

STATE OF MICHIGAN
COURT OF APPEALS

CONSTANCE E. HADDAD,

Plaintiff-Appellant,

v

MICHIGAN NATIONAL CORPORATION,

Defendant-Appellee.

UNPUBLISHED

March 4, 1997

No. 189812

Ingham Circuit Court

LC No. 95-79406-CL

Before: O'Connell, P.J., and Markman and M. J. Talbot,* JJ.

PER CURIAM.

Plaintiff, in propria persona, appeals by right from Ingham Circuit Judge Thomas L. Brown's October 11, 1995, order dismissing her amended complaint in a case asserting breach of contract, gender-based discrimination and various other claims relating to her resignation as an employee of defendant's. We affirm.

Plaintiff first argues that the trial court's imposition of a forty-five day deadline to amend her complaint was unreasonable. Although plaintiff concedes that her complaint was filed past the deadline, she asserts that the delay was caused by the need for extensive research and documentation time. Plaintiff claims also that she attempted to get an extension, but did not know the proper procedure.

Although we note that plaintiff has abandoned this issue by failing to offer authority to support her position that the trial court's deadline was unreasonable, *In re Toler*, 193 Mich App 474, 477; 484 NW2d 672 (1992); *In re Powers*, 208 Mich App 582, 588; 528 NW2d 799 (1995), we also find that plaintiff's argument lacks substantive merit. "This Court reviews a dismissal under GRC 1963, 504.2 [now MCR 2.504(B)] to determine whether the trial court's order which the party failed to comply with was valid, and whether the trial court abused its discretion in determining that the party failed to comply with its pretrial order." *Ministrelli Construction Co v Monroe Co Rd Comm*, 153 Mich App 144, 149; 395 NW2d 38 (1986). The Michigan Supreme Court has noted the powers afforded to trial courts:

* Circuit judge, sitting on the Court of Appeals by assignment.

We have recognized the inherent power of a court to control the movement of cases on its docket by a variety of sanctions including dismissal, discontinuance, or involuntary nonsuit even when requests for continuances are timely made and, lacking persuasive merit, are denied. [*Banta v Serban*, 370 Mich 367, 368; 121 NW2d 854 (1963).]

In this case, the trial court properly ordered plaintiff to amend her pleadings within forty-five days to make them more specific. *Ministrelli, supra* at 148-149; *Banaszewski v Colman*, 131 Mich App 92, 95; 345 NW2d 647 (1983). When the trial court requested that plaintiff amend her complaint, it asked her if thirty days would be enough time. Plaintiff responded that she was not sure and that she might need more time. Based on this request, the trial court extended the leave to amend to forty-five days.

This Court has held that a trial court does not abuse its discretion when it dismisses a case because a party has not complied with the trial court's order requiring the submission of a brief within a specified time. *Marquette v Fowlerville*, 114 Mich App 92, 97; 318 NW2d 618 (1982). In this case, plaintiff had forty-five days to amend her complaint but did not do so until fifty-seven days had passed. In failing to amend her complaint within the court's deadline, plaintiff failed to comply with a court order. The court did not abuse its discretion, therefore, in dismissing her complaint.

We disagree with plaintiff that her tardiness was excusable because she thought she was following the proper procedure by calling up the judge's secretary and requesting an extension. Even if plaintiff did speak with the judge's secretary regarding an extension-- which fact itself is not at all clear-- this was not the proper procedure to follow. In any event, plaintiff indicated only that the judge's secretary said that the judge would not have a problem granting an extension if defendant would so stipulate. Although plaintiff indicated that she tried to contact defendant for this purpose, there is no indication that defendant ever agreed to an extension. Thus, even if plaintiff had been entitled to rely on the judge's secretary and she received the information she claimed that she received, it was not reasonable for plaintiff to presume that she could ignore the deadline.

Next, plaintiff argues that the court's original scheduling conference order, indicating that all proposed amendments to pleadings must be filed on or before October 6, 1995, should take priority over the August 16, 1995, order providing that plaintiff must file her amended complaint within forty-five days from the June 14, 1995, hearing. We note that plaintiff offers no authority to support her argument and has, therefore, effectively abandoned this issue on appeal. *In re Powers, supra* at 588. In any event, there is no rule that prevents a court from modifying an order to expedite the pleading process. See *Banta, supra* at 368 (noting the trial court's authority and interest in processing its case load). We find no error.

Plaintiff also asserts that her original complaint provided sufficient notice to defendant and that her amended complaint was merely an amplification of a cause of action already set forth in the original complaint. She argues that the trial court should therefore have allowed the untimely filing of the amended complaint, citing *Bixby v Chris Craft Corp*, 7 FRD 80 (ED Mich, 1946). We find the case at bar easily distinguishable from *Bixby*, in which the trial court allowed the plaintiff to amend his complaint during trial to conform with the evidence presented at trial. *Id.* The defendant moved to

dismiss the amended complaint because it included a new cause of action which was barred by the statute of limitations. *Id.* The *Bixby* Court noted that the “bill of complaint [was] very extensive . . . [and did not] limit the action to the [original claim].” *Id.* Therefore, the trial court allowed the plaintiff’s amendment because the new claim did “not set forth a new cause of action but was merely an amplification of the old.” *Id.*

In Michigan, “[a] complaint must provide notice to opposing parties.” *Dacon v Transue*, 441 Mich 315, 329; 420 NW2d 369 (1992). This rule was designed to avoid ambiguous and uninformative pleadings that would leave “a defendant to guess upon what grounds [a] plaintiff believes recovery is justified. . . .” *Id.* Unlike in *Bixby*, plaintiff’s original complaint was dismissed because it failed to comport with Michigan’s requirement that the complaint give a defendant notice of the grounds on which the plaintiff believes recovery is justified and because it failed to give specific dates on which the alleged wrongful conduct by defendant had occurred. This was a proper ground for dismissal. Further, the *Bixby* Court allowed the plaintiff to amend his complaint during trial only after proofs were made showing that there was merit to the plaintiff’s amended claims. In the instant case, the trial court properly dismissed plaintiff’s original complaint before any proofs were made, on legitimate grounds.

In light of our determination that the complaint was properly dismissed for failure to comply with the trial court’s order, we need not consider whether plaintiff’s complaint would have survived a challenge based on the statutes of limitations.

Affirmed.

/s/ Peter D. O’Connell
/s/ Stephen J. Markman
/s/ Michael J. Talbot