STATE OF MICHIGAN

COURT OF APPEALS

BRENDA MILLER,

Plaintiff-Appellee,

v

MELISSA WILLIAMS, as Personal Representative of the ESTATE OF MARDELLE R. WILLIAMS,

Defendant-Appellant.

UNPUBLISHED
April 16, 2026
1:22 PM

No. 369462
Benzie Probate Court
LC No. 23-000049-CZ

Before: O'BRIEN, P.J., and FEENEY and WALLACE, JJ.

PER CURIAM.

In this case concerning plaintiff's request for reimbursement of attorney fees incurred in connection with a guardianship proceeding, defendant, Melissa Williams, as personal representative to the Estate of Mardelle R. Williams (the Estate), appeals by right the trial court's order denying defendant's motion for summary disposition under MCR 2.116(C)(4) (jurisdiction), (7) (claim barred as a matter of law), (8) (failure to state a claim), and (10) (no genuine issue of material fact), and granting plaintiff's request for judgment, in part, under MCR 2.116(I)(2) (opposing party entitled to judgment). We affirm.

I. BASIC FACTS AND PROCEDURAL HISTORY

The facts relevant to this dispute began with a guardianship proceeding in lower court Case No. 20-000056-DD, when a petition to modify or terminate a guardianship for the decedent, Mardelle Williams, was filed. Plaintiff was subsequently appointed as guardian over Mardelle. In that case, on December 27, 2021, the court entered an order establishing a special needs trust for Mardelle. In that order, the court stated that plaintiff's request for reimbursement for certain invoices related to attorney fees and expenses was "held in abeyance and may be considered if Mardelle Williams receives an inheritance."

Mardelle died on May 16, 2022. On July 27, 2022, the trial court entered a final order in the guardianship proceedings, allowing accounts regarding the Estate. The court found that the final accounts "appear to be correct and ought to be allowed." The court also ordered that any

remaining assets be released to the Estate and that plaintiff was discharged as fiduciary. The order did not address the issue of attorney fees.

The next day, July 28, 2022, plaintiff sent a letter to all interested parties of the Estate stating that she received a check totaling $7,000 for Mardelle "as her plenary guardian at the time it was issued." Plaintiff notified the parties that she would deposit the check into Mardelle's guardianship account and "make a claim against the estate for reimbursement of attorney fees."

On September 2, 2022, defendant filed in the guardianship case a "Motion to Show Cause Why Special Needs Trust Funds Should Be Released to the Estate of Mardelle R. Williams." In the motion, defendant asserted that when the trial court entered its July 27, 2022 order allowing accounts, plaintiff was thereby ordered to "transfer all funds to the Estate, she was discharged as Fiduciary/Trustee and this case number was closed." Notwithstanding the order, defendant asserted that the trust funds "were unknowingly withdrawn from the Estate's Bank Account." According to defendant, "[t]he funds belong in the Estate's name, they are being withheld from the Estate with no authority, contrary to Order Closing the case and Ordering Funds to be Transferred and should be released to the Estate of Mardelle Williams immediately so counsel can do his job in way of Medicaid Recovery." On November 10, 2022, the trial court entered an order granting defendant's motion to show cause. The court ordered that plaintiff and Honor Bank "shall release and transfer all funds associated with the Special Needs Trust of Mardelle R. Williams to the Estate of Mardelle R. Williams' Bank Account, immediately."

Just before the issuance of the order, on November 4, 2022, plaintiff filed a statement and proof of claim for legal services expended, totaling $6,705.84, while plaintiff served as guardian. Defendant filed a notice of disallowance of claim regarding this claim. As a result, plaintiff initiated the instant case in the probate court on February 22, 2023, seeking reimbursement of $6,705.84, which plaintiff represented was related to attorney fees and costs she expended in the guardianship proceeding. Plaintiff's complaint contained one count for unjust enrichment.

In a separate case, lower court Case No. 23-036489-NO, defendant filed a second amended complaint in the Grand Traverse County Circuit Court on August 17, 2023 against plaintiff and other parties regarding the alleged mistreatment and substandard care of Mardelle. The origin and background of this separate case is not entirely clear from the record on appeal. But in the second amended complaint, defendant alleged that plaintiff breached her fiduciary duties by failing to secure proper supervision and treatment for Mardelle. In addition, defendant alleged that plaintiff was liable for negligence and intentional conduct by failing to secure this supervision and treatment, and for wrongfully imprisoning Mardelle. Lastly, as it related to plaintiff, defendant asserted a claim of intentional infliction of emotional distress, claiming that plaintiff's execution of her role as fiduciary caused defendant severe emotional distress.

