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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-871

Filed 18 November 2026

Randolph County, No. 22CVS002283-750

CAMELA BEANE CRUTCHFIELD, by and through her guardian, PERRY BEANE and ALFRED MURPH CRUTCHFIELD, Plaintiffs,

v.

MARY HOLLYFIELD BISSETTE, TED LOUIS BISSETTE, REBECCA SUE CRUTCHFIELD, and ALFRED NOLAND CRUTCHFIELD, Defendants.

Appeal by Defendants from orders and judgments entered 5 August 2024 by Judge Clayton D. Somers in Randolph County Superior Court. Heard in the Court of Appeals 11 August 2026.

Beacon Legal PLLC, by Gavin J. Reardon, and Rossabi Law Partners, by Amiel J. Rossabi, for Plaintiff-Appellees.

Mark Hayes for Defendant-Appellants.

GRIFFIN, Judge.

Defendants contend on appeal that the trial court erred in (1) allowing the Plaintiffs to question Defendant Mary Bissette about pending felony charges, (2) permitting an expert witness to testify about the legal effect of a document, (3) denying Defendants' Motion for Directed Verdict as to Ted Bissette, (4) awarding

attorney's fees under N.C. General Statute section 6-21.5, and (5) finding all Defendants, including Ted Bissette and Rebecca Crutchfield, jointly and severally liable for attorney's fees. We hold Defendants received a trial free from prejudicial error.

I. Factual and Procedural Background

This case centers around a familial dispute. Plaintiffs in this action are Alfred Crutchfield and his wife Camela Crutchfield. Defendants are Mary Bissette, Ted Bissette, Rebecca Crutchfield, and Alfred Noland Crutchfield.

Alfred Crutchfield has three children: Mary Hollyfield Bissette (also referred to in the proceedings as Holly and Virgiline), Alfred Noland Crutchfield ("Noland") and Beverly McGee. Mary is married to Ted Bissette. Noland is married to Rebecca Crutchfield. Beverly McGee is married to Doug McGee. Beverly and Doug share a daughter Jessica Donahoe. Alfred's wife Camela has a son, Perry Beane, who is married to Lindsey Beane. While this matter was pending, Alfred passed away and Perry was appointed as Camela's guardian.

Alfred and Camela owned, as tenants by the entirety, a property located in Liberty, NC (the "property"), as evidenced by an Entireties Deed recorded on 5 February 2021. In June of 2022, the North Carolina Department of Transportation ("DOT") informed Alfred and Camela that part of the property would be condemned and offered them $1.4 million. After this offer, Mary and Noland met with an attorney concerning the property and condemnation action, even though they did not

have a legal interest in the property. Alfred was adamant that he was not pleased with the DOT's decision to condemn his property.

In the summer of 2022, Alfred's wife Camela began exhibiting signs of memory loss. On a family trip to Pennsylvania in July of 2022, Camela went missing and the family had trouble locating her. In early August of 2022, Mary took Camela to see her Nurse Practitioner ("NP") and discussed Camela's medical history including concerns about memory issues. The NP opined that the onset of Camela's dementia was in July of 2022.

Additionally, in the summer of 2022, the family held a couple of meetings to discuss ways they could help Alfred and Camela. On 23 July 2022 the family met at Alfred's house; Noland, Mary, Ted, Lindsey, and Perry were present. Perry communicated to his wife, Lindsey, that Camela needed assistance paying her bills. Lindsey testified that Perry and Alfred agreed that Perry should become Camela's financial power of attorney ("POA"). When Mary learned of this, she screamed at Lindsey and said, "over my dead body." Several family members testified that Mary and Camela did not have a good relationship. Alfred witnessed the verbal altercation between Mary and Lindsey and told his family members that "nobody would be anybody's power of attorney until everybody agreed."

Several days later, on 31 July 2022, Mary took Alfred to the hospital because he was dehydrated and suffering from COVID. Alfred testified that his daughter Mary brought papers with her to the hospital and prompted him to sign them. At the

time of the signing, Alfred was lying on a stretcher in the hospital, he testified that he "was knocked out of it" and "didn't know where [he] was at[.]" Alfred did not know what he signed or even if he signed the papers. The document Alfred signed was, in fact, a financial POA, naming Mary and Noland as joint agents.

Two nurses at the hospital witnessed Alfred's financial POA. Mary testified she did not tell the nurses what the document was, she just asked for two people to serve as witnesses. Both nurses testified that Mary indicated the document was a medical POA and had they known it was a financial POA they would not have witnessed it as industry standards prohibit them from doing so. One of the nurses, Amber Strunk, testified that only Alfred, Mary, herself, and the other nurse were present in the room for the signing. The other nurse, Melisse Wright, testified she does not recall whether anyone was in the room other than Amber, Alfred, and Mary. Mary testified Ted was present in the room when Alfred signed the POA. Ted notarized the document. While Mary testified that the four named Defendants did not "scheme to dupe Alfred into signing [the] document[,]" she did testify "[w]e had previously discussed it."

