**Illinois Official Reports**

**Appellate Court**

# *Krewionek v. McKnight*, 2022 IL App (2d) 220078

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| Appellate Court Caption | MAGDALENA KREWIONEK and URSZULA BOSOWSKI, Plaintiffs-Appellants, v. MATTHEW GREGORY McKNIGHT, M.D., D.D.S., d/b/a McKnight Oral, Maxillofacial and Dental Implant Surgery, Defendant-Appellee. |
| District & No. | Second District<br>No. 2-22-0078 |
| Filed<br>Rehearing denied | November 14, 2022<br>December 14, 2022 |
| Decision Under Review | Appeal from the Circuit Court of Kane County, No. 2021-L-482; the Hon. Mark A. Pheanis, Judge, presiding. |
| Judgment | Affirmed. |
| Counsel on Appeal | Jared M. Schneider, of Schneider Law, P.C., of Bloomington, Indiana, for appellants.<br><br>Jessica D. Causgrove and Franklin Z. Wolf, of Fisher & Phillips, LLP, of Chicago, for appellee. |
| Panel | PRESIDING JUSTICE BRENNAN delivered the judgment of the court, with opinion.<br>Justices Hudson and Birkett concurred in the judgment and opinion. |

## OPINION

¶ 1 In October 2021, plaintiffs, Magdalena Krewionek and Urszula Bosowski, filed a complaint against their employer, defendant, Matthew Gregory McKnight, M.D., D.D.S., pursuant to the Health Care Right of Conscience Act (Act) (745 ILCS 70/1 *et seq.* (West 2020)). They alleged that defendant violated section 5 of the Act when he discriminated against them by terminating their employment following their conscientious refusal to obtain one of the vaccines against COVID-19 (hereinafter, COVID-19 vaccine). *Id.* § 5. The trial court dismissed the complaint, and plaintiffs appeal. We affirm the dismissal pursuant to section 2-619(a)(9) of the Code of Civil Procedure (Code). 735 ILCS 5/2-619(a)(9) (West 2020). Specifically, section 13.5 of the Act, which (1) removes measures intended to prevent contraction or transmission of COVID-19 from the protection of the Act, (2) became effective during the pendency of this appeal, and (3) applies to all actions commenced or pending on or after its effective date, defeats plaintiffs' claim. 745 ILCS 70/13.5 (West Supp. 2021).

¶ 2 I. BACKGROUND

¶ 3 A. Plaintiffs' Complaint

¶ 4 On October 12, 2021, plaintiffs filed the operative complaint against defendant. They alleged that, in late August 2021, defendant, a dentist and physician operating a dental implant and surgical office in St. Charles, mandated that all of his employees receive one of the available COVID-19 vaccines within 10 days if they wished to continue working at the office. Plaintiffs, two members of defendant's office staff whom he had hired as at-will employees less than six weeks earlier, refused. Plaintiffs informed defendant that they had sincerely held moral convictions against receiving the vaccine. Defendant nevertheless terminated their employment.

¶ 5 Plaintiffs alleged that defendant violated section 5 of the Act, which provides in part that:

> "It shall be unlawful for any person, public or private institution, or public official to discriminate against any person in any manner *** because of such person's conscientious refusal to receive, obtain, accept, perform, *** or participate in any way in any particular form of health care services contrary to his or her conscience." 745 ILCS 70/5 (West 2020).

¶ 6 The Act defines "conscience" as "a sincerely held set of moral convictions arising from belief in and relation to God, or which, though not so derived, arises from a place in the life of its possessor parallel to that filled by God among adherents to religious faiths." *Id.* § 3(e).

¶ 7 B. Defendant's Section 2-619.1 Motion to Dismiss

¶ 8 On December 17, 2021, defendant moved to dismiss pursuant to section 2-619.1 of the Code. 735 ILCS 5/2-619.1 (West 2020) (allowing combined motions to dismiss under sections 2-615 and 2-619). Defendant did not designate which arguments fell under section 2-615 and which fell under section 2-619 (*id.* §§ 2-615, 2-619). In substance, however, defendant raised a section 2-615 argument that, regardless of the sincerity of plaintiffs' moral convictions, the complaint was insufficient at law because the Act did not protect those who stood in plaintiffs' shoes. Defendant argued that the Act's purpose was to excuse healthcare providers from performing or aiding in legal treatment options—like abortion to third parties—because they