Returning to the instant case, defendant moved for summary disposition under MCR 2.116(C)(4), (7), (8), and (10) in lieu of answering the complaint. Defendant argued that the claim was barred by laches because plaintiff moved to distribute and have a final accounting of the trust without making the request for attorney fees. Defendant also argued that plaintiff's claims were barred by res judicata and waiver, asserting that plaintiff could have, but did not, raise the issue during the guardianship proceeding. Concerning its motion under MCR 2.116(C)(8), defendant argued that plaintiff failed to state a claim for unjust enrichment because there was no benefit

alleged that was received by defendant as a result of plaintiff's engagement of an attorney and expenditure of attorney fees. Defendant also asserted that plaintiff's claim was barred for lack of jurisdiction. According to defendant, plaintiff's claim for unjust enrichment was a claim in equity, which was not appropriate in the probate court's limited jurisdiction. Rather than file a new claim in the probate court, defendant argued that plaintiff was required to file a counterclaim in defendant's circuit court action related to Mardelle's death. Defendant also claimed that plaintiff's complaint was barred by her own negligence and breaches of fiduciary duty. Defendant requested that the court order plaintiff to pay sanctions, alleging that her claim was frivolous.

Plaintiff responded to defendant's motion for summary disposition, and after a hearing, the trial court denied defendant's motion and granted plaintiff's request for judgment under MCR 2.116(I)(2). The court first ruled on defendant's jurisdictional argument, concluding that the court did have jurisdiction over plaintiff's claim, reasoning that the "action is against the personal representative in the probate action in Benzie County." Turning to the other arguments raised in defendant's brief, the court denied the motion, stating:

> So, as to the DD file [the guardianship proceedings] itself, the matter had been closed so we'll start with the res judicata issue. Finally, accounting was submitted at that time attorney fees were not requested, however, the previous motion for attorney fees had been stayed and held in abeyance. The Court views, in this case, a res judicata [sic] does not apply because [plaintiff] is in the position of any other potential creditor. We may have to go to an evidentiary hearing as to what reasonable fees might be, but I—I don't find unclean hands or latches [sic]. The assistance [plaintiff] received from Ms. Huff[1]—I'll say this, Ms. Huff did fight diligently for [plaintiff], but not quite as diligently as I thought, while [defendant's attorney] fought diligently for his client. But the Attorney General threw two people at it and had a serious interest in it. . . . Although she could have taken more action prior to closing the DD case, for argument's sake I don't see that that precludes her from pursuing this as a creditor. But we'll have to figure out what the attorney fees were and whether or not they're reasonable . . . .

When the court asked defendant if she needed discovery related to the reasonableness of the attorney fees, defendant responded that she was not contesting the reasonableness of the fees now that the court denied her motion, given the relative low amount sought, approximately $6,700. Following the hearing, defendant filed a motion asking the court to enter an order prepared by defendant or to further clarify the court's ruling. As a result, a second hearing was conducted after which the court entered the order in the form proposed by defendant, awarding the amount claimed by plaintiff.

This appeal followed.

[1] Huff was the attorney who represented plaintiff in the guardianship proceedings below.

II. LACHES

Defendant first argues that the trial court erred when it denied defendant's motion for summary disposition because plaintiff's claim was barred by laches. According to defendant, plaintiff sought a final accounting of the trust assets without making a request for attorney fees and, therefore, her claim was barred by laches. We disagree.

A. STANDARD OF REVIEW

This Court reviews de novo a trial court's decision on a motion for summary disposition. *Stanley v Detroit*, 347 Mich App 117, 126; 14 NW3d 197 (2023). "Summary disposition under MCR 2.116(C)(10) is proper if the evidence, affidavits, pleadings, and admissions viewed in a light most favorable to the other party demonstrate that there is no genuine issue of any material fact and the moving party is entitled to judgment as a matter of law." *Duato v Mellon*, 349 Mich App 22, 27; 27 NW3d 291 (2023) (quotation marks and citation omitted). "A genuine issue of material fact exists when the record, giving the benefit of reasonable doubt to the opposing party, leaves open an issue upon which reasonable minds might differ." *George v Allstate Ins Co*, 329 Mich App 448, 455; 942 NW2d 628 (2019) (quotation marks and citation omitted).