The next day, 1 August 2022, Mary drove Camela to her office to execute a financial POA. Mary explained the terms of the document to Camela. Robert Binge testified that both Mary and Ted requested he witness Camela's POA. Mary asked another woman, Lynn Morgan, to witness the POA as well. Both witnesses were patients of Ted, and the POA execution took place at Piedmont Agency Counseling

after Camela expressed to Robert that they were unable to find a notary elsewhere. Camela, Mary, Ted, Robert, and Lynn were present in the room during the signing. Ted notarized the document. The financial POA named Camela's stepchildren, Mary and Noland, as joint agents. Alfred testified that Camela was in no condition to sign the financial POA.

Both POA signings occurred while Perry and Lindsey were out of town, and Mary and Noland did not inform the family that they intended to have Alfred and Camela execute POAs. Mary downloaded the POA forms from the internet and filled in the blanks herself.

After the POAs were executed, both Camela and Alfred's personal property started to be removed from their possession. Alfred repeatedly asked his granddaughter Jessica why Noland and Mary were removing vehicles, keys, and titles from his property. On one occasion, Alfred testified that Noland, Rebecca, and Ted came to his house in the early morning hours and took Camela's lawnmower. He stated it was not the first occasion he and Camela's personal property had been taken from their possession. Jessica testified that Mary, Ted, and Noland were all present when the lawnmower was dropped off at her house. Jessica discussed the missing property with Alfred, and he indicated his intent to contact the sheriff. Additionally, Alfred told Jessica that Mary had threatened to put Camela in a home and put him in jail.

The family constantly disagreed about managing Alfred and Camela's affairs

and on 18 August 2022 a physical altercation ensued. Noland testified that at one point Alfred grabbed Mary by the throat, which resulted in charges being filed against Alfred for assault on a female. Alfred testified he did not grab her neck; rather, he pushed Mary away with his arm when she tried to get him to sign more papers. Ultimately, the charges against Alfred were dropped because "[i]t is the State's position that these charges are retaliatory in nature or an attempt to coerce [Alfred] into signing legal documents against his will."

Lindsey then discovered the POAs in late August of 2022. At this point, Alfred told Jessica that he was unaware he and Camela had signed POAs. Alfred, Camela, and Lindsey went to meet with an attorney, Steve Arrington, to discuss the matter. Mr. Arrington determined Alfred would be able to sign a new POA. He recommended the family pursue guardianship for Camela as she was in "no shape to sign" a POA. Lindsey and her husband Perry decided to pursue guardianship.

On 25 August 2022, Alfred executed a new POA, naming Jessica as his agent. On 2 September 2022, Alfred signed a POA revocation to revoke the 31 July 2022 POA. The same day, the following items were sent by certified mail to Mary and Noland: a copy of the POA revocation; a petition for Camela's guardianship; and a notice that a hearing for the appointment of an interim guardian would be held on 8 September 2022. The certified mail was delivered to Noland's address and signed by Rebecca on 6 September 2022. Four attempts were made to deliver the certified mail to Mary's address. The POA revocation was not recorded in the register of deeds until

14 November 2022.

Despite the certified copy not being delivered to Mary's address, Mary and Ted were present at the guardianship hearing for Camela. At the hearing, Ted made comments to Perry asking if he really wanted to pursue the guardianship. There were so many comments and disruptions made at the hearing that the hearing officer moved the family to another room and asked for a sheriff's deputy. An order for the appointment of an interim guardian for Camela was signed on 13 September 2022.

Notwithstanding the above actions, on 9 September 2022, a General Warranty Deed was filed in the Randolph County Register of Deeds office deeding the property from Alfred and Camela (Grantors) to Mary, Ted, Noland, and Rebecca (Grantees). Mary and Noland both signed their names as Attorney in Fact for Alfred and for Camela. Mary and Noland testified they transferred the property so they would be able to negotiate with the DOT. Mary also testified that she took the deed and registered it because "we all talked about this when we found out that he betrayed us and added Camela's name [] to the property." An attorney, Mr. Arrington, was qualified as an expert at trial and testified that the POAs[1] did not give Mary and Noland the authority to deed property to themselves.

[1] Mr. Arrington testified to this while he was reviewing Plaintiff's Exhibit 2 on the stand. Plaintiff's Exhibit 2 is Camela Crutchfield's POA, naming Noland and Mary as joint agents. Specifically, Mr. Arrington reviewed paragraphs 9A and 12 and gave his opinion as to the powers these paragraphs granted to the agents. Later in his testimony, Mr. Arrington reviewed Plaintiff's Exhibit 1 on the stand. Plaintiff's Exhibit 1 is Alfred Crutchfield's POA, naming Noland and Mary as joint agents. Specifically, Mr. Arrington reviewed page 7 and gave his opinion as to the powers granted to the agents.

After all of this, Alfred went to live with Beverly, and he updated his estate plan. Alfred created a trust that lists Rocky River Friends Meeting Church and Jessica as equal beneficiaries.

