been taken, O'Shea's defamatory communication plainly states it is in anticipation of a civil action, which means that Murphy's defamation claim would be met with the absolute litigation privilege and was ill-conceived. Accordingly, the facts that Murphy identified in his motion for reconsideration of the summary judgment ruling were not material and were not grounds for granting the motion.

¶ 36 The fourth claimed error is that the circuit court (1) denied ION and O'Shea's motion for summary judgment as to Count I on Friday, August 22, 2025, but (2) revisited the summary judgment materials on its own motion, reversed the decision and granted summary judgment on

Count I on Monday, August 25, 2025. Murphy cites *Peterson v. Randhava*, 313 Ill. App. 3d 1, 13 (2000), for the proposition that “a *sua sponte* ruling deprives a party of notice and an opportunity to raise objections because the court acts on its own and without any warning.” This is a new argument on appeal and is forfeited. *Board of Managers of Eleventh Street Loftominium*, 376 Ill. App. 3d at 188.

¶ 37 Forfeiture aside, we do not find that any of the concerns expressed in *Peterson* were implicated by the circuit court’s almost immediate reversal. *Peterson*, 313 Ill. App. 3d 1. The *Peterson* plaintiff alleged that his real estate agent schemed to acquire certain property for herself. *Id.* As part of her scheme, she allegedly overpriced his residence in order to stall its sale and delay him from acquiring funds he needed to buy the other property. *Id.* at 4. The agent answered the complaint and contended that a certain allegation – the final sales price of his residence – was knowingly false and that the client should be sanctioned. *Id.* at 5. The circuit court limited the parties’ discovery to that fact and prohibited any discovery into the substantive issues involved in the case. *Id.* The issue of the purchase price was just one of several fact issues raised by the complaint alleging the agent engaged in self-dealing and duplicitous conduct. *Id.* at 12.

¶ 38 When the parties appeared for hearing on the defendant’s sanctions motion, the circuit court denied it, but granted summary judgment *sua sponte*, even though no motion for summary judgment was pending. *Id.* at 5-6. The appellate court vacated the order, *id.* at 14, because the client had not been given notice and opportunity to respond to a dispositive motion. *Id.* at 11. The court pointed out that the two types of motions were substantively different. A motion for sanctions is directed at allegations on the face of the complaint, while a motion for summary judgment “is the procedural equivalent of a trial and constitutes an adjudication of the claim on the merits.” *Id.*

at 9-10. Furthermore, section 2-1005 of the Code of Civil Procedure governs summary judgment rulings and provides for either party to move for summary judgment, but it does not authorize the circuit court to *sua sponte* dispose of a case as a matter of law. *Id.* at 10 (citing 735 ILCS 5/2-1005(c) (West 1998)). The statute allows time for the opposing party to respond to a motion for summary judgment, *id.*, and a local rule specified that a summary judgment motion should not be heard until 10 days after it had been served. *Id.* at 11 (citing Cook. Co. Cir. Ct. R. 2.1(e) (eff. July 1, 1976)). The client was not given that response time and the order which limited the parties' discovery efforts hampered his opportunity to respond to the disposition of his entire case. *Id.* The other allegations of self-dealing and duplicitous conduct were not argued by the parties or addressed by the *sua sponte* ruling. *Id.* at 12. It was error for the circuit court to transform the sanction motion into a summary judgment motion. *Id.* at 14.

¶ 39 In contrast, there was extensive discovery in Murphy's claims against O'Shea and ION, including interrogatories, document production, and a half-dozen depositions. The hearing was scheduled well in advance. The parties not only filed written briefs, they filed supplemental briefs and made oral arguments. The procedure that was followed conformed with the statute and local rule governing summary judgment. The record shows that there was notice and opportunity to be heard on all of the substantive issues that Murphy raised in his amended complaint. On a Friday, the trial judge denied summary judgment on the defamation count, but upon further reflection over the weekend, recognized that the ruling was incorrect, and on the following Monday, entered a contrary order that was consistent with the facts and the law. Murphy's action was fully and fairly adjudicated and what occurred bears no resemblance to the *Peterson* matter. *Peterson*, 313 Ill.

App. 3d 1. Therefore, if Murphy had not forfeited his *Peterson*-based argument by failing to raise it on a timely basis, we would reject it on the merits.

¶ 40 Murphy has not shown that his motion to reconsider should have been granted.

¶ 41 Murphy's last argument concerns his second motion to reconsider summary judgment, in which he also sought leave to replead. He explains that this successive motion provided the court with exhibits that were not previously filed, including some text messages he exchanged with Terris Murphy, correspondence about obtaining a hearing transcript, handwritten notes which he took during the hearing, and a four-page summary or outline of his proposed second amended complaint. Murphy points out that the circuit court denied the motion in just two sentences and did not address the substance of his argument or whether his proposed new pleading would cure any defect. He contends this perfunctory order demonstrates an abuse of discretion which should be remedied by our reversal and remand with instructions to address the successive motion on the merits.

¶ 42 We reject this argument because Murphy should not have filed a successive motion to vacate the summary judgment order. A successive postjudgment motion is one that requests reconsideration after the first postjudgment motion is denied. *Owens v. Berkshire Nursing & Rehab Center, LLC*, 2026 IL App (1st) 241662, ¶ 25. Murphy's motion did exactly that—it asked the court to vacate its summary judgment order and reconsider the denial of the first postjudgment motion to vacate. Murphy argued that granting the successive motion would be fair and allow the parties to avoid “unnecessary appellate proceedings.”

¶ 43 “There is no provision in the [Code of Civil Procedure] or the supreme court rules which permits a losing litigant to return to the trial court indefinitely, hoping for a change of heart or a

more sympathetic judge.” *Sears v. Sears*, 85 Ill. 2d 253, 259 (1981). There is no section of the Code of Civil Procedure that authorizes successive postjudgment motions. Furthermore, Supreme Court Rule 274 prohibits successive postjudgment motions by providing that any party “may make only one postjudgment motion directed at a judgment order that is otherwise final and appealable.” Ill. S. Ct. R. 274 (eff. July 1, 2019). In addition, supreme court precedent emphatically states that a circuit court should not grant a successive postjudgment motion. See *Sears*, 85 Ill. 2d at 258; *Royal Oak Condominium Ass’n v. Stevenson*, 2025 IL App (1st) 242317, ¶ 39 (“The unmistakable holding of *Sears* is that the circuit court loses jurisdiction over a final judgment once it denies the timely postjudgment motion directed at that final judgment.”).

¶ 44 For these reasons, it was not an abuse of discretion for the circuit court to deny Murphy’s second motion.

¶ 45 The appellant has not identified any errors in the judgment on appeal. Accordingly, we affirm the judgment of the circuit court.

¶ 46 Affirmed.