

STATE OF MICHIGAN  
COURT OF APPEALS

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HERBERT W. G. CLANTON,

Plaintiff-Appellant,

v

DEPARTMENT OF TRANSPORTATION,

Defendant-Appellee.

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UNPUBLISHED

October 27, 2009

No. 284657

Ingham Circuit Court

LC No. 07-000400-CD

Before: Jansen, P.J., and Fort Hood and Gleicher, JJ.

MEMORANDUM.

Plaintiff appeals as of right from an order of the circuit court dismissing his complaint on the ground that it was barred by the doctrine of res judicata. We agree and affirm.

As an initial matter, we note that plaintiff did not brief or address the merits of the trial court's ruling. When an appellant fails to challenge the basis of the ruling by the trial court, we need not even consider granting the party the relief requested. *Derderian v Genesys Health Care Sys*, 263 Mich App 364, 381; 689 NW2d 145 (2004). Nonetheless, we hold that the trial court correctly dismissed the complaint. The question of whether the doctrine of res judicata will act to bar a subsequent lawsuit presents a question of law subject to de novo review on appeal. *RDM Holdings, Ltd v Continental Plastics Co*, 281 Mich App 678, 686; 762 NW2d 529 (2008). The trial court has the inherent power to dismiss an action, and the decision to dismiss an action is reviewed for a clear abuse of discretion. *Maldonado v Ford Motor Co*, 476 Mich 372, 388; 719 NW 2d 809 (2006). Dismissal for failing to follow the trial court's orders is also reviewed for an abuse of discretion. *Id.* An abuse of discretion occurs when the trial court selects an outcome outside the range of reasonable and principled outcomes. *In re Temple Marital Trust*, 278 Mich App 122, 128; 748 NW2d 265 (2008).

In *Clanton v Dep't of Transportation*, unpublished decision of the Michigan Court of Appeals, issued October 21, 2008 (Docket No. 277440) and *Clanton v Armistead*, unpublished decision of the Michigan Court of Appeals, issued December 9, 2008 (Docket No. 279611), we affirmed the circuit court's dismissal of plaintiff's lawsuit for failure to comply with the relevant court rules. Unless the dismissal order provides otherwise, a dismissal with prejudice for violating the court rules is an adjudication on the merits. *Makowski v Towles*, 195 Mich App 106, 107-108; 489 NW2d 133 (1992). The issues raised in the prior actions are identical to the case now before the Court. *Huggett v Dep't of Natural Resources*, 232 Mich App 188, 197-198; 590 NW2d 747 (1998). Plaintiff does not dispute the satisfaction of the privity requirement, and

this defendant was expressly named in a prior action. See *Richards v Tibaldi*, 272 Mich App 522, 531-532; 726 NW2d 770 (2006).

Further, in accordance with his prior actions, plaintiff failed to comply with the relevant court rules where his allegations were not concise, clear, direct, and his statement of claim failed to provide the requisite clarity to inform defendant of the nature of his claims. See MCR 2.111(A)(1), (B)(1). Similarly, plaintiff's brief on appeal is confusing, often incoherent, and lacking intelligible legal argument and relevant supporting authority. "A party may not merely announce a position and leave it to this Court to discover and rationalize the basis for the claim." *Nat'l Waterworks, Inc v Int'l Fidelity & Surety, Ltd*, 275 Mich App 256, 265; 739 NW2d 121 (2007).

Affirmed.

/s/ Kathleen Jansen  
/s/ Karen M. Fort Hood  
/s/ Elizabeth L. Gleicher