After a two-week trial, the jury found for Plaintiffs on all 16 issues. The jury found that (1) Mary, Ted, and Noland entered into a conspiracy to defraud one or more Plaintiffs, (2) Mary, Ted, and Noland defrauded Alfred, and (3) Mary, Ted, and Noland defrauded Camela. Additionally, at the close of the evidence, the trial court dismissed all of Defendants' counterclaims.

The trial court entered an Order and Judgment, which dismissed Defendants' counterclaims and found for Plaintiffs, and an Order and Judgment Granting Plaintiffs' Verified Motion for Costs and Attorneys' Fees on 5 August 2024. The trial court awarded attorney's fees finding Defendants claims were nonjusticiable.

Defendants filed timely notice of appeal, from both orders and judgments, pursuant to N.C. General Statute section 7A-27(b)(1).

II. Analysis

Defendants raise five issues on appeal, we address each.

A. Opening the Door to Defendant Mary Bissette's Pending Criminal Charges

Defendants contend the trial court erred by finding Mary opened the door to Plaintiffs' questions regarding felony charges filed against her.

Defendants made a motion in limine to exclude evidence that Defendants were

charged with criminal acts. Defendants stated that evidence about criminal charges is not admissible, only evidence of criminal convictions, subject to certain limitations. Plaintiffs asserted the criminal charges would only come in if Defendants opened the door with something they said or if Rule 803-6 would operate as an exception to allow a detective to testify as to the records of his regularly conducted activities. Plaintiffs agreed not to discuss the criminal charges unless Defendants opened the door. Additionally, the trial court determined it would revisit Rule 803-6 when the detective testified regarding the criminal charges. When the detective testified, the trial court ruled to keep the detective's report regarding the criminal charges out of evidence after a Rule 403 analysis. The trial court was concerned about "the danger of unfair prejudice and confusion of the issues so the probative value being substantially outweighed by the danger of unfair prejudice."

The court invoked Rule 614 to call Mary to the stand for interrogation. After several questions, the trial court released Mary to Plaintiffs for direct examination. On direct, ADA Campbell Bentson's name came up, and the following line of questioning ensued:

> Q. Is he in the courtroom now?
>
> A. I definitely know what he looks like because I've been in that courtroom a whole lot.
>
> Q. Is he in the courtroom now?
>
> A. I do not see him.

Q. Did you say that you've been in the courtroom a whole lot?

A. I can't see all the way back there. He was –

MR. KREIDER: Objection

THE COURT: Overruled. Answer the question.

Q. Ma'am, did you say you've been in the courtroom with Campbell Bentson a whole lot?

A. Oh, yeah, he keeps calling us into the courtroom, let's us sit all day long when he knows that our lawyers aren't going to be there, just to set another court date.

Q. So we're not talking about the case with Alfred?

A. No, you asked me about Mr. Bentson and I recognize him.

MR. KREIDER: Objection.

THE COURT: Overruled. I'm sorry, she answered the question, sir, overruled.

Q. What you're talking about is the case where –

THE COURT: Counsel no leading questions.

Q. What case are you talking about where you've been called into the courtroom and had to stay around all day?

MR. KREIDER: Your Honor, I apologize. Do you -- do you want me to enter a line objection?

THE COURT: You're happy to do that, yes, sir. You've got whatever objection you need, but the [trial c]ourt determines the witness testified, and the witness opened the door. The [trial c]ourt is now going to reverse itself and allow testimony and questions regarding this matter.

Mary testified further about the other criminal charges filed against her including obtaining property by false pretenses and exploiting a disabled or elderly person. Mary testified that the exploitation charges were in connection with the exploitation of Alfred and Camela.

Defendants properly preserved this issue for appeal by objecting at trial. It is apparent from the objection and the trial court's ruling that the trial court reversed its decision to keep this evidence out under Rule 403. *See* N.C. R. App. P. 10(a)(1).

The 'opening the door' doctrine provides that "[w]here one party introduces evidence as to a particular fact or transaction, the other party is entitled to introduce evidence in explanation or rebuttal thereof, even though such latter evidence would be incompetent or irrelevant had it been offered initially." *State v. Albert*, 303 N.C. 173, 177, 277 S.E.2d 439, 441 (1981) (citations omitted). "[T]he law wisely permits evidence not otherwise admissible to be offered to explain or rebut evidence elicited by the defendant himself." *Id.* This allows the opposing party to "correct inaccuracies or misleading omissions in the [party]'s testimony or to dispel favorable inferences[.]" *Everhart v. O'Charley's Inc.*, 200 N.C. App. 142, 148, 683 S.E.2d 728, 734 (2009) (citations omitted).