B. ANALYSIS

"Laches is an affirmative defense based primarily on circumstances that render it inequitable to grant relief to a dilatory plaintiff." *Penrose v McCullough*, 308 Mich App 145, 153-154; 862 NW2d 674 (2014) (quotation marks and citation omitted). "To successfully assert laches as an affirmative defense, a defendant must demonstrate prejudice occasioned by the delay." *Nykoriak v Napoleon*, 334 Mich App 370, 382; 964 NW2d 895 (2020) (quotation marks and citation omitted).

> The doctrine of laches is founded upon long inaction to assert a right, attended by such intermediate change of conditions as renders it inequitable to enforce the right. But it has long been held that the mere lapse of time will not, in itself, constitute laches. The defense, to be raised properly, must be accompanied by a finding that the delay caused some prejudice to the party asserting laches and that it would be inequitable to ignore the prejudice so created. The defendant bears the burden of proving this resultant prejudice. [*Penrose*, 308 Mich App at 154.]

"The prejudice necessary to establish a laches or estoppel defense cannot be a *de minimis* harm." *Lyon Charter Twp v Petty*, 317 Mich App 482, 491; 896 NW2d 477 (2016), vacated in part on other grounds 500 Mich 1010 (2017).

The first element that defendant must show is that plaintiff was dilatory in asserting her right to recover the attorney fees. See *Penrose*, 308 Mich App at 153-154. The attorney fees were related to plaintiff's claimed need to defend against actions brought by defendant and other interested parties during the guardianship proceedings. Plaintiff's request for attorney fees was addressed first in the court's December 21, 2021 order in the guardianship case, in which it held her request in abeyance pending any additional assets received by Mardelle. On April 25, 2022, a check was written to Mardelle in the amount of $7,000, which is represented to be an inheritance

check and Mardelle died shortly thereafter. Plaintiff did not "renew" her request for attorney fees that was held in abeyance in the guardianship matter. Instead, she filed a claim with the estate.

The mere passage of a short amount of time is insufficient to establish laches. See *id*. at 154. Defendant must also show a change in circumstances that would render it inequitable to allow plaintiff to assert her right to the fees and must show more than *de minimis* prejudice. *Id*.; *Petty*, 317 Mich App at 491. Defendant has failed to establish either element. While it is arguable that there was a change in circumstances—the final accounting for the guardianship was approved and the case was closed—defendant has not provided any argument as to why it would be inequitable to allow plaintiff to seek her attorney fees in a separate action against the decedent estate. It is defendant's burden to demonstrate that it would be inequitable to grant relief to plaintiff.[2] *Penrose*, 308 Mich App at 154. Similarly, defendant has offered no argument as to how she was prejudiced by plaintiff's alleged inaction. *Id*.

Absent any demonstration of these required elements, we conclude that the trial court did not err when it denied defendant's motion for summary disposition.

III. RES JUDICATA AND WAIVER

Next, defendant argues that plaintiff's claim was barred by res judicata, collateral estoppel, and waiver because, in the underlying guardianship proceeding, the court issued a final distribution of funds before plaintiff made her request for fees. According to defendant, plaintiff had multiple opportunities to request the fees while the case was open but did not, and therefore the claim is barred. We disagree.

A. STANDARD OF REVIEW

This Court reviews de novo a trial court's decision on a motion for summary disposition. *Stanley*, 347 Mich App at 126. The doctrines of res judicata and collateral estoppel are raised in a motion under MCR 2.116(C)(7). *King v Munro*, 329 Mich App 594, 598; 944 NW2d 198 (2019). When deciding a motion under MCR 2.116(C)(7), "a trial court should examine all documentary evidence submitted by the parties, accept all well-pleaded allegations as true, and construe all evidence and pleadings in the light most favorable to the nonmoving party." *Id*. at 599 (quotation marks and citation omitted). "Collateral estoppel and res judicata present questions of law reviewed de novo by this Court." *Id*.

B. ANALYSIS

To begin, while defendant's statement of the issue raises the doctrine of collateral estoppel, she does not address the doctrine in a meaningful way other than to cite the elements of the defense. The failure to brief an issue on appeal results in the abandonment of that issue. *Steward v Panek*, 251 Mich App 546, 558; 652 NW2d 232 (2002). An appellant may not "simply . . . announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis

[2] We note that there appears to be no argument here that the legal services at issue were not performed on behalf of the then-ward.

for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position." *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998) (quotation marks and citation omitted). Thus, to the extent that defendant relies on collateral estoppel as a basis for relief in this appeal, such argument has been abandoned.

