

Rule 3.7(b) (6th Judicial Cir. Ct. R. 3.7(b) (Nov. 1, 1992)). In March 2012, plaintiff filed a motion to reconsider, and in May 2012, the court denied the motion. Plaintiff appeals, arguing the court abused its discretion by dismissing its amended complaint under local Rule 3.7(b). We affirm.

¶ 4

I. BACKGROUND

¶ 5 On July 8, 2003, the Sidhus' 2003 Mercedes Benz C240 caught on fire in their garage, located at 2502 Branch Road in Champaign, Illinois. The Mercedes was parked next to the Sidhus' 1999 Honda CR-V and their 2001 Audi TT Convertible. The fire destroyed all three vehicles and caused property damage to the Sidhus' house and garage. Plaintiff, as the Sidhus' insurer, paid the Sidhus \$215,054.93 for their damage and loss.

¶ 6 On July 3, 2008, within the five-year statute of limitations, plaintiff filed a five-count complaint against defendant, as the Sidhus' subrogee, seeking reimbursement from defendant for the money it paid to the Sidhus. Plaintiff alleged defendant was responsible for the fire the Sidhus' Mercedes started. On May 21, 2009, plaintiff served defendant with the complaint.

¶ 7 On June 22, 2009, defendant filed a motion for an extension of time to answer plaintiff's complaint. On June 25, 2009, the trial court granted defendant's motion and allowed defendant to file an answer up to and including July 10, 2009. On July 13, 2009, defendant filed a motion to dismiss plaintiff's complaint, citing section 2-619.1 of the Code of Civil Procedure (Civil Procedure Code) (735 ILCS 5/2-619.1 (West 2008)).

¶ 8 On September 29, 2009, the trial court dismissed by docket entry counts I, II, III, and IV without prejudice and count V with prejudice.

¶ 9 On August 24, 2011, 23 months later, plaintiff filed an amended complaint. On December 22, 2011, defendant filed a motion to dismiss plaintiff's amended complaint, alleging in part it was untimely filed, citing local Rule 3.7.

¶ 10 On February 24, 2012, the trial court granted defendant's motion. Finding local Rule 3.7 applied, the court dismissed the cause of action with prejudice because there had been no action of record for over 18 months. The court also noted plaintiff had not requested leave of court to file its amended complaint and had not shown good cause for filing 23 months after the dismissal of its original complaint.

¶ 11 On March 19, 2012, plaintiff filed a motion to reconsider, alleging the trial court misapplied the law. Plaintiff argued the court misunderstood local Rule 3.7 as mandating dismissal of a cause of action where there has been no action of record for 18 months. Plaintiff further argued the burden was on defendant to show why the cause should have been dismissed.

¶ 12 On May 3, 2012, the trial court denied plaintiff's motion to reconsider. The court explained it was aware local Rule 3.7 did not mandate dismissal but that the court had the discretion to dismiss plaintiff's cause and chose to do so. The court reiterated plaintiff had not shown good cause to allow the matter to proceed and plaintiff "decided to sit on the matter." The court also noted the length of time it took plaintiff to file its amended complaint and serve it on defendant and emphasized how eight years had passed since the alleged incident.

¶ 13 This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 On appeal, plaintiff argues the trial court abused its discretion when it dismissed its complaint pursuant to local Rule 3.7. Plaintiff proffers two reasons why the court should not

have dismissed its cause: (1) *In re Marriage of Jackson*, 259 Ill. App. 3d 538, 631 N.E.2d 848 (1994), cited by the court in its order dismissing the cause, does not support the court's ruling; and (2) Rule 3.7 does not mandate dismissal. We address each in turn.

¶ 16 A. Did The Trial Court Improperly Rely on *Jackson*?

¶ 17 Plaintiff first argues *Jackson* does not support the trial court's order. Before we address plaintiff's assertions as to why the court's reliance on *Jackson* is erroneous, we review the court's written order and the court's understanding of *Jackson*.

¶ 18 In its February 24, 2012, written order, the trial court cited local Rule 3.7 as authority for dismissing plaintiff's cause of action. As further support for its decision, the court cited and discussed this court's holding in *Jackson*. The court's reading of *Jackson* was that the circuit court had dismissed the respondent's motion to vacate default judgment "because it violated [R]ule 3.7." The court's order continued, explaining we affirmed the circuit court in *Jackson* "despite the fact that [we] were sure the motion would have won on its merits." The court's reading of *Jackson* is, however, in error.