"A trial court's decision to admit or exclude evidence to which a party has opened the door is subject to review on appeal for abuse of discretion." *State v. McKoy*, 385 N.C. 88, 97, 891 S.E.2d 74, 81 (2023) (citation omitted). "[W]e defer to the trial

court's decision unless it is manifestly unsupported by reason or one so arbitrary that it could not have been the result of a reasoned decision." *Id.* (quoting *In re A.K.O.*, 375 N.C. 698, 701, 850 S.E.2d 891, 894 (2020)). "Hence, in a case in which the door was opened to otherwise irrelevant or inadmissible evidence, the party appealing the trial court's decision to admit or exclude such evidence under Rule 403 faces a steep uphill climb." *Id.* at 97–98, 891 S.E.2d at 81.

When looking to whether Mary opened the door to questions about criminal charges pending against her, the full context of her testimony must be considered.

The trial court invoked Rule 614 to call Mary to the stand, and after a brief interrogation, released her to Plaintiffs due to concerns about her demeanor and candor. Plaintiffs questioned Mary about an assault on a female charge filed against Alfred, which she testified was dismissed after one court date. Mr. Campbell Bentson represented the State in the criminal matter and dismissed the charges against Alfred, concluding that the allegation made by Mary was "retaliatory in nature or an attempt to coerce [Alfred] into signing legal documents against his will."

Later in her testimony, when Mary was asked whether she recognized Mr. Bentson and whether he was present in the courtroom, Mary volunteered unsolicited statements that she had "been in that courtroom a whole lot" and that Mr. Bentson "keeps calling us into the courtroom, let's us sit all day long when he knows that our lawyers aren't going to be there, just to set another court date." These remarks contradicted her prior testimony that she appeared in court one time regarding a

criminal charge filed against Alfred and created a misleading impression that there were other ongoing court proceedings involving the parties. Plaintiffs did not suggest the existence of any other proceedings; rather, Mary declined to answer simple yes-or-no questions and was the first party to volunteer and elaborate on information about another case. Without clarification, the jury could have been left with an inaccurate and incomplete picture of Mary's interactions with Mr. Bentson and the details of other ongoing court proceedings.

Further, the trial court previously ruled in limine that evidence regarding the pending criminal charges against Mary would remain excluded unless the door was opened. It was only after Mary first volunteered statements about repeated court appearances where Mr. Bentson was present that the court determined she had opened the door. Defendants were on notice that the trial court might revisit this ruling and had ample time to prepare their witness accordingly. *State v. Chandler*, 100 N.C. App. 706, 711, 398 S.E.2d 337, 340 (1990) (stating that "defense counsel was given sufficient notice of the court's intent[]" where a trial court ruled to keep the evidence out but noted they would reconsider if the door was opened).

Mary herself introduced the misleading information; the trial court was well within its discretion to find that Mary opened the door which allowed Plaintiffs to clarify the statements by questioning her about the criminal charges. We find no error.

B. Expert Witness Testimony Regarding the Legal Effect of a

Document

Defendants contend the trial court erred when it permitted an expert witness to testify about the legal effect of language contained in the POAs and that this error was prejudicial. We conclude that even if the trial court did err, the error was not prejudicial.

We assume, without deciding, that Defendants' objections to the expert testimony adequately preserved the issue for appellate review.

Assuming, arguendo that Mr. Arrington's testimony went beyond the permissible scope of expert testimony and the trial court erred by admitting the testimony over Defendants' objection, Defendants must also show they were prejudiced.

"In civil cases, '[t]he burden is on the appellant not only to show error but to enable the court to see that he was prejudiced or the verdict of the jury probably influenced thereby.'" *HAJMM Co. v. House of Raeford Farms, Inc.*, 328 N.C. 578, 589, 403 S.E.2d 483, 490 (1991) (citation omitted). The erroneous admission of evidence does not result in prejudice when "its import is established by other, admissible testimony, or where the erroneously admitted testimony is merely cumulative or corroborative." *Id.* (citation omitted). To establish prejudice, it must be shown that there is a reasonable probability the appellant would have received a favorable verdict, absent the error. *Id.* (citation omitted).

After applying these principles, Defendants have not shown Mr. Arrington's

expert testimony was prejudicial. Although Mr. Arrington opined the POA documents did not authorize the agents to deed property to themselves, Defendants were permitted to counter this testimony by calling their own witness, an attorney, who offered the opposite interpretation and testified the POA documents did authorize the agents to deed the property to themselves. Further, the POA documents were presented to the jury for examination, they had the opportunity to independently interpret the language. In light of the competing testimony and the jury's direct access to the documents themselves, Defendants have failed to demonstrate that Mr. Arrington's testimony resulted in unfair prejudice and that Defendants would have received a favorable verdict had the testimony been excluded.

C. Motion for Directed Verdict as to Defendant Ted Bissette

Defendants made a motion for directed verdict after the close of all evidence as to the conspiracy and fraud claims. Defendants argue the trial court erred in denying their motion for a directed verdict as to Defendant Ted Bissette. We disagree.

