STATE OF MICHIGAN

COURT OF APPEALS

DAWN KYLE,

Plaintiff-Appellant,

v

ROSEMARIE MARTIN, CAROLE MARTIN, JERALD MARTIN, NENA MARTIN, and DOES 1-10,

Defendants-Appellees.

UNPUBLISHED
July 18, 2013

No. 309860
Wayne Circuit Court
LC No. 10-0024180-CH

Before: STEPHENS, P.J., and WILDER and OWENS, JJ.

PER CURIAM.

In this action related to property located in Ecorse, Michigan, plaintiff appeals as of right from the trial court's order dismissing her case with prejudice. We affirm.

I. BASIC FACTS

On March 9, 1993, Irene Martin Thomas executed a quit claim deed that transferred her interest in the property located at 3992 18th Street, Ecorse, Michigan to her children, plaintiff and defendants Carole Martin, Rosemarie Martin, Nena Martin, and Jerald Martin, as joint tenants with full rights of survivorship.

On February 25, 2010, plaintiff, in properia persona, filed a complaint consisting of three counts: I-Partition for Sale of Real Property, II-Order Requiring Unfettered Access to the Subject Property, and III-Demand for Accounting.

Plaintiff resided in California, Nena resided in Ecorse, and Rosemarie resided in Detroit. At the time plaintiff filed her complaint, she did not know the whereabouts of Carole and Jerald.[1] The trial court later allowed for alternate service for Carole and Jerald.

[1] A review of the lower court record reveals that Carole resided in Nevada and Jerald resided in South Carolina.

On November 1, 2010, the trial court mailed a notice to the parties that a settlement conference was going to be held on December 6, 2010 at 8:30 a.m. Plaintiff filed a response to the notice, stating that, as she previously disclosed, she was unavailable during this time period.[2] The trial court accepted plaintiff's claim of unavailability and eventually rescheduled the conference for May 5, 2011.

Right before the scheduled conference, Jerald became aware of the lawsuit and the court date and wrote to the trial court on April 29, 2011, explaining that he could not attend the conference on such short notice. Jerald noted that he just recently started work as a Senior Structural Inspector for a store being constructed in the New York area and that his work was scheduled to complete by June 30, 2011. Jerald requested that the conference be rescheduled after this time, when he would have a two-to-three-week window between assignments. Similarly, Carole also recently became aware of the May 5, 2011, court date through a conversation she had with Jerald and requested the trial court to reschedule the conference for a later date. The trial court attempted to contact plaintiff regarding its intent to reschedule the conference, but plaintiff had already boarded a plane for Detroit. As a result, plaintiff was the only party to appear at court on May 5, 2011. The trial court established that the conference would now take place on June 23, 2011. However, when the trial court denied plaintiff's request to participate via telephone, plaintiff responded, "Well, I'm not coming back."

At the June 23, 2011, settlement conference, Rosemarie and Nena appeared, but plaintiff did not. The trial court considered dismissing plaintiff's cause of action but instead simply set the matter for trial. The trial court initially set a trial date of November 7, 2011, but like most of the other scheduled proceedings, it was adjourned. The trial court noted that because all of the parties were representing themselves, it thought it needed extra time to perform additional research on the issues involved and set a new trial start date of April 9, 2012.

On April 9, 2012, the date set for trial, plaintiff did not appear. As a result, the trial court dismissed the action with prejudice: "So given the fact that this is her case, she brought it, I'm going to dismiss the matter with prejudice. And that's my decision in the matter because she failed to show up." The trial court further noted that even if plaintiff had attended, her chance of prevailing was unlikely. The trial court concluded that the gravamen of plaintiff's complaint was a request to have the property partitioned, but in its view of the law, because the property was held by the co-tenants with full rights of survivorship, it did not believe that partition was permissible.

II. ANALYSIS

Plaintiff first argues that the trial court erred when it rescheduled the date set for settlement conference and the date set for trial. We disagree. This Court reviews a trial court's decision to adjourn proceedings for an abuse of discretion. *Tisbury v Armstrong*, 194 Mich App

[2] Plaintiff previously stated to the trial court that she did not fly during the months of November, December, January, or February because of flight-delay concerns associated with winter weather.

19, 20; 486 NW2d 51 (1992). A trial court abuses its discretion when its decision falls "outside the range of principled outcomes." *Edry v Adelman*, 486 Mich 634, 639; 786 NW2d 567 (2010).

"Pursuant to MCR 2.401(F), a trial court may direct persons with authority to settle the case, including 'the parties to the action . . .' to attend a conference at which meaningful discussion of settlement is anticipated." *Kornak v Auto Club Ins Ass'n*, 211 Mich App 416, 420; 536 NW2d 553 (1995). However, MCR 2.503(D)(1) provides that, in the trial court's discretion, it "may grant an adjournment to promote the cause of justice."

Right before the scheduled May 5, 2011, conference, the trial court was notified that two of the defendants were unable to attend because they lived out-of-state and had just learned of the litigation. Given the fact that the two out-of-state defendants indicated that they just learned of the litigation and could not appear, it was quite reasonable for the trial court to reschedule the conference for a later date. Thus, the trial court did not abuse its discretion.

Plaintiff also maintains that the trial court should not have considered Jerald's and Carole's requests since they constituted impermissible ex parte communications. While, generally, judges are not to consider ex parte communications, "'[a] judge may allow ex parte communications for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits.'" *People v Waterstone*, 296 Mich App 121, 157; 818 NW2d 432 (2012), quoting Code of Judicial Conduct, Canon 3(A)(4). Thus, the trial judge did nothing impermissible by considering the letters dealing with this purely scheduling and administrative matter.

Several times in her statement of the questions presented on appeal, plaintiff contends that the trial court erroneously rescheduled the November 7, 2011, proceeding. But plaintiff failed to provide any argument related to this proceeding. A party may not announce a position and leave it to this Court to search for authority either to sustain or reject her position. *Blackburne & Brown Mortgage Co v Ziomek*, 264 Mich App 615, 619; 692 NW2d 388 (2004). "Insufficiently briefed issues are deemed abandoned on appeal." *Etefia v Credit Technologies, Inc*, 245 Mich App 466, 471; 628 NW2d 577 (2001). Accordingly, the issue related to the trial court's decision to reschedule the trial from November 7, 2011, to April 9, 2012, is abandoned, and we decline to consider it.

Plaintiff next claims that the trial court erred when it dismissed her case because she failed to appear on the date and time set for trial. We decline to address the issue because plaintiff abandoned it as well.

Plaintiff's brief on this issue consisted of a one-sentence cursory "argument" and did not cite to any authority. We therefore consider the issue abandoned. See *PT Today, Inc v Comm'r of Office of Fin & Ins Servs*, 270 Mich App 110, 131-132; 715 NW2d 398 (2006); *Houghton v Keller*, 256 Mich App 336, 339-340; 662 NW2d 854 (2003). Further, plaintiff's "argument" is inherently flawed because it is premised on the mistaken belief that the trial court dismissed the case in its entirety because it concluded that plaintiff could not prevail on her one claim for partition. While the trial court opined that plaintiff was unlikely to succeed on that claim, it was not the basis for its decision to dismiss.

Affirmed. No costs are taxed under MCR 7.219 because no defendant made any appearances or made any filings on appeal.

/s/ Cynthia Diane Stephens
/s/ Kurtis T. Wilder
/s/ Donald S. Owens