

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-500

Filed 07 February 2023

Buncombe County, No.19 CVD 2859

PAULA CAROL DENTON, Plaintiff,

v.

STEVEN LOUIS BAUMOHL, Defendant.

Appeal by Defendant from order entered 10 January 2022 by Judge Susan Dotson-Smith in Buncombe County District Court. Heard in the Court of Appeals 16 November 2022.

Lakota R. Denton for Plaintiff-Appellee.

Mary Elizabeth Arrowood for Defendant-Appellant.

GRIFFIN, Judge.

Defendant Steven Louis Baumohl appeals from an order sanctioning Defendant pursuant to Rule 11 of the North Carolina Rules of Civil Procedure and Rule 21.3(n) of the 28th Judicial District Family Court Domestic Rules, as well as denying Defendant's motion for Rule 11 sanctions against Plaintiff's counsel. Defendant argues that his actions did not rise to the level of a sanctionable Rule 11

violation, the sanctions award against Defendant was not reasonable and appropriate, and the trial court erred in denying Defendant's Rule 11 motion against Plaintiff. We affirm the trial court's order.

I. Factual and Procedural Background

On 1 July 2019, Plaintiff Paula Carol Denton filed a complaint against Defendant, her husband at the time, after they separated earlier that year. On 5 June 2020, Defendant's counsel filed a notice of appearance on his behalf. A little over a month later, a consent order was entered and signed by the parties. As part of the consent order, the parties agreed to "waive further claims against one another" based on conduct occurring prior to the consent order.

On 10 June 2021, Defendant filed a complaint against Plaintiff for events that took place prior to the entry of the consent order. Additionally, Defendant filed eight motions, between 28 January 2021 and 10 May 2021, that he signed in his own name and did not include the signature of his attorney of record. Accordingly, Plaintiff filed a motion for Rule 11 sanctions and sanctions for violation of Domestic Rule 21.3(n) after Defendant disregarded the consent order and filed the motions without the signature of his attorney of record. On 13 September 2021, Defendant filed affirmative defenses against Plaintiff's motion for sanctions and filed his own motion against Plaintiff for Rule 11 sanctions.

On 10 January 2022, the trial court entered an order sanctioning Defendant

“under Rule 11 of the North Carolina Rules of Civil Procedure and Domestic Rule 21.3(n) in the amount of \$400 for filing 8 motions which violate Rule 11[.]” Additionally, the trial court ordered Defendant to pay \$1,500 in attorney’s fees to Plaintiff’s trial counsel. The trial court denied Defendant’s motion for Rule 11 sanctions against Plaintiff. Defendant timely appeals.

II. Analysis

This Court reviews an imposition of Rule 11 sanctions *de novo*. *Turner v. Duke Univ.*, 325 N.C. 152, 165, 381 S.E.2d 706, 714 (1989). If we determine the trial court’s findings of fact are supported by sufficient evidence, the findings of fact support the conclusions of law, and the conclusions of law support the judgment, then this Court “must uphold the trial court’s decision to impose or deny” Rule 11 sanctions. *Id.* Unchallenged findings are binding on appeal. *Auto. Grp., LLC v. A-1 Auto Charlotte, LLC*, 230 N.C. App. 443, 448, 750 S.E.2d 562, 566 (2013) (citation omitted).

Defendant argues the trial court erred in ordering sanctions against him because it was not in violation of Rule 11 to “have an attorney of record represent the litigant on legal issues and concurrently for the litigant to file and sign pleadings and appear pro se on other legal issues[.]”

Rule 11 requires “[e]very pleading, motion, and other paper of a party represented by an attorney [] be signed by at least one attorney of record in his individual name[.]” N.C. R. Civ. P. 11(a). “If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall

impose upon the person who signed it, a represented party, or both, an appropriate sanction[.]” *Id.* The 28th Judicial District Family Court Domestic Rules state that “[a]n attorney who has made an appearance in a case is the attorney of record until such time as the Court enters an order allowing withdrawal.” 28th Jud. Dist. Fam. Ct. Dom. R. 3.4.

