

STATE OF MICHIGAN
COURT OF APPEALS

DAVID ASLANI and SHEILA KNUBBE,

Plaintiffs-Appellants,

v

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, KEVIN THEODORE
SIMON, and JOSEPH KIRCHMAIER,

Defendants-Appellees.

UNPUBLISHED
September 15, 2009

No. 284572
Wayne Circuit Court
LC Nos. 06-625234-NF;
07-703871-NI

Before: O’Connell, P.J., and Talbot and Stephens, JJ.

PER CURIAM.

Plaintiffs David Aslani and Sheila Knubbe appeal as of right from a Wayne Circuit Court order dismissing their claims against defendant State Farm Mutual Automobile Insurance Company (“State Farm”) in LC No. 06-625234-NF. They also challenge the trial court’s order granting summary disposition in favor of defendants Kevin Simon and Joseph Kirchmaier pursuant to MCR 2.116(C)(7) and (10) in LC No. 07-703871-NI. We affirm.

Plaintiffs first argue that the trial court erred by dismissing their claims against State Farm. We disagree. We review for an abuse of discretion a trial court’s dismissal of an action for failing to comply with a court order. *Woods v SLB Prop Mgt, LLC*, 277 Mich App 622, 630; 750 NW2d 228 (2008). “An abuse of discretion occurs when the trial court’s decision is outside the range of reasonable and principled outcomes.” *Moore v Secura Ins*, 482 Mich 507, 516; 759 NW2d 833 (2008).

MCR 2.504(B)(1) authorizes a trial court to dismiss a plaintiff’s claims for failing to comply with a trial court order. That provision states:

If a party fails to comply with these rules or a court order, upon motion by an opposing party, or sua sponte, the court may enter a default against the noncomplying party or a dismissal of the noncomplying party’s action or claims.

This Court has recognized that a dismissal under MCR 2.504(B)(1) is a “drastic sanction” that requires consideration of several factors, including

“(1) whether the violation was willful or accidental; (2) the party’s history of refusing to comply with previous court orders; (3) the prejudice to the opposing party; (4) whether there exists a history of deliberate delay; (5) the degree of compliance with other parts of the court’s orders; (6) attempts to cure the defect; and (7) whether a lesser sanction would better serve the interests of justice.” [Woods, *supra* at 631, quoting *Vicencio v Jaime Ramirez, MD, PC*, 211 Mich App 501, 507; 536 NW2d 280 (1995).]

Although the trial court relied exclusively on MCR 2.504(B) in dismissing plaintiffs’ claims, MCR 2.313(B) also authorizes a trial court to dismiss an action based on a plaintiff’s failure to comply with a discovery order. MCR 2.313(B)(2) provides, in relevant part:

If a party . . . fails to obey an order to provide or permit discovery . . . the court in which the action is pending may order such sanctions as are just, including, but not limited to the following:

* * *

(c) an order . . . dismissing the action or proceeding or a part of it

Plaintiffs argue that the trial court erred by dismissing their claims because they and their physician, Dr. Haranath Policherla, complied with the court’s February 8, 2008, order. Following a hearing on that date, plaintiffs’ counsel drafted the discovery order, which both parties and the trial court signed. The handwritten order states as follows:

Both Plaintiffs Appear for their Depositions on Monday Feb. 11, 2008—David Aslani—9:00 a.m. and Sheila Knubbe to Immediately follow; Dr. Policherla to sit for His Deposit. on Tues—Feb 12, 08 at 3:00 p.m. Interrogos to be limited to 25 questions per side and no subparts with 12 point font—All Evidence By Plaintiffs to Be used at trial to Be submitted to Defendant by 2-15-08 12:00 p.m. If Any of this order is not complied with the case is to Be dismissed.

Plaintiffs contend that the trial court engaged in improper judicial construction of MCR 2.313 because the written order only required that they and Dr. Policherla appear for their depositions, not that they answer questions posed to them. Plaintiffs argue that the trial court’s oral ruling requiring them to answer questions was not reflected in the written order and, therefore, they did not violate the court’s order.