Turing to res judicata, that doctrine requires demonstrating that the prior action was decided on the merits, the judgment in the prior action was a final decision, the matter contested in the second action was or could have been resolved in the first case, and both actions involved the same parties or their privies. *Richards v Tibaldi*, 272 Mich App 522, 531; 726 NW2d 770 (2006). "The doctrine of res judicata is intended to relieve parties of the cost and vexation of multiple lawsuits, conserve judicial resources, and encourage reliance on adjudication, that is, to foster the finality of litigation." *In re Bibi Guardianship*, 315 Mich App 323, 333; 890 NW2d 387 (2016) (quotation marks and citation omitted). "To be accorded the conclusive effect of res judicata, the judgment must ordinarily be a firm and stable one, the 'last word' of the rendering court . . . ." *Id*. (quotation marks and citation omitted). The burden of establishing the elements of res judicata is upon the party asserting the doctrine. *Baraga Co v State Tax Comm*, 466 Mich 264, 269; 645 NW2d 13 (2002).

For its part, the trial court denied defendant's motion as it related to res judicata because, in the court's view, plaintiff in this matter is no different from any other creditor seeking reimbursement from an estate. We agree. The issue of attorney fees was not addressed in the order allowing the final account, meaning it was not a final decision on the issue of whether plaintiff was entitled to reimbursement for attorney fees. That order indicates that any remaining assets shall be released to the decedent estate. As such, those assets are subject to creditor claims under MCL 700.3801, which allows for "estate creditors to present their claims within 4 months after the date of the notice" identifying the personal representative of the estate. Plaintiff made a timely claim against the decedent estate under that statute. As a result, we cannot hold that the trial court erred when it held that plaintiff was not barred by res judicata from bringing her claim.

Defendant also asserts that plaintiff's complaint was barred by waiver. "[W]aiver is the intentional relinquishment of a known right." *The Cadle Co v Kentwood*, 285 Mich App 240, 254; 776 NW2d 145 (2009) (quotation marks and citation omitted) (emphasis omitted). "The usual manner of waiving a right is by acts which indicate an intention to relinquish it, or by so neglecting and failing to act as to induce a belief that it was the intention and purpose to waive." *Id*. at 254-255 (quotation marks and citation omitted). "The party asserting the waiver bears the burden of proof." *Id*. at 255.

Aside from identifying that plaintiff did not reassert her right to reimbursement until after Mardelle died and the guardianship was subsequently closed, defendant points to no evidence demonstrating that plaintiff intended to abandon her right to collect attorney fees. Indeed, defendant omits that plaintiff did seek reimbursement, a request that was held in abeyance by court order. When Mardelle died, four months later, plaintiff's powers as guardian ceased. MCL 700.5308. After the trial court ordered the remaining proceeds to be released to the estate, plaintiff notified defendant of her intent to seek reimbursement, which did in fact take place. Accordingly, defendant failed to raise a genuine issue of material fact as to whether plaintiff waived her right to reimbursement, and the trial court did not err when it denied defendant's motion.

IV. FAILURE TO STATE A CLAIM

Defendant also argues that plaintiff's complaint failed to state a claim for unjust enrichment. We disagree.

A. STANDARD OF REVIEW

This Court reviews de novo a trial court's decision on a motion for summary disposition. *Stanley*, 347 Mich App at 126. A motion under MCR 2.116(C)(8) tests whether "[t]he opposing party has failed to state a claim on which relief can be granted." "A motion brought under MCR 2.116(C)(8) tests the legal sufficiency of a plaintiff's claim as based on an examination of the factual allegations contained in the complaint." *Mercurio v Huntington Nat'l Bank*, 347 Mich App 662, 673; 16 NW3d 748 (2023). "A trial court may only consider the pleadings when rendering a decision under MCR 2.116(C)(8)." *Id*. "A court may only grant a motion under MCR 2.116(C)(8) when a claim is so clearly unenforceable that no factual development of the case could possibly justify recovery by the plaintiff." *Id*. "[W]hether a claim for unjust enrichment can be maintained is a question of law . . . ." *Morris Pumps v Centerline Piping, Inc*, 273 Mich App 187, 193; 729 NW2d 898 (2006).

B. ANALYSIS

"This Court has long recognized the equitable right of restitution when a person has been unjustly enriched at the expense of another." *Mich Ed Employees Mut Ins Co v Morris*, 460 Mich 180, 197; 596 NW2d 142 (1999). "The essential elements of [an unjust enrichment] claim are (1) receipt of a benefit by the defendant from the plaintiff, and (2) which benefit it is inequitable that the defendant retain." *Meisner Law Group PC v Weston Downs Condo Ass'n*, 321 Mich App 702, 721; 909 NW2d 890 (2017) (quotation marks and citation omitted; alteration in original).

