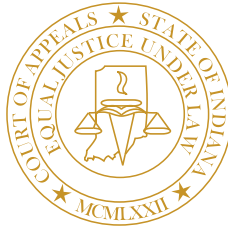


Pursuant to Indiana Appellate Rule 65(E), the trial court and parties shall not take any action in reliance upon this Opinion until it is certified.



IN THE
Court of Appeals of Indiana

Stacia Davis,
Appellant-Petitioner

v.

Michelle Tressler and Robert W. York, as Special
Administrator,
Appellees-Respondents



October 14, 2026

Court of Appeals Case No.
25A-PL-1882

Appeal from the Marion Superior Court
The Honorable Sarah Glasser, Magistrate

Trial Court Cause No.
49D08-2209-ES-31074
49D08-2210-PL-36988

Opinion by Judge May
Judges Mathias and Felix concur.

May, Judge.

- [1] In 2022, Stacia Davis (“Davis”) contested her late father’s Last Will and Testament (“the Will”), alleging that he lacked testamentary capacity and that the Will was improperly executed and the product of undue influence. Following a bench trial, the trial court upheld the Will’s validity and awarded attorney fees to Robert W. York, the Special Administrator of the estate. Davis, now proceeding pro se, appeals. We consolidate and restate her overlapping issues as whether the trial court erred by upholding the Will’s validity, and whether the trial court abused its discretion by awarding York attorney fees payable by Davis. York cross-appeals, seeking dismissal of Davis’s appeal and an award of appellate attorney fees based upon Davis’s multiple violations of the appellate rules. We decline to dismiss the appeal, affirm the trial court’s judgment, and remand for a determination of the appellate attorney fees to be awarded to York and paid by Davis.¹

Facts and Procedural History²

- [2] On December 28, 2020, Larry Davis (“Decedent”) executed the Will. He left his entire estate to his fiancée, Michelle Tressler – with whom he had lived

¹ Contrary to Davis’s assertion, York is a proper appellee in this appeal. Because he was a party to the proceedings below, he is a party on appeal. *See* Ind. Appellate Rule 17(A) (“A party of record in the trial court . . . shall be a party on appeal.”).

This Court granted Michelle Tressler’s motion to join in York’s Appellee’s Brief.

² No transcript of the bench trial was prepared because Davis did not pay for one and the trial court denied her request for pauper status. This Court ordered the appeal to proceed without a transcript. On York’s motion, the trial court certified a statement of evidence under Indiana Appellate Rule 31(C) and entered it in

since 2012 – and nothing to his three adult children – Sherry Davis, Scott Davis, and Davis – unless Tressler predeceased Decedent, which she did not. The Will contained a self-proving clause pursuant to Indiana Code section 29-1-5-3.1 and was witnessed and signed by Laurie Allen (“Laurie”) and Nichelle Jackson (“Nichelle”).³

[3] On September 2, 2022, Decedent died in Marion County, Indiana, at the age of seventy-nine. On September 9, 2022, the trial court opened Decedent’s estate, admitted the Will to probate, and appointed Tressler as personal representative of the estate.⁴ On October 25, 2022, Davis filed a will contest (“Will Contest”) and alleged that (1) Decedent lacked testamentary capacity to execute the Will; (2) the Will was not properly executed; and (3) the Will was the product of undue influence, duress, or fraud.⁵

[4] On July 31, 2024, the trial court removed Tressler as the personal representative of Decedent’s estate and appointed York as the estate’s Special Administrator. York is an Indiana-licensed attorney. The court found there had been “delay in the administration of the estate” due to Tressler’s “failure . . . to properly

the Clerk’s Record. The facts and procedural history for this appeal are therefore taken from the certified statement of evidence and the appealed order.

³ See Indiana Code section 29-1-5-3.1 for an explanation of a self-proved will. “[A] self-proving clause creates a rebuttable presumption that the will was properly executed[.]” *Scribner v. Gibbs*, 953 N.E.2d 475, 481 (Ind. Ct. App. 2011).

⁴ See Cause Number 49D08-2209-ES-31074.

⁵ See Cause Number 49D08-2210-PL-36988.

administer the estate” and that it would be “best for the estate if an independent special administrator” was appointed. (Appellant’s App. Vol. 2 at 12.)