"The standard of review [for a] directed verdict is whether the evidence, taken in the light most favorable to the non-moving party, is sufficient as a matter of law to be submitted to the jury." *Simmons v. Wiles*, 271 N.C. App. 665, 668, 845 S.E.2d 112, 115 (2020) (quoting *Davis v. Dennis Lilly Co.*, 330 N.C. 314, 322, 411 S.E.2d 133, 138 (1991)). "Because the trial court's ruling on a motion for a directed verdict addressing the sufficiency of the evidence presents a question of law, it is reviewed *de novo*." *In re West*, ___ N.C. App. ___, ___, 931 S.E.2d 10, 16 (2026) (quoting *Maxwell v. Michael*

P. Doyle, Inc., 164 N.C. App. 319, 323, 595 S.E.2d 759, 761 (2004)).

When determining the sufficiency of the evidence, "all of the evidence which supports the non-movant's claim must be taken as true and considered in the light most favorable to the non-movant, giving the non-movant the benefit of every reasonable inference which may legitimately be drawn therefrom and resolving contradictions, conflicts, and inconsistencies in the non-movant's favor." *Simmons*, 271 N.C. App. at 668, 845 S.E.2d at 115 (quoting *Turner v. Duke Univ.*, 325 N.C. 152, 158, 381 S.E.2d 706, 710 (1989)).

"After considering the evidence as instructed, our Courts have repeatedly held a motion for [a] directed verdict 'should be denied if there is more than a scintilla of evidence supporting each element of the non-movant's claim.'" *In re West*, ___ N.C. App. at ___, 931 S.E.2d at 16 (quoting *Shelton v. Steelcase, Inc.*, 197 N.C. App. 404, 410, 677 S.E.2d 485, 491 (2009)). "[T]he party moving for a directed verdict bears a heavy burden in North Carolina." *Id.* (quoting *Brookshire v. N.C. Dep't of Transp.*, 180 N.C. App. 670, 672, 637 S.E.2d 902, 904 (2006)).

1. Conspiracy to Defraud

The elements of a civil conspiracy are: "'(1) a conspiracy, (2) wrongful acts done by certain of the alleged conspirators in furtherance of that conspiracy, and (3) injury as a result of that conspiracy.'" *BDM Invs. v. Lenhil, Inc.*, 264 N.C. App. 282, 300, 826 S.E.2d 746, 762 (2019) (citations omitted). A "conspiracy" is an agreement between two or more parties to carry out the conduct. *Id.* "Direct evidence of a

conspiracy agreement is not necessary and often does not exist." *Pleasant Valley Promenade v. Lechmere, Inc.*, 120 N.C. App. 650, 657, 464 S.E.2d 47, 54 (1995) (citation omitted).

Here, Mary, Ted, Noland, and Rebecca all discussed Alfred executing a POA naming Mary and Noland as his agents. Mary prepared the document and brought it to the hospital for Alfred to sign while being treated for dehydration and COVID. Ted, aware of Alfred's symptoms, observed Alfred lying in a hospital bed when he signed the POA. Ted also notarized the document. Furthermore, Ted was present and notarized Camela's POA after the family became aware and reported concerns about her deteriorating health and memory issues. Two of Ted's patients were asked to witness Camela's POA while present in Ted's office. Lastly, while Ted did not himself file the deed, his name was listed as a grantee alongside the three other Defendants. Thus, there is enough evidence to support the first element of a conspiracy to defraud, that two or more persons agreed to carry out the conduct at issue.

After the execution and notarization of Camela and Alfred's POAs, personal property was removed from their possession. Ted was present on some occasions when property was removed from their possession. Additionally, Alfred did not know he signed a POA and wanted to be "his own POA." Alfred was so unhappy with his property being removed from his possession, he planned to call the Sheriff's department. Ted was present when his wife Mary, who is not an attorney, delivered

the POAs she drafted to Plaintiffs. Ted was also present when Plaintiffs unwittingly signed the POAs. Additionally, Mary filed a deed that transferred Plaintiffs' property to Mary, Ted, Rebecca, and Noland. Therefore, there is enough evidence to support the second element of a conspiracy to defraud, that wrongful acts were done by certain of the alleged conspirators in furtherance of the conspiracy. Specifically, that the conspirators engaged in fraud, which will be discussed below.

Camela and Alfred had their property removed from their possession; their property was deeded to Defendants; and Plaintiffs received no consideration in return. Thus, there is enough evidence to support the third element of a conspiracy to defraud that Plaintiffs suffered an injury because of the conspiracy.

2. Fraud

The elements of fraud are: "(1) a false representation or concealment of a material fact, (2) reasonably calculated to deceive, (3) made with intent to deceive, (4) which does in fact deceive, (5) resulting in damage to the injured party." *Shreve v. Combs*, 54 N.C. App. 18, 21, 282 S.E.2d 568, 571 (1981) (citation omitted). The trial court separated the fraud charges and issued two instructions regarding whether fraud was committed against each Plaintiff individually. Therefore, we review the evidence concerning (1) fraud in relation to Alfred and (2) fraud in relation to Camela.

Ted was present when Mary represented to the nurses, in front of Alfred, that the document was a medical POA. He was also in the room to observe Alfred's condition, and there is no evidence he corrected Mary's statement. The document

was not a medical POA; it was in fact a financial POA. Alfred did not know what papers he signed or even whether he signed them at all.