In plaintiff's complaint, she alleged that she was "was appointed by the Court as a professional plenary guardian of [Mardelle]." Plaintiff stated that she was "forced to expend a sum of $6,705.84 in attorney's fees and costs in the Guardianship Proceeding." According to the complaint, plaintiff asserted that "[a]ll fees and costs paid by Plaintiff were on behalf of the estate and person of [Mardelle] and, specifically, furtherance of Plaintiff's duties imposed upon her by the Court in appointing her as plenary guardian of [Mardelle]." Plaintiff asserted that because she was unable to submit a request for reimbursement before Mardelle's death, "Plaintiff has not been reimbursed by [Mardelle] (or her estate) for those attorney's fees and costs paid during Plaintiff's appointment as plenary guardian . . . ." Plaintiff alleged that the "benefit retained by the Estate results in an inequity to Plaintiff, wherein she, as professional guardian, is forced to bear the burden of legal fees and costs paid as a benefit to the estate . . . ."

We find no error in the trial court's conclusion that plaintiff stated a claim for unjust enrichment. Plaintiff identified in the complaint that she was required to expend resources on behalf of Mardelle and the Estate. Plaintiff further alleged that despite seeking reimbursement or those expenses, defendant retained the money that would have otherwise been used to reimburse plaintiff. See *id*. at 721. Accordingly, the trial court did not err when it denied defendant's motion on this basis.

V. JURISDICTION

Both parties challenge jurisdiction in this case. In the trial court and this Court, defendant asserts that the probate court lacked jurisdiction to hear plaintiff's equitable claim of unjust enrichment. For her part, plaintiff claims that this Court lacks jurisdiction to consider defendant's appeal because defendant is not an aggrieved party under MCR 7.203. We disagree with both arguments.

A. STANDARD OF REVIEW

This Court reviews de novo a trial court's decision on a motion for summary disposition. *Stanley*, 347 Mich App at 126. Summary disposition is appropriate under MCR 2.116(C)(4) in circumstances when "[t]he court lacks jurisdiction of the subject matter." "[A lower] court's decision on a motion for summary disposition based on MCR 2.116(C)(4) [is reviewed] de novo to determine if the moving party was entitled to judgment as a matter of law, or if affidavits or other proofs demonstrate there is an issue of material fact." *Maple Manor Rehab Ctr, LLC v Dep't of Treasury*, 333 Mich App 154, 162; 958 NW2d 894 (2020) (quotation marks and citation omitted; alterations in original). "Whether a lower court has subject-matter jurisdiction is a question of law that this Court reviews de novo." *Id*.

B. ANALYSIS

Beginning with the argument raised by plaintiff in her brief, we conclude that this Court does not lack jurisdiction over defendant's appeal. According to plaintiff, defendant is not an "aggrieved party" under MCR 7.203(A) because defendant consented to entry of the attorney fee award during the hearing on defendant's motion for summary disposition. The record belies this assertion. Rather than consent to the underlying rationale for reimbursing plaintiff for the attorney fees, defendant merely stipulated to the amount and reasonableness of the fees so as to avoid an evidentiary hearing over $6,700.

After the court denied defendant's motion on the record, the court inquired of defendant whether she wanted to conduct discovery before the court held an evidentiary hearing on the reasonableness of the fees. Defendant's counsel responded, "No, your Honor, the way I see it then, if the Courts [sic] denied my motion, we might as well present it in a matter that we can go right to the Court of Appeals." After plaintiff's counsel inquired whether defendant was "stipulating" to the "sixty-seven hundred dollars," defendant's counsel responded, "Right." Defendant's counsel continued: "All I'm saying is there's not a need for an evidentiary hearing on sixty-seven thousand dollars (sic) worth of fees[.]"

While it is axiomatic that "one may not appeal from a consent judgment, order, or decree," *Dybata v Kistler*, 140 Mich App 65, 68; 362 NW2d 891 (1985), that rule does not preclude appellate review merely because the appellant agreed to entry of an order reflecting an unfavorable ruling that had already been reached by the trial court, see *Ahrenberg Mech Contracting, Inc v Howlett*, 451 Mich 74, 77-78; 545 NW2d 4 (1996). There is no indication in the record that defendant ever consented to the underlying justification for the entry of the fees. Also, unlike *Jaber v P&P Hospitality, LLC*, ___ Mich App ___; ___ NW3d ___ (2025) (Docket No. 363572); slip op at 11, in which this court recently discussed the difference between stipulating to a matter

and then complaining about the matter on appeal versus stipulating to entry of a dismissal order following entry of an order granting summary disposition, no written stipulation to the content of the dismissal order was filed in this matter. On appeal, defendant is not challenging the amount of the fees, but rather the court's underlying rationale for permitting plaintiff to be reimbursed for those fees. Accordingly, defendant is an aggrieved party under MCR 7.203, and this Court does not lack jurisdiction to hear her appeal.

