

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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APPELLANT PRO SE

Amanda Perdue  
Pearisburg, VA

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## IN THE COURT OF APPEALS OF INDIANA

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Amanda Perdue,  
*Appellant-Plaintiff,*

v.

William H. O'Toole,  
*Appellee-Defendant*

September 7, 2022

Court of Appeals Case No.  
22A-SC-231

Appeal from the Porter Superior  
Court

The Honorable Michael J. Drenth,  
Judge

Trial Court Cause No.  
64D03-1907-SC-2286

**May, Judge.**

[1] Amanda Perdue appeals the small claims court’s denial of her claims against William H. O’Toole, her attorney during prior bankruptcy proceedings. As we are unable to review her claims because she has submitted an incomplete record, we affirm.

## Facts and Procedural History

[2] On July 11, 2019, Perdue filed a small claims court action<sup>1</sup> against her bankruptcy attorney, O’Toole. Perdue contends in her appellate brief that O’Toole committed criminal conversion; “deceit or intentional misrepresentation[;]” breach of contract; “negligence, and/or professional negligence, and/or gross negligence[;]” bad faith; and “fraud and/or fraud in the inducement[.]” (Br. of Appellant at 14, 16, 18) (formatting omitted). On April 1, 2021, and July 8, 2021, the small claims court held hearings on the matter during which Perdue and O’Toole presented evidence and argument. On October 28, 2021, the small claims court issued its order denying Perdue’s claims. On November 22, 2021, Perdue filed a motion to correct error.<sup>2</sup> On January 6, 2022, Perdue’s motion to correct error was deemed denied pursuant to Indiana Trial Rule 53.3.<sup>3</sup>

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<sup>1</sup> A copy of Perdue’s complaint is not in the appellate record.

<sup>2</sup> A copy of Perdue’s motion to correct error is not in the appellate record.

<sup>3</sup> Indiana Trial Rule 53.3(A) provides, in relevant part:

In the event a court fails for forty-five (45) days to set a Motion to Correct Error for hearing, or fails to rule on a Motion to Correct Error within thirty (30) days after it was

## Discussion and Decision

[3] Initially, we note *Perdue* proceeds pro se. “It is well settled that pro se litigants are held to the same legal standards as licensed attorneys. This means that pro se litigants are bound to follow the established rules of procedure and must be prepared to accept the consequences of their failure to do so.” *Basic v. Amouri*, 58 N.E.3d 980, 983-84 (Ind. Ct. App. 2016) (internal citations omitted), *reh’g denied*. These consequences may include waiver for violations of the Indiana Rules of Appellate Procedure. *Id.* at 984. “While we prefer to decide issues on the merits, where the appellant’s noncompliance with appellate rules is so substantial as to impede our consideration of the issues, we may deem the errors waived.” *Id.* We will not “become an advocate for a party, or address arguments that are inappropriate or too poorly developed or expressed to be understood.” *Perry v. Anonymous Physician 1*, 25 N.E.3d 103, 105 n.1 (Ind. Ct. App. 2014), *trans. denied, cert. denied* 577 U.S. 873 (2015).

[4] Here, *Perdue* provided cogent argument and, when she cites cases, she does so appropriately. However, there are parts of the record integral to our review that are missing – specifically, her complaint before the small claims court and her motion to correct error.<sup>4</sup> Indiana Appellate Rule 27 states, in relevant part,

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heard or forty-five (45) days after it was filed, if no hearing is required, the pending Motion to Correct Error shall be deemed denied.

<sup>4</sup> We note *Perdue* properly filed the appealed order with her notice of appeal pursuant to Indiana Appellate Rule 9(F)(8)(a), but the appellate rules dictate she also include the appealed order as part of her appendix, which she failed to do.

“[t]he Record on Appeal shall consist of the Clerk’s Record and all proceedings before the trial court[.]” Indiana Appellate Rules 50(A)(2)(b) and (f) require the appellant’s appendix include “the appealed judgment or order” and “pleadings and other documents from the Clerk’s Record . . . that are necessary for resolution of the issues raised on appeal[.]” Because of the incomplete record resulting from these violations of the Indiana Rules of Appellate Procedure, we are unable to determine if the trial court properly decided the claims she set forth, because we do not know what those claims were and what Perdue alleged O’Toole did to commit the asserted claims. Accordingly, Perdue’s claims are waived, *see In re Moeder*, 27 N.E.3d 1089, 1097 n.4 (Ind. Ct. App. 2015) (waiving claims on appeal when violations of Appellate Rules impeded ability to review), *trans. denied*, and we affirm the small claims court’s order.

## Conclusion

[5] Perdue’s arguments on appeal are waived for noncompliance with the Indiana Rules of Appellate Procedure. Accordingly, we affirm.

[6] Affirmed.

Riley, J., and Tavitas, J., concur.