have conscience-based objections, *not* to excuse healthcare workers from receiving a required medication—such as a vaccine—to continue employment. See, *e.g.*, *Rojas v. Martell*, 2020 IL App (2d) 190215, ¶ 23 (the Act was created in response to *Roe v. Wade*, 410 U.S. 113 (1973), "to address the moral dilemma in which health care providers might find themselves if called upon to provide services that are contrary to their consciences"). Defendant cited several provisions of the Act, including sections 2, 3(a), and 6.1, which, in his view, demonstrated that the Act applied only to persons who raised conscience-based objections to their role in providing health care services to third-party patients, so long as their objections did not unduly compromise the third-party patient's access to quality health care. See 745 ILCS 70/2, 3(a), 6.1 (West 2020). Defendant urged that plaintiffs' claim was simply too far afield from the Act's roots and purpose.

¶ 9 Defendant also preemptively raised a section 2-619(a)(9) argument that section 13.5 of the Act defeated plaintiffs' claim. Section 13.5, with an effective date of June 1, 2022, provides:

> "Violations related to COVID-19 requirements. It is not a violation of this Act for any person or public official, or for any public or private association, agency, corporation, entity, institution, or employer, to take any measures or impose any requirements, including, but not limited to, any measures or requirements that involve provision of services by a physician or health care personnel, intended to prevent contraction or transmission of COVID-19 or any pathogens that result in COVID-19 or any of its subsequent iterations. It is not a violation of this Act to enforce such measures or requirements. This Section is a declaration of existing law and shall not be construed as a new enactment. Accordingly, this Section shall apply to all actions commenced *or pending* on or after the effective date of this amendatory Act of the 102nd General Assembly. Nothing in this Section is intended to affect any right or remedy under federal law." (Emphasis added.) 745 ILCS 70/13.5 (West Supp. 2021).

¶ 10 C. Plaintiffs' Response

¶ 11 On January 19, 2022, plaintiffs responded. Plaintiffs acknowledged that certain sections of the Act specifically guard against any lapse in care to a third-party patient when a person raises a conscience-based objection to participating in an aspect of that third-party patient's care. Plaintiffs posited, however, that the broad and inclusive terms of sections 2 and 5 afford protections to

> "*all persons* who refuse to obtain *** health care services and medical care *** and to prohibit *all forms of discrimination* *** upon such persons *** by reason of their refusing to act contrary to their conscience *** in *** refusing to obtain, receive, accept, deliver, pay for, or arrange for the payment of health care services and medical care." (Emphases added.) 745 ILCS 70/2 (West 2020).

Thus, plaintiffs continued, the Act is broad enough to include them because they are part of the group "all persons," who raised a conscience-based objection to the receipt of health care services and medical care, and that objection resulted in the termination of their employment.

¶ 12 Separately, plaintiffs addressed section 13.5. They disagreed that section 13.5, were it to go into effect, would compel the dismissal of their claim. In plaintiffs' view, "the [COVID-19] vaccines *** do not stop people from contracting or transmitting COVID-19."

¶ 13 D. Trial Court's Order

¶ 14 On March 2, 2022, the trial court granted defendant's section 2-619.1 motion to dismiss. It adopted the arguments outlined in defendant's motion. As to section 13.5, it wrote:

> "[T]he newly added Section 13.5 of the Act appears to have been created with the matter at bar in mind. That section specifically excludes 'any measures or requirements … intended to prevent contraction or transmission of COVID-19' from the auspices of the Act. While plaintiffs argue that the provision does not become effective until June of this year, [the] statute itself ends any debate. It notes: 'This Section is a declaration of existing law and shall not be construed as a new enactment.' There has seldom been a more obvious pronouncement of public policy or legislative intent or interpretation for an existing statute." (Emphasis omitted.)

¶ 15 This appeal followed.

¶ 16 II. ANALYSIS

¶ 17 Plaintiffs challenge the dismissal of their complaint, which alleged only a violation of the Act. This case is, therefore, narrower in scope than some of the recent COVID-19 vaccine mandate cases seen in the federal courts. See *Doe v. NorthShore University HealthSystem*, No. 1:21-cv-05683, 2021 WL 5989092 (N.D. Ill. Nov. 30, 2021) (bringing a challenge under Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e-2(a)(1) (2018)), in addition to the Act); *Troogstad v. City of Chicago*, 571 F. Supp. 3d 901 (N.D. Ill. 2021) (bringing challenges under the first and fourteenth amendments (U.S. Const., amends. I, XIV) in addition to the Act).

