

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROLAND C. ANDERSON,	§
	§ No. 86, 2007
Plaintiff Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
AIG AUTO INSURANCE CO.,	§ C.A. No. 05C-04-169
	§
Defendant Below-	§
Appellee.	§

Submitted: July 20, 2007  
Decided: August 24, 2007

Before **STEELE**, Chief Justice, **HOLLAND** and **JACOBS**, Justices

**ORDER**

This 24th day of August 2007, upon consideration of the appellant’s briefs and attachments filed on May 15, 2007 and the record below,<sup>1</sup> it appears to the Court that:

(1) The plaintiff-appellant, Roland C. Anderson, filed an appeal from the Superior Court’s January 11, 2007 order dismissing his complaint for lack of prosecution and its January 24, 2007, order denying his motion

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<sup>1</sup> On March 9, 2007, the appellee notified the Court that it had decided not to enter an appearance in the appeal. On May 17, the Court informed the parties that the appeal would proceed on the basis of the appellant’s filings and the record below.

for reargument.<sup>2</sup> We find no merit to the appeal. Accordingly, we AFFIRM.

(2) The record reflects that, in April 2005, Anderson filed a complaint in the Superior Court against his no-fault insurance company, defendant-appellee AIG Auto Insurance Company (“AIG”), for failure to pay his medical bills and wage losses allegedly resulting from an automobile accident. The Superior Court granted Anderson *in forma pauperis* status. Service of the complaint on AIG was attempted by means of service on the Insurance Commissioner, but the writ was returned *non est* on November 16, 2005 and docketed in the Superior Court on December 5, 2005.

(3) On December 15, 2005, the Superior Court wrote a letter to Anderson clarifying its order permitting him to proceed *in forma pauperis*. In the letter, the Superior Court judge stated that, despite misgivings concerning Anderson’s possible abuse of court processes, he was permitting the litigation to proceed without Anderson having to pay court costs in advance. The judge further noted that Anderson could be denied *in forma pauperis* status in the future in the event that his complaint was found to lack merit and he failed to comply with an order to pay court costs.

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<sup>2</sup> Anderson also claims that the Superior Court incorrectly denied his motion for default judgment against AIG.

(4) The record reflects that, on November 28, 2006, the Superior Court sent Anderson a Rule 41(e) notice.<sup>3</sup> The notice stated that Anderson's case had been pending in the Superior Court for more than six months and no proceedings had been taken within that time period. The notice further stated that, if no proceedings were taken within the next thirty days, the case would be dismissed for lack of prosecution. The record reflects that, on December 15, 2006, Anderson telephoned the Superior Court claiming that he had not received the Rule 41(e) notice until that day. Based upon Anderson's representation, the Superior Court gave him until January 15, 2007, to file a response.

(5) On December 20, 2006, the Superior Court received a letter from Anderson purporting to respond to the Rule 41(e) notice. In the letter, Anderson appears to claim that it was improper for the Insurance Commissioner to refuse to accept service of the writ. He also appears to claim that the defendant should have answered the complaint. On January 11, 2007, the Superior Court dismissed Anderson's complaint on the ground that he had failed to explain why he had instituted no proceedings for approximately one year. On January 24, 2007, the Superior Court denied

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<sup>3</sup> Superior Court Civil Rule 41(e) provides that the Superior Court "may order an action dismissed, *sua sponte*, upon notice . . . , for failure of a party diligently to prosecute the action . . . ."

Anderson's motion for reargument on the ground that Anderson had not cited to any facts or authorities overlooked in its January 11, 2007 order.<sup>4</sup>

(6) This Court reviews the Superior Court's dismissal of a complaint for lack of prosecution under an abuse of discretion standard.<sup>5</sup> Appellate review of legal issues is de novo.<sup>6</sup> It is well settled that the Superior Court has the inherent authority to manage its own docket.<sup>7</sup> Under the circumstances of this case, we conclude that the Superior Court neither erred nor abused its discretion when it dismissed Anderson's case for failure to prosecute. The record reflects that the Superior Court afforded Anderson, a pro se litigant, every reasonable opportunity to litigate his claims, but, in the end, acted appropriately and well within its discretionary authority to manage its own docket when it dismissed Anderson's case.

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<sup>4</sup> The Superior Court also declined to enter a default judgment against AIG, stating that the docket did not support Anderson's allegations.

<sup>5</sup> *Belfint, Lyons & Shuman, P.A. v. Pevar*, Del. Supr., No. 147, 2004, Steele, C.J. (Sept. 17, 2004) (citing *Streitz v. Leroy*, Del. Supr., No. 395, 1988, Holland, J. (Jan. 30, 1989)).

<sup>6</sup> *International Telecharge, Inc. v. Bomarko, Inc.*, 766 A.2d 437, 439 (Del. 2000).

<sup>7</sup> *Streitz v. Leroy*, Del. Supr., No. 395, 1988, Holland, J. (Jan. 30, 1989).

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.<sup>8</sup>

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>8</sup> Also without merit is Anderson's claim that the Superior Court incorrectly denied his motion for default judgment against AIG. The Superior Court was within its discretion to deny the motion on the ground that the motion lacked a sufficient factual basis.