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UNDER ARIZ. R. SUP. CT. 111(c), THIS DECISION DOES NOT CREATE LEGAL PRECEDENT
AND MAY NOT BE CITED EXCEPT AS AUTHORIZED.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

CITIBANK, N.A., *Plaintiff/Appellee*,

v.

CORRINA E. RUIZ, *Defendant/Appellant*.

No. 1 CA-CV 13-0106
FILED 11-26-2013

Appeal from the Superior Court in Maricopa County
No. CV2012-012055
The Honorable Arthur T. Anderson, Judge

AFFIRMED

COUNSEL

Seidberg Law Offices, P.C., Phoenix
By Kenneth W. Seidberg, Joseph L. Whipple

Counsel for Plaintiff/Appellee

Corrina E. Ruiz, Buckeye

Defendant/Appellant, in Propria Persona

MEMORANDUM DECISION

Presiding Judge Winthrop delivered the decision of the Court, in which Judge Downie and Judge Thompson joined.

WINTHROP, Presiding Judge:

¶1 Corrina E. Ruiz (“Appellant”) appeals the ruling of the trial court granting a motion for summary judgment in favor of Citibank, N.A. (“Citibank”). Appellant argues that the trial court should not have granted the motion for summary judgment because Appellant did not have the opportunity to present a “court order” proving that she did not need to pay the balance remaining on a Citibank-issued credit card. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 On August 9, 2012, Citibank filed a complaint in Maricopa County Superior Court to collect on the outstanding balance of \$16,999.84 on a credit card issued by Citibank to Appellant beginning in 2005. In her Answer, Appellant admitted that she had obtained a line of credit from Citibank, that she used or authorized a third party to use the line of credit, and that, to the extent she was married, the line of credit was used to benefit the marital community. Appellant denied that she received monthly billing statements, denied responsibility for discontinuing the required minimum payments, and denied responsibility to pay the outstanding balance. Appellant later claimed that “[the] card has been destroyed for many years” and that she was “not responsible for this account balance per court order.”

¶3 On September 19, 2012, Citibank filed a motion for summary judgment pursuant to Arizona Rule of Civil Procedure 56. Appellant did not respond to the motion for summary judgment. The trial court granted the motion on December 19, 2012, awarding Citibank the full balance, plus taxable court costs of \$407.80, attorneys’ fees in the amount of \$603.00, and interest after judgment accruing on the balance, court costs, and attorneys’ fees at 4.25% per annum.

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¶4 Appellant filed a timely notice of appeal on January 9, 2013. We have appellate jurisdiction pursuant to Arizona Revised Statutes (“A.R.S.”) sections 12-120.21(A)(1) (2013)¹ and 12-2101(A)(1).

ANALYSIS

¶5 Appellant argues that the trial court erred in granting Citibank’s motion for summary judgment because genuine issues of material fact exist that should have precluded summary judgment. We disagree.

¶6 We review the trial court’s grant of summary judgment and its application of law *de novo*. *Andrews v. Blake*, 205 Ariz. 236, 240, ¶ 12, 69 P.3d 7, 11 (2003); *State Comp. Fund v. Yellow Cab Co.*, 197 Ariz. 120, 122, ¶ 5, 3 P.3d 1040, 1042 (App. 1999). We construe the facts and reasonable inferences in the light most favorable to the opposing party. *Wells Fargo Bank v. Ariz. Laborers, Teamsters & Cement Masons Local No. 395 Pension Trust Fund*, 201 Ariz. 474, 482, ¶ 13, 38 P.3d 12, 20 (2002). Summary judgment is proper only if no genuine issues of material fact exist and the moving party is entitled to judgment as a matter of law. *Orme Sch. v. Reeves*, 166 Ariz. 301, 309, 802 P.2d 1000, 1008 (1990); Ariz. R. Civ. P. 56(a). Accordingly, we will affirm summary judgment only if the facts produced in support of the defense have so little probative value, given the quantum of evidence required, that no reasonable person could find for its proponent. *Orme Sch.*, 166 Ariz. at 309, 802 P.2d at 1008.

¶7 To support its motion for summary judgment, Citibank submitted an affidavit of Citibank’s custodian of records and voluminous records of Appellant’s six-year account history with Citibank. The account history included monthly bank statements mailed to Appellant’s address and the record of charges on and payments made toward the line of credit.

¶8 Appellant did not respond to Citibank’s motion for summary judgment. “As a general rule a written response is required whenever a motion is filed.” *Choisser v. State ex rel. Herman*, 12 Ariz. App. 259, 260, 469 P.2d 493, 494 (1970). Under Arizona Rule of Civil Procedure 7.1(b), “if the opposing party does not serve and file the required

¹ We cite the current versions of the relevant statutes, unless otherwise noted, because no revisions material to this decision have since occurred.

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answering memorandum . . . such non-compliance may be deemed a consent to . . . granting of the motion, and the court may dispose of the motion summarily.” Ariz. R. Civ. P. 7.1(b). However, this requirement is not strictly applied in the context of a motion for summary judgment:

A failure to respond to the motion with a written memorandum or opposing affidavits cannot, by itself, entitle the movant to a summary judgment. The trial court is required to consider those portions of the verified pleadings, depositions, answers to interrogatories and admissions on file which are brought to the court’s attention by the parties.

Choisser, 12 Ariz. App. at 261, 469 P.2d at 495; *see also Schwab v. Ames Constr.*, 207 Ariz. 56, 59-60, ¶ 14-16, 83 P.3d 56, 59-60 (App. 2004). Although Appellant claimed that a “court order” relieved her of the responsibility to pay the remaining balance, she failed to produce the court order in any of her filings before the trial court. Therefore, the trial court found no genuine issue of material fact that would preclude entry of judgment as a matter of law and awarded Citibank its requested relief.

¶9 Appellant contends on appeal that because she was representing herself she did not know the procedure for introducing this evidence. “It is well-established, however, that a party who conducts a case without an attorney is entitled to no more consideration from the court than a party represented by counsel, and is held to the same standards expected of a lawyer.” *Kelly v. NationsBanc Mortg. Corp.*, 199 Ariz. 284, 287, ¶ 16, 17 P.3d 790, 793 (App. 2000); *see also Copper State Bank v. Saggio*, 139 Ariz. 438, 441, 679 P.2d 84, 87 (App. 1983) (“[W]here a party conducts his case in propria persona . . . he is held to the same familiarity with *required procedures* and the same notice of statutes and local rules as would be attributed to a qualified member of the bar.”) (emphasis added). In this case, Appellant not only failed to follow the required procedures for responding to a motion for summary judgment, but also failed to provide the supposedly crucial piece of evidence in the trial court. Consequently, the trial court did not err in determining that no genuine issues of material fact existed such as to preclude summary judgment.

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CONCLUSION

¶10 For the aforementioned reasons, we affirm the trial court's grant of summary judgment in favor of Citibank.



Ruth A. Willingham · Clerk of the Court
FILED: mjt