*If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.*

# STATE OF MICHIGAN

# COURT OF APPEALS

| | |
|---|---|
| MICHELE LYNN HEMBREE,<br><br>Plaintiff-Appellant, | UNPUBLISHED<br>October 09, 2026<br>11:34 AM |
| v | No. 372942<br>Oakland Circuit Court<br>LC No. 2023-204205-CZ |
| OAKLAND COUNTY TREASURER, WEST BLOOMFIELD TOWNSHIP, ROBERT BROOKS, JENNIFER TUCKER, and ROBERT SCRIPTURE,<br><br>Defendants-Appellees. | |

Before: KOROBKIN, P.J., and RICK and MALDONADO, JJ.

PER CURIAM.

In this civil action, plaintiff, Michele Lynn Hembree, appeals by right the trial court's order granting defendants, Oakland County Treasurer, West Bloomfield Township, Robert Brooks, Jennifer Tucker, and Robert Scripture summary disposition of all claims against them, including invasion of privacy, intentional infliction of emotional distress, gross negligence, and equitable claims for injunctive relief, declaratory relief, and equitable estoppel. Plaintiff argues that the trial court erred in granting summary disposition of her claims and by disregarding her claims for equitable relief. Plaintiff also argues that the trial court abused its discretion by denying plaintiff's motion for leave to amend and that the manner in which the hearing on the motions for summary disposition was held was so prejudicial to plaintiff that the trial court's decision should be vacated. We affirm.

## I. BACKGROUND

This case involves the following: rumors or discussions by defendants Brook and Tucker about whether plaintiff resides in West Bloomfield Township; defendant Scripture, the Township Assessor, allegedly reporting plaintiff's lack of residency to the Michigan Department of Treasury; and the denial of plaintiff's principal residence exemption (PRE) by the Department of Treasury.

In 2013, plaintiff purchased and moved into her home on Ridgewood Road in West Bloomfield Township. Plaintiff then applied for and was granted a PRE for property tax purposes. A few years later, plaintiff was elected as a commissioner of the West Bloomfield Township Parks

and Recreation Commission; her colleagues included Brooks, a fellow commissioner, and Tucker, the Executive Director of the Commission. As alleged in plaintiff's complaint, in 2019, plaintiff "learned" that Brooks and Tucker had told Scripture that plaintiff was not a resident of West Bloomfield Township but a resident of the city of Detroit. This prompted plaintiff to provide her driver's license to Scripture as proof of her residency as a means of establishing her entitlement to a PRE for property tax purposes. After a dispute over the authenticity of plaintiff's driver's license, Scripture reluctantly accepted the driver's license as proof of her residency and provided her "documentation which reflected that her residency in the township had been verified."

However, in 2022, the Oakland County Treasurer posted a notice on the door of plaintiff's Ridgewood address, advising her that her home was at risk of foreclosure because she was delinquent in her property taxes. After receiving the notice, plaintiff went back to Scripture to determine why this had occurred. Plaintiff alleged that Scripture advised her that Brooks and Tucker "had persisted in their insistence" that plaintiff was not a resident and Scripture had reported plaintiff's lack of residency to the Department of Treasury.

Plaintiff then filed a complaint against the Oakland County Treasurer, West Bloomfield Township, Brooks, Tucker, and Scripture. Plaintiff's first amended complaint raised claims of invasion of privacy and intentional infliction of emotional distress against Brooks, Tucker, and Scripture. Further, plaintiff asserted a claim of gross negligence against Scripture, alleging that he acted outside the scope of his authority as the township assessor. With regard to the Oakland County Treasurer, plaintiff expressly made no "substantive claim of wrongdoing" and sought only injunctive relief "in order to maintain the status quo" and preclude the Treasurer from taking action to foreclose on plaintiff's home. Plaintiff also asserted equitable claims for injunctive relief, declaratory relief, and equitable estoppel. Plaintiff sought "declaratory relief, determining with finality that she resides in her home in West Bloomfield Township" and injunctive relief requiring Scripture, Brooks, and Tucker to stop "further disparagement of [p]laintiff's residency to any agency, officer, or representative of any governmental entity."

Defendants each moved for summary disposition and after a hearing on the motion, the trial court dismissed plaintiff's complaint in its entirety. The trial court granted plaintiff limited leave to amend her complaint to assert a gross negligence claim against Brooks and Tucker within 14 days. Plaintiff failed to do so, and the trial court then closed the case. After the case was closed, plaintiff moved for reconsideration, leave to amend, and relief from judgment. Plaintiff argued that her attorney had missed the deadline for amending the complaint because he had undergone medical procedures and had inadvertently missed the deadline because he was attending to other pending matters. The trial court denied plaintiff's motions.

This appeal followed.

## II. JURISDICTION

Plaintiff argues that the trial court erred by concluding that it lacked jurisdiction over plaintiff's claim for declaratory relief. We disagree. To the extent plaintiff was contesting the denial of her PRE by asking the court to declare that she resided in the Township, the trial court

lacked subject matter jurisdiction and did not err by dismissing plaintiff's claim under MCR 2.116(C)(4).