[5] On February 27, 2025, the trial court held an evidentiary hearing on the Will Contest and heard testimony from Davis, Tressler, Laurie, and Nichelle. Both Laurie and Nichelle confirmed that the signatures on the Will were theirs, though neither recalled the specific details of their signing.

[6] At the hearing, Davis offered five exhibits, three of which were admitted and two excluded. Exhibit 1 – the Will – was admitted by stipulation. Exhibit 4 – Decedent’s “Specific Power of Attorney” to Tressler – was admitted without objection. (Appellee’s App. Vol. 2 at 49.) Exhibit 2 – an affidavit filed by Davis that purported to be from Nichelle and stated that Nichelle had not attested to the signing of the Will – was admitted over Davis’s objections. Davis testified that Exhibit 2 “arrived to her by mail out of the blue one day and that she d[id not] know who sent it” (*id.*), while Nichelle testified that the signature on the affidavit was not hers. The trial court excluded the remaining two exhibits as inadmissible hearsay: Exhibit 3, Decedent’s partial records from a July 2020 one-day hospital stay, and Exhibit 9, a “MetLife Beneficiary Confirmation.” (*Id.*)

[7] On April 7, 2025, the trial court issued a “Judgment on Will Contest” and found in relevant part that (1) the “admission of Decedent’s [Will] to probate was ratified”; (2) the evidence Davis had presented at the hearing “actually supported the validity” of the Will; and (3) Davis had “acted in bad faith[,]”

and her “conduct w[a]s obdurate[.]” (*Id.* at 52.) The court also found that it should “sanction” Davis by requiring her to pay a portion of York’s attorney fees. (*Id.*) The trial court ordered York to file a detailed fee petition; he complied on April 9, 2025; and Davis filed a response on April 25, 2025.

[8] Following a hearing on May 16, 2025, the trial court issued its “Amended Judgment on Will Contest and Order on Attorney Fees” on June 18, 2025. The court found that the Will was properly executed and that Davis’s testimony was “not credible[;]” Davis had provided a “fraudulent document” – the affidavit – “as proof that the [Will] was unduly executed[;]” and after “the discovery that the affidavit was fraudulent,” Davis “obstinately chose to continue to litigate.” (Appellant’s App. Vol. 2 at 39.) The court concluded that Davis had failed to carry her burden of proof that (1) Decedent was of unsound mind when he executed the Will; (2) the Will was “unduly executed[;]” (3) the Will was “executed under duress or obtained by fraud[;]” or (4) there was any other valid objection to the Will’s validity or probate. (*Id.*)

[9] Regarding attorney fees, the trial court found that the litigation over Decedent’s estate had been protracted and contested, noting 431 entries on the chronological case summaries between the estate and the Will Contest dockets. The court attributed much of the protraction to Davis, citing an extensive discovery dispute that “did not produce any admissible necessary[] and/or relevant documentary evidence[.]” (*Id.* at 40.) The court found that, “[b]ut for [Davis’s] intervention in the estate, pursuing needless and unwarranted discovery[,] and filing the meritless [W]ill [C]ontest, there would have been no

need to appoint” York as a special administrator. (*Id.*) Based upon these findings and additional findings of Davis’s bad-faith conduct, the trial court awarded York \$22,208.18 in attorney fees, payable by Davis, with the balance of York’s fees paid from the estate.

Discussion and Decision

1. Timeliness of Davis’s Appeal

[10] Though York does not expressly raise this issue, we address the timeliness of Davis’s appeal. The trial court entered its final judgment on June 18, 2025, and Davis filed a series of post-judgment motions that the trial court indicated it would “take no further action” upon because her filings were submitted “*ex parte*[.]” (Appellee’s App. Vol. 2 at 22.) Davis filed her Notice of Appeal on August 1, 2025, forty-four days after entry of the final judgment. *See* Ind. Appellate Rule 9(A)(1) (party must file an appeal within thirty days after the entry of a final judgment); and Ind. App. R. 9(A)(5) (“[u]nless the Notice of Appeal is timely filed, the right to appeal shall be forfeited”).