Defendant does not challenge any of the trial court’s findings regarding the imposition of sanctions and those findings are thus binding for our review. The trial court made the following findings of fact:

3. That the Plaintiff and Defendant both signed a consent Judgment filed July 8, 2020 which states in part, “The parties waive further claims against one another; that any conduct on the part of either party occurring prior to the execution of this judgment which may have constituted the basis for any legal claim by either party against the other, is hereby waived and released and will not be used by either party against the other in any future proceeding between them”. The Court notes that this consent order intended to resolve issues for the family court matters. Two family law attorneys guided their parties to an agreement to which the parties consented and submitted to the Court for its entry as an order.

4. That on June 10, 2021 the Defendant filed . . . a civil complaint . . . which named Paula Denton as a Defendant. The complaint made factual allegations of events which took place prior to date the Consent Judgment was signed on July 8, 2020.

. . .

8. The Court recognizes that attorneys who make an appearance are presumed to fully representing their clients unless clearly requesting by proper pleading the

desire to make a limited appearance for a reasonable purpose. As such their pleadings shall comport with the requirement of litigants represented by attorneys. The Court does find that both attorneys and their clients must comport with these rules to allow for a fair administration of justice, due process for all litigants, and for attorneys to have control over their trial strategy and be able to best represent their clients while also being able to be candid with the Court, consistent with their ethical duties as practitioners.

...

10. That the Defendant's Attorney Beth Arrowwood filed a notice of appearance in this matter on June 5, 2020. That Defendant Baumohl was, prior to the appearance of attorney Arrowwood, a self representing litigant, however after she made her appearance he became a represented party and as such his attorney must expressly request a limited appearance that is reasonable and the Court may, at that point, allow said appearance. Mr. Baumohl's pro se pleadings have created litigation, wasted court time, and complicated the ability for all to properly follow civil procedure and local rules. Although the Court tried to provide some clarity on this issue earlier, the decisions made by Mr. Baumohl cannot be overlooked. Attorney Arrowwood has been Mr. Baumohl's attorney of record since she filed a notice of appearance [on] June 5, 2020. Since that date, Mr. Baumohl has not been a self-represented litigant.

...

12. That the Defendant filed 8 motions from January 28, 2021 to May 10, 2021 that were signed by the Defendant in his own name, without the signature of his attorney of record, Beth Arrowwood.

These findings support the trial court's conclusions of law that Defendant was no longer a self-represented litigant and that he violated Rule 11, the Domestic Rules,

and various court orders when he filed eight motions without the signature of his attorney of record and when he filed a civil action against Plaintiff for actions that took place prior to the consent order. Accordingly, these conclusions support the trial court's order sanctioning Defendant for these violations. We affirm the trial court's imposition of sanctions against Defendant.

Next, Defendant argues that the trial court erred in denying his motion for sanctions against Plaintiff's counsel. Regarding Defendant's motion for sanctions, the trial court made the following findings:

15. Prior contempt orders did not address the specific emails and timing of the actions raised under the Plaintiff's current Rule 11 motion.

16. That the motion filed by Plaintiff for contempt was not filed for an improper purpose in that there were issues with Defendant's compliance. And although the Defendant would like to argue that Plaintiff could have chosen a less litigious method to address compliance, it was Defendant's decision to file in Superior Court against the Plaintiff which unraveled an otherwise resolved equitable distribution case.

17. The Defendant's Rule 11 arguments have merit in that it is true that the Plaintiff's attorney did not adequately present or plead contempt in his October 28, 2020 motion. His inability to discern between criminal and civil contempt as well as his desire to rely solely on inherent sanctions was of concern to this Court, and the Court has addressed those issues in part by denying his motions for contempt. In addition, the Court sees the tardiness in Defendant's filing to be a tactic by the Defendant to offset Plaintiff's raised concerns, and although the Court is tempted, this Court has a duty to not be swayed by such tactics. The Court finds that it has addressed the issues

and inadequacies raised in the contempt motion of Defendant by denying the motions for contempt and therefore is not ordering further sanctions on those matters.

From these findings, the trial court concluded that “it has already adequately addressed the issues raised by Defendant’s Rule 11 motion in its decision to deny prior motions filed by Plaintiff.” The trial court further concluded that it was inappropriate “to award attorney’s fees to Defendant given the Court’s interpretation of the late filed motion to be an effort of offsetting Plaintiff’s motion.” Based on these findings of fact and conclusions of law, the trial court ordered that Defendant’s motion be denied.