We review de novo a trial court's ruling on a motion for summary disposition. *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159; 934 NW2d 665 (2019). Under MCR 2.116(C)(4), a trial court must dismiss a complaint if the court "lacks jurisdiction of the subject matter." Summary disposition under MCR 2.116(C)(4) is proper when a plaintiff has failed to exhaust her administrative remedies. *Papas v Michigan Gaming Control Bd*, 257 Mich App 647, 656; 669 NW2d 326 (2003). To the extent determining whether subject-matter jurisdiction exists requires statutory interpretation, we review the matter de novo. *Maple Manor Rehab Ctr, LLC v Dep't of Treasury*, 333 Mich App 154, 162; 958 NW2d 894 (2020).

In the trial court, plaintiff sought "declaratory relief, determining with finality that she resides in her home in West Bloomfield Township." It appears that the primary purpose of this claim is to establish her entitlement to a PRE under the General Property Tax Act, MCL 211.1 *et seq*. Specifically, MCL 211.7cc(1) provides, "A principal residence is exempt from the tax levied by a local school district for school operating purposes . . . if an owner of the principal residence claims an exemption as provided in this section." The trial court dismissed plaintiff's claim for declaratory relief for lack of jurisdiction, explaining that plaintiff "had not cited any legal authority that would allow [the court] to ignore or supersede the authority bestowed upon the Michigan Treasury to determine whether" property is eligible for a PRE. Further, the trial court held that the Tax Tribunal had exclusive jurisdiction over the requested relief and that plaintiff had not appealed a decision of the Tax Tribunal.

Generally, "circuit courts are presumed to have subject-matter jurisdiction unless jurisdiction is expressly prohibited or given to another court by constitution or statute." *In re Petition by Wayne Co Treasurer for Foreclosure of Certain Lands for Unpaid Prop Taxes*, 265 Mich App 285, 291; 698 NW2d 879 (2005); MCL 600.605. Under MCL 205.731, the Tax Tribunal has "exclusive and original jurisdiction" over "[a] proceeding for direct review of a final decision, finding, ruling, determination, or order of an agency relating to assessment, valuation, rates, special assessments, allocation, or equalization, under the property tax laws of this state." This Court has interpreted the phrase "under the property tax laws" in the jurisdictional statute broadly. *Wikman v City of Novi*, 413 Mich 617, 637; 322 NW2d 103 (1982), superseded by statute as stated in *Ashley Ann Arbor, LLC v Pittsfield Charter Twp*, 299 Mich App 138, 149; 829 NW2d 299 (2012). The denial of a PRE, which impacts the taxes assessed to a property, clearly falls within the jurisdiction of the Tax Tribunal.

Plaintiff raises several arguments regarding the jurisdictional issue. Plaintiff argues that: (1) defendants relied on an exhibit that should have been stricken because one page of the exhibit was illegible, (2) she never received notice of any adverse tax determination and did not know of any rulings from which to appeal, (3) estoppel precludes defendants from raising jurisdiction as a defense, and (4) MCL 211.7cc(8) is inapplicable to a residency determination made by a local tax assessor. Plaintiff's arguments are made in a conclusory fashion, with little or no legal support; therefore, these arguments may be deemed abandoned on appeal. See *Tripp v Baker*, 346 Mich App 257, 273; 12 NW3d 45 (2023) (holding that "[i]nsufficiently briefed issues are deemed abandoned on appeal." (quotation marks and citation omitted)). Nonetheless, we will briefly address each argument.

With regard to the challenged exhibit and lack of notice, plaintiff provides no explanation as to how either would impact the Tax Tribunal's jurisdiction, which is determined by statute. As explained above, it is apparent that plaintiff's claims involving determining her residency for the apparent purpose of establishing her entitlement to a PRE would fall within the jurisdiction of the Tax Tribunal without considering the challenged exhibit. Further, plaintiff provides no legal authority in support of her argument that the lack of notice deprived the Tax Tribunal of jurisdiction.

Plaintiff's argument on grounds of estoppel fares no better. As discussed more fully in a latter section of this opinion, equitable estoppel is "a doctrine that may assist a party by precluding the opposing party from asserting or denying the existence of a particular fact." *Lakeside Oakland Development, LC v H & J Beef Co*, 249 Mich App 517, 527; 644 NW2d 765 (2002), quoting *Conagra, Inc v Farmers State Bank*, 237 Mich App 109, 140-141; 602 NW2d 390 (1999). Plaintiff provides no explanation of how estoppel applies in the context of this jurisdictional issue, as her argument amounts to the short, conclusory statement that "estoppel precludes the defendants from raising this defense." Estoppel does not operate in this fashion, particularly when considering whether a court has jurisdiction. "Jurisdiction is the power of a court to act and the authority of a court to hear and determine a case." *Grubb Creek Action Comm v Shiawassee Co Drain Comm'r*, 218 Mich App 665, 668; 554 NW2d 612 (1996). "Jurisdiction of the subject matter of a judicial proceeding is an absolute requirement." *Bandfield v Wood*, 104 Mich App 279, 282; 304 NW2d 551 (1981), aff'd 421 Mich 774 (1985). Subject matter jurisdiction "cannot be conferred by consent, by conduct or by waiver" and "cannot be acquired by estoppel." *Id*. Thus, even if plaintiff had not waived this argument through insufficient briefing, it is without merit.

