

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

TIGRANUHI SAYLOR, individually,
Plaintiff/Appellant,

v.

CHICAGO TITLE INSURANCE COMPANY, an Arizona corporation,
Defendant/Appellee.

No. 1 CA-CV 15-0303
FILED 3-29-16

Appeal from the Superior Court in Yavapai County
No. P1300CV201400220
The Honorable Jeffrey G. Paupore, Judge Pro Tem

AFFIRMED

COUNSEL

Tigranuhi Saylor, Prescott Valley
Plaintiff/Appellant

Fidelity National Law Group, Phoenix
By Patrick J. Davis, Jamey A. Thompson
Counsel for Defendant/Appellee

SAYLOR v. CHICAGO TITLE
Decision of the Court

MEMORANDUM DECISION

Judge Randall M. Howe delivered the decision of the Court, in which Presiding Judge Kent E. Cattani and Judge Samuel A. Thumma joined.

H O W E, Judge:

¶1 Tigranuhi Saylor appeals the trial court’s order dismissing her suit against Chicago Title Insurance Company and deeming her a vexatious litigant. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 In October 2004, Saylor entered into a contract to purchase vacant land in Arizona for \$80,000. To pay for the land, Saylor obtained a loan for \$48,000 from Sir Mortgage & Finance of Arizona, using the property as collateral. Chicago Title handled the escrow account for the transaction. Sir Mortgage wired \$48,000 to Saylor’s escrow account; Chicago Title credited the money to the account as “Principal amount of new loan(s).” Saylor deposited \$34,317.27 into the account; Chicago Title credited the money as “Closing Funds.” Chicago Title then distributed \$68,551.20 to the seller to pay off its first mortgage loan and \$11,519.47 also to the seller for settlement charges. At the close of escrow, Chicago Title recorded with the Yavapai County Recorder a warranty deed, transferring the title to Saylor. Pursuant to the loan’s terms, Chicago Title also recorded a deed of trust against the property securing the loan.

¶3 Saylor sued Chicago Title in February 2014, alleging that Chicago Title either stole or misappropriated funds in connection with the escrow account and that Chicago Title failed to give her clean title to the property. Chicago Title moved to dismiss pursuant to Arizona Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief could be granted and Rule 41(a) because Saylor had previously voluntarily dismissed suits against Chicago Title alleging the same claims. Chicago Title also requested that the trial court declare Saylor a vexatious litigant and bar her from filing any future claims resulting from or related to the acts complained. Chicago Title argued that Saylor had brought two similar suits in Yavapai County Superior Court and five similar suits in California district court against it.

SAYLOR v. CHICAGO TITLE
Decision of the Court

¶4 After oral argument, the trial court dismissed Saylor’s suit with prejudice under Rule 12(b)(6). Based on the filings, including the documents attached to Saylor’s complaint, the court found that Chicago Title properly complied with its escrow instructions. The court also dismissed the suit under Arizona Rule of Civil Procedure 41(a). Moreover, the trial court determined that, although the procedural statute governing designation of litigants as vexatious did not apply retroactively, Saylor was nonetheless a vexatious litigant under applicable Arizona case law. *See* A.R.S. § 12-3201. The court then directed Chicago Title to submit a proposed form of judgment and gave Saylor the opportunity to object.

¶5 Saylor mailed to the Presiding Judge of Yavapai Superior Court a motion to vacate oral argument because she was not provided an interpreter during the argument. The Presiding Judge denied her motion because Saylor did not give the assigned judge an opportunity to determine the merits of Saylor’s special accommodation request. Saylor also moved to amend her complaint to add additional parties; the court denied her motion. Chicago Title filed a proposed form of judgment, and Saylor objected. After briefing, the trial court entered a judgment addressing the merits. Chicago Title moved for attorneys’ fees and costs, which the trial court granted, and Saylor timely appealed from that judgment.

DISCUSSION

¶6 As relevant to our disposition of this appeal, Saylor first argues that the trial court erred in dismissing her suit pursuant to Arizona Rule of Civil Procedure 12(b)(6). Because Chicago Title and Saylor attached exhibits to their briefing and because the record indicates that the trial court considered the exhibits in its ruling, we treat the motion to dismiss as a motion for summary judgment. *See Drew v. Prescott Unified Sch. Dist.*, 233 Ariz. 522, 524 ¶ 7, 314 P.3d 1277, 1279 (App. 2013). Summary judgment is appropriate if no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law. Ariz. R. Civ. P. 56(c); *Orme Sch. v. Reeves*, 166 Ariz. 301, 305, 802 P.2d 1000, 1004 (1990). We review the grant of summary judgment de novo and view the facts in the light most favorable to the party against whom judgment was entered. *Simon v. Safeway, Inc.*, 217 Ariz. 330, 336 ¶ 13, 173 P.3d 1031, 1037 (App. 2007).

