STATE OF MICHIGAN

COURT OF APPEALS

BERTHA BRUNER,

Plaintiff,

v

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Defendant-Appellee,

and

EQMD, INC.,

Appellant.

UNPUBLISHED
November 23, 2021

No. 355821
Wayne Circuit Court
LC No. 19-007848-NF

Before: BORRELLO, P.J., and JANSEN and BOONSTRA, JJ.

PER CURIAM.

In this no-fault action, EQMD, Inc. appeals as of right the stipulated order of dismissal, dismissing with prejudice plaintiff's claims for personal protection insurance benefits, attorney fees, costs, and interest against defendant. On appeal, EQMD asserts that the trial court erroneously denied EQMD's attempts to intervene in this case. For the reasons set forth in this opinion, we affirm.

I. BACKGROUND

Plaintiff initiated this action on June 3, 2019, alleging that plaintiff was entitled under an insurance policy with defendant to recover no-fault benefits stemming from a June 9, 2018 automobile accident. Defendant moved for partial summary disposition on August 22, 2019, arguing that plaintiff could not recover for amounts attributable to the cost of prescription medications billed by EQMD because, according to defendant, EQMD was not properly licensed and its products and services related to pharmaceuticals were therefore not compensable under the no-fault act.

On December 27, 2019, EQMD moved to intervene as a party plaintiff under MCR 2.209(A)(3). EQMD argued that it had a right to intervene under this provision because it claimed an interest in the subject of the action and its ability to protect that interest could be impaired by the disposition of the action. According to EQMD, it had an interest in the action because it had "been charged with billing and collection of costs of services rendered by Plaintiff's prescribing physician, Dr. [Nazih] Iskander, and incurred by Plaintiff as a result of the subject accident." The trial court denied EQMD's motion to intervene because EQMD did not have an assignment.

EQMD subsequently moved for "relief from judgment" or, alternatively, "reconsideration." In its motion, EQMD stated that it had subsequently obtained an assignment from plaintiff, which EQMD characterized as "new evidence" permitting it to be granted relief from the trial court's order denying its motion to intervene. EQMD also argued that palpable error existed because both plaintiff and EQMD intended for EQMD to intervene to respond to defendant's partial summary disposition motion that singled out the billings attributable to EQMD. At the hearing on the motion, defendant argued that the assignment from plaintiff was irrelevant and that EQMD needed an assignment from the prescribing doctor to justify permitting EQMD to intervene because EQMD claimed to provide services to the doctor and not directly to plaintiff.

The trial court denied EQMD's motion for relief from judgment or reconsideration, stating that the challenged order was not a judgment and that there was no palpable error or mistake in law made at the time that EQMD's motion to intervene was denied, based on what was before the court at that time. The trial court further stated that plaintiff did not have any rights to assign to EQMD because EQMD's relationship was with the doctor and there was no "nexus" between plaintiff and EQMD.

EQMD sought interlocutory appeal from the order denying its motion to intervene, and this Court denied the application for leave to appeal.[1] The action proceeded in the trial court and was eventually resolved between plaintiff and defendant pursuant to a stipulated order of dismissal. As previously noted, plaintiff's claims against defendant were dismissed with prejudice pursuant to the stipulated order of dismissal.

EQMD now appeals as of right, asserting that it should have been permitted to intervene.

II. STANDARD OF REVIEW

"This Court reviews de novo a trial court's resolution of issues of law, including the interpretation of statutes and court rules." *State Treasurer v Bences*, 318 Mich App 146, 149; 896 NW2d 93 (2016) (quotation marks and citation omitted). This Court reviews for an abuse of discretion at trial court's decision on a motion to intervene, *Hill v LF Transp, Inc*, 277 Mich App 500, 507; 746 NW2d 118 (2008), a trial court's decision on a motion for reconsideration, *Tinman v Blue Cross & Blue Shield of Mich*, 264 Mich App 546, 556-557; 692 NW2d 58 (2004), and a trial court's decision on a motion for relief from judgment, *Redding v Redding*, 214 Mich App 639, 643; 543 NW2d 75 (1995). "An abuse of discretion occurs when the decision results in an outcome

[1] *Bruner v State Farm Mut Auto Ins Co*, unpublished order of the Court of Appeals, entered March 11, 2020 (Docket No. 352960).

falling outside the principled range of outcomes." *Auto-Owners Ins Co v Keizer-Morris, Inc*, 284 Mich App 610, 612; 773 NW2d 267 (2009) (quotation marks and citation omitted).