Finally, plaintiff is correct that MCL 211.7cc(8) does not address appeals from the denial of a PRE, or in this case alleged residency determination, by the assessor of a local tax collecting unit. But MCL 211.7cc(6) does expressly address decisions by an assessor and provides that a property owner may appeal a denial to the residential and small claims division of the Tax Tribunal. Contrary to plaintiff's implied argument, MCL 211.7cc supports the conclusion that the denial of a PRE or residency determination is within the exclusive and original jurisdiction of the Tax Tribunal. Even if there was merit to plaintiff's argument, again plaintiff has insufficiently briefed this issue and provided no legal support for her position other than citing MCL 211.7cc(8).

## III. GOVERNMENTAL IMMUNITY

Next, plaintiff argues that the trial court erred by finding that her claims against defendant Scripture were barred by governmental immunity. We disagree. The trial court did not err in determining that defendant Scripture was entitled to governmental immunity for claims against him and that he did not act with gross negligence.

Although the trial court stated that it was dismissing plaintiff's claim of gross negligence against defendant Scripture on grounds of governmental immunity under MCR 2.116(C)(8), the claims against Scripture dismissed on grounds of governmental immunity should have been dismissed under MCR 2.116(C)(7). "Summary disposition under MCR 2.116(C)(7) is appropriate if a claim is barred because of immunity granted by law." *Pike v Northern Mich Univ,* 327 Mich App 683, 690; 935 NW2d 86 (2019). We review de novo both the trial court's decision on motion for summary disposition and interpretation of the governmental immunity act." *Id*. The

complaint's allegations are accepted as true unless contradicted by documentary evidence. *Id*. at 690-691.

Under the Government Tort Liability Act (GTLA), MCL 691.1401 *et seq*, governmental employees acting within the scope of their authority are immune from tort liability except in cases in which their actions constitute gross negligence. *Maiden v Rozwood*, 461 Mich 109, 121-122; 597 NW2d 817 (1999). Specifically, MCL 691.1407(2) provides:

> Except as otherwise provided in this section, and without regard to the discretionary or ministerial nature of the conduct in question, each officer and employee of a governmental agency, each volunteer acting on behalf of a governmental agency, and each member of a board, council, commission, or statutorily created task force of a governmental agency is immune from tort liability for an injury to a person or damage to property caused by the officer, employee, or member while in the course of employment or service or caused by the volunteer while acting on behalf of a governmental agency if all of the following are met:
>
> (a) The officer, employee, member, or volunteer is acting or reasonably believes he or she is acting within the scope of his or her authority.
>
> (b) The governmental agency is engaged in the exercise or discharge of a governmental function.
>
> (c) The officer's, employee's, member's, or volunteer's conduct does not amount to gross negligence that is the proximate cause of the injury or damage.

" 'Gross negligence' means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results." MCL 691.1407(8)(a). "Although questions regarding whether a governmental employee's conduct constituted gross negligence are generally questions of fact for the jury, if reasonable minds could not differ, summary disposition may be granted." *Wood v City of Detroit*, 323 Mich App 416, 424; 917 NW2d 709 (2018), citing *Briggs v Oakland Co*, 276 Mich App 369, 374; 742 NW2d 136 (2007).

Plaintiff alleged in a conclusory fashion in her amended complaint that defendant Scripture "acted intentionally and/or with gross negligence and outside of the scope of his authority." Factually, plaintiff alleged that Scripture refused to accept her driver's license as proof of residency and, ultimately, reported plaintiff's alleged lack of residency to the Department of Treasury, resulting in the denial of her PRE. On appeal, plaintiff argues that Scripture acted with gross negligence because he relied on gossip and reported plaintiff's lack of residency without investigation or evidence. She also argues that Scripture acted intentionally or maliciously, knowing that denial of her PRE would result in substantial cost for plaintiff.

Accepting the allegations in plaintiff's complaint as true, Scripture's conduct clearly fell within his authority as the township assessor. As the township assessor, Scripture was statutorily authorized to audit existing PREs, report and recommend their denial to the Department of Treasury—and even deny PREs. MCL 211.7c(b) and (c); MCL 211.7cc(6) and (7). Accordingly, he was acting within the scope of his authority when making determinations about plaintiff's

residency and when making a recommendation to the Department of Treasury about plaintiff's eligibility for a PRE.

