

STATE OF MICHIGAN  
COURT OF APPEALS

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CHARLES NARLIN, a/k/a CHARLES A.  
NOWLIN,

UNPUBLISHED  
June 10, 2014

Plaintiff-Appellant,

v

No. 311378  
Wayne Circuit Court  
LC No. 10-008405-NO

329 HOLBROOK, L.L.C., and H & H  
PROPERTY MANAGEMENT COMPANY,  
L.L.C.,

Defendants-Appellees.

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Before: GLEICHER, P.J., and SAAD and FORT HOOD, JJ.

PER CURIAM.

Plaintiff, in propria persona, appeals by right the trial court order granting summary disposition in favor of defendants, the owners and operators of the apartment complex where plaintiff resided. We affirm.

In June 2009, plaintiff was in his fourth floor apartment when he heard someone shout that the building was on fire. The apartment complex was nearly the length of a city block, and the fire occurred on the first floor on the opposite side of the building. Plaintiff alleged that he opened the door, and smoke rushed toward his face. He closed the door, grabbed his keys and his wallet, re-opened the door, and left his apartment. Plaintiff proceeded down the stairs toward the exit and observed other people going down the stairs in front of and behind him. He was overcome by smoke, but did not ask the other residents for assistance. Rather, plaintiff climbed out a second floor window, attempted to grab a downspout, but fell to the ground, suffering injury. He filed suit alleging negligence, breach of contract, and breach of statutory duties. The trial court granted defendants' motion for summary disposition.

As an initial matter, we note that plaintiff's brief on appeal lacks conformity with the court rules and contains indecipherable arguments. An appellate brief must contain a statement of both favorable and unfavorable material facts, presented fairly without argument or bias and with specific page references to the transcripts. MCR 7.212(C)(6) and (7); *People v Lewis*, 302 Mich App 338, 339 n 1; 839 NW2d 37 (2013). "Appearance *in pro per* does not excuse all application of court rules[.]" *Bachor v Detroit*, 49 Mich App 507, 512; 212 NW2d 302 (1973). A brief that does not conform to the requirements of the court rules may be stricken. MCR

7.212(I); *Lewis*, 302 Mich App at 339 n 1. A party may not merely announce his position and expect this Court to discover and rationalize the basis for the claims. *Peterson Novelties, Inc v City of Berkley*, 259 Mich App 1, 14; 672 NW2d 351 (2003). To the extent we can discern plaintiff's arguments, we will address the merits of the issues.

A trial court's ruling regarding a motion for summary disposition presents a question of law subject to de novo review. *Titan Ins Co v Hyten*, 491 Mich 547, 553; 817 NW2d 562 (2012). Initially, the moving party must support its claim for summary disposition by affidavits, depositions, admissions, or other documentary evidence. *McCoig Materials, LLC v Galui Constr, Inc*, 295 Mich App 684, 693; 818 NW2d 410 (2012). Once satisfied, the burden shifts to the nonmoving party to establish that a genuine issue of material fact exists for trial. *Id.* "The nonmoving party may not rely on mere allegations or denials in the pleadings." *Id.* The documentation offered in support of and in opposition to the dispositive motion must be admissible as evidence. *Maiden v Rozwood*, 461 Mich 109, 120-121; 597 NW2d 817 (1999). Mere conclusory allegations that are devoid of detail are insufficient to create a genuine issue of material fact. *Quinto v Cross & Peters Co*, 451 Mich 358, 362, 371-372; 547 NW2d 314 (1996). When an opposing party provides mere conclusions without supporting its position with underlying foundation, summary disposition in favor of the moving party is proper. See *Rose v National Auction Group*, 466 Mich 453, 470; 646 NW2d 455 (2002).

According to the statement of questions presented, plaintiff first requests that superintending control be exercised over the trial court. To obtain a writ of superintending control, a petitioner must establish a clear legal duty that the respondent failed to perform and the absence of an adequate legal remedy. *The Cadle Co v City of Kentwood*, 285 Mich App 240, 246; 776 NW2d 145 (2009). Superintending control is not "an appropriate remedy where the issue concerned is subject to resolution on appeal." *Choe v Flint Charter Twp*, 240 Mich App 662, 667; 615 NW2d 739 (2000). Because the propriety of the dismissal of plaintiff's complaint is the subject of this appeal, superintending control is inappropriate. *Id.*

Next, we surmise that plaintiff's remaining two issues challenge the dismissal of his complaint in light of defendants' failure to comply with fire and safety regulations. We conclude that the trial court properly dismissed plaintiff's complaint. A review of the narrative report of the investigating fire official reveals that the smoke detectors were in working order. In response to the investigation report, plaintiff's counsel submitted that there were questions of fact regarding the level of smoke in the hallway and the compliance with the regulations. However, plaintiff only submitted a photograph of a hallway and an excerpt of the 2006 international building code. Additionally, at oral argument, counsel for plaintiff conceded that there was no evidence to indicate that the smoke detectors failed to function properly. In light of plaintiff's failure to present documentary evidence to create a factual issue regarding the functioning of the smoke detection system and the compliance with signage, the trial court properly granted the motion for summary disposition. *McCoig Materials, LLC*, 295 Mich App at 693.

Affirmed. Defendants, the prevailing parties, may tax costs. MCR 7.219.

/s/ Elizabeth L. Gleicher

/s/ Henry William Saad

/s/ Karen M. Fort Hood