¶ 18 Another unique aspect of plaintiffs' appeal is that section 13.5 became effective after they filed their opening brief but before defendant filed his response brief. Defendant argues, and we agree, that section 13.5 now provides the most direct way to resolve this appeal. Section 13.5 unequivocally states that it applies to "all actions commenced *or pending* on or after the effective date of this amendatory [a]ct." (Emphasis added.) 745 ILCS 70/13.5 (West Supp. 2021). Plaintiffs' claim is a pending claim. Plaintiffs conceded at oral argument that section 13.5 now applies to their claim. However, plaintiffs disagree that defendant's particular vaccine requirement fits within the scope of section 13.5 and argue that, even if it does, defendant must prove as much at trial. The question of section 13.5's effect is raised against the backdrop of a section 2-619.1 dismissal.

¶ 19 A. Section 2-619.1

¶ 20 Section 2-619.1 of the Code allows for combined motions to dismiss under sections 2-615 and 2-619, each of which we review *de novo*. 735 ILCS 5/2-619.1 (West 2020); *Patrick Engineering, Inc. v. City of Naperville*, 2012 IL 113148, ¶ 31. Section 2-615 allows for the dismissal of a complaint that is substantially insufficient at law. 735 ILCS 5/2-615 (West 2020). Section 2-619 allows, *inter alia*, for the dismissal of a complaint when the claim asserted against defendant is barred by an affirmative matter avoiding the legal effect of or defeating the claim. *Id.* § 2-619(a)(9). A combined motion to dismiss must be in parts. *Id.* § 2-619.1. "Each part shall be limited to and shall specify that it is made under one of [s]ections 2-615, 2-619, or 2-1005 [concerning motions for summary judgment]. Each part shall also clearly show the points or grounds relied upon under the [s]ection upon which it is based." *Id.*

¶ 21 "Meticulous practice" requires an attorney to specifically designate each portion of the combined motion as proceeding under section 2-615 or 2-619. *Illinois Graphics Co. v. Nickum*, 159 Ill. 2d 469, 484 (1994). The failure to do so can cause unnecessary complications and confusion as the case progresses. See *Reynolds v. Jimmy John's Enterprises, LLC*, 2013 IL App (4th) 120139, ¶ 21. As such, if the movant fails to appropriately separate his combined motion, the trial court should *sua sponte* reject the motion and allow the movant to file a motion that meets the statutory requirements of section 2-619.1 or to file separate motions under section 2-615 and section 2-619. *Id.* However, even at the appellate level, the court may review a commingled section 2-619.1 motion, so long as considering the motion as drafted is not prejudicial to the nonmovant. *Nickum*, 159 Ill. 2d at 484. In reviewing a nondesignated motion, we consider its grounds, requests, and treatment by the parties and the trial court. *Id.*

¶ 22 Here, defendant filed a nondesignated section 2-619.1 motion to dismiss. Plaintiffs do not address defendant's omission, let alone complain of any resulting prejudice. As such, we proceed in our review of the court's ruling on the motion to dismiss.

¶ 23 Portions of defendant's motion raised section 2-619(a)(9) concerns. That is, defendant contended that, upon becoming effective, section 13.5 would require a dismissal of the complaint because the measure to which plaintiffs objected was "intended to prevent contraction or transmission of COVID-19." The trial court agreed with defendant. If correct, this constitutes an affirmative matter defeating the claim. Accordingly, as stated, defendant asks us to affirm the dismissal of the complaint on these grounds.

¶ 24 Plaintiffs counter that there is a factual component to defendant's position that is not appropriate for a resolution on the pleadings. Although the effect of section 13.5 presents a question of statutory interpretation, whether defendant's *particular* requirement that plaintiffs receive one of the COVID-19 vaccines constitutes a measure "intended to prevent contraction or transmission of COVID-19" presents a question of fact.