Furthermore, plaintiff has not shown that Scripture acted with gross negligence in performing his duties as the township assessor. As Scripture outlines in his brief on appeal, plaintiff's driver's license was insufficient as a matter of law to conclusively establish Ridgewood as plaintiff's principal residence within the meaning of MCL 211.7dd(c). No single document is conclusive evidence that an address is an individual's principal residence. *Estate of Schubert v Dept of Treasury*, 322 Mich App 439, 454-455; 912 NW2d 569 (2017). See also *Drew v Cass County*, 299 Mich App 495, 501; 830 NW2d 832 (2013). Further, plaintiff has not alleged any facts from which malicious or reckless intent could be inferred by Scripture. At most, plaintiff has shown that Scripture was negligent or mistaken when he reported to the Department of Treasury that Ridgewood was not plaintiff's principal address. Mere negligence is not enough to overcome governmental immunity. Accordingly, the trial court did not err in concluding that Scripture was entitled to governmental immunity because he acted within the scope of his authority as the township assessor and his conduct did not amount to gross negligence.

## IV. STATUTE OF LIMITATIONS

Plaintiff also argues that the trial court erred in holding that the statute of limitations barred plaintiff's claims. We deem the statute of limitations issue abandoned on appeal due to insufficient briefing. See *Tripp*, 346 Mich App at 273. Plaintiff's argument on the statute of limitations consists of essentially two sentences; plaintiff argues that her claims accrued in 2022 because she "clearly alleged that the actionable conduct occurred in 2022" and that "estoppel prevents defendants [Brooks and Tucker] from asserting a statute of limitations defense." Plaintiff does not describe what the actionable conduct was, who committed that conduct, or even identify what claim or claims accrued at that time. Nor does plaintiff take the time to explain how the doctrine of equitable estoppel applies in the statute of limitations context. Accordingly, this issue is deemed abandoned on appeal. See *id*.

Even if the statute of limitations issue was not abandoned by insufficient briefing, the trial court's dismissal of the invasion of privacy claim was not based on the likelihood that the claim was barred by the statute of limitations and the issue is moot. An issue is moot when "an event has occurred that renders it impossible for the court to grant relief." *Christenson v Secretary of State*, 336 Mich App 411, 418; 970 NW2d 417 (2021) (quotation marks and citation omitted). Likewise, an issue is moot when "a judgment, if entered, cannot for any reason have a practical legal effect on the existing controversy." *Id*. (quotation marks and citation omitted). The trial court held that plaintiff had failed to state a claim for false-light invasion of privacy and dismissed the claim under MCR 2.116(C)(8), not under MCR 2.116(C)(7) (claim barred by statute of limitations). Plaintiff does not raise any errors as to the trial court's dismissal of her invasion of privacy claim for failure to state a claim. Therefore, the issue of whether the claim for invasion of privacy was also barred by the statute of limitations is moot because a determination on this issue would have no practical legal effect. *Id*.

## V. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Next, plaintiff argues that the trial court erred by dismissing her claim for intentional infliction of emotional distress for failure to state a claim. We disagree. The trial court did not err in dismissing plaintiff's claim for intentional infliction of emotional distress because plaintiff failed to show that defendants' conduct was extreme or outrageous.

Again, we review de novo a trial court's ruling on a motion for summary disposition. *El-Khalil*, 504 Mich at 159. Summary disposition under MCR 2.116(C)(8) is properly granted "when the opposing party has failed to state a claim upon which relief may be granted." *Bodnar v St John Providence, Inc*, 327 Mich App 203, 212; 933 NW2d 363 (2019). "A motion under MCR 2.116(C)(8) tests the legal sufficiency of the complaint. All well-pleaded factual allegations are to be accepted as true and are to be construed in the light most favorable to the nonmoving party." *Maiden*, 461 Mich at 119. "A motion under MCR 2.116(C)(8) may be granted only where the claims alleged are so clearly unenforceable as a matter of law that no factual development could possibly justify recovery." *El-Khalil*, 504 Mich at 159.

"To establish a claim of intentional infliction of emotional distress, a plaintiff must prove the following elements: (1) extreme and outrageous conduct, (2) intent or recklessness, (3) causation, and (4) severe emotional distress." *Hayley v Allstate Ins Co*, 262 Mich App 571, 577; 686 NW2d 273 (2004) (quotation marks and citation omitted). "The conduct complained of must be so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious and utterly intolerable in a civilized community." *Id*. (quotation marks and citation omitted). Liability for intentional infliction of emotional distress "will not be found for mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities." *Grochowalski v Detroit Auto Inter-Insurance Exch*, 171 Mich App 771, 776; 430 NW2d 822 (1988), citing 1 Restatement Torts, 2d, § 46, Comment d, pp 72-73. "It is for the trial court to initially determine whether the defendant's conduct may reasonably be regarded as so extreme and outrageous as to permit recovery." *Hayley*, 262 Mich App at 577. However, "where reasonable individuals may differ, it is for the jury to determine if the conduct was so extreme and outrageous as to permit recovery." *Id*.