When Camela signed her POA, Mary and Ted were aware that Camela was having memory issues. Mary was the one who drafted the POA and she did not disclose to the witnesses that Camela had been having memory issues.

In both signings, there is evidence that suggests Mary and Ted concealed Alfred and Camela's capacity to sign a legal document, the nature of the documents themselves, and they did not adequately explain what each party was signing. Thus, there is enough evidence to support Mary and Ted made false misrepresentations or concealed material facts, the first element of fraud as to both Alfred and Camela.

In the days leading up to Alfred and Camela's POAs being executed, Mary and Ted were both present when Alfred said nobody would sign any POAs until they all agreed. Despite this, Mary drafted the POA documents herself and presented them to both Plaintiffs. Ted was present when the POA signings occurred and notarized the documents.

At the time of Alfred's signing, he was in the hospital for dehydration and COVID symptoms. Mary brought the POA she drafted to the hospital and prompted Alfred to sign it while lying down in a hospital bed. Alfred did not know where he was and was "knocked out of it." He did not have his glasses with him and did not know what papers he signed or even if he signed them.

Mary and Ted were present when Alfred agreed with Perry that Perry should

become his mother's POA. Despite this, Mary drove Camela to Ted's office to have her sign a POA. Mary and Ted were again present in the room when the document was signed. Mary drafted the POA and explained the terms to Camela, even though Mary is not an attorney. Additionally, Mary and Ted knew Camela had been exhibiting signs of memory loss, but they did not inform the witnesses of this.

Both POA executions took place while Lindsey and Perry were out of town on vacation, and they were not informed POAs had been executed for Alfred and Camela. In both signings, the facts are sufficient to show that the representations made to Alfred, Camela, and the witnesses were reasonably calculated to deceive. Therefore, there is enough evidence to support the second element of fraud.

Both Mary and Ted were present when Alfred said nobody would sign any POAs until they all agreed. After that interaction, Mary drafted POA documents and presented them to both Plaintiffs in moments of physical and mental weakness. Mary waited until Alfred was hospitalized to obtain his signature on the POA and obtained Camela's signature on her POA the following day, despite knowing Camela had memory problems. Both POAs were notarized by Ted and executed the week Lindsey and Perry were out of town. Shortly after both POAs were executed Mary and Ted began removing personal property from Alfred and Camela's possession. Additionally, after the POAs were executed, Mary deeded the property to Defendants. These facts are sufficient to show that Mary and Ted intended to deceive Alfred and Camela into signing financial POAs and did in fact deceive both individuals. Thus,

there is enough evidence to support the third and fourth elements of fraud.

Finally, Alfred and Camela suffered substantial financial injury because of Mary and Ted's actions. Alfred and Camela had vehicles, keys, and titles removed from their possession. The property they owned as tenants by the entirety was transferred to Defendants and Plaintiffs received no consideration for the transfer. The facts are sufficient to show that Mary and Ted did in fact deceive Alfred and Camela, causing them injury. Therefore, there is enough evidence to support the fifth element of fraud.

After viewing the facts in the light most favorable to Plaintiffs, the evidence was sufficient to submit both fraud claims and the conspiracy to defraud claim to the jury. The trial court did not err in denying Defendants' motion for directed verdict.

D. Attorney's Fees Awarded to Prevailing Party under N.C. General Statute section 6-21.5

Generally, parties to litigation are responsible for their own attorney's fees unless a statute explicitly provides otherwise. *McLennan v. C.K. Josey, Jr.*, 247 N.C. App. 95, 98, 785 S.E.2d 144, 147 (2016) (citing *Hicks v. Albertson*, 284 N.C. 236, 238, 200 S.E.2d 40, 42 (1973)). Statutes awarding attorney's fees to a prevailing party must be strictly construed as they are "in derogation of the common law." *Id.* (quoting *Sunamerica Fin. Corp. v. Bonham*, 328 N.C. 254, 256, 400 S.E.2d 435, 437 (1991)).

In any civil action, pursuant to section 6-21.5, "the court, upon motion of the prevailing party, may award a reasonable attorney's fee to the prevailing party if the

court finds that there was a complete absence of a justiciable issue of either law or fact raised by the losing party in any pleading." N.C. Gen. Stat. § 6-21.5 (2025). To support a court's award of attorney's fees, "[t]he court shall make findings of fact and conclusions of law[.]" *Id.*

The purpose of section 6-21.5 is to "discourage frivolous legal action." *McLennan*, 247 N.C. App. at 98, 785 S.E.2d at 148 (quoting *Short v. Bryant*, 97 N.C. App. 327, 329, 388 S.E.2d 205, 206 (1990)). Sanctions may be appropriate under section 6-21.5 "despite the layperson's reliance on legal advice if the layperson persists 'in litigating the case after a point where he should reasonably have become aware that the pleading he filed no longer contained a justiciable issue.'" *Brooks v. Giesey*, 334 N.C. 303, 310, 432 S.E.2d 339, 343 (1993) (quoting *Sunamerica Fin. Corp.*, 328 N.C. at 258, 400 S.E.2d at 438).