Plaintiffs correctly argue that courts speak through their written orders rather than their oral statements. *In re Contempt of Henry*, 282 Mich App 656, 678; 765 NW2d 44 (2009). It is inherent in the February 8, 2008, order, however, that plaintiffs and Dr. Policherla not merely attend their depositions, but that they answer questions posed to them. It was unnecessary that the order explicitly require plaintiffs and Dr. Policherla to answer the questions asked at their depositions, and the record reflects this understanding. At the February 8, 2008, hearing, the trial court directed plaintiffs to provide answers and not to ask questions during their depositions. Plaintiffs concede in their brief on appeal that the trial court instructed them as such. Although the written order did not explicitly state that they answer the questions posed, an order compelling depositions inherently requires that a deponent answer questions.

The trial court did not abuse its discretion by dismissing plaintiffs' claims as a result of their wilful failure to comply with the February 8, 2008, order. During his deposition, Aslani admitted that he was involved in an April 1, 2005, incident with Lansing police officers that aggravated the injuries he received in the November 25, 2003, automobile accident. However, he refused to answer questions and provide details regarding the incident. When State Farm's attorney questioned him regarding the incident, he accused the attorney of harassing him, "prejudicing" his rights, and fraudulently misrepresenting issues. Aslani also refused to answer questions regarding his work history, argued with State Farm's attorney, and told the attorney to stop asking ridiculous questions. Likewise, Knubbe refused to answer questions regarding the Lansing police incident, repeatedly claimed not to know the answers to questions, persistently asked questions of State Farm's attorney contrary to the trial court's directive, and argued with the attorney.

Although dismissal is an extreme sanction, plaintiffs' failure to answer questions and their general uncooperativeness during their depositions was wilful rather than accidental. Their argumentative dispositions during questioning were reflective of their conduct throughout the duration of the trial court proceedings. The record evidences that plaintiffs' behavior exasperated their attorney, who at one point moved to withdraw, indicating that he was "tired of the shenanigans, the antics." The record also reflects that plaintiffs threatened their attorney, argued with the trial court, repeatedly accused their attorney and State Farm of failing to provide them discovery, repeatedly accused State Farm's attorneys of fraudulent and perjurious conduct, failed to appear for their depositions, abused the discovery process by serving State Farm with 168 requests for admission, many of which were not germane to their claims and were insulting and harassing to State Farm's attorneys, and refused to cooperate with discovery. Moreover, as plaintiffs' counsel conceded, Dr. Policherla possessed numerous medical records that were not provided to State Farm pursuant to a subpoena.

At the February 8, 2008, hearing, the trial court warned plaintiffs that it would dismiss their claims if they failed to comply with the order. The trial court indicated at a February 29, 2008, hearing that its February 8, 2008, order was necessary because of "behavior that had gone on before." Although plaintiffs contend that they were denied an opportunity to be heard at the February 29, 2008, hearing, the trial court refused to allow Aslani to speak because he was represented by counsel, who was permitted to speak and argue on his behalf. Therefore, although dismissal is a drastic sanction, the trial court did not abuse its discretion by dismissing plaintiffs' claims against State Farm as a result of their failure to comply with the discovery order.

Plaintiffs next argue that the trial court erred by denying their motion for reconsideration of the February 8, 2008, order. We disagree. We review for an abuse of discretion a trial court's decision on a motion for reconsideration. *Woods, supra* at 629.

MCR 2.119(F)(3) provides trial courts considerable discretion to grant reconsideration to correct mistakes, preserve judicial economy, and minimize costs to the parties. *Kokx v Bylenga*, 241 Mich App 655, 659; 617 NW2d 368 (2000). The court rule states:

Generally, and without restricting the discretion of the court, a motion for rehearing or reconsideration which merely presents the same issues ruled on by the court, either expressly or by reasonable implication, will not be granted. The

moving party must demonstrate a palpable error by which the court and the parties have been misled and show that a different disposition of the motion must result from correction of the error.

Plaintiffs argue that the trial court's February 8, 2008, order was erroneous because it denied them their rights to discovery. Plaintiffs failed to challenge the terms of the order, however, before the court entered the order. Rather, plaintiffs' counsel drafted the order longhand and the attorneys for both plaintiffs and State Farm signed the order along with the trial court. Neither attorney objected to the terms of the order. Accordingly, the trial court noted in its order denying the motion for reconsideration that the parties had stipulated to the terms of the order. Because plaintiffs failed to challenge the order before it was entered, despite ample opportunity to do so, the trial court did not abuse its discretion by denying their motion for reconsideration. See *Woods, supra* at 630.