Plaintiff alleges that in 2018, defendants Brooks and Tucker told the township assessor, defendant Scripture, "that plaintiff was not actually a resident of West Bloomfield, but rather, was a resident of the City of Detroit." Further, plaintiff alleges that defendants Brooks and Tucker "persisted in their insistence that Plaintiff was not a resident of the Township," and Scripture "reported" her lack of residency in 2022 resulting in the denial of her PRE. Accepting the factual allegations in the complaint as true, the trial court did not err in finding that defendant Brooks and Tucker's discussion about whether plaintiff lived in the Township and defendant Scripture's report of plaintiff's alleged lack of residency to the Department of Treasury did not amount to extreme or outrageous conduct. Defendants' conduct was not "beyond all possible bounds of decency" or "utterly intolerable in a civilized community." *Id*. Plaintiff herself describes Brooks and Tucker's comments about her residency as "gossip." Therefore, the trial court properly concluded that her allegations amounted to mere insults or indignities that could not give rise to an intentional infliction of emotional distress claim.

Plaintiff's argument on appeal that a reasonable jury could find that defendant's conduct was sufficiently extreme and outrageous is not persuasive. Notably, plaintiff provides no analogous or similar cases that would suggest defendants' conduct could give rise to an intentional infliction of emotional distress claim. In fact, plaintiff provides almost no case law on this issue. Rather, plaintiff argues that a reasonable juror could find defendant's conduct was extreme and outrageous because she alleges that defendants, without evidence or investigation, "combined to undermine [her] actual and rightful entitlement" to a PRE. Further, plaintiff argues that defendants acted with the knowledge that their conduct would cost plaintiff vast sums of money and could cause her to lose her home. However, plaintiff's complaint does not contain any allegations about defendants' knowledge when they allegedly discussed whether plaintiff lived in the Township or any factual allegations which would lead one to believe that defendants acted intentionally or recklessly in asserting that she did not live in the Township. Rather, plaintiff asserted only that Brooks and Tucker told Scripture she was not a resident. Again, this is simply insufficient to state a claim of intentional infliction of emotional distress. See *id*.

## VI. ESTOPPEL

Plaintiff also argues that the trial court erred by disregarding her claims and arguments related to the doctrine of estoppel. We disagree. The trial court did not err by dismissing plaintiff's claim for equitable estoppel because equitable estoppel is not an independent cause of action and the doctrine itself was inapplicable because plaintiff did not justifiably rely on Scripture's acceptance of her license as verification of her residency.

The general principles of the doctrine of equitable estoppel are well settled. Equitable estoppel may arise when:

> (1) a party by representations, admissions, or silence, intentionally or negligently induces another party to believe facts; (2) the other party justifiably relies and acts on that belief; and (3) the other party will be prejudiced if the first party is permitted to deny the existence of those facts. [*Twp of Williamstown v Sandalwood Ranch, LLC*, 325 Mich App 541, 553; 927 NW2d 262 (2018), quoting *Howard Twp Bd of Trustees v Waldo*, 168 Mich App 565, 575; 425 NW2d 180 (1988).]

"Equitable estoppel is not an independent cause of action, but instead a doctrine that may assist a party by precluding the opposing party from asserting or denying the existence of a particular fact." *Lakeside Oakland Development, LC*, 249 Mich App at 527, quoting *Conagra, Inc*, 237 Mich App at 140-141.

To the contrary, plaintiff argues that equitable estoppel may be asserted as an independent cause of action, relying on *AAMCO Auto Transmissions, Inc v Motor Trans, Inc*, 45 Mich App 539, 545-546; 207 NW2d 156 (1973). But this Court has recognized that, "[a]lthough there may be occasional aberrant opinions, the general rule is that equitable estoppel is a doctrine, not a cause of action." *Hoye v Westfield Ins Co*, 194 Mich App 696, 704; 487 NW2d 838 (1992). In *Hoye*,

this Court agreed with the discussion of equitable estoppel in Prosser's treatise on the law of torts[1] and confirmed that equitable estoppel may assist a plaintiff but is not a cause of action and provides no remedy. *Id*. at 706-707. In the present case, the trial court's opinion and order cited *Hoye* and properly dismissed plaintiff's purported claim for equitable estoppel for failure to state a claim.

Even if it may not be asserted as a cause of action, plaintiff argues that the trial court erred by not addressing plaintiff's arguments based on the doctrine of equitable estoppel. Plaintiff is correct that the trial court held that equitable estoppel could not be brought as an independent cause of action but did not otherwise address whether defendants should be equitably estopped from disputing her residency. Nonetheless, it is clear that equitable estoppel is inapplicable under these circumstances.