¶ 25 In the context of a section 2-619 motion to dismiss, an affirmative matter is something like a defense that completely negates the cause of action. *Nickum*, 159 Ill. 2d at 486. An affirmative matter "encompasses any defense other than a negation of the essential allegations of the plaintiff's cause of action." *Kedzie & 103rd Currency Exchange, Inc. v. Hodge*, 156 Ill. 2d 112, 115 (1993). Further, section 2-619 affords litigants a means to dispose of issues of law and *easily proven* issues of fact at the outset of a case. See *Zedella v. Gibson*, 165 Ill. 2d 181, 185 (1995). In that vein, section 2-619 provides for the filing of supporting affidavits, but they are not required in all circumstances: "*If* the grounds do not appear on the face of the pleading attacked[,] the motion shall be supported by affidavit." (Emphasis added.) 735 ILCS 5/2-619(a) (West 2020). Our supreme court has explained:

> "While section 2-619 motions, like those under section 2-615, attack defects appearing on the face of the pleadings, that ground [typically is] coupled in the motion with a ground based on matter not appearing of record. [Citation.] In practice, however, our courts have not limited section 2-619 motions in this manner, and such motions are normally allowed even though a defect on the face of the pleadings might be the only ground. [Citation.] This practice allows for some degree of overlap between motions to dismiss brought under section 2-615 and those brought under section 2-619." *Nickum*, 159 Ill. 2d at 485.

¶ 26 Thus, we will review section 2-619 motions based on affirmative matters apparent solely on the face of the pleadings. "Such motions to dismiss are *** peculiarly within the area of

confluence between section 2-615 and section 2-619(a)(9)." *Id.* at 486. Our review of section 13.5 of the Act demonstrates that the trial court's dismissal of plaintiffs' claims should be affirmed pursuant to section 2-619(a)(9).

¶ 27 B. Section 13.5

¶ 28 Construing section 13.5 of the Act presents a question of law, which we review *de novo*. *Rojas*, 2020 IL App (2d) 190215, ¶ 19. "The primary rule of statutory interpretation, to which all other rules are subordinate, is that a court should ascertain and give effect to the intent of the legislature." *Bonaguro v. County Officers Electoral Board*, 158 Ill. 2d 391, 397 (1994). We can ascertain legislative intent by considering the reason and necessity for the statute, and we will not interpret a statute to defeat its purpose or yield an absurd or unjust result. *In re A.P.*, 179 Ill. 2d 184, 195 (1997). However, the best indicator of legislative intent is the statute's plain language. *Rojas*, 2020 IL App (2d) 190215, ¶ 20. We may not depart from the statute's plain language by reading into it exceptions, limitations, or conditions that the legislature has not expressed. See *Haage v. Zavala*, 2021 IL 125918, ¶ 60. The statute must be considered as a whole, giving effect to every word, clause, and sentence and with each provision construed in connection with the other relevant provisions of the statute. *Rojas*, 2020 IL App (2d) 190215, ¶ 20.

¶ 29 When the statutory language is clear and unambiguous, the language will be given effect as written without resorting to other principles of statutory interpretation. *Solich v. George & Anna Portes Cancer Prevention Center of Chicago, Inc.*, 158 Ill. 2d 76, 81 (1994). If, however, the language of the statute is ambiguous, we turn to other principles of statutory interpretation. See *id.* A statute is ambiguous if it is reasonably susceptible to more than one interpretation. *Illinois State Treasurer v. Illinois Workers' Compensation Comm'n*, 2015 IL 117418, ¶ 26. A statute is not ambiguous simply because the parties disagree about its meaning. *Castro v. Police Board of Chicago*, 2016 IL App (1st) 142050, ¶ 32.

¶ 30 Again, section 13.5 provides:

> "Violations related to COVID-19 requirements. It is not a violation of this Act for any person or public official, or for any public or private association, agency, corporation, entity, institution, or employer, to take any measures or impose any requirements, including, but not limited to, any measures or requirements that involve provision of services by a physician or health care personnel, intended to prevent contraction or transmission of COVID-19 or any pathogens that result in COVID-19 or any of its subsequent iterations. It is not a violation of this Act to enforce such measures or requirements. This Section is a declaration of existing law and shall not be construed as a new enactment. Accordingly, this Section shall apply to all actions commenced or pending on or after the effective date of this amendatory Act of the 102nd General Assembly. Nothing in this Section is intended to affect any right or remedy under federal law." 745 ILCS 70/13.5 (West Supp. 2021).