In any event, plaintiffs contend that the February 8, 2008, order denied them their rights to discovery by restricting their interrogatories to 25 questions without any subparts. Although unsupported by the record, plaintiffs contend that they always complied with State Farm's discovery requests and were repeatedly denied their basic rights to discovery. We note that the 25-question interrogatory limit was reciprocal and applied to State Farm as well as plaintiffs. Plaintiffs fail to indicate what they were unable to ask State Farm because of the 25-question limit. In addition, the record shows that plaintiffs' 25 interrogatories contained numerous questions that were not germane to the merits of their claims and instead personally attacked State Farm's attorneys. Accordingly, plaintiffs have not shown that the February 8, 2008, order denied them their rights to discovery.

Plaintiffs next argue that the trial court erred by failing to rule that State Farm admitted unanswered requests contained in their first and second requests for admission. We disagree. Although plaintiffs filed an objection in response to State Farm's objection to the requests for admission, plaintiffs did not request that the trial court deem the unanswered requests admitted. Thus, they failed to preserve this issue for appellate review by raising it below. We review unpreserved issues for plain error affecting substantial rights. *Veltman v Detroit Edison Co*, 261 Mich App 685, 690; 683 NW2d 707 (2004); *Kern v Blethen-Coluni*, 240 Mich App 333, 336; 612 NW2d 838 (2000).

MCR 2.312(A) provides, in relevant part:

[A] party may serve on another party a written request for the admission of the truth of a matter within the scope of MCR 2.302(B) stated in the request that relates to statements or opinions of fact or the application of law to fact, including the genuineness of documents described in the request.

Under MCR 2.312(B)(1), each matter is deemed admitted unless the party to whom the request is directed files an answer or objection within 28 days. If a party challenges a request, it must state its reasons for doing so. MCR 2.312(B)(4).

It appears that plaintiffs served State Farm with their first and second requests for admission on January 11, 2008, and January 14, 2008. The record shows that State Farm timely filed its objection to both requests for admission on February 1, 2008, arguing that plaintiffs

made a total of 200 individual requests, many of which were not relevant to their claims for no-fault benefits. State Farm requested the trial court's involvement to determine which, if any, of the requests were proper. Although plaintiffs filed an objection to State Farm's objection, they did not file a motion asking the trial court to determine the sufficiency of State Farm's objection or otherwise requesting that the trial court deem the unanswered requests admitted. MCR 2.312(C) provides, in pertinent part:

The party who has requested the admission may move to determine the sufficiency of the answer or objection. The motion must state that the movant has in good faith conferred or attempted to confer with the party not making the disclosure in an effort to secure the disclosure without court action.

Instead of proceeding in accordance with this provision, after filing their objection, plaintiffs simply took no further action regarding the matter. Accordingly, the trial court's failure to deem the requests admitted did not constitute plain error. In any event, the record shows that many of plaintiffs' requests for admission were not relevant to their claims and instead merely harassed State Farm's attorneys. Thus, the record evidences that plaintiffs used their requests for admission to perpetuate their abuse of the discovery process.

Plaintiffs next argue that the trial court erred by granting summary disposition for Simon and Kirchmaier. We disagree. We review de novo a trial court's decision on a motion for summary disposition. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). Although neither Simon nor Kirchmaier identified MCR 2.116(C)(7) as a basis for their motions for summary disposition, they relied on MCL 600.5805(10),¹ the three-year statute of limitations regarding injuries to persons or property. Moreover, because the trial court granted summary disposition for Simon and Kirchmaier based on the statute of limitations, it appears that the trial court entered its order pursuant to MCR 2.116(C)(7). In reviewing a decision granting summary disposition under subrule (C)(7), we accept the plaintiff's well-pleaded allegations as true and construe them in the plaintiff's favor. *Hanley v Mazda Motor Corp*, 239 Mich App 596, 600; 609 NW2d 203 (2000). In doing so, we may consider any affidavits, depositions, admissions, and other documentary evidence submitted by the parties. *Id.*

The trial court also granted summary disposition for Kirchmaier under MCR 2.116(C)(10) based on the owner's liability statute, MCL 257.401. A motion for summary disposition under MCR 2.116(C)(10) is properly granted if no factual dispute exists, thus entitling the moving party to judgment as a matter of law. *Rice v Auto Club Ins Ass'n*, 252 Mich App 25, 31; 651 NW2d 188 (2002). In deciding a motion brought under subrule (C)(10), a court considers all the evidence, affidavits, pleadings, and admissions in the light most favorable to the nonmoving party. *Id.* at 30-31. The nonmoving party must present more than mere allegations to establish a genuine issue of material fact for resolution at trial. *Id.* at 31.