Differing standards of review apply when reviewing the lower court's award under section 6-21.5. First, we must determine whether Defendants presented a justiciable issue in their pleadings. In reviewing whether a justiciable issue was presented, this Court employs a de novo standard of review. *McLennan*, 247 N.C. App. at 97, 785 S.E.2d at 147 (citation omitted).

Second, if the pleadings did not present a justiciable issue, it is in the trial court's discretion to award or decline to award attorney's fees under N.C. General Statute section 6-21.5. *Id.* at 98, 785 S.E.2d at 147. "An abuse of discretion occurs when a decision is 'either manifestly unsupported by reason or so arbitrary that it

could not have been the result of a reasoned decision.'" *Id.* (citation omitted).

1. Defendants did not present a justiciable issue

"A justiciable issue is one that is 'real and present, as opposed to imagined or fanciful.'" *Id.* at 98, 785 S.E.2d at 148 (quoting *Sunamerica Fin. Corp.*, 328 N.C. at 257, 400 S.E.2d at 437). "In order to find a complete absence of a justiciable issue it must conclusively appear that such issues are absent even giving the pleadings the indulgent treatment they receive on motions for summary judgment or to dismiss." *Id.* at 98–99, 785 S.E.2d at 148 (citation omitted). "Under this deferential review of the pleadings, a [losing party] must either: (1) reasonably have been aware, at the time the [pleadings were] filed, that the pleading contained no justiciable issue; or (2) be found to have persisted in litigating the case after the point where he should reasonably have become aware that [the] pleading he filed no longer contained a justiciable issue." *Id.* at 99, 785 S.E.2d at 148 (citation modified).

Defendants argue that they presented justiciable issues as their counterclaims were not barred by the statute of limitations and that they did not persist with clearly meritless claims.

The trial court made at least twelve specific findings to support its award of attorney's fees. Several are recited below:

> 9. All of the fees and expenses incurred by Plaintiffs are based on claims that arise out of a common nucleus of operative facts and are inextricably interwoven together. Based on the evidence presented at trial, the [trial c]ourt finds that Defendants' counterclaims were asserted in an

effort to confuse or mislead the jury as to the operative facts of the family history and/or to attempt to impugn the character of Plaintiff [Alfred] to make him a less sympathetic plaintiff in the eyes of the jury. It was abundantly clear to the Court and should have been abundantly clear to all parties to the extent it was not, that the claims were all barred by the statute of limitations. Defendants' claims, and the testimony and evidence presented in their support, went hand-in-hand with the Plaintiffs' claims regarding the events giving rise to the filing of the complaint. The Defendants' claims needlessly and unfairly prolonged the trial.

10. All of the claims are reasonably related to the family dynamics, Defendants' scheme to fraudulently procure powers of attorney and use the powers of attorney and family dynamics to deed the subject property to Defendants and then profit from such wrongful acts by taking Plaintiffs' personal and real property.

11. Defendants were reasonably aware at the time they filed their Answer and Counterclaim that the pleading lacked a justiciable issue related to the following matters: (a) all of the counterclaims were based on actions that occurred more than ten years (and some were forty years) before the Answer and Counterclaim was filed; (b) all of Defendants' defenses to the claim to set aside the fraudulent deed were knowingly false and based on facts that they knew to be fabricated; (c) all of Defendants' defenses to the claims of breach of fiduciary duty and constructive fraud were knowingly false and based on facts that they knew to be fabricated; and (d) all of Defendants' defenses to the claim of constructive trust were knowingly false and based on facts that they knew to be fabricated.

12. At the very least, following the deposition of Plaintiff [Alfred], Defendants persisted in litigating the case after the point where they reasonably should have become aware that their Answer and Counterclaims no longer contained a justiciable issue. There were numerous points along the way, both before trial and during the trial, where they

reasonably should have become aware that their Answer and Counterclaims did not contain a justiciable issue.

13. Defendants knew that Alfred was not suffering from dementia and he clearly testified at his deposition that: (a) he did not know that he signed, nor did he intend to sign a power of attorney; (b) he never intended to deed the subject property to Defendants; and (c) it was not in the best interests of he or [Camela] for the property to be deeded to Defendants.

14. Defendants [Mary] and [Noland] have been represented by attorneys in connection with criminal charges filed against them in late 2022 arising out of the same set of facts and circumstances that formed the basis of the captioned action.

15. In connection with the criminal charges, said Defendants and their attorneys have had a copy of the criminal file (which includes what was marked by Plaintiffs as Exhibit 4 in the civil action) since, at least, early 2023. Contained within Plaintiffs' Exhibit 4 are statements from the two (2) nurses who witnessed the improper notarization of the purported Power of Attorney for Alfred. That, too, should have been the point at which Defendants should have ceased persisting in litigating any of the claims related to the deed.