[11] To whatever extent Davis’s Notice of Appeal might have been untimely, the consequence is forfeiture of the right to appeal – not the loss of our authority to hear it. *See In re Adoption of O.R.*, 16 N.E.3d 965, 971 (Ind. 2014) (emphasizing that an untimely notice of appeal is not a jurisdictional bar to appellate review). Where extraordinarily compelling reasons warrant, we may resolve an otherwise forfeited appeal on its merits. *Id.* Here, because the timeliness of Davis’s Notice of Appeal is difficult to determine from the record, because York

does not contest the timeliness of the appeal, and because the issues have been fully briefed and can be discerned from the record, we exercise our authority to reach them.

- [12] We note that during the proceedings below, Davis was represented by counsel. She appears *pro se* on appeal. “It is well settled that *pro se* litigants are held to the same standards as licensed attorneys, and thus they are required to follow procedural rules.” *Martin v. Brown*, 129 N.E.3d 283, 284 (Ind. Ct. App. 2019). Where “the violation of those rules substantially impedes our ability to determine and review the issues alleged,” waiver may be appropriate. *Id.* at 286.

2. Pending Motions and Deficiencies in Davis’s Brief and Appendix

- [13] We first address three pending motions: York moved to strike immaterial and impertinent matters from Davis's brief and appendix and to dismiss the appeal (“Motion to Strike and Dismiss”); Tressler moved to join that motion (“Motion to Join”); and Davis moved to deny York’s motion (“Motion to Deny”). The motions arise from pervasive deficiencies in Davis’s appellate materials – deficiencies so numerous, and so obstructive to our ability to review this appeal, that they would independently justify striking her materials, deeming her claims waived, or dismissing the appeal outright.
- [14] The defects are of escalating seriousness. First, Davis’s appendix omits the required chronological case summaries. *See* Ind. App. R. 50(A)(2)(a). Second, and more troubling, the appendix contains eight documents – including

affidavits and medical records – that were never offered or admitted into evidence in the trial court, yet Davis’s briefs rely upon those very documents to argue lack of testamentary capacity and undue influence. *See Morey v. Morey*, 49 N.E.3d 1065, 1073 n.3 (Ind. Ct. App. 2016) (evidence not admitted at the hearing may not be submitted on appeal); *see, e.g., Harris v. Primus*, 450 N.E.2d 80, 83 (Ind. Ct. App. 1983) (noting that all evidence must be admitted into evidence in order to be considered). Third, Davis’s briefs contain no citations to her appendix or the Clerk’s Record. *See* Ind. App. R. 46(A)(5), (6), (8)(a). Most serious of all, Davis’s briefs cite legal authorities that do not exist and cite real authorities that have nothing to do with the propositions for which she cites them.

[15] Nevertheless, we are mindful that Indiana appellate courts prefer to resolve appeals on their merits where a reviewing court can discern the substance of an appellant’s contentions. *See Pierce v. State*, 29 N.E.3d 1258, 1267 (Ind. 2015) (noting that we generally prefer to resolve cases on the merits instead of on procedural grounds such as waiver). Thus, we choose to resolve Davis’s appeal on the merits. In doing so, however, we disregard the materials upon which Davis relies that are outside the record. In an order issued contemporaneously with this decision, we (1) grant Tressler’s Motion to Join, (2) deny as moot York’s Motion to Strike and Dismiss (in which Tressler has joined), and (3) deny as moot Davis’s Motion to Deny.

3. Standard of Review and Burden of Proof

- [16] Turning to the merits, the trial court entered findings of fact and conclusions thereon to support its judgment. We will “not set aside the findings or 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). In other words, we will not reweigh the evidence or judge the credibility of the witness for ourselves, and we will view the evidence most favorably to the judgment. *Best v. Best*, 941 N.E.2d 499, 502 (Ind. 2011). Where, as here, the trial court enters findings *sua sponte*, we review issues covered by the findings by determining first whether the evidence supports the findings and, if so, whether the findings support the judgment. *Steele-Giri v. Steele*, 51 N.E.3d 119, 123 (Ind. 2016). Findings are clearly erroneous if the record contains no facts or inferences supporting them. *State v. Int’l Bus. Mach. Corp.*, 51 N.E.3d 150, 158 (Ind. 2016). A judgment is clearly erroneous if it relies on an incorrect legal standard. *Id.* We apply a general judgment standard to issues upon which the trial court made no findings. *Steele-Giri*, 51 N.E.3d at 123-24; *see* T.R. 52(D). We will affirm a general judgment entered with findings if it can be sustained on any legal theory supported by the evidence. *Id.*
- [17] In a will contest, the contestor who objects to the probate of a will or tests the validity of a will after probate bears the burden of proof. Ind. Code § 29-1-7-20; *Fitch v. Maesch*, 690 N.E.2d 350, 352 (Ind. Ct. App. 1998), *trans. denied*. As Davis lost at trial, she is appealing a negative judgment, which we reverse only if it is contrary to law. *See Fitch*, 690 N.E.2d at 352.