III. ANALYSIS

Whatever merit there may be to EQMD's apparent contention that it should have been permitted to intervene under MCR 2.209(A)(3),[2] EQMD has failed to explain what it believes to be the nature of the trial court's error. The entirety of EQMD's appellate argument consists of a general assertion that it can permissibly recover for its billed services under the no-fault act because, according to EQMD, the types of services it provides do not require it to be licensed. However, even if EQMD's assertion is correct,[3] that does not answer the question whether the trial court abused its discretion by declining to permit EQMD to intervene in this case. EQMD offers no argument directed at applying the standards for intervention under MCR 2.209(A)(3) beyond merely citing the court rule. EQMD does not even attempt to offer a basis on which to conclude that the trial court's ruling was erroneous. Instead, EQMD simply asserts that the trial court erred without providing any legal authority or further reasoning to support that conclusion.[4]

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[2] MCR 2.209(A)(3) provides:

> (A) Intervention of Right. On timely application a person has a right to intervene in an action:
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> * * *
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> (3) when the applicant claims an interest relating to the property or transaction which is the subject of the action and is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

Although the trial court's asserted grounds for its rulings related to EQMD's request to intervene seem highly suspect, EQMD simply has failed on appeal to make a cogent argument to demonstrate any error by the trial court justifying appellate relief. That is the basis for our ruling affirming the trial court in this case. We express no opinion about the propriety of the trial court's rulings, which—according to the judge's own statement on the record—were based on the judge's "philosophy."

[3] We express no opinion on whether EQMD is correct in this respect.

[4] EQMD appears to assert that because other circuit courts have allowed it to intervene in other cases, it was entitled to intervene in this case. EQMD also seems to suggest that because it believes that the trial court *could* have permissibly allowed it to intervene under MCR 2.209(A)(3) or *could* have permissibly granted relief from the order pursuant to MCR 2.612(C)(1)(b) based on its alleged "new evidence," the trial court was absolutely obligated to grant EQMD's requested relief. Unsurprisingly, EQMD does not cite any legal authority to support these proposed standards for granting intervention. These assertions advanced by EQMD ignore the applicable standard of

It is not this Court's function to search for an error on which to grant an appellant relief. As this Court has stated numerous times, an "appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims, nor may he give issues cursory treatment with little or no citation of supporting authority." *Houghton v Keller*, 256 Mich App 336, 339; 662 NW2d 854 (2003) (citations omitted). Because EQMD has not properly presented its claim of error for appellate review, we consider it abandoned. See *id*. at 340 ("An appellant's failure to properly address the merits of his assertion of error constitutes abandonment of the issue.").

Affirmed. Defendant having prevailed in full is entitled to costs. MCR 7.219.

/s/ Stephen L. Borrello
/s/ Kathleen Jansen
/s/ Mark T. Boonstra

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review indicating that these rulings by the trial court are reviewed for an abuse of discretion. *Hill*, 277 Mich App at 507; *Redding*, 214 Mich App at 643. The "abuse of discretion standard acknowledges that there will be circumstances in which there will be no single correct outcome; rather, there will be more than one reasonable and principled outcome." *Maldonado v Ford Motor Co*, 476 Mich 372, 388; 719 NW2d 809 (2006) (quotation marks and citation omitted).

Accordingly, EQMD's conclusory assertion that it was *permissible* under the court rules for the trial court to have granted it leave to intervene, or to have granted relief from the order denying intervention, or to have granted reconsideration does not establish on appeal that the trial court's contrary decisions constituted an abuse of discretion. EQMD's argument may be aptly summarized as an assertion that the trial court's failure to choose *a particular* outcome that was (according to EQMD) a "permissible" outcome, constitutes choosing an outcome outside the range of principled outcomes such that the trial court abused its discretion. EQMD clearly misunderstands the abuse of discretion standard and the nature of its application on appellate review. "[W]hen the trial court selects one of these principled outcomes, the trial court has not abused its discretion and, thus, it is proper for the reviewing court to defer to the trial court's judgment." *Id*. at 388 (quotation marks and citation omitted). We need not decide whether EQMD is correct in its assertions that the trial court *could have permissibly* granted its requests because EQMD has not demonstrated—or even cogently argued—on appeal that the decisions actually chosen by the trial court were outside the range of reasonable and principled outcomes, and EQMD therefore has not established that an abuse of discretion occurred. "An abuse of discretion occurs when the decision results in an outcome falling outside the principled range of outcomes." *Auto-Owners Ins Co*, 284 Mich App at 612 (quotation marks and citation omitted). Accordingly, EQMD has not shown that it is entitled to any relief on appeal.