16. Defendants knew of Camela's dementia at the time that they fraudulently procured the power of attorney for Camela. At the very least, they knew that their Answer and Counterclaim with regard to Camela's power of attorney was completely fabricated.

17. None of Defendants (other than [Mary]) testified that they believed that it was in Plaintiffs' best interests that the deed be transferred from Plaintiffs to Defendants.

18. The [trial c]ourt witnessed numerous occasions where certain Defendants provided testimony that could only be described as being false. Defendant [Noland] admitted

> during his examination that certain statements in his affidavit were false[.] In particular Defendant [Mary] provided testimony that could only be described as being false. . . .
>
> 19. Based on [Mary]'s cumulative testimony (in addition to the other testimony and evidence presented during the trial), the [trial c]ourt can only conclude that she and the other Defendants knew, and at the very least should have known, that there was a complete absence of justiciable issues in this case.
>
> 20. . . . The [trial c]ourt has carefully considered all of the testimony and evidence in this matter, as well as the North Carolina statutes and caselaw, and pursuant to N.C. Gen. Stat. § 6-21.5 the [trial c]ourt is hereby making these findings of fact and conclusions of law to support its award of attorneys' fees under this section. The [trial c]ourt finds the existence of both factors noted above (at the time the complaint was filed and the persistence of litigating the matter). The [trial c]ourt does not find these facts, make these conclusions or make the determination to award attorneys' fees lightly, but rather when considering the totality of the trial and the testimony and evidence, the [trial c]ourt is compelled to do so in the interests of justice.

The necessary findings are documented in the trial court's order to support its award of attorney's fees. On appeal, Defendants do not challenge the factual findings as unsupported; rather they allege that contested evidence was presented, and the jury could have found for Defendants based on the evidence presented.

After a thorough review of the pleadings, the record, and the trial transcript, we agree with the trial court that there is sufficient evidence to show that Defendants were reasonably aware at the time they asserted their counterclaims that the pleading contained no justiciable issue and that they persisted in litigating the case

despite knowing the pleading filed no longer contained a justiciable issue. Therefore, after our de novo review of the pleadings, we hold there was an absence of a justiciable issue.

2. The trial court did not abuse its discretion when it awarded the prevailing party attorney's fees

The trial court properly held that the pleadings lacked a justiciable issue; therefore, pursuant to section 6-21.5, it is within the trial court's discretion to award attorney's fees. The trial court found that "Defendants' claims needlessly and unfairly prolonged the trial." Additionally, the trial court made extensive findings that Defendants made false statements and fabrications on numerous occasions. This reflects that the trial court exercised its discretion to further the statute's purpose of deterring frivolous litigation and made the necessary findings to support the award.

As the prevailing party, Plaintiffs were entitled to seek attorney's fees under section 6-21.5, and we hold the trial court did not abuse its discretion in awarding those fees.

3. Fees Authorized under N.C. General Statute section 6-21.5

Finally, we review the award of attorney's fees to determine whether they were authorized by the statute. It is important to note that, "[f]ees related to an appeal . . . are not recoverable under [the statute]." *McLennan*, 247 N.C. App. at 98, 785 S.E.2d at 147–48 (citation omitted). The trial court awarded attorney's fees for work completed before and at trial; we hold the award was proper.

E. Joint and Several Liability of all Defendants for Attorney's Fees

In *Brooks v. Giesey*, our Supreme Court upheld an attorney's fee award under the same statute and determined that "there was never any factual or legal basis for finding defendants liable for any alleged injury suffered by plaintiffs." 334 N.C. at 313, 432 S.E.2d at 345. The sanctions imposed pursuant to section 6-21.5 were imposed against plaintiffs, jointly and severally. *Id.* at 308, 432 S.E.2d at 342. The Brooks, a married couple represented by one attorney, filed a complaint against the defendants. *Id.* at 311, 432 S.E.2d at 343. Our Supreme Court did not separate out the plaintiffs as two individuals; rather it considered the application of the statute to the party as a whole. *See generally id.*

Here, all four defendants, including Ted Bissette and Rebecca Crutchfield, asserted counterclaims and defenses against Plaintiffs. The Defendants, as one party, asserted the nonjusticiable claims and defenses by and through their single legal representative.

Rebecca and Ted's full names were explicitly typed out on the face of the pleadings, alongside their spouses' names. They cannot now, with the benefit of hindsight, argue that because they were not found civilly liable for damages, they should be exempt from responsibility for attorney's fees. They were two of the four members of a party that asserted nonjusticiable claims and defenses which unduly prolonged the litigation in this case.

The trial court found that Defendants, including Ted and Rebecca, were

reasonably aware at the time the complaint was filed that the pleading contained no justiciable issue and that they persisted in litigating the case after they "knew, and at the very least should have known, that there was a complete absence of justiciable issues in [the] case." We find no error in the fee award.

III. Conclusion

For the aforementioned reasons, we find no error.

NO ERROR.

Judges STROUD and COLLINS concur.

Report per Rule 30(e).