Turning to defendant's jurisdictional challenge, defendant asserts that the trial court itself was without subject-matter jurisdiction to hear plaintiff's claim. "Probate courts are courts of limited jurisdiction." *In re Geror*, 286 Mich App 132, 133; 779 NW2d 316 (2009) (quotation marks and citation omitted). To that end, "[t]he jurisdiction of the probate court is defined entirely by statute." *Id*. (quotation marks and citation omitted). The jurisdiction of the probate court is set forth in MCL 700.1302 and MCL 700.1303. Under MCL 700.1302:

> The [probate] court has exclusive legal and equitable jurisdiction of all of the following:
>
> (a) A matter that relates to the settlement of a deceased individual's estate, whether testate or intestate, who was at the time of death domiciled in the county or was at the time of death domiciled out of state leaving an estate within the county to be administered, including, but not limited to, all of the following proceedings:
>
> (*i*) The internal affairs of the estate.
>
> (*ii*) Estate administration, settlement, and distribution.
>
> (*iii*) Declaration of rights that involve an estate, devisee, heir, or fiduciary.
>
> (*iv*) Construction of a will.
>
> (*v*) Determination of heirs.
>
> (*vi*) Determination of death of an accident or disaster victim under section 1208.
>
> (b) A proceeding that concerns the validity, internal affairs, or settlement of a trust; the administration, distribution, modification, reformation, or termination of a trust; or the declaration of rights that involve a trust, trustee, or trust beneficiary, including, but not limited to, proceedings to do all of the following:
>
> (*i*) Appoint or remove a trustee.
>
> (*ii*) Review the fees of a trustee.
>
> (*iii*) Require, hear, and settle interim or final accounts.
>
> (*iv*) Ascertain beneficiaries.

(*v*) Determine a question that arises in the administration or distribution of a trust, including a question of construction of a will or trust.

(*vi*) Instruct a trustee and determine relative to a trustee the existence or nonexistence of an immunity, power, privilege, duty, or right.

(*vii*) Release registration of a trust.

(*viii*) Determine an action or proceeding that involves settlement of an irrevocable trust.

(c) Except as otherwise provided in section 1021 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1021, a proceeding that concerns a guardianship, conservatorship, or protective proceeding.

(d) A proceeding to require, hear, or settle the accounts of a fiduciary and to order, upon request of an interested person, instructions or directions to a fiduciary that concern an estate within the court's jurisdiction.

In addition to its exclusive jurisdiction, when ancillary to the settlement of a trust or estate, the probate court has concurrent jurisdiction with the circuit court as set forth in MCL 700.1303(1):

(1) In addition to the jurisdiction conferred by section 13021 and other laws, the court has concurrent legal and equitable jurisdiction to do all of the following in regard to an estate of a decedent, protected individual, ward, or trust:

(a) Determine a property right or interest.

(b) Authorize partition of property.

(c) Authorize or compel specific performance of a contract in a joint or mutual will or of a contract to leave property by will.

(d) Ascertain if individuals have survived as provided in this act.

(e) Determine cy pres or a gift, grant, bequest, or devise in trust or otherwise as provided in 1915 PA 280, MCL 554.351 to 554.353.

(f) Hear and decide an action or proceeding against a distributee of a fiduciary of the estate to enforce liability that arises because the estate was liable upon some claim or demand before distribution of the estate.

(g) Impose a constructive trust.

(h) Hear and decide a claim by or against a fiduciary or trustee for the return of property.

(i) Hear and decide a contract proceeding or action by or against an estate, trust, or ward.

(j) Require, hear, or settle an accounting of an agent under a power of attorney.

In her brief on appeal, defendant does not address any of the statutory provisions conferring jurisdiction on the probate court, but rather generally asserts that "there are no claims pled under the probate court's jurisdiction . . . ." The failure to brief an issue on appeal results in the abandonment of that issue. *Steward*, 251 Mich App at 558. An appellant may not "simply . . . announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position." *Wilson*, 457 Mich at 243 (quotation marks and citation omitted). Because defendant has failed to meaningfully address the issue of jurisdiction, the issue has been abandoned.