A judgment is contrary to law if the evidence leads to but one conclusion and the trial court reached an opposite conclusion. In determining whether the trial court's judgment is contrary to law, we will consider the evidence in the light most favorable to the prevailing party, together with all reasonable inferences therefrom. We neither reweigh the evidence nor judge the credibility of witnesses. Further, when appealing from a negative judgment, a party has a heavy burden to establish to the satisfaction of the reviewing court that there was no basis in fact for the judgment rendered.

Burnell v. State, 56 N.E.3d 1146, 1149-50 (Ind. 2016) (internal citations, brackets, and quotation marks omitted).

4. Validity of the Will

[18] First, Davis contends that the trial court clearly erred by upholding the Will's validity. A will contest is purely statutory and may be maintained only on the grounds prescribed by statute. *See In re Estate of Yeley*, 959 N.E.2d 888, 894 (Ind. Ct. App. 2011) (noting "[a]n action to set aside the probate of an alleged will is purely statutory and can only be brought and successfully maintained in the manner and within the limitations prescribed by statute"), *trans. denied*. Indiana Code section 29-1-7-17 permits a contest based on (1) the testator's unsoundness of mind, (2) the undue execution of the will, (3) execution under duress or procurement by fraud, or (4) any other valid objection to the will's validity or its probate. As the contestor, Davis bore the burden of proving one

of those grounds by a preponderance of the evidence. Ind. Code § 29-1-7-20(2).⁶

[19] The Will contained a self-proving clause pursuant to Indiana Code section 29-1-5-3.1. A self-proving clause creates a rebuttable presumption that a will was properly executed, and a witness's inability to recall the particulars of the execution ceremony does not, as a matter of law, overcome that presumption. Ind. Code § 29-1-7-13(c); *Scribner v. Gibbs*, 953 N.E.2d 475, 481-82 (Ind. Ct. App. 2011). Indeed, under Indiana Code section 29-1-7-13(c), when a will is self-proved, compliance with the signature and other execution requirements is presumed – subject to rebuttal and without the testimony of any witness – unless there is proof of fraud or forgery.

[20] Here, Decedent executed the Will on December 28, 2020, leaving his entire estate to Tressler. The Will contained a self-proving clause, and both attesting witnesses testified at the hearing that their signatures on the Will were genuine. The trial court found the witnesses' testimony credible. That the witnesses did not recall every detail of the Will signing did not defeat the presumption that the Will was properly executed, and Davis has failed to meet her burden to overcome that presumption.

⁶ As best we can tell, Davis contends that her burden to prove her claims shifted from her to the “beneficiary” once Davis had presented evidence exceeding a fifty-percent threshold. Davis's contention, however, is antithetical to Indiana statutes and case law and thus fails. See Ind. Code § 29-1-7-20(2); *Fitch*, 690 N.E.2d at 352.

[21] Davis also contends that the trial court clearly erred in upholding the Will's validity because, according to Davis, Decedent lacked testamentary capacity to execute it and the Will was the product of undue influence, duress, or fraud. We disagree.

[22] Davis's claim of lack of testamentary capacity fails because Davis presented no admissible evidence. To establish this claim, Davis had to prove that Decedent lacked the mental capacity to know: (1) the extent and value of his property; (2) those who are the natural objects of his bounty; and (3) their deserts, with respect to their treatment of and conduct toward him. *Hays v. Harmon*, 809 N.E.2d 460, 464-65 (Ind. Ct. App. 2004), *trans. denied*. Davis, however, presented no medical testimony, no expert opinion, and no lay testimony establishing Decedent's mental incapacity on the date he executed the Will. Thus, Davis cannot prevail on this claim.