¶ 19 In *Jackson*, the petitioner filed for a dissolution of marriage and was able to obtain a default judgment against the respondent by convincing the trial court the respondent had knowledge of the proceedings and only disagreed with one provision of the proposed dissolution judgment. *Jackson*, 259 Ill. App. 3d at 540, 631 N.E.2d at 849-50. After the court entered the default judgment, the respondent filed a motion to vacate the default judgment. *Jackson*, 259 Ill. App. 3d at 541, 631 N.E.2d at 850. The respondent, however, *did not set the motion for hearing until 18 months later*. *Id.* Local Rule 2.1(j) (6th Judicial Cir. Ct. R. 2.1(j) (June 1, 1983)) allowed the court to consider the respondent's motion withdrawn if she had not set it for hearing

within 90 days from the date of filing. *Id.* Because the respondent had waited 18 months, the court struck the respondent's motion as not being presented for hearing in a timely manner. *Id.* The court also found "the motion would not serve the ends of substantial justice between the parties, considering the interests of the minor children." *Id.*

¶ 20 On appeal, we reviewed the trial court's decision to deny the respondent's motion for an abuse of discretion. *Jackson*, 259 Ill. App. 3d at 542, 631 N.E.2d at 850. We concluded the court did not abuse its discretion in denying the respondent's motion to vacate the default judgment because the court had authority under local Rule 2.1(j) to strike the respondent's motion, and it was proper for the court to do so where the respondent "sat on her rights for 18 months before filing a notice of hearing." *Jackson*, 259 Ill. App. 3d at 543, 631 N.E.2d at 851-52.

¶ 21 Thus, the trial court herein incorrectly believed (1) the circuit court in *Jackson* struck the respondent's motion under local Rule 3.7 and (2) we affirmed on such basis. The court's misunderstanding of *Jackson*, however, is not fatal to the court's holding in this case. "Circuit courts have the power to enact and enforce rules regulating their calendars and dockets as long as the rule does not conflict with supreme court rules or statutory law." *Salazar v. Wiley Sanders Trucking Co.*, 216 Ill. App. 3d 863, 869, 576 N.E.2d 552, 556 (1991); see also 735 ILCS 5/1-104(a), (b) (West 2010)). The court cited local Rule 3.7 as authority for dismissing the cause, which it had the power to do. We will not overturn the court's decision absent an abuse of discretion. *Salazar*, 216 Ill. App. 3d at 869, 576 N.E.2d at 556.

¶ 22 We further note, although citation to an opinion affirming a dismissal under local Rule 3.7 would have provided additional support for the court's holding, the existence of such

authority was not requisite to the court's ability to enforce the rule.

¶ 23 Because we have determined the trial court's reliance on *Jackson* was not crucial to its decision to dismiss plaintiff's cause under Rule 3.7, nor was the court's misunderstanding and application of *Jackson* detrimental to its authority to do so, we need not address plaintiff's arguments as to why it believes the court improperly relied on *Jackson*.

¶ 24 B. Did The Trial Court Abuse Its Discretion?

¶ 25 Local Rule 3.7 provides the trial court *may* summarily dismiss a cause of action which has sat on its docket for a period of 18 months without any action of record. Rule 3.7 further provides "the cause of action *** *shall* not thereafter be redocketed without both good cause shown and leave of court." (Emphasis added.) 6th Judicial Cir. Ct. R. 3.7(a) (Nov. 1, 1992). Rule 3.7 is discretionary.

¶ 26 The record shows the trial court understood local Rule 3.7 to be discretionary, and the court, in its discretion, found the circumstances in this case warranted a dismissal. The record supports the court's holding, and thus, we defer to the court's determination.

¶ 27 In July 2008, plaintiff filed its complaint, and in September 2009, the trial court dismissed four of the five counts without prejudice. Plaintiff waited 23 months before filing an amended complaint in August 2011. In February 2012, the court dismissed plaintiff's cause pursuant to local Rule 3.7, explaining more than 18 months had passed. Plaintiff neither offered an explanation for the 23-month delay nor provided the trial court with "any good cause reason to allow th[e] matter to proceed." The court also noted more than eight years had passed since the alleged incident had occurred. On reconsideration, the court emphasized plaintiff "decided to sit on the matter," and the only explanation it provided for proceeding was a lack of prejudice to

defendant. On this record, we conclude the court did not abuse its discretion in dismissing plaintiff's cause.

¶ 28

III. CONCLUSION

¶ 29

For the reasons stated, we affirm the trial court's judgment.

¶ 30

Affirmed.