¶ 31 Plaintiffs disagree that defendant's workplace requirement—that they obtain one of the approved COVID-19 vaccines to continue working in his dental and surgical office—falls within the parameters of section 13.5. Specifically, plaintiffs argue that the measure at issue, the COVID-19 vaccine, is not "intended to prevent contraction or transmission of COVID-19." In plaintiffs' view, the phrase, "intended to prevent contraction or transmission of COVID-

19," means "reasonably likely to render the contraction or transmission of COVID-19 impossible."

¶ 32 To explain their position, plaintiffs, citing *Fowler v. United States*, 563 U.S. 668 (2011), assert that the definition of "prevent" is "to render a likely event impractical or *impossible* by anticipatory action." (Emphasis added.) *Id.* at 675 (defining prevent as " 'to render (an intended, possible, or likely action or event) impractical or impossible by anticipatory action' " (emphasis omitted) (quoting Oxford English Dictionary Online, http://www.oed.com/view/Entry/151073?rskey=QWN6QB& result=2&=false (last visited May 23, 2011))). Construing the word prevent to invoke the concept of impossibility would ensure that requirements with tenuous linkages to COVID-19 would not trigger the protections of section 13.5.

¶ 33 However, plaintiffs acknowledge that they must give effect to the phrase "intended to." Essentially, their position is that the phrase "intended to" lends *some* degree of subjectivity to the actor's belief that the measure imposed will prevent, *i.e.*, render impossible, the contraction or transmission of COVID-19. Still, to remain consistent with the Act's purposes, the imposed measure must objectively be "reasonably likely" to prevent, *i.e.*, render impossible, the contraction or transmission of COVID-19. Plaintiffs advocate that their interpretation advances the Illinois public policy of section 2 of the Act—to respect and protect the right of conscience of all persons who refuse to obtain health care services without sacrificing public health considerations.

¶ 34 Initially, we note that section 13.5 and the phrase "intended to prevent contraction or transmission of COVID-19" is not ambiguous as applied to a healthcare employer's requirement that all employees receive a COVID-19 vaccination. We disagree that the word "prevent" exclusively invokes the concept of impossibility. Even the definition of prevent cited by plaintiffs does not require impossibility; it provides that to prevent means to render an event impractical *or* impossible. Plaintiffs have focused on a single definition of prevent that requires that a preventative measure will render an event impossible to the exclusion of other definitions of prevent that carry no such implication. For example, the Oxford English Dictionary definition relied upon by the *Fowler* court was contained within a broader category of definitions under the heading "To preclude, stop, *or hinder*." (Emphasis added.) Oxford English Dictionary Online, https://www.oed.com/view/Entry/151073?rskey (last visited Oct. 28, 2022) [https://perma.cc/3QX7-BEB8]. Another definition in that category provides that to "prevent" means "To stop, keep, or hinder (a person or thing) from doing something" (Emphasis omitted.) *Id.* Put into use, the Oxford English Dictionary cited the following sentence from a 1995 text: "Carpal tunnel syndrome, a painful disorder of the hand, prevented him [from] writing his own letters." *Id.* Merriam-Webster Online Dictionary similarly defines "prevent" as "to keep from happening or existing," "to hold or keep back," "to deprive of power or hope of acting or succeeding," or "to interpose an obstacle." Merriam-Webster Online Dictionary, https://www.merriam-webster.com/dictionary/prevent (last visited Oct. 28, 2022) [https://perma.cc/S5T3-EYX7]. Just as carpal tunnel syndrome may "prevent" a person from writing in the sense that writing is impractical but not impossible, a section 13.5 measure makes the contraction or transmission of COVID-19 less frequent ("to keep back") or more difficult ("to interpose an obstacle") but not, necessarily, impossible. In short, the word "impossible" is nowhere in section 13.5. If the legislature had intended to limit section 13.5 measures to those that aimed to render the contraction or transmission of COVID-19 impossible, it could have so

provided. See, *e.g.*, *Haage*, 2021 IL 125918, ¶ 60 (we will not read into the statute a condition that the legislature has not expressed).