[23] Davis's undue-influence, duress, and fraud claims similarly fail. Undue influence is "the exercise of sufficient control over the person, the validity of whose act is brought into question, to destroy his free agency and constrain him to do what he would not have done if such control had not been exercised." *Crider v. Crider*, 635 N.E.2d 204, 210 (Ind. Ct. App. 1994) (quotations omitted). Davis, however, points to no admissible evidence in the record establishing that Tressler exercised such control over Decedent. Although Davis includes in her appendix affidavits from Scott Davis, Susan Davis-Miller, and Diane Harrison that purport to support her claims, the affidavits were never offered or admitted into evidence at trial. Without supporting evidence, Davis cannot succeed on

her claims. Davis's additional contentions that the trial court disregarded evidence of incapacity and undue influence amount to requests that we reweigh the evidence and judge witnesses' credibility, which we cannot do. *See Burnell*, 56 N.E.3d at 1150.⁷

[24] Simply put, Davis bore the burden under Indiana Code section 29-1-7-20(2) to prove by admissible evidence that the Will was invalid due to lack of capacity, improper execution, and undue influence. She presented no admissible evidence at the hearing to meet this burden. The self-proving Will, the confirmed witness signatures, the exclusion of Davis's key evidence as hearsay, the presentation of a fraudulent affidavit, and the trial court's finding that Davis was not credible all support the trial court's judgment. The evidence does not lead us to conclude the Will was invalid. Accordingly, the trial court's judgment upholding the Will's validity is not contrary to law.

5. The Award of Attorney Fees to York, Payable by Davis

[25] Davis presents her issue regarding the attorney fee award as follows: "Whether the Magistrate's final ruling was clearly erroneous by dismissing credible affidavit testimony, ignoring evidence, and or abuse of discretionary power of

⁷ In her reply brief, Davis raises arguments not raised in her opening brief. She claims the Will was improperly executed because it was not initialed, signed, or dated on each page. She also argues that a \$17,000.00 surety bond posted by Tressler should be applied to pay York's fees; Tressler should be held accountable for alleged mismanagement of the estate; and this Court should order Decedent's residence "returned" to Davis, the "proper heir" to the estate. (Reply Br. at 9.) However, because Davis raises these arguments for the first time in her reply brief, the arguments are waived. *See Felsher v. Univ. of Evansville*, 755 N.E.2d 589, 593, n.6 (Ind. 2001) (concluding that issue raised for first time in reply brief was waived); Ind. Appellate Rule 46(C) ("No new issues shall be raised in the reply brief.").

the law regarding the unreasonable fees with unsubstantiated findings.” (Appellant’s Br. at 4.) However, Davis has failed to present any argument regarding attorney fees in the Argument section of her opening brief. While she mentions the fee award in passing in her Statement of Facts, she provides no analysis, no citations to authority regarding fee awards, and no explanation of how the trial court abused its discretion in this regard. Thus, her failure to develop an argument with cogent reasoning and citations to authority has waived this issue for our review. *See* Ind. App. R. 46(A)(8)(a); *Wilcox v. Gingrinch*, 274 N.E.3d 1269, 1277 (Ind. Ct. App. 2026). Waiver notwithstanding, the trial court did not abuse its discretion by ordering Davis to pay York’s attorney fees.

[26] Indiana Code section 29-1-10-13 authorizes an award of “just and reasonable” attorney’s fees to “[a]n attorney performing services for the estate at the instance of the personal representative[.]” We “review[] an award of attorney’s fees for an abuse of discretion. An abuse of discretion occurs when the court’s decision either clearly contravenes the logic and effect of the facts and circumstances or misinterprets the law.” *Nardi v. King*, 253 N.E.3d 1098, 1103 (Ind. 2025) (citations and quotation marks omitted). To make this determination, this Court reviews any findings of fact for clear error and any legal conclusions de novo. *Id.*

[27] Generally, Indiana adheres to the “American Rule” with respect to the payment of attorney’s fees, which requires each party to pay his or her own attorney’s fees absent an agreement between the parties, statutory authority, or

rule to the contrary. *Courter v. Fugitt*, 714 N.E.2d 1129, 1132 (Ind. Ct. App. 1999). That said, a trial court possesses inherent authority to sanction a party by awarding attorney fees upon finding “that a party has acted in bad-faith and such conduct is calculatedly oppressive, obdurate, or obstreperous” – even when no statutory or common-law exception to the American Rule applies. *River Ridge Dev. Auth. v. Outfront Media, LLC*, 146 N.E.3d 906, 916 (Ind. 2020) (citing *Matter of Estate of Kroslack*, 570 N.E.2d 117, 121 (Ind. Ct. App. 1991)).