¹ The motions for summary disposition erroneously referenced MCL 600.5805(9) rather than MCL 600.5805(10). Subsection (9) was renumbered as subsection (10) pursuant to 2002 PA 715, effective March 31, 2003.

MCL 600.5805(10) provides:

The period of limitations is 3 years after the time of the death or injury for all other actions to recover damages for the death of a person, or for injury to a person or property.

It is undisputed that plaintiffs failed to file their complaint against defendants Simon or Kirchmaier within three years after the accident. The accident occurred on November 25, 2003, and plaintiffs did not file their complaint until February 9, 2007. Thus, plaintiffs' claims are time-barred absent tolling or another means of circumventing the limitations period.

MCL 600.5853 provides:

If any person is outside of this state at the time any claim accrues against him the period of limitation shall only begin to run when he enters this state unless a means of service of process sufficient to vest the jurisdiction of a Michigan court over him was available to the plaintiff. If after any claim accrues the person against whom the claim accrued is absent from this state, any and all periods of absence in excess of 2 months at a time shall not be counted as any part of the time limited for the commencement of the action *unless while he was outside of this state a means for service of process sufficient to vest the jurisdiction of a Michigan court over him was available to the plaintiff.* [Emphasis added.]

Thus, pursuant to this provision, tolling "is not applicable if the plaintiff had a means of obtaining personal jurisdiction and proper service over the defendant who was no longer in this state." *Ewing v Bolden*, 194 Mich App 95, 100; 486 NW2d 96 (1992).

The record shows that plaintiffs' former attorney sent a letter dated May 11, 2005, to Simon at his Grosse Pointe Farms address. Simon turned the letter over to his attorney, Charles Berschback, who responded to plaintiffs' counsel in a letter dated July 27, 2005. Berschback informed plaintiffs' counsel that the insurer of the vehicle denied coverage and directed counsel to contact him to discuss the matter on Simon's behalf. According to Simon, in later conversations with Berschback, plaintiffs' counsel indicated that he did not intend to pursue a claim against Simon. Thus, the record shows that plaintiffs had a means of obtaining personal jurisdiction and proper service over Simon during any period of time in which Simon was absent from the state. Accordingly, MCL 600.5853 is inapplicable, and the trial court properly granted summary disposition for Simon based on the statute of limitations.

The trial court also properly granted summary disposition for Kirchmaier based on the statute of limitations. Even though Joseph Kirchmaier is not a correct defendant, plaintiffs did not file suit against him within three years after the accident pursuant to MCL 600.5805(10). Moreover, the limitations period was not tolled pursuant to MCL 600.5856, which provides, in relevant part:

The statutes of limitations or repose are tolled in any of the following circumstances:

(a) At the time the complaint is filed, if a copy of the summons and complaint are served on the defendant within the time set forth in the supreme court rules.

(b) At the time jurisdiction over the defendant is otherwise acquired.

This Court has interpreted these provisions to apply “where a party files suit beyond the limitation period and seeks to toll the time that elapsed during a previously dismissed lawsuit against the same defendant from the date of service, acquisition of jurisdiction, or placement of process with an officer for delivery until a dismissal that is not based on the merits of the action.” *Terrace Land Dev Corp v Seeligson & Jordan*, 250 Mich App 452, 459; 647 NW2d 524 (2002). This circumstance did not occur in this case because there was no previously dismissed lawsuit against Joseph Kirchmaier. In addition, no complaint was ever filed against James Kirchmaier, the proper party, and the trial court never obtained jurisdiction over him.