Defendant challenges only part of Finding of Fact #17 describing the trial court’s view that “the tardiness in Defendant’s filing to be a tactic by the Defendant to offset Plaintiff’s raised concerns[.]” However, even without this part of the finding, the remainder of Finding of Fact #17 supports the trial court’s decision to deny Defendant’s motion for sanctions since the trial court determined that the denial of Plaintiff’s previous motions for sanctions adequately addressed the issues raised in Defendant’s motion. Defendant challenges no other findings pertaining to his motion, and they are thus binding on our review. *Auto. Grp., LLC*, 230 N.C. App. at 448, 750 S.E.2d at 566.

After reviewing the trial court’s order, we conclude that the trial court’s findings of fact support its conclusions of law which led to the trial court’s dismissal

of Defendant's motion. Therefore, we uphold the trial court's denial of Defendant's motion.

Finally, Defendant argues that "there is nothing in the order to explain the appropriateness of the attorney fee and sanction imposed or to indicate how the Court arrived at that figure." The appropriateness of the sanction is reviewed for an abuse of discretion. *Turner*, 325 N.C. at 165, 381 S.E.2d at 714. An abuse of discretion occurs where it is shown that the trial court's "actions are manifestly unsupported by reason." *White v. White*, 312 N.C. 770, 777, 324 S.E.2d 829, 833 (1985) (citation omitted). An appropriate sanction for violation of Rule 11 "may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee." N.C. R. Civ. P. 11(a). Further, the Domestic Rules allow the trial court, with discretion, to "order a fine of a minimum of fifty dollars (\$50.00) against a party for . . . failure to adhere to any Rules herein or abide by Court Orders." 28th Jud. Dist. Fam. Ct. Dom. R. 21.3(n).

Here, the trial court made the following findings regarding the appropriateness of the sanctions:

14. That [Plaintiff's attorney] expended more than 16 hours of time handling the motions, communications with counsel and communications with the parties in association with the motions, emails and pleadings filed by Defendant Baumohl described herein. Although the Court would have preferred an itemization of these hours and a more thorough acknowledgement of what the local market

had deemed reasonable, it has sufficient information to determine the adequacy of the request within the context of a limited award.

...

19. That Plaintiff's counsel expended a reasonable amount of time responding to Defendant Baumohl's motions and communications and pleadings described herein, and prosecuting the motions for sanctions.

20. That Plaintiff's attorney's fees are within the range of usual, normal and reasonable fees in representation of matters of this type with an hourly rate of \$250 an hour.

Based on these findings, the trial court concluded:

30. That given the evolution of these matters, the Gatekeeper Order now in place remains an appropriate remedy to prevent Defendant's further violation of Court Orders and Rules of Civil Procedure. That the Defendant Baumohl should be sanctioned for repeated violations of Court Orders as described herein. The purpose of this sanction is to deter future violations of Court Orders. Although the subsequent "Gatekeeper Order" entered on August 23, 2021 is a type of deterrent to future inappropriate filings, it is also appropriate to further sanction the Defendant to deter others from attempting to circumvent Rule 21.3(n). A reasonable sanction of \$400 is in this Court's discretion under Rule 11 of the North Carolina Rules of Civil Procedure and Local Rule 21.3(n).

31. That Plaintiff's counsel expended a reasonable amount of time responding to Defendant Baumohl's motions and communications and pleadings described herein, and prosecuting the motions for sanctions.

32. That Plaintiff's attorney had usual, normal and reasonable fees in representation of matters of this type with an hourly rate of \$250 an hour.

33. That Plaintiff's counsel had reasonable attorney's fees associated with these matters, however, the Court finds it appropriate to limit these fees given the totality of the pleadings filed and evidence submitted.

. . .

35. The Court finds that as it is limiting the fees awarded to [Plaintiff's attorney], that it has had submitted sufficient information for the Court to determine that his fees for work performed regarding this matter are reasonable.

Based on the trial court's findings and conclusions, it is evident that the trial court utilized a reasoned approach in determining the sanctions award and Plaintiff's attorney's fees, even going so far as to limit the amount of attorney's fees that Defendant would have to pay. Therefore, we hold that the trial court did not abuse its discretion in ordering sanctions.

III. Conclusion

For the foregoing reasons, we affirm the trial court's order for sanctions against Defendant.

AFFIRMED.

Judges ZACHARY and HAMPSON concur.

Report per Rule 30(e).