

Court of Appeals, State of Michigan

ORDER

Dime LLC v Waad J Nadhir

Docket No. 321179

LC No. 2013-137129-CZ

Pat M. Donofrio
Presiding Judge

Kathleen Jansen

Deborah A. Servitto
Judges

The Court orders that plaintiff's motion to affirm pursuant to MCR 7.211(C)(3) is GRANTED for the reason that the questions sought to be reviewed are so unsubstantial as to need no argument or formal submission. The trial court's ruling is properly characterized as a decision concerning the meaning and scope of a pleading, which is reviewed for an abuse of discretion. *Weymers v Khera*, 454 Mich 639, 654; 563 NW2d 647 (1997). The trial court was not necessarily bound by plaintiff's invocation of MCR 2.621(A) because "[c]ourts are not bound by the labels that parties attach to their claims." *Buhalis v Trinity Continuing Care Servs*, 296 Mich App 685, 691; 822 NW2d 254 (2012). Yet, because there was no dispute that plaintiff had filed prior supplementary proceedings, plaintiff's failure to seek leave as required by MCR 2.621(G) provided the court with a sound reason to dismiss the action without prejudice. Where accepting the label chosen by a plaintiff leads to dismissal of the complaint, a trial court's decision not to peer beyond the label is not an abuse of discretion.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

APR - 9 2015

Date


Chief Clerk