Plaintiff asserts that Scripture represented to her that he was accepting her driver's license as verification of her residency within the Township and, therefore, according to plaintiff, her entitlement to the PRE was established. However, plaintiff alleges Scripture then reported her lack of residency to the Department of Treasury, resulting in the denial of her PRE. Plaintiff argues that "[s]he had no reason to suspect that her residency would ever again be questioned until the Oakland County Treasurer posted a notice of delinquency on her door in 2022," demonstrating that she had relied upon Scripture's representations that he was accepting her residency to her detriment.

Accepting plaintiff's factual allegations as true, plaintiff did not justifiably rely on Scripture's representations for the proposition that her entitlement to a PRE was established in perpetuity. Under the GPTA, eligibility for a PRE may be reviewed on a yearly basis by the assessor of the local taxing authority and the Department of Treasury. MCL 211.77cc(6)-(8) (giving the assessor and department the authority to deny a claim for exemption for the current year and for the 3 immediately preceding calendar years.). Thus, it was not justifiable for plaintiff to believe that her residency was established with finality. Further, Scripture's representation to plaintiff would in no way preclude the Department of Treasury from determining that plaintiff did

---

[1] Prosser's discussion of equitable estoppel quoted in *Hoye* is as follows:

> For obvious reasons, [equitable estoppel] appears most frequently as a defense to an action brought by the party to be estopped; but, while it never has been recognized as a cause of action in itself, it may serve as an important, or even the sole, aid to the plaintiff. Thus a warehouseman, who represents that he holds goods for another in response to an inquiry by an intending purchaser from that other, or one who informs such a purchaser that his signature forged to a negotiable instrument is genuine, may be estopped to deny the truth of his statement if the purchase is made in reliance upon it; or a corporation which fails to require surrender of an old stock certificate when a new one is issued may find itself estopped as against a holder for value of the old certificate. In such cases the plaintiff prevails, not on the theory that the defendant's misrepresentation is tortious in itself, but because the defendant is not allowed to assert the truth, which would otherwise be a defense to some other action. [Prosser, Torts (4th ed), § 105, pp 691-692.]

not live in the township or denying her PRE, which it appears is what happened in this case. Accordingly, equitable estoppel is inapplicable.

Plaintiff also argues that Scripture's silence in failing to notify her that he had reported her alleged lack of residency to the Department of Treasury also provides a basis for estoppel and precludes defendants from asserting a statute of limitations defense. "Silence or inaction may form the basis for an equitable estoppel only where the silent party had a duty or obligation to speak or take action." *Conagra, Inc*, 237 Mich App at 141. Accepting as true plaintiff's allegation that Scripture reported to the Department of Treasury that plaintiff did not reside in the Township and would not be entitled to the PRE, plaintiff has not shown that Scripture had a duty to notify her of his communication with the Department of Treasury. Under MCL 211.77cc(7),

> [i]f the assessor of the local tax collecting unit believes that the property for which [an] exemption is claimed is not the principal residence of the owner claiming the exemption and has not denied the claim the assessor shall include a recommendation for denial with any affidavit that is forwarded to the department of treasury, or, for an existing claim, shall send a recommendation for denial to the department of treasury, stating the reasons for the recommendation.

Nothing in MCL 211.77cc(7) requires the assessor to notify the property owner. Rather, once the department makes the determination to deny the exemption, then the property owner is notified. MCL 211.77cc(8). Accordingly, Scripture's failure to notify plaintiff is not a proper basis for equitable estoppel.[2]

## VII. EQUITABLE CLAIMS

Next, plaintiff argues that the trial court erred by disregarding plaintiff's equitable claims. We disagree. The trial court did not err in dismissing plaintiff's claims for equitable relief because injunctive and declaratory relief are remedies and not causes of action.

"Injunctive relief is an extraordinary remedy that courts normally grant only when (1) justice requires it, (2) there is no adequate remedy at law, and (3) there exists a real and imminent danger of irreparable injury." *Higgins Lake Prop Owners Ass'n v Gerrish Twp*, 255 Mich App 83, 106; 662 NW2d 387 (2003) (quotation marks and citations omitted). But "[i]t is well settled that an injunction is an equitable remedy, not an independent cause of action. *Terlecki v Stewart*, 278 Mich App 644, 663; 754 NW2d 899 (2008). "It is not the remedy that supports the cause of action, but rather the cause of action that supports a remedy." *Id*. (quotation marks and citations omitted). Accordingly, when there is no claim, injunctive relief is unavailable. *Id*. at 664. Similarly, "[a]lthough it has become commonplace in this state for a plaintiff to assert a request for declaratory relief as a separately labeled cause of action within his or her complaint, this is

[2] As discussed throughout this opinion, even if equitable estoppel precluded defendants from disputing that plaintiff lived in West Bloomfield Township, defendants' arguments for dismissal did not depend on plaintiff's residency.

technically improper because declaratory relief is a remedy, not a claim." *Wiggins v City of Burton*, 291 Mich App 532, 561, 805 N.W.2d 517 (2011) (quotation marks and citations omitted).

