

## 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

Christine M. Slattery  
Fort Wayne, Indiana

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## IN THE COURT OF APPEALS OF INDIANA

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Christine M. Slattery,  
*Appellant-Plaintiff,*

v.

Andrea Simon,  
*Appellee-Defendant.*

December 21, 2021

Court of Appeals Case No.  
21A-SC-1349

Appeal from the Allen Superior  
Court

The Honorable Michael T.  
Douglass, Magistrate

Trial Court Cause No.  
02D09-2010-SC-13001

**Najam, Judge.**

### Statement of the Case

- [1] Christine Slattery appeals the trial court's judgment for Andrea Simon on Slattery's complaint alleging breach of contract. Slattery presents a single issue

for our review, namely, whether the trial court clearly erred when it entered judgment for Simon. We affirm.

### **Facts and Procedural History**

- [2] On October 29, 2020, Slattery filed a complaint against Simon alleging that Slattery had loaned Simon \$6,722.09 for medical treatment and plane tickets. Slattery alleged that she and Simon had entered into an oral contract whereby Simon agreed to pay Slattery back the full loan amount after receipt of an anticipated personal injury settlement. Following an evidentiary hearing, the trial court found that the parties did not have a contract, and the court entered judgment for Simon. This appeal ensued.

### **Discussion and Decision**

- [3] We initially note that Slattery 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 citation omitted). Further, Simon has not filed an appellee’s brief. When an appellee does not file a brief, our court will not undertake the burden of developing arguments on that party’s behalf. *Thurman v. Thurman*, 777 N.E.2d 41, 42 (Ind. Ct. App. 2002). Rather, we apply “a less stringent standard of review” and may reverse the trial court if the Appellants establish *prima facie* error. *Id.* *Prima facie* “means at first sight, or on first appearance, or on the face of it.” *Id.*

[4] However, Slattery has not met even the low burden of *prima facie* error. First, Slattery has not complied with Indiana Appellate Rule 46(A)(8)(a), which requires an appellant to support her argument with “citations to the authorities, statutes, and the Appendix or parts of the Record on Appeal relied on[.]” Slattery’s brief does not include a *single* citation to either legal authority or the Appendix. A court which must search the record and make up its own arguments because a party has not adequately presented them runs the risk of becoming an advocate rather than an adjudicator. *Young v. Butts*, 685 N.E.2d 147, 151 (Ind. Ct. App. 1997). A brief should not only present the issues to be decided on appeal, but it should be of material assistance to the court in deciding those issues. *Id.* On review, we will not search the record to find a basis for a party’s argument. *Id.*

[5] In any event, Slattery’s sole contention on appeal is that Simon “lied under oath” and, thus, that the court “ruled incorrectly” when it believed Simon that there was no contract and that Slattery had given her the money. Appellant’s Br. at 3-4. Judgments in small claims actions are “subject to review as prescribed by relevant Indiana rules and statutes.” Ind. Small Claims Rule 11(A). In the appellate review of claims tried by the bench without a jury, the reviewing court shall not set aside the judgment “unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses.” Ind. Trial Rule 52(A).

[6] In determining whether a judgment is clearly erroneous, the appellate tribunal does not reweigh the evidence or determine the credibility of witnesses but

considers only the evidence that supports the judgment and the reasonable inferences to be drawn from that evidence. *City of Dunkirk Water & Sewage Dept. v. Hall*, 657 N.E.2d 115, 116 (Ind. 1995). This deferential standard of review is particularly important in small claims actions, where trials are “informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law.” Ind. Small Claims Rule 8(A). Further, a party who had the burden of proof at trial appeals from a negative judgment and will prevail only if it establishes that the judgment is contrary to law. *Helmuth v. Distance Learning Sys. Ind., Inc.*, 837 N.E.2d 1085, 1089 (Ind. Ct. App. 2005). A judgment is contrary to law when the evidence is without conflict and all reasonable inferences to be drawn from the evidence lead to only one conclusion, but the trial court reached a different conclusion. *Id.* Thus, even where an appeal is fully and correctly briefed, an appeal from a negative judgment is a high bar.

[7] Again, Slattery does not cite any part of the Appendix to show that the trial court abused its discretion when it considered the evidence. Slattery merely asserts that she “provided the ONLY evidence in this hearing and [she] believes that she did in fact meet the burden of proof[.]” Appellant’s Br. at 3. Slattery maintains that Simon made “false statements” to the court, which supports reversing the court’s judgment for Simon. *Id.* at 4. But Slattery’s contentions are merely requests that we reweigh the evidence and reassess the credibility of the witnesses, which we cannot do on appeal. Slattery has not shown that the trial court clearly erred when it entered judgment in favor of Simon.

[8] Affirmed.

Vaidik, J., and Weissmann, J., concur.