Further, the statute of limitations was not tolled under MCL 600.5855 based on fraudulent concealment. That provision states:

If a person who is or may be liable for any claim fraudulently conceals the existence of the claim or the identity of any person who is liable for the claim from the knowledge of the person entitled to sue on the claim, the action may be commenced at any time within 2 years after the person who is entitled to bring the action discovers, or should have discovered, the existence of the claim or the identity of the person who is liable for the claim, although the action would otherwise be barred by the period of limitations.

“Generally, for fraudulent concealment to postpone the running of a limitations period, the fraud must be manifested by an affirmative act or misrepresentation. The plaintiff must show that the defendant engaged in some arrangement or contrivance of an affirmative character designed to prevent subsequent discovery.” *Meyer & Anna Prentis Family Foundation, Inc v Barbara Ann Karmanos Cancer Institute*, 266 Mich App 39, 48; 698 NW2d 900 (2005) (quotations and citations omitted).

Here, despite plaintiffs’ protestations to the contrary, nothing indicates that any of the defendants fraudulently concealed James Kirchmaier’s identity as the lessee of the vehicle involved in the accident. Although State Farm erroneously identified Joseph Kirchmaier, an Ohio resident, as its insured, the record fails to indicate that this misrepresentation was anything other than innocent. Plaintiffs have not shown that defendants engaged in any contrivance to prevent discovery of James Kirchmaier’s identity. Thus, MCL 600.5855 is inapplicable, and the trial court properly granted summary disposition for Kirchmaier based on the statute of limitations.

In any event, notwithstanding the statute of limitations, the trial court properly granted summary disposition for Kirchmaier based on the owner’s liability statute. Assuming that Kirchmaier was the proper defendant, his only involvement in the accident would have been as the lessee of the vehicle that Simon drove, and, as such, his only potential basis for liability is under the owner’s liability statute. MCL 257.401 provides, in relevant part:

(1) . . . The owner of a motor vehicle is liable for an injury caused by the negligent operation of the motor vehicle whether the negligence consists of a violation of a statute of this state or the ordinary care standard required by common law. The owner is not liable unless the motor vehicle is being driven with his or her express or implied consent or knowledge.

Pursuant to MCL 257.37(a), a lessee of a vehicle is considered an “owner” for purposes of MCL 257.401.

The evidence shows that Simon did not have consent to drive the vehicle and that Simon drove the vehicle without Kirchmaier’s knowledge. Again, assuming that plaintiffs had filed suit against the proper party, the affidavits of James Kirchmaier and Simon establish that James Kirchmaier left the vehicle with David Moore to be repaired and that Simon took the vehicle without Moore or Kirchmaier’s knowledge or permission. Plaintiffs’ counsel admitted in the trial court that he possessed no evidence to the contrary, and no contrary evidence was presented. Therefore, the trial court properly granted summary disposition for Kirchmaier pursuant to MCR 2.116(C)(10) based on the owner’s liability statute. Further, although plaintiffs claim that the orders granting summary disposition for Simon and Kirchmaier contravene their due process and Seventh Amendment rights, they fail to specify how the orders violate their constitutional rights. A party may not merely announce a position and leave it to this Court to discover and rationalize the basis for a claim. *Peterson Novelties, Inc v City of Berkley*, 259 Mich App 1, 14; 672 NW2d 351 (2003).

Plaintiffs next contend that the trial court erred by failing to sanction Kirchmaier and State Farm’s attorneys. We disagree. We review for clear error a trial court’s decision whether to impose a sanction. *Schadewald v Brulé*, 225 Mich App 26, 41; 570 NW2d 788 (1997). A decision is clearly erroneous if, although there exists evidence supporting it, a reviewing court is left with the definite and firm conviction that a mistake was made. *Id.*

“An attorney has an affirmative duty to conduct a reasonable inquiry into the factual and legal viability of a pleading before it is signed.” *LaRose Market, Inc v Sylvan Ctr, Inc*, 209 Mich App 201, 210; 530 NW2d 505 (1995). Under MCR 2.114(D), the signature of an attorney or party signifies the following:

- (1) he or she has read the document;
- (2) to the best of his or her knowledge, information, and belief formed after reasonable inquiry, the document is well grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law; and
- (3) the document is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

The filing of a pleading that is not well-grounded in fact and law or that is interposed for an improper purpose subjects the signer of the pleading to sanctions under MCR 2.114(E). *Yee v Shiawassee Co Bd of Commr’s*, 251 Mich App 379, 407; 651 NW2d 756 (2002). “MCR 2.114(E) states that the trial court ‘shall’ impose sanctions upon finding that a document has

been signed in violation of the rule. Therefore, if a violation of MCR 2.114(D) has occurred, the sanctions provided for by MCR 2.114(E) are mandatory.” *Guerrero v Smith*, 280 Mich App 647, 678; 761 NW2d 723 (2008).