As discussed, all of plaintiff's substantive claims—intentional infliction of emotional distress, invasion of privacy, and gross negligence—were properly dismissed by the trial court. Further, plaintiff's other claims—injunctive relief, declaratory relief, and equitable estoppel—are not causes of action. Plaintiff's argument that she is entitled to equitable relief even if she has no viable legal claims is without merit. As there were no causes of action, equitable relief was not available and the trial court did not err in dismissing plaintiff's claims for injunctive and declaratory relief. See *Terlecki*, 278 Mich App at 664.

## VIII. OAKLAND COUNTY TREASURER

Plaintiff also contests the trial court's dismissal of the Oakland County Treasurer. Although plaintiff concedes that she does not allege any wrongdoing by the Treasurer, she asserts that she is entitled to maintain an action for injunctive relief to prevent the foreclosure of her home during the pendency of the case. Plaintiff provides no caselaw or legal analysis to support her argument and this issue could be deemed abandoned for insufficient briefing. See *Tripp*, 346 Mich App at 273. Regardless, plaintiff's argument that she is entitled to maintain an action against the Treasurer without asserting any substantive claims against the Treasurer is without merit. As discussed, an injunction is an equitable remedy, not an independent cause of action. *Terlecki*, 278 Mich App at 663. "It is not the remedy that supports the cause of action, but rather the cause of action that supports a remedy." *Id*. (quotation marks and citations omitted). Thus, without a cause of action, injunctive relief is not warranted, and the trial court did not err in dismissing the Treasurer. See *id*.

## IX. MOTION TO AMEND

Plaintiff also argues on appeal that the trial court abused its discretion in denying her leave to amend her complaint. We disagree. The trial court did not abuse its discretion in denying plaintiff's motion for leave to amend her complaint after the trial court closed the case because plaintiff was given limited leave to amend and she failed to do so. Further, plaintiff failed to show grounds for relief from judgment under MCR 2.612.

Determination of a motion to amend the pleadings is "within the sound discretion of the trial court and reversal is only appropriate when the trial court abuses that discretion." *Weymers v Khera*, 454 Mich 639, 654; 563 NW2d 647 (1997). An abuse of discretion occurs when the trial court's decision is outside the range of principled outcomes, or the trial court makes an error of law. *Jawad A Shah, MD, PC v State Farm Mut Auto Ins Co*, 324 Mich App 182, 205-206; 920 NW2d 148 (2018).

"If a trial court grants summary disposition pursuant to MCR 2.116(C)(8), (C)(9), or (C)(10), the court must give the parties an opportunity to amend their pleadings pursuant to MCR 2.118, unless the amendment would be futile." *Yudashkin v Holden*, 247 Mich App 642, 651; 637 NW2d 257 (2001) (quotation marks and citation omitted); see also MCR 2.116(I)(5) ("If the grounds asserted are based on subrule (C)(8), (9), or (10), the court shall give the parties an opportunity to amend their pleadings as provided by MCR 2.118, unless the evidence then before

the court shows that amendment would not be justified.") "An amendment is futile if it merely restates the allegations already made or adds allegations that still fail to state a claim." *Yudashkin*, 247 Mich App at 651 (quotation marks and citation omitted). Generally, "[l]eave [to amend] shall be freely given when justice so requires." MCR 2.118(A)(2).

In the present case, defendants moved for summary disposition and the trial court dismissed the entirety of plaintiff's first amended complaint, relying on both MCR 2.116(C)(4) and (C)(8). At that time, the trial court granted plaintiff limited leave to amend her claim for gross negligence against defendants Brooks and Tucker within 14 days. But plaintiff failed to amend her complaint, and the trial court entered an order closing the case on September 16, 2024. A few days later, on September 19, 2024, plaintiff moved for leave to amend her complaint more fully and for relief from the trial court's order dismissing the case. Plaintiff argued that her counsel had undergone eye surgery and had complications which kept him from working for several days and while working on other matters had "overlooked" service off the trial court's opinion and order granting defendants summary disposition and granting plaintiff leave to amend.

On appeal, plaintiff argues succinctly and correctly that it is well settled a trial court must give the non-moving party an opportunity to amend their pleadings when granting a motion for summary disposition based on the failure to state a claim. However, plaintiff ignores the crucial fact that the trial court gave her the opportunity to amend her complaint, and she failed to do so, which prompted the trial court to close the case. Although the trial court's opinion only granted leave to amend in a limited capacity, plaintiff not only had the opportunity to amend her complaint, but also the ability to request leave to make further amendments. Accordingly, the trial court did not abuse its discretion in this regard.

After the close of the case, plaintiff moved for relief from judgment under MCR 2.612(C)(1)(a), arguing that her counsel committed excusable neglect in failing to recognize receipt of the trial court's opinion and order and failing to amend her complaint because he had recently undergone eye surgery and had been attending to other legal matters.

