

STATE OF MICHIGAN
COURT OF APPEALS

HELEN SMITH and DUANE MONTGOMERY,

Plaintiffs-Appellants,

v

RIVERFRONT CONDOMINIUM
ASSOCIATION, HABITAT COMPANY OF
MICHIGAN, LLC, RAM DEVELOPMENT
COMPANY OF MICHIGAN, RAM
COMMERCIAL GROUP, STOCKHOLDER OF
RAM DEVELOPMENT COMPANY OF
MICHIGAN, CREDITORS OF RAM
DEVELOPMENT COMPANY OF MICHIGAN,
BOULEVARD & TRUMBULL TOWING,
RIVERFRONT APARTMENT 100,
RIVERFRONT CONDOMINIUM 200 L,
SIGNATURE GRILLE, LAMONT TITLE
CORPORATION, FIRST AMERICAN TITLE
INSURANCE COMPANY, RIVERFRONT
CONDOMINIUM 300 L, PETER CUMMINGS,
PETER CUMMINGS & ASSOCIATES, RAM
DEVELOPMENT COMPANY, TKL DETROIT
ASSOCIATES, LLC, TKL DETROIT
ASSOCIATES, LTD, TKL DETROIT
ASSOCIATES 1, TAUB-CO MANAGEMENT,
INC., A. ALFRED TAUBMAN, TAUBMAN
COMPANY, INC., VILLAGE GREEN
MANAGEMENT, and ESTATE OF MAX
FISHER,

Defendants-Appellees,

and

AMOUS, LLC, RIVERFRONT ASSOCIATES
NO. 1, LLC, RIVERFRONT ASSOCIATES NO.
2, LLC, RIVERFRONT ASSOCIATES NO. 3,
LLC, RIVERFRONT ASSOCIATES NO. 4, LLC,
MILES JAFFE, RICHARD P. KUGHN, JRHW5

UNPUBLISHED

January 6, 2009

No. 281245

Wayne Circuit Court

LC No. 07-715538-NZ

CORPORATION, RIVERFRONT EAST, LLC,
MMF ASSOCIATES, HABITAT COMPANY,
LLC, WILLIAM SHERMAN, MARY DAVIS
FISHER, PHILLIP WILLIAM FISHER, JANE
FISHER SHERMAN, MARJORIE F. ARONOW,
JULIE FISHER CUMMINGS, EMPIRIAN
PROPERTY MANAGEMENT, WOODWARD
REALTY ADVISORS, and DAVID ROBERT
NELSON,

Defendants.

Before: Zahra, P.J., and O'Connell and Fort Hood, JJ.

PER CURIAM.

Plaintiffs, acting *in propria persona*, appeal as of right from the trial court's order dismissing their case. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Plaintiffs, who are mother and son, filed a 110-page, unsigned complaint naming 52 defendants and containing 176 paragraphs.¹ The complaint apparently concerned plaintiffs' objections to a \$40 monthly parking fee imposed at their condominium/apartment complex. The complaint alleged claims of interference with a possessory interest and violations of the Elliott-Larsen Civil Rights Act, the Michigan Consumer Protection Act, and the Michigan Antitrust Reform Act. Plaintiffs sought declaratory and injunctive relief, plus \$394,506 in damages.

Defendants moved to strike the complaint or, in the alternative, for a more definite statement. The trial court found the original complaint to be unintelligible, dismissed it, and granted plaintiffs 21 days in which to file an amended complaint. The trial court informed plaintiffs that the case would be dismissed if they did not file an amended complaint within that time.

Three days later, plaintiffs filed a signed, 85-page, 200-paragraph complaint. This complaint contained essentially the same allegations, but sought damages in the amount of \$3.39 million from each defendant, for a total of \$176 million. The complaint did not specify why the amount of damages sought had increased so drastically in three days.

Defendants moved to dismiss the amended complaint. The trial court granted defendants' motions on the ground that plaintiffs failed to file an amended complaint that complied with the court rules. The trial court denied plaintiffs' motion for reconsideration.

¹ The paragraphs were not divided into counts.

On appeal, plaintiffs argue that the trial court abused its discretion by dismissing the case and contend that the trial court should have granted them leave to file a complaint. In addition, plaintiffs argue that the trial judge had a conflict of interest in this case because he belongs to a singing group that performs at bar functions attended by attorneys for some of the defendants. We disagree with plaintiffs' allegations. We review a trial court's decision to dismiss a case. *Woods v SLB Property Mgt, LLC*, 277 Mich App 622, 630; 750 NW2d 228 (2008).

At the first hearing, the trial court informed plaintiffs that their complaint was unintelligible and that they must file an amended complaint within 21 days or the matter would be dismissed. Plaintiffs filed an amended complaint three days later, but that complaint did not comply with the court rules regarding pleadings and was still unintelligible. See MCR 2.111(A), (B); MCR 2.113. See also *Lown v JJ Eaton Place*, 235 Mich App 721, 726; 598 NW2d 633 (1999). Plaintiffs did not comply with the trial court's order in any significant manner, nor did they clarify why such an extensive complaint was necessary to litigate a dispute over a parking fee. In fact, they worsened their position by seeking outlandish damages. No lesser sanction would have served the interests of justice. Under these circumstances, the trial court did not abuse its discretion by dismissing the case. *Woods, supra* at 630-631.

The proposed second amended complaint filed in conjunction with plaintiffs' motion for reconsideration was 736 pages in length, including exhibits. The complaint was divided into counts and contained allegations against each defendant, but it remained unintelligible. The trial court did not abuse its discretion by denying plaintiffs leave to file a second amended complaint. MCR 2.118(A)(2).

Plaintiffs have not established that the trial judge had a conflict of interest with respect to this case. Plaintiffs did not move to disqualify the trial judge or otherwise seek relief from judgment in the trial court. Moreover, plaintiffs have cited no authority for the proposition that the trial judge's membership in a singing group that performs at bar functions constitutes a ground for disqualification. See MCR 2.003. A party cannot simply state a position and then leave it to this Court to search for authority to sustain or reject that position. *Beauford v Lewis*, 269 Mich App 295, 298; 711 NW2d 783 (2005).

Affirmed.

/s/ Brian K. Zahra
/s/ Peter D. O'Connell
/s/ Karen M. Fort Hood