

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

BONNIE KLINGENSMITH	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellant	:	
	:	
	:	
v.	:	
	:	
	:	
PATRICIA L. MCGRAIL, JENNIFER	:	No. 1470 WDA 2025
BITTEL, AND MCGRAIL AND	:	
ASSOCIATES, LLC	:	

Appeal from the Order Entered October 17, 2025
In the Court of Common Pleas of Allegheny County Civil Division at
No(s): GD-19-014095

BEFORE: SULLIVAN, J., NEUMAN, J., and STEVENS, P.J.E.*

MEMORANDUM BY NEUMAN, J.:

FILED: August 26, 2026

Appellant, Bonnie Klingensmith, appeals *pro se* from the trial court's order granting summary judgment in favor of Appellees, Patricia L. McGrail, Jennifer Bittel, and McGrail and Associates, LLC. We dismiss this appeal.

Given our disposition, we need not delve deeply into the underlying facts of this matter. Briefly, in the operative amended complaint filed on April 24, 2020, Ms. Klingensmith brought professional negligence and breach of contract claims against Appellees.¹ Ms. Klingensmith alleged, *inter alia*, she and Appellees executed an engagement letter whereby Appellees agreed to

* Former Justice specially assigned to the Superior Court.

¹ The original complaint was filed on October 4, 2019. Ms. Klingensmith was represented by Ronald H. Heck, Esq., at the time the pleadings were filed in this action.

represent Ms. Klingensmith in her divorce proceedings. Amended Complaint, 4/24/20, at ¶ 8; **id.** at ¶¶ 2-3 (stating Appellee McGrail and Appellee Bittel are attorneys). During the divorce proceedings, she averred Appellees did not use the necessary discovery tools at their disposal to uncover the true nature and value of the marital assets. **Id.** at ¶ 11. According to Ms. Klingensmith, without having done due diligence by using proper discovery on her behalf, Appellees abruptly presented a motion to withdraw their appearance five weeks before the scheduled trial on equitable distribution. **See id.** at ¶ 29; **see also id.** at Exhibit 5. Ms. Klingensmith said the motion to withdraw was granted, and she was advised no continuances would be granted as a result of new counsel's entering an appearance on her behalf, which precluded Ms. Klingensmith and her new counsel from conducting any discovery. **Id.** at ¶ 29. Consequently, Ms. Klingensmith alleged she was forced to accept a settlement far below what she would have received from the marital estate had the case been properly handled from the beginning. **Id.** at ¶ 30.

Appellees filed preliminary objections, which resulted in Ms. Klingensmith's claim for breach of contract being stricken by agreement of the parties on November 25, 2020. On June 28, 2024, after years of limited docket activity, Appellees filed a praecipe to place the case at issue, requesting the case be placed on the next available trial list. On November 4, 2024, the trial court scheduled the case for trial call on May 20, 2025.

Subsequently, on November 22, 2024, Appellees moved for summary judgment. They argued Ms. Klingensmith's professional negligence claim is

barred pursuant to the “***Muhammad***^[2] Doctrine” because she voluntarily entered into a settlement resolving the divorce. Motion for Summary Judgment, 11/22/24, at ¶ 8. They also contended Ms. Klingensmith’s claim is premised on sheer conjecture, claiming she has admitted she has no proof of the value of her husband’s assets to support an argument they were not accurately valued or that the court would have accepted different values in determining their total worth. ***Id.*** at ¶ 8.