[28] Here, the trial court ordered Davis to pay York \$22,208.18 in attorney fees. York had requested \$26,198.61 in attorney fees. In reaching its determination, the trial court found that Davis “provided a fraudulent document to the Court as proof that the [Will] was unduly executed[,]” “chose to continue to litigate[,]” and “testified without a scintilla of supporting proof, that she feels [Tressler] murdered the Decedent.” (Appellant’s App. Vol. 2 at 39.) The court further found that Davis acted in bad faith; Davis’s conduct was obdurate; the Will Contest was meritless, and the evidence presented at the hearing “actually supported” the validity of the Will. (*Id.* at 41.) The court also found that Davis’s “needless and unwarranted” discovery escalated the cost of administering the estate, failed to produce “any admissible necessary, and/or relevant documentary evidence[,]” and that

[b]ut for Ms. Davis’s intervention in the estate, . . . there would have been no need to appoint a Special Administrator, [Tressler] would have remained as the personal representative, and the costs of administering the estate would have been minimal.

(*Id.* at 40.)

[29] The trial court reviewed York’s detailed time and labor records, considered several factors in determining whether York’s requested fees were reasonable, considered the parties’ ability to pay the fees and the size of the estate, and allocated to Davis only the \$22,208.18 the court found attributable to the Will Contest and to Davis’s involvement in the estate – \$14,080.00 of which she conceded.

[30] The facts and circumstances in the record support the trial court’s award of attorney fees to York, payable by Davis. Therefore, the trial court did not abuse its discretion in awarding York attorney fees and ordering Davis to pay the fees.

6. York’s Request for Appellate Attorney Fees

[31] In his cross-appeal, York requests that we award him appellate attorney fees under Indiana Appellate Rule 66(E), which provides that “[t]he Court may assess damages if an appeal, petition, or motion, or response, is frivolous or in bad faith. Damages shall be in the Court’s discretion and may include attorneys’ fees. The Court shall remand the case for execution.” We exercise this power to award appellate attorney fees “with extreme restraint” because of its “potential chilling effect on the exercise of the right to appeal.” *Bessolo v. Rosario*, 966 N.E.2d 725, 734 (Ind. Ct. App. 2012), *trans. denied*.

[32] We will award appellate attorney fees only “against an appellant who in bad faith maintains a wholly frivolous appeal.” *Harness v. Schmitt*, 924 N.E.2d 162, 168 (Ind. Ct. App. 2010). “A strong showing is required to justify an award of

appellate damages, and the sanction is not imposed to punish mere lack of merit, but something more egregious.” *Id.* “Our discretion to award attorney fees under Appellate Rule 66(E) is limited to instances when an appeal is permeated with meritlessness, bad faith, frivolity, harassment, vexatiousness, or purpose of delay.” *Poulard v. Laporte Cnty. Election Bd.*, 922 N.E.2d 734, 737 (Ind. Ct. App. 2010).

- [33] “Claims for appellate attorney fees may be based on substantive and/or procedural bad faith.” *Matter of Guardianship of A.E.R.*, 184 N.E.3d 629, 641 (Ind. Ct. App. 2022).

To prevail on a substantive bad faith claim, a party must show that the appellant’s contentions and arguments are utterly devoid of all plausibility. Procedural bad faith occurs when a party flagrantly disregards the form and content requirements of the rules of appellate procedure, omits and misstates relevant facts appearing in the record, and files briefs written in a manner calculated to require the maximum expenditure of time both by the opposing party and the reviewing court.

Staff Source, LLC v. Wallace, 143 N.E.3d 996, 1012 (Ind. Ct. App. 2020) (internal citations omitted). A pro se litigant who disregards the appellate rules in bad faith is subject to a fee award to the same extent as a represented party. *Tipton v. Est. of Hofmann*, 118 N.E.3d 771, 777 (Ind. Ct. App. 2019); *Basic v. Amouri*, 58 N.E.3d 980, 983-84 (Ind. Ct. App. 2016), *reh’g denied*.