¶ 35 Contrary to plaintiffs' position, section 13.5 straightforwardly reads as though the legislation was written with a COVID-19 vaccination requirement in mind. A vaccine is "a preparation that is administered (as by injection) to stimulate the body's immune response against a specific infectious agent or disease." Merriam-Webster Online Dictionary, https://www.merriam-webster.com/dictionary/vaccine (last visited Oct. 28, 2022) [https://perma.cc/X5TG-7TDU]. Immune, in turn, is defined as "having a high degree of resistance to a disease." Merriam-Webster Online Dictionary, https://www.merriam-webster.com/dictionary/immune (last visited Oct. 28, 2022) [https://perma.cc/J6RD-L39K]. Plainly, a measure aimed at creating a high degree of resistance to a disease is a measure intended to prevent, *i.e.*, to hinder or interpose an obstacle to, the contraction and transmission of that disease. In fact, before section 13.5's effective date, plaintiffs made various concessions regarding the intent underlying vaccine mandates. For example, in their complaint, plaintiffs referred to the COVID-19 vaccines as the vaccines "*against* COVID-19." (Emphasis added.) Moreover, plaintiffs' opening brief argued that "[t]here is no serious dispute that COVID-19 vaccines are FDA-authorized medications that must be administered by someone qualified" and that, generally, vaccines are "intended for use in the diagnosis, cure, *mitigation*, treatment, *or prevention of disease* in man." (Emphases added.)

¶ 36 Other legal authority, of which we may take judicial notice, has likewise recognized that the COVID-19 vaccines are intended to prevent the contraction and transmission of COVID-19. See Ill. R. Evid. 201 (eff. Jan. 1, 2011); *Ashley v. Pierson*, 339 Ill. App. 3d 733, 739-40 (2003) (the court may take judicial notice of information on a government website). In *Biden v. Missouri*, 595 U.S. ___, 142 S. Ct. 647 (2022) (*per curiam*), a case involving the Centers for Medicare and Medicaid Services' COVID-19 vaccination mandate applicable to the staff of healthcare facilities participating in Medicare and Medicaid, the United States Supreme Court noted that vaccines, including the COVID-19 vaccines, are a tool to prevent and control disease. *Id.* at ___, 142 S. Ct. at 651. The Centers for Disease Control and Prevention (CDC) website instructs that "COVID-19 vaccines are effective at preventing you from getting sick" and "Getting vaccinated is the best way to slow the spread of [COVID-19]." See *How to Protect Yourself & Others*, Ctrs. for Disease Control & Prevention (Jan. 20, 2022), https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html [https://perma.cc/MFH9-8SZ6]. We recognize that some individuals may disagree, and we do not offer these citations to support that the COVID-19 vaccines are effective. Rather, they support that the vaccines are intended to prevent the contraction and transmission of COVID-19.

¶ 37 To the extent that the question of whether defendant's particular requirement that his employees obtain one of the COVID-19 vaccines was intended to prevent contraction or transmission of COVID-19 is a question of fact, it is *easily proved* and appropriate for judgment on the pleadings given the foregoing citations. See *Zedella*, 165 Ill. 2d at 185. Plaintiffs do not dispute that defendant's intention in ordering plaintiffs to receive the vaccine was to protect his patients against the virus, the concern being that unvaccinated staff would contract the virus and transmit it to the patients. Rather, they dispute the likely effectiveness of the vaccine and argue that that question of fact must be resolved at trial. Plaintiffs' assertion—that the effectiveness of the COVID-19 vaccines needs to be established at trial—is tied to their interpretation of section 13.5, which we have rejected. That it is reasonably

likely that the vaccine will render the contraction or transmission of COVID-19 impossible is not an easily proved fact. That the *intended* use of a COVID-19 vaccine is to prevent, *i.e.*, to hinder or to interpose an obstacle to, the contraction or transmission of COVID-19, in contrast, is an easily proved fact for the reasons discussed above.

¶ 38 In sum, section 13.5 of the Act now in effect removes employer requirements intended to prevent contraction or transmission of COVID-19 from the protection of the Act. Thus, section 13.5 defeats plaintiffs' claim, and pursuant to section 2-619(a)(9) of the Code, we affirm the trial court's dismissal of plaintiffs' complaint.

¶ 39 III. CONCLUSION

¶ 40 For the reasons stated, we affirm the trial court's judgment.

¶ 41 Affirmed.