¶7 Here, the trial court did not err in dismissing Saylor’s complaint because no genuine issue of material fact exists. Saylor’s complaint alleged that Chicago Title either stole or misappropriated funds in connection with the property’s escrow account and that Chicago Title failed to transfer to her a clean title to the property. But attached to Saylor’s

SAYLOR v. CHICAGO TITLE
Decision of the Court

complaint were documents indicating that she entered into a contract to purchase the land and that, to pay for that land, she applied for and received a loan from Sir Mortgage, using the property as collateral. These documents also show that after Sir Mortgage wired the loan amount to Saylor's escrow account, Chicago Title credited the account with that amount and that when Saylor deposited money into the account, Chicago Title properly credited the account with that money. These documents further show that Chicago Title used the money to pay the seller for the property. Finally, the documents show that at the close of escrow, Chicago Title recorded a warranty deed transferring title to Saylor and that, pursuant to the loan's terms, Chicago Title recorded a deed of trust against the property securing the loan. Consequently, no genuine issue of material fact exists, and the trial court therefore properly dismissed Saylor's complaint. Because we conclude that the trial court properly dismissed Saylor's claim, we need not address whether the court erred in dismissing it under Arizona Rule of Civil Procedure 41(a). *See Freeport McMoran Corp. v. Langley Eden Farms, LLC*, 228 Ariz. 474, 478 ¶ 15, 268 P.3d 1131, 1135 (App. 2011) (declining to decide unnecessary issues or issue advisory opinions).

¶8 Saylor next argues that the trial court erred in declaring her a vexatious litigant and ordering her to refrain from filing additional suits against Chicago Title alleging the same or derivative facts or law without court approval. "Arizona courts possess inherent authority to curtail a vexatious litigant's ability to initiate additional lawsuits." *Madison v. Groseth*, 230 Ariz. 8, 14 ¶ 17, 279 P.3d 633, 639 (App. 2012); *see also* A.R.S. § 12-3201 (applying to proceedings filed after January 1, 2015, and providing that a judge may designate a litigant a vexatious litigant). Under Arizona case law, to ensure a litigant's access to courts is not inappropriately infringed, courts must give the litigant notice and an opportunity to oppose the order, create an adequate record for appellate review, make substantive findings regarding the frivolous or harassing nature of the actions, and should narrowly tailor their orders to fit the litigant's specific abuse. *Madison*, 230 Ariz. at 14 ¶ 18, 279 P.3d at 639. "A court's inherent authority is largely unwritten; appellate affirmation of an exercise of that authority ordinarily is grounded on trial court findings and conclusions which explain its actions." *Acker v. CSO Chevira*, 188 Ariz. 252, 255, 934 P.2d 816, 819 (App. 1997).

¶9 Here, the trial court made a proper record, which reflects that Saylor is a vexatious litigant. The trial court's final judgment—which was entered after giving Saylor an opportunity to respond—detailed Saylor's conduct and noted that Saylor's actions harassed and unduly burdened Chicago Title and caused it to incur significant legal expenses defending

SAYLOR v. CHICAGO TITLE
Decision of the Court

them. The judgment also noted that in the present case, Saylor engaged in a pattern of filing baseless and repetitive motions, which served no purpose but to harass and unduly burden Chicago Title, and that the judgment was narrowly tailored to fit Saylor's specific abuse against Chicago Title regarding the facts or derivative facts or law in this case. Consequently, because the record supports the trial court's action, the court acted within its authority to determine Saylor a vexatious litigant.

¶10 Finally, Saylor presents a series of argument regarding the trial court, including that the court violated her due process rights by denying her motion to amend her complaint to add additional parties and by conducting oral argument without appointing an interpreter for her. But none of these claims have merit. First, Saylor moved to amend her complaint five months after she filed the case, after Chicago Title had moved to dismiss, and after the trial court had heard oral argument on and granted the motion to dismiss. Consequently, the court was within its discretion to deny Saylor's motion to amend filed so late in the proceedings. *See Hall v. Romero*, 141 Ariz. 120, 124, 685 P.2d 757, 761 (App. 1984) ("A motion for leave to amend the pleadings is within the sound discretion of the trial court, and we will not overturn that decision absent a clear abuse of discretion."). Moreover, Saylor has not shown how the proposed amended pleading would have not been futile. *See Bishops v. State, Dep't of Corrections*, 172 Ariz. 472, 474-75, 837 P.2d 1207, 1209-10 (App. 1992) ("A trial court does not abuse its discretion by denying a motion to amend if it finds . . . futility in the amendment.").

¶11 Second, Saylor filed a 34-page complaint and numerous other documents in this case and other cases against Chicago Title in English. Not once did she request a special accommodation from the trial court due to a language issue. Had Saylor requested such an accommodation, the trial court could have considered the merits of her request, determined whether an interpreter was warranted, and arranged for one to assist her during oral argument. *See Ariz. R. Civ. P. 43(c)* (providing that trial court may appoint an interpreter when necessary or desirable). Consequently, because these issues lack merit, the trial court properly dismissed Saylor's suit against Chicago Title and determined her to be a vexatious litigant regarding claims against Chicago Title relating to the property's escrow account.

¶12 Chicago Title requests attorneys' fees and costs incurred on appeal pursuant to A.R.S. §§ 12-341.01 and 12-341, respectively. Because Chicago Title is the prevailing party, we grant its request upon compliance with Arizona Rule of Civil Appellate Procedure 21.

SAYLOR v. CHICAGO TITLE
Decision of the Court

CONCLUSION

¶13

For the foregoing reasons, we affirm.



Ruth A. Willingham - Clerk of the Court
FILED : jt