MCR 2.612(C)(1)(a) allows a court to set aside a final judgment, order, or proceeding on the grounds of "mistake, inadvertence, surprise, or excusable neglect." There is little published caselaw on what constitutes sufficient "excusable neglect" to relieve a party from a final order or judgment. However, this Court has been clear that "MCR 2.612(C)(1)(a) was not designed to relieve counsel of ill-advised or careless decisions." *Limbach v Oakland Co Bd of Co Rd Comm'rs*, 226 Mich App 389, 393; 573 NW2d 336 (1997) (quotation marks and citation omitted). The general rule is that "an attorney's negligence is attributable to that attorney's client[.]" *Amco Builders & Developers, Inc v Team Ace Joint Venture*, 469 Mich 90, 96; 666 NW2d 623 (2003).

Neither of the reasons articulated by plaintiff justified setting aside the final order closing the case. As defendants Brooks and Tucker persuasively argued, an attorney's busy schedule and case load do not give rise to a finding of excusable neglect. See *Daugherty v State*, 133 Mich App 593, 597; 350 NW2d 291 (1984). Accordingly, plaintiff's counsel's work on other cases does not constitute excusable neglect. And while plaintiff's counsel's medical issues are understandable and may have impacted his work for a short time, it has not been demonstrated that his medical condition prevented him from acknowledging service of the trial court's opinion granting summary disposition or from taking any necessary action. Plaintiff's counsel represented to the trial court

that his surgery took place on August 29, 2024, and he had several post-surgical appointments over the next 7 days to address complications. But plaintiff's counsel then returned to work, leaving him sufficient time before the trial court's 14-day deadline to amend the complaint in a limited capacity or move for leave to make more significant amendments. Therefore, the trial court did not abuse its discretion in denying plaintiff's motion for relief from judgment and leave to amend.

## X. DUE PROCESS

Finally, plaintiff argues that the manner in which the hearing on the motions for summary disposition was conducted was so chaotic that it prejudiced plaintiff and warrants vacating the trial court's decision. We disagree. This issue was not preserved for appellate review and plaintiff fails to provide any legal analysis to support her claim that the hearing was so prejudicial it warrants vacating the trial court's ruling. Accordingly, we need not address this issue, *Polkton Charter Twp v Pellegrom*, 265 Mich App 88, 95; 693 NW2d 170 (2005), and deem it abandoned on appeal, *Tripp*, 346 Mich App at 273.

To preserve an issue for appeal, "the party asserting error must demonstrate that the issue was raised in the trial court." *Tolas Oil & Gas Exploration Co v Bach Servs & Mfg, LLC*, 347 Mich App 280, 289; 14 NW3d 472 (2023). "As a general rule, an issue is not preserved if it is raised for the first time in a motion for reconsideration in the trial court." *George v Allstate Ins Co*, 329 Mich App 448, 454; 942 NW2d 628 (2019). We need not address an issue that is raised for the first time on appeal. *Polkton Charter Twp*, 265 Mich App at 95.

Plaintiff suggests that this issue was preserved because plaintiff's counsel "had to twice complain that he could not follow what was being said and by whom to enable him to respond." In doing so, plaintiff cites several pages of the transcript and does not identify any particular statements or any actual objection to the manner in which the hearing was conducted. Review of the record reflects that plaintiff's counsel at one point stated: "Counsel's bounced all over the place in her response. And it's very difficult for me to follow." Shortly thereafter, plaintiff's counsel referenced again that defendant Brooks and Tucker's counsel's argument had "bounced all over." In context, plaintiff's counsel was complaining about the arguments of one attorney that touched on several issues, not the overall conduct of the hearing. Plaintiff's comments were not sufficient to preserve an objection to the manner in which the hearing was conducted. Therefore, this issue was not preserved for appeal. See *Tolas Oil & Gas*, 347 Mich App at 289.

After the case was closed, plaintiff argued in a preface to her motion for reconsideration that the June 26, 2024 hearing on the motions for summary disposition "was not conducted in an orderly manner" and that the manner in which the hearing was conducted was "highly prejudicial" to plaintiff. Plaintiff argued that "the court apparently lost Plaintiff's arguments in the chaos of the hearing, as it did not address in any way critical components of Plaintiff's responses." But raising an issue for the first time in a motion for reconsideration does not preserve it for appellate review. See *George*, 329 Mich App at 454.

We "may overlook preservation requirements if the failure to consider the issue would result in manifest injustice, if consideration is necessary for a proper determination of the case, or if the issue involves a question of law and the facts necessary for its resolution have been presented." *Smith v Foerster-Bolser Contr, Inc*, 269 Mich App 424, 427; 711 NW2d 421 (2006).

After reviewing the record and in light of plaintiff's limited briefing on this issue, there is not sufficient evidence of manifest injustice to overlook the preservation requirements.

## XI. CONCLUSION

The trial court did not err in granting summary disposition to all defendants and in denying plaintiff leave to amend after the case was closed. We affirm.

/s/ Daniel S. Korobkin
/s/ Michelle M. Rick
/s/ Allie Greenleaf Maldonado