Plaintiffs argue that the trial court erred by failing to sanction the attorneys representing State Farm and Kirchmaier because the attorneys denied them their rights to discovery, committed fraud, obstructed justice, denied them their “meritorious claims,” and harassed them. This argument was a continuing theme in the trial court, and plaintiffs continue to repeatedly assert it in this Court as well. With respect to the pleadings signed in accordance with MCR 2.114(D), plaintiffs fail to indicate specifically which pleadings were intended merely to harass or what information in the pleadings was not grounded in fact. It appears that plaintiffs’ arguments are based on their belief that State Farm’s initial erroneous indication that Joseph Kirchmaier, rather than James Kirchmaier, was the lessee of the Saab constituted fraud. Nothing in the record, however, indicates that State Farm engaged in any fraudulent conduct. Because plaintiffs have not established a violation of MCR 2.114(D), sanctions were not warranted under MCR 2.114(E). In any event, the trial court dismissed plaintiffs’ claims as a result of their failure to comply with the February 8, 2008, order and not because of any conduct on behalf of State Farm or Kirchmaier’s attorneys. If plaintiffs had simply complied with the order, their claims would not have been dismissed. Thus, the trial court did not err by failing to sanction Kirchmaier and State Farm’s attorneys.

Finally, plaintiffs argue that the trial court erred by failing to sua sponte recuse itself because of bias and prejudice. We again disagree. Because plaintiffs failed to preserve this issue for appellate review by raising it below, our review is limited to plain error affecting substantial rights. *Veltman, supra* at 690; *Kern, supra* at 336.

A party challenging a judge for bias must overcome a heavy presumption of judicial impartiality. *Cain v Dep’t of Corrections*, 451 Mich 470, 497; 548 NW2d 210 (1996). A judge may be disqualified under MCR 2.003(B)(1) if the judge evinces actual bias or prejudice against a party or attorney. *Id.* at 495. A trial court’s rulings almost never constitute a valid basis for disqualification “unless the judicial opinion displays a deep-seated favoritism or antagonism that would make fair judgment impossible.” *Armstrong v Ypsilanti Charter Twp*, 248 Mich App 573, 597; 640 NW2d 321 (2001) (internal quotations omitted). Further, even a trial court’s repeated erroneous rulings against a litigant are not a basis for disqualification. *Id.* at 597.

The record fails to establish that the trial court was biased or prejudiced against plaintiffs. The trial court was frustrated with both plaintiffs and State Farm because of the repeated discovery problems and expressed its frustration with both parties. At the February 8, 2008, hearing, the court indicated that it was “not happy” with the manner in which the case was proceeding and took matters into its own hands regarding discovery. The court also declared, “this case is a mess.” The court did not permit plaintiff Aslani to speak at the February 29, 2008, hearing because he was represented by counsel who spoke on his behalf. Thus, although the record evidences the trial court’s frustration, it does not show that the court was biased or prejudiced against plaintiffs.

To the extent that plaintiffs argue that the trial court should have recused itself based on its rulings unfavorable to them, they likewise fail to show that the rulings evidenced a deep-seated favoritism or antagonism. Rather, the February 8, 2008, order merely required plaintiffs

and their physician to submit to discovery depositions which had previously been rescheduled several times. Both parties were subject to the 25-question interrogatory limit specified in the order. In addition, it was plaintiffs' noncompliance with the order that led to the dismissal of their claims. Thus, plaintiffs have not shown that the trial court's adverse rulings were a result of deep-seated favoritism or antagonism toward them, and the trial court's failure to sua sponte recuse itself did not constitute plain error.

Affirmed.

/s/ Peter D. O'Connell

/s/ Michael J. Talbot

/s/ Cynthia Diane Stephens