Affirmed and Opinion filed February 10, 2000.

In The

Fourteenth Court of Appeals

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NO. 14-98-00509-CV

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DON MCCAFFETY, Appellant

V.

ROBERTO ALMAGUER AND LUCY ALMAGUER, Appellees

On Appeal from the 164th District Court
Harris County, Texas
Trial Court Cause No. 94-21797

O P I N I O N

This is an appeal from a directed verdict against appellant Don McCaffety, dismissing his claims for personal injuries he allegedly incurred while cleaning up trash on appellees Roberto and Lucy Almaguer's property. He appears *pro se* and presents eight points of error. We affirm.

Appellant cut his wrist while cleaning and bagging trash on appellees' property, and filed suit against them the day before expiration of the statute of limitations. Appellant did not serve appellees with citation until five months later. Appellees filed a motion for summary judgment raising lack of due diligence by appellant in obtaining service. By way of response, appellant

filed an affidavit stating that the Harris County District Clerk's office told him he had six months to obtain service or the case would be dismissed. Summary judgment was denied, but after appellant rested his case at trial, appellees moved for a directed verdict reurging lack of due diligence and failure to prove negligence, which motion was granted.

It is well settled that pro se litigants are held to the same standards as licensed attorneys and that they must comply with all applicable laws and rules of procedure. *Greenstreet v. Heiskell*, 940 S.W.2d 831, 834 (Tex.App.--Amarillo 1997, no writ), *reh'g denied*, 960 S.W.2d 713 (per curiam). The rationale for the rule is that if pro se litigants were not required to comply with applicable procedural rules, they would be given an unfair advantage over litigants represented by counsel. *Id*. at 835.

Appellant's initial brief in this matter failed to substantially comply with Rule 38, TEX. R. APP. P. , particularly as to providing a clear and concise argument of his contentions on appeal with appropriate citations to authorities and the record, and appellant was ordered to rebrief his appeal. *See Inpetco, Inc., v. Texas American Bank*, 729 S.W.2d 300, 300 (Tex. 1987) (per curiam).

We have reviewed the amended brief filed by appellant, and find that it, too, fails to substantially comply with Rule 38 and fails to provide a clear and concise argument of appellant's contentions on appeal with appropriate citations to authorities and the record. Under his first two points of error, appellant complains that a visiting judge was appointed without notice, and that the judge rejected appellant's summary judgment response and evidence. Appellant fails to present any legal authorities or legal argument in support of any alleged error, particularly in regards to the summary judgment motion which had been heard and denied a year prior to trial. Moreover, TEX. GOV'T CODE ANN. § 74.053 requires that any objection to an assigned judge must be filed prior to the first hearing or trial over which the assigned judge is to preside, and further provides that each party is only entitled to one challenge to an assigned judge. As appellant failed to file an objection, and had filed an

objection to a previously assigned judge, no error was shown and these two points of error are overruled.

Appellant's third point of error , and the entirety of its supporting legal argument, states that "All outstanding issues of law should be ruled on before the jury is selected. (T.R.C.P. Rule 175.)" This point is impossible to address, presents nothing for review, and is overruled. *Valdez v. Aldrich*, 892 S.W.2d 95 (Tex. App. – Houston [14th Dist.] 1994, no writ).

By his fourth and fifth points of error, appellant again complains that the trial court failed to use or recognize appellant's response to the previously-denied motion for summary judgment as to the issue of "due diligence." In lieu of legal argument, appellant simply cites and attaches copies of two Texas cases, *Valdez v. Charles Orsinger Buick*, 715 S.W.2d 126 (Tex. App. – Texarkana 1986, no writ) and *Beavers v. Darling*, 491 S.W.2d 711 (Tex. Civ. App. – Waco 1973, no writ), which cases involve summary judgment proof regarding the issue of "due diligence." Appellant presents no legal argument applying these cases to his appeal, and nothing is presented for review. Regardless, we note that at the time appellant had attempted to introduce the summary judgment documents into evidence, he had already rested and appellees were making their motion for directed verdict. The fourth and fifth points of error are overruled.

Appellant's sixth point of error contends that the trial court failed to give him any benefit of a doubt as to the issue of due diligence. In support, he cites and attaches a copy of *Zale Corporation v. Rosenbaum*, 520 S.W.2d 889 (Tex. 1975). Appellant presents no legal argument and does not apply the law to the facts of his case. This point of error is incapable of being addressed, presents nothing for review, and is overruled.

Appellant's final two points of error apparently complain that the trial court entered a directed verdict without specifying the grounds, and failed to enter findings of fact and conclusions of law on the directed verdict. As with his earlier points, appellant presents no legal argument or supportive authorities, and nothing is presented for review. It is not this

Court's duty to review the record, research the law and fashion a legal argument for appellant when he himself has failed to do so. The seventh and eighth points of error are overruled.

The judgment is affirmed.

PER CURIAM

Judgment rendered and Opinion filed February 10, 2000.
Panel consists of Justices Sears, Cannon, and Draughn[*].
Do Not Publish — TEX. R. APP. P. 47.3(b).

[*] Senior Justices Ross A. Sears, Bill Cannon, and Joe L. Draughn sitting by assignment.