- [34] Davis’s appeal meets this standard on both procedural and substantive grounds. Procedurally, her appendix omits the required chronological case summary and

the verification of accuracy, and it includes documents that were never admitted at the hearing. Her briefs lack citations to the appendix and/or the Clerk's Record, deficiencies that required York and this Court not only to expend resources to reconstruct the record, but also to parse arguments that, ultimately, were unsupported by it. Davis's flagrant disregard of the form and content requirements set out in the appellate rules has caused added expenditures for what amounts to an estate the trial court found to be "not sizeable[.]" (Appellant's App. Vol. 2 at 43.)

[35] Substantively, Davis's arguments purport to be supported by evidence that was never admitted at the evidentiary hearing. Her briefs rest on authorities that are either fabricated or do not support the propositions for which they are cited. For example, Davis cites "*T.R. v. G.T.*, 82 N.E.3d 319, 322 (Ind. Ct. App. 2017)," but no such case exists at this citation. She also cites the following legal authorities that exist but do not support her contentions: *In re Estate of Fanning*, 333 N.E.2d 80, 85 (Ind. Ct. App. 1975); *In re Estate of Wade*, 768 N.E.2d 957, 962 (Ind. Ct. App. 2002); *Estate of Banko v. Banko*, 622 N.E.2d 476, 481 (Ind. 1993); *Gast v. Hall*, 858 N.E.2d 154, 165 (Ind. Ct. App. 2006); and Indiana Code section 29-1-7-17.

[36] Davis's reply brief continues this pattern. In addition to repeating miscited authorities from her opening brief, the reply brief cites six additional cases that do not exist at the citations provided, including "*Estate of Rickert v. Robinson*, 871 N.E.2d 1039 (Ind. Ct. App. 2007)," "*Horton v. Trueblood*, 844 N.E.2d 198 (Ind. Ct. App. 2006)," "*Thompson v. Davis*, 901 N.E.2d 1103 (Ind. Ct. App. 2009),"

“*In re Estate of Arnett*, 810 N.E.2d 335 (Ind. Ct. App. 2004),” “*In re Estate of Rice*, 421 N.E.2d 251 (Ind. Ct. App. 1981),” and “*Estate of Rhoades v. Rhoades*, 675 N.E.2d 698 (Ind. Ct. App. 1996).” (Reply Br. at 3, 6-7.) And while *In re Estate of Grotrian*, 405 N.E.2d 69 (Ind. Ct. App. 1980), does exist, it is an inheritance-tax decision that does not address testamentary capacity.

- [37] Because Davis’s appeal is permeated with meritlessness – and reflects both procedural and substantive bad faith – we grant York’s request for appellate attorney fees. We remand for the trial court to determine the amount of appellate attorney fees to be awarded to York and paid by Davis. *See* Ind. App. R. 66(E); *In re Estate of Carnes*, 866 N.E.2d 260, 269 (Ind. Ct. App. 2007) (remanding cause for determination of appellate attorney’s fees to be awarded to estate).

Conclusion

- [38] Davis bore the burden under Indiana Code section 29-1-7-20(2) to prove by admissible evidence that the Will was invalid due to lack of capacity, improper execution, and undue influence. She presented no admissible evidence at the hearing to meet this burden. Thus, the evidence does not lead to an opposite conclusion that the Will was invalid. Accordingly, the trial court’s judgment upholding the Will’s validity is not contrary to law. The trial court did not abuse its discretion by awarding York attorney fees and ordering Davis to pay them. In an order issued contemporaneously with this decision, we (1) grant Tressler’s Motion to Join, (2) deny as moot York’s Motion to Strike and

Dismiss (in which Tressler has joined), and (3) deny as moot Davis's Motion to Deny. We grant York's request for appellate attorney fees and remand this matter to the trial court to determine the amount of appellate attorney fees to be awarded to York and paid by Davis. The trial court's judgment is affirmed.

[39] Affirmed and Remanded.

Mathias, J., and Felix, J., concur.

APPELLANT PRO SE

Stacia Davis
Whitestown, Indiana

ATTORNEY FOR APPELLEE MICHELLE TRESSLER

Jeffrey J. Jinks
Jeff Jinks Law
Indianapolis, Indiana

ATTORNEY FOR APPELLEE ROBERT W. YORK, SPECIAL ADMINISTRATOR

Robert W. York
Robert W. York & Associates
Indianapolis, Indiana