But even if not abandoned, the argument lacks merit. While defendant is correct that a claim for unjust enrichment is equitable in nature, *Tkachik v Mandeville*, 487 Mich 38, 47-48; 790 NW2d 260 (2010), the probate court is not precluded from hearing equitable claims, so long as such claims are set forth in the statutes conferring jurisdiction, *Van Etten v Mfr Nat'l Bank of Detroit*, 119 Mich App 277, 287; 326 NW2d 479 (1982). There are multiple statutory sections under which the probate court properly exercised jurisdiction. For example, the probate court had exclusive jurisdiction over a "matter that relates to the settlement of a deceased individual's estate," including the internal affairs of the estate, estate administration, settlement, and distribution, and the declaration of rights that involve an estate, devisee, heir, or fiduciary. MCL 700.1302(a)(*i*)-(*iii*). The probate court also had exclusive jurisdiction over a "proceeding that concerns the validity, internal affairs, or settlement of a trust; [or] the administration, distribution, modification, reformation, or termination of a trust . . . ." MCL 700.1302(b). Plaintiff's complaint for unjust enrichment is easily categorized as an action involving estate settlement and distribution, as well as a declaration of rights related to plaintiff as fiduciary, both of which are covered under MCL 700.1302. Thus, the trial court did not err when it concluded that it had jurisdiction to hear plaintiff's claim.

VI. COMPULSORY JOINDER

Defendant next asserts that plaintiff's claim was barred because she was required to join her claims for reimbursement in the civil action that defendant brought against plaintiff and others in 2023. We disagree.

A. STANDARD OF REVIEW

This Court reviews de novo a trial court's decision on a motion for summary disposition. *Stanley*, 347 Mich App at 126. Summary disposition on the basis of compulsory joinder principles is considered under MCR 2.116(C)(7). *Kaiser v Smith*, 188 Mich App 495, 496-497; 470 NW2d 88 (1991). When deciding a motion under MCR 2.116(C)(7), "a trial court should examine all documentary evidence submitted by the parties, accept all well-pleaded allegations as true, and

construe all evidence and pleadings in the light most favorable to the nonmoving party." *King*, 329 Mich App at 599 (quotation marks and citation omitted).

B. ANALYSIS

Compulsory joinder of claims is governed by MCR 2.203. Under that rule:

> In a pleading that states a claim against an opposing party, the pleader must join every claim that the pleader has against that opposing party at the time of serving the pleading, if it arises out of the transaction or occurrence that is the subject matter of the action and does not require for its adjudication the presence of third parties over whom the court cannot acquire jurisdiction. [MCR 2.203(A).]

"In determining whether two claims arise out of the same transaction or occurrence for purposes of MCR 2.203(A), res judicata principles should be applied." *Garrett v Washington*, 314 Mich App 436, 451; 886 NW2d 762 (2016). "[W]hen examining factors for the third element of res judicata," which is whether a claim could have been litigated in the prior action, "Michigan courts employ the broad, pragmatic 'same transaction test,' often referred to as the 'transactional test,' rather than the narrower 'same evidence test.' " *Id*. at 442 (citation omitted). "Thus, while the question whether the same evidence is necessary to support claims may have some relevance, the determinative question is whether the claims in the instant case arose as part of the same transaction as did [the plaintiff's] claims in the original action." *Id*. (quotation marks and citation omitted; alteration in original). "Whether a factual grouping constitutes a transaction for purposes of res judicata is to be determined pragmatically, by considering whether the facts are related in time, space, origin or motivation, [and] whether they form a convenient trial unit . . . ." *Id*. (quotation marks and citation omitted; alteration in original; emphasis omitted).

In her brief, defendant does not adequately articulate why plaintiff's claim for unjust enrichment allegedly arose from the same transaction or occurrence as the complaint filed by defendant in 2023. In addition, defendant did not attach or even otherwise reference the initial complaint that was purportedly filed in circuit court when plaintiff filed her complaint with the probate court (instead, defendant attached the second amended complaint that was filed in August 2023, six months after plaintiff filed her complaint). Finally, defendant cites to no legal authority for the proposition that plaintiff was compelled to file a counterclaim in the circuit court action. Thus, we deem this argument to be abandoned. *Wilson*, 457 Mich at 243 (quotation marks and citation omitted).

VII. NEGLIGENCE AND UNCLEAN HANDS

Defendant also argues that the trial court erred when it denied her motion for summary disposition because plaintiff's entitlement to recovery was barred by her own negligence and unclean hands. We disagree.