On January 8, 2025, the trial court scheduled argument on the motion for summary judgment for February 11, 2025. According to the docket, Ms. Klingensmith filed a motion for continuance on January 22, 2025, and another motion on January 27, 2025, which we surmise was for the case to be removed from the trial list, but neither motion is contained in the certified record. On February 4, 2025, Appellees filed a response in opposition to Ms. Klingensmith’s motion for the case to be removed from the trial list. Therein, Appellees indicated Ms. Klingensmith claimed: her counsel, Attorney Heck, is ill and has given up his practice of law; Attorney Heck had obtained a report from an expert that is available for review by the court; Ms. Klingensmith needs more time to find a new law firm to represent her; and additional

² ***Muhammad v. Strassburger, McKenna, Messa, Shilobod and Gutnick***, 587 A.2d 1346, 1348 (Pa. 1991) (holding courts “will not permit a suit to be filed by a dissatisfied plaintiff against his attorney following a settlement to which that plaintiff agreed, unless that plaintiff can show he was fraudulently induced to settle the original action. An action should not lie against an attorney for malpractice based on negligence and/or contract principles when that client has agreed to a settlement. Rather, only cases of fraud should be actionable.”).

discovery is required without specifying what discovery is necessary. Response, 2/4/25, at ¶ 18. Appellees also pointed out Attorney Heck had not sought to withdraw or substitute his appearance, and that Ms. Klingensmith and Attorney Heck had done nothing for years in the litigation until the case was placed at issue. **Id.** at ¶¶ 19, 26. While Appellees said they were agreeable to a stay for Ms. Klingensmith to locate new counsel or proceed *pro se*, they asked the court to continue the case to a trial list later in 2025 and include language that future continuances will not be granted. **Id.** at ¶ 29.

On February 4, 2025, the trial court issued an order continuing the case. It noted Attorney Heck is no longer practicing law, and that the matter would be stayed for 60 days so Ms. Klingensmith can find new counsel. Upon expiration of the stay, the trial court ordered the case shall be listed on the next available trial list after September 2025.

On May 5, 2025, the case was scheduled for trial call on November 14, 2025. On July 28, 2025, argument on Appellees' pending summary judgment motion was scheduled for August 26, 2025. On August 26, 2025, Appellees filed a "Consent Motion to Assign MSJ Argument to New Judge In Same Argument Term." Therein, they explained they contacted Ms. Klingensmith on August 25, 2025, to ascertain whether she was planning to oppose the summary judgment motion or appear at argument the next day. Consent Motion, 8/26/25, at ¶ 3. According to Appellees, Ms. Klingensmith — who still did not have counsel — relayed she had not received the notice of the argument date and requested the argument be rescheduled. **Id.** at ¶ 4. Due

to the trial court's lack of availability to reschedule, the parties jointly requested the summary judgment motion be assigned to a new judge within the current argument term or, alternatively, for leave for Appellees to present the summary judgment motion at general motions. **Id.** at ¶¶ 9-10.

While not contained in the certified record, based on the docket, it appears Ms. Klingensmith filed a motion to continue the trial on August 29, 2025. In Appellees' response in opposition, they explained Ms. Klingensmith has done nothing to move this case forward since February 2025, including failing to retain new counsel or undertake additional discovery. **See** Response in Opposition, 9/8/25, at ¶¶ 20-22. They asked for the trial court to deny Ms. Klingensmith's motion. **Id.** at ¶ 26.

On September 9, 2025, the trial court continued the trial until January 24, 2026, and warned that any further continuance requests will only be granted if Ms. Klingensmith retains counsel. In the meantime, argument on the pending summary judgment motion was rescheduled for October 16, 2025.

On September 21, 2025, Ms. Klingensmith, *pro se*, filed a response in opposition to the summary judgment motion. Among other things, she denied, without any elaboration in support, that the "**Muhammad** Doctrine" applied, and said she has an expert's opinion estimating her losses to be \$200,000 to \$400,000. Response in Opposition, 9/21/25, at ¶¶ 7, 9. She also asserted she needs additional discovery, and that discovery was not received from Appellees in its entirety. **Id.** at ¶ 1.

