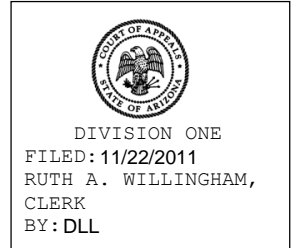


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE



MARY F. D'AMBROSIO, ) 1 CA-CV 10-0562  
 ) 1 CA-CV 10-0706  
 Plaintiff-Appellant, ) (Consolidated)  
 )  
 v. ) DEPARTMENT T  
 )  
 MARICOPA COUNTY; MARICOPA COUNTY )  
 SUPERIOR COURT JUDGE JOHN REA; ) **MEMORANDUM DECISION**  
 ZWILLINGER & GREEK, an Arizona ) (Rule 28, Arizona Rules  
 professional corporation, ) of Civil Appellate Procedure)  
 )  
 Defendants-Appellees. )  
 )  
 \_\_\_\_\_ )  
 MARY F. D'AMBROSIO, )  
 )  
 Plaintiff-Appellant, )  
 )  
 v. )  
 )  
 MARICOPA COUNTY; ZWILLINGER & GREEK, )  
 )  
 Defendant-Appellees. )  
 )  
 \_\_\_\_\_ )

Appeal from the Superior Court in Maricopa County

Cause No. CV2010-004815

The Honorable Robert Carter Olson, Judge

**AFFIRMED**

Mary F. D'Ambrosio  
Pro Se Plaintiff/Appellant

Phoenix

Maricopa County Office of General  
Litigation Services

Phoenix

By Scott H. Zwillinger  
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Attorneys for Defendant/Appellee Judge Rea

Zwillinger Greek Zwillinger & Knecht P.C. Phoenix  
By Scott H. Zwillinger  
Sara Witthoft  
Attorneys for Defendant/Appellee Zwillinger

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**H A L L**, Judge

¶1 Mary D'Ambrosio appeals from the superior court's dismissal of her complaint. For the following reasons, we affirm.

¶2 In 2007, D'Ambrosio filed a complaint against Maricopa County (the County) in which she claimed to have been beaten by detention officers at the County jail (2007 Case). Zwillinger and Greek represented the County in the 2007 Case, which County Superior Court Judge John Rea subsequently dismissed. The record does not reflect that D'Ambrosio appealed from Judge Rea's dismissal order.

¶3 On February 24, 2010, D'Ambrosio filed a complaint against the County, Zwillinger and Greek, and Judge Rea (collectively, Defendants), in which she raised various allegations of fraud, misconduct and "abuses by the judicial

system" in connection with the 2007 Case's dismissal.<sup>1</sup> The case was assigned to Pinal County Judge Robert Carter Olson. The Defendants successfully moved to dismiss, arguing among other things that D'Ambrosio failed to state claims upon which relief could be granted. See Ariz. R. Civ. P. 12(b)(6). This appeal followed.

¶14 Arizona Rule of Civil Procedure 8(a)(2) requires that a complaint setting forth a claim for relief "shall contain . . . [a] short and plain statement of the claim showing that the pleader is entitled to relief." A plaintiff's failure to comport with this requirement entitles the defendant to dismissal of the complaint upon motion. Ariz. R. Civ. P. 12(b)(6).

¶15 We review de novo a trial court's decision granting a motion to dismiss for failure to state a claim. *Canyon Ambulatory Surgery Ctr. v. SCF Arizona*, 225 Ariz. 414, 417, ¶ 7, 239 P.3d 733, 736 (App. 2010). We assume the complaint's allegations are true and will "uphold dismissal only if the plaintiff [ ] would not be entitled to relief under any facts susceptible of proof in the statement of the claim." *Id.* (quoting *T.P. Racing, L.L.L.P. v. Ariz. Dep't of Racing*, 223

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<sup>1</sup> The complaint also names the City of Phoenix (City) as a defendant, but the record reveals the City was never served, and has never appeared in this case. None of the allegations in the complaint specifically apply to the City.

Ariz. 257, 259, ¶ 8, 222 P.3d 280, 282 (App. 2009) (citation omitted)). "Because Arizona courts evaluate a complaint's well-pled facts, mere conclusory statements are insufficient to state a claim upon which relief can be granted." *Cullen v. Auto-Owners Ins. Co.*, 218 Ariz. 417, 419, ¶ 7, 189 P.3d 344, 346 (2008).

¶16 We have read D'Ambrosio's complaint and conclude it violates Rule 8.<sup>2</sup> The complaint is essentially an inflammatory diatribe against Defendants (and others), and it appears to reflect D'Ambrosio's incorrect belief that she is somehow entitled to a "settlement" from the County in connection with the 2007 Case. The complaint contains improper conclusory assertions about alleged conduct by Defendants, and it otherwise fails to state any cognizable claim. For example, the complaint

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<sup>2</sup> The complaint also appears to be an improper collateral attack on the judgment dismissing the 2007 Case. See *Duncan v. Progressive Preferred Ins. Co. ex rel. Estate of Pop*, 228 Ariz. 3, 7, ¶ 13, 261 P.3d 778, 782 (App. 2011) (noting a collateral attack on a judgment "is an effort to obtain another and independent judgment which will destroy the effect of the former judgment[,] and unless a judgment is void because the court lacked jurisdiction, the judgment cannot be collaterally attacked even if it is "erroneous or wrong, so that it could be reversed on appeal or set aside on direct attack.") (citations omitted). Further, regarding Judge Rea's order of dismissal in 2007, judicial immunity shields him from liability. See *Acevedo by Acevedo v. Pima County Adult Prob. Dept.*, 142 Ariz. 319, 321, 690 P.2d 38, 40 (1984) (noting "judges of courts of general jurisdiction are not liable in a civil action for damages for their judicial acts, even when such acts are in excess of their jurisdiction or are alleged to have been done maliciously or corruptly").