A. STANDARD OF REVIEW

This Court reviews de novo a trial court's decision on a motion for summary disposition. *Stanley*, 347 Mich App at 126. "Summary disposition under MCR 2.116(C)(10) is proper if the

evidence, affidavits, pleadings, and admissions viewed in a light most favorable to the other party demonstrate that there is no genuine issue of any material fact and the moving party is entitled to judgment as a matter of law." *Duato*, 349 Mich App at 27 (quotation marks and citation omitted). "A genuine issue of material fact exists when the record, giving the benefit of reasonable doubt to the opposing party, leaves open an issue upon which reasonable minds might differ." *George*, 329 Mich App at 455 (quotation marks and citation omitted).

B. ANALYSIS

In her brief, defendant does not particularly address the merits of the argument, other than citing the blackletter law regarding unclean hands and pointing to her second amended complaint as evidence of the same. It is instead defendant's primary argument that plaintiff's failure to respond to the issue while in the trial court requires this Court to reverse.

MCR 2.116(G)(4) states:

> (4) A motion under subrule (C)(10) must specifically identify the issues as to which the moving party believes there is no genuine issue as to any material fact. When a motion under subrule (C)(10) is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his or her pleading, but must, by affidavits or as otherwise provided in this rule, set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, judgment, if appropriate, shall be entered against him or her.

Defendant has provided no authority, and this Court is unaware of any, for the proposition that it is error requiring reversal for the trial court to fail to enter judgment as a result of the opposing party's failure to respond to a particular argument. Even if we assumed it was error, such error would be harmless. See MCR 2.613(A); *In re Miller*, 347 Mich App 420, 429; 15 NW3d 287 (2023) ("To overcome this rule, a party must show that an error was prejudicial such that a failure to grant relief would be inconsistent with substantial justice, i.e., that it is more likely than not that the error affected the case's outcome."). Defendant has not established a link between the conduct she complains of regarding plaintiff's negligence or unclean hands and the recovery plaintiff seeks. See *McFerren v B & B Investment Group*, 253 Mich App 517, 524; 655 NW2d 779 (2002). Defendant makes various assertions in her brief about the way Mardelle was treated, but in no way links any of this conduct to the attorney fees sought by plaintiff other than the broad suggestion that they arose from the same guardianship proceeding. Because defendant failed to establish any link between the conduct complained of and plaintiff's attorney fees, it would have been harmless error for the trial court to deny defendant's motion.

VIII. MCR 2.116(I)(2)

Defendant also contends that the court erred when it entered judgment in plaintiff's favor under MCR 2.116(I)(2) because the court, in the underlying guardianship proceeding, never actually ordered that the fees be paid. We conclude that this argument was waived for failing to raise it in the trial court. *Tolas Oil & Gas Exploration Co v Bach Servs & Mfg, LLC*, 347 Mich App 280, 289; 14 NW3d 472 (2023) ("To preserve an issue [for appellate review], the party asserting error must demonstrate that the issue was raised in the trial court.").

IX. SANCTIONS

Lastly, defendant asserts that the trial court clearly erred when it denied her request for sanctions under MCR 1.109. We disagree.

A. STANDARD OF REVIEW

This Court reviews for clear error the trial court's decision whether to impose sanctions under MCR 1.109. *Guerrero v Smith*, 280 Mich App 647, 677; 761 NW2d 723 (2008).[3] "A decision is clearly erroneous when, although there may be evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *Id*.

B. ANALYSIS

Under MCR 1.109, when a party files a document, the signature on the document constitutes a certification that:

> (a) he or she has read the document;
>
> (b) to the best of his or her knowledge, information, and belief formed after reasonable inquiry, the document is well grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law; and
>
> (c) the document is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. [MCR 1.109(E)(5).]

"If a document is signed in violation of this rule, the court . . . shall impose upon the person who signed it . . . an appropriate sanction, which 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 document, including reasonable attorney fees." MCR 1.109(E)(6). "In addition to sanctions under [MCR 1.109], a party pleading a frivolous claim or defense is subject to costs as provided in MCR 2.625(A)(2)." MCR 1.109(E)(7).

It appears to be defendant's position that because of the alleged procedural and substantive defects concerning plaintiff's complaint, the trial court clearly erred when it failed to impose sanctions on plaintiff. As we have not identified any errors warranting reversal by the trial court,

[3] Subsequent to the issuance of *Guerrero*, the language pertaining to the applicable sanctions was moved from MCR 2.114 to MCR 1.109.

sanctions against plaintiff would not be warranted, and the trial court did not clearly err when it denied defendant's request.

Affirmed.

/s/ Colleen A. O'Brien
/s/ Kathleen A. Feeney
/s/ Randy J. Wallace