Oral argument on the summary judgment motion took place as scheduled on October 16, 2025, at which Ms. Klingensmith appeared *pro se*. Following oral argument, on October 17, 2025, the trial court granted summary judgment in favor of Appellees. On October 25, 2025, Ms. Klingensmith filed a *pro se* motion for reconsideration, which the trial court denied on October 29, 2025. On November 12, 2025, Ms. Klingensmith filed a *pro se* notice appeal, purporting to appeal from both the trial court's summary judgment and reconsideration orders.³ The trial court did not order Ms. Klingensmith to file a Pa.R.A.P. 1925(b) concise statement. On December 4, 2025, the trial court issued an order, conveying that "having stated its reasoning in the [o]rder and at oral argument[, the court] does not intend to author an [o]pinion in this matter and rests on the record." Order, 12/4/25.⁴

³ "Generally, when a party seeks to appeal from two separate decisions entered on the same docket, the party must file two separate notices of appeal." ***In re Adoption of A.M.W.***, 289 A.3d 109, 111 n.1 (Pa. Super. 2023) (*en banc*) (citation omitted). Nevertheless, where the other party has not objected and the appeal period has expired, we have declined to quash the appeal on this basis. ***Id.*** Therefore, we may overlook Ms. Klingensmith's failure to file separate notices of appeal from the trial court's summary judgment order and reconsideration order. However, we still need not consider Ms. Klingensmith's appeal from the trial court's reconsideration order, as an appeal does not lie from an order denying reconsideration; instead, an appeal must be timely filed from the underlying order. ***Conner v. Conner***, 217 A.3d 301, 307 n.2 (Pa. Super. 2019). Consequently, any challenge to the trial court's order denying reconsideration is improper and beyond our purview. ***Id.*** Accordingly, this appeal may proceed only from the trial court's October 17, 2025 order granting summary judgment.

⁴ We are confused by the trial court's December 4, 2025 order, as the record does not contain the reasoning for the trial court's summary judgment order (*Footnote Continued Next Page*)

Ms. Klingensmith raises the following two issues for our review:

[1.] Whether the trial court erred in granting summary judgment based on a “consent” motion where [Ms. Klingensmith’s] consent was procured through fraudulent misrepresentation by ... Appellees’ counsel, acting as fraud upon the court?

[2.] Whether the trial court abused its discretion by excluding critical evidence of discovery failures, fraudulent concealment, expert opinion on damages, and conflicts of interest, effectively denying [Ms. Klingensmith] a fair trial of [*sic*] the existence and valuation of marital assets and the establishment of negligence and breach of fiduciary duty in a legal malpractice action?

Ms. Klingensmith’s Brief at 4.

Due to Ms. Klingensmith’s deficient argument, we are compelled to dismiss her appeal. While Ms. Klingensmith spends a substantial portion of her brief describing the background of this matter, ***see id.*** at 5-20, her Argument section consists of the following:

Argument I: The Court Erred in Granting Summary Judgment based on a “Consent” Motion Induced by Fraud.

The Summary Judgment must be reversed because there was no true meeting of the minds. Opposing counsel misrepresented the nature of the filing to the *pro se* [Ms. Klingensmith], characterizing it as a simple date change rather than a dispositive motion to

as described by the trial court. Specifically, the trial court’s October 17, 2025 order granting summary judgment includes no rationale in it. Furthermore, our review of the October 16, 2025 transcript from the oral argument — which is attached to Ms. Klingensmith’s notice of appeal — contains no reasoning from the trial court. In fact, at the conclusion of the argument, the trial court stated it was taking the matter under advisement. N.T., 10/16/25, at 26. Due to our disposition, however, we need not remand for the trial court to prepare a Rule 1925(a) opinion. **See** Pa.R.A.P. 1925(a)(1) (“[U]pon receipt of the notice of appeal, the judge who entered the order giving rise to the notice of appeal, if the reasons for the order do not already appear of record, shall ... file of record at least a brief opinion of the reasons for the order, or for the rulings or other errors complained of, or shall specify in writing the place in the record where such reasons may be found.”).

dismiss the action. Therefore, any alleged consent was voidable due to fraud in the inducement, and the court improperly granted judgment without a contested motion.

Argument II: The Trial Court Abused its Discretion by Excluding Critical Evidence.

The trial court abused its discretion and effectively denied [Ms. Klingensmith] a fair trial by excluding essential evidence, including documentation of discovery failures, fraudulent concealment, expert opinion regarding damages, and evidence of conflicts of interest. The exclusion of this evidence as [*sic*] an abuse of discretion as it prevented [Ms. Klingensmith] from establishing crucial elements of negligence and breach of fiduciary duty in this legal malpractice action. Furthermore, the court ignored evidence of active concealment designed to prevent the discovery of the cause of action, violating the principle that summary judgment cannot be used to finalize a case where the Defendant has actively obstructed discovery.

Id. at 21-22. Problematically, Ms. Klingensmith's argument does not apply relevant law to the evidence of record to convince us there were reversible errors. Instead, she makes vague assertions without providing legal support and analysis. In fact, she cites only one case in her brief, which appears in the Statement of the Case section and lacks elaboration. ***See id.*** at 6 ("On September 18, 2020, [Ms. Klingensmith's] Brief in Opposition to Preliminary Objections was filed citing ***McMahon v. Shea***, ... 688 A[.2d] 1179 ([Pa.] 1997)."). She also does not adequately respond to the arguments Appellees raised below in support of summary judgment.

Pursuant to our Rules of Appellate Procedure, the Argument section shall include "discussion and citations of authorities as are deemed pertinent."

Pa.R.A.P. 2119(a). This Court has explained:

The Rules of Appellate Procedure state unequivocally that each question an appellant raises is to be supported by discussion and

analysis of pertinent authority. Appellate arguments which fail to adhere to these rules may be considered waived, and arguments which are not appropriately developed are waived. Arguments not appropriately developed include those where the party has failed to cite any authority in support of a contention. This Court will not act as counsel and will not develop arguments on behalf of an appellant. Moreover, ... mere issue spotting without analysis or legal citation to support an assertion precludes our appellate review of a matter.

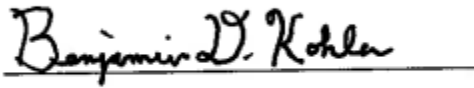
Coulter v. Ramsden, 94 A.3d 1080, 1088-89 (Pa. Super. 2014) (cleaned up). **See also Commonwealth v. Rush**, 959 A.2d 945, 950-51 (Pa. Super. 2008) ("It not for this Court to develop an appellant's arguments. Rather, it is the appellant's obligation to present developed arguments and, in so doing, apply the relevant law to the facts of the case, persuade us there were errors, and convince us relief is due because of those errors. If an appellant fails to do so, we may find the argument waived.") (cleaned up).

We appreciate Ms. Klingensmith is proceeding *pro se*. Yet, while this Court is willing to liberally construe materials filed by *pro se* appellants, *pro se* appellants are not entitled to special treatment by virtue of the fact they lack legal training. **Commonwealth v. Maris**, 629 A.2d 1014, 1017 n.1 (Pa. Super. 1993) (citation omitted). "When issues are not properly raised and developed in briefs, when the briefs are wholly inadequate to present specific issues for review[,] a [c]ourt will not consider the merits thereof." **Id.** at 1017 (citation and footnote omitted); **see also Commonwealth v. Hardy**, 918 A.2d 766, 771 (Pa. Super. 2007) ("[W]hen defects in a brief impede our ability to conduct meaningful appellate review, we may dismiss the appeal entirely or find certain issues to be waived.") (cleaned up). As Ms. Klingensmith does

not appropriately develop an argument to support her contentions and show the trial court committed reversible error, we are unable to conduct any meaningful review. Thus, we dismiss this appeal.

Appeal dismissed.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

DATE: 8/26/2026