STATE OF MICHIGAN

COURT OF APPEALS

DOUGLAS LANCASTER and DIANA LANCASTER,

Plaintiffs-Appellees,

and

BRIANNA LANCASTER,

Plaintiff,

v

COSMOPOLITAN HOMES, INC., and DAN WICKER,

Defendants-Appellants,

and

VLADISLAV SAFIR, ALVERS, LLC, CITY TRENDS REALTY, LLC, and YOUSSEF DAKROUB,

Defendants.

UNPUBLISHED
September 10, 2026
10:36 AM

No. 373220
Wayne Circuit Court
LC No. 17-003533-CH

Before: LETICA, P.J., and RICK and GARRETT, JJ.

PER CURIAM.

After a remand by this Court,[1] defendants, Cosmopolitan Homes, Inc., and Dan Wicker, appeal as of right the trial court's order requiring the return of case-evaluation sanctions paid after

[1] *Lancaster v Cosmopolitan Homes, Inc*, unpublished per curiam opinion of the Court of Appeals, issued December 29, 2020 (Docket No. 347678).

the first trial. Defendants also challenge the court's denial of their motion for reconsideration and its refusal to sanction plaintiffs, Douglas and Diana Lancaster. We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

This is the second time this dispute has reached this Court. Plaintiffs purchased a home in Taylor, Michigan, from Cosmopolitan Homes in February 2016 for use by their granddaughter, Brianna Lancaster. Before the sale, defendants provided a seller's disclosure statement stating that there was no known history of water in the basement. A few months after Brianna moved in, the basement walls began leaking after a heavy rainfall. Plaintiffs and Brianna later sued Cosmopolitan Homes, Wicker, and several other defendants, alleging fraud, innocent misrepresentation, silent fraud, breach of contract, and violations of the Seller's Disclosure Act (SDA), MCL 565.951 *et seq*. *Lancaster v Cosmopolitan Homes, Inc*, unpublished per curiam opinion of the Court of Appeals, issued December 29, 2020 (Docket No. 347678), pp 1-2.

Before the first trial, the case was submitted to case evaluation. The panel entered a $6,000 evaluation against Wicker in plaintiffs' favor. The panel did not enter an evaluation for Cosmopolitan Homes. Plaintiffs rejected the evaluation.

The first trial ended in a directed verdict for defendants after the trial court denied plaintiffs a brief adjournment to secure the testimony of Cletis Nichols, a witness who had stated that he personally informed Wicker about the home's history of water damage. During plaintiffs' appeal from the directed verdict, the trial court awarded defendants $43,911.08 in case-evaluation sanctions. The parties then entered a stipulated order under which plaintiffs paid $48,000, or 110% of the sanctions award, to defendants' counsel. The order provided that the funds were the property of defendants' counsel and that plaintiffs had no right to them, except that:

> There are no rights of these Plaintiffs in the said monies provided however in the event the Michigan Court of Appeals (and the Michigan Supreme Court if applicable) reverse and remand the matter for trial so that these plaintiffs are deemed the prevailing parties, then plaintiffs shall be entitled to reimbursement of monies paid.

On appeal, this Court held that the trial court abused its discretion by denying plaintiffs' requested adjournment and that, had Nichols testified consistently with his affidavit, defendants would not have been entitled to a directed verdict on plaintiffs' claims for fraud, innocent misrepresentation, silent fraud, and violation of the SDA. *Lancaster*, unpub op at 3-5. We therefore reversed the directed verdict as to those claims and remanded for a new trial. *Id.* at 4, 12-13. Our Supreme Court denied defendants' application for leave to appeal. *Lancaster v Cosmopolitan Homes, Inc*, 508 Mich 895 (2021).

The case was retried in October 2023. The jury found that Wicker, but not Cosmopolitan Homes, committed silent fraud and violated the SDA. It found both defendants liable for innocent misrepresentation. The jury awarded plaintiffs $4,344 against Cosmopolitan Homes and $4,344.05 against Wicker, for an aggregate verdict of $8,688.05.

Wicker then moved for case-evaluation sanctions under former MCR 2.403(O). He argued that the $4,344.05 verdict against him was not more than 10% above the $6,000 case evaluation and that defendants were therefore entitled to retain the sanctions paid after the first trial and to recover additional sanctions for the retrial. Plaintiffs responded that the first sanctions award could no longer stand after reversal of the directed verdict and that the $8,688.05 aggregate verdict was more favorable than the $6,000 aggregate evaluation. The trial court denied Wicker's motion. It reasoned that the case-evaluation award should be considered together as to Wicker and Cosmopolitan Homes and that plaintiffs' total verdict exceeded the evaluation by more than 10%.

Plaintiffs later moved for return of the $48,000 paid under the stipulated order. The court granted the motion, ordered defendants' counsel to return the funds, and directed that they be held in plaintiffs' counsel's client trust account pending further order. In doing so, the court concluded that this Court's reversal had eliminated the verdict on which the first sanctions award rested and that plaintiffs had prevailed at the retrial. The court later denied defendants' motion for reconsideration. This appeal followed.

II. ANALYSIS

A. CASE-EVALUATION SANCTIONS

Defendants principally argue that plaintiffs were not prevailing parties after the retrial because the jury awarded only $4,344.05 against Wicker, less than the $6,000 case-evaluation award. They also argue that plaintiffs' motion for return of the $48,000 was inadequately briefed and that defense counsel had no obligation to provide an accounting of those funds. We disagree.

"When MCR 2.403(O) was in effect, a trial court's decision whether to grant case-evaluation sanctions under that subrule presented a question of law, which this Court reviews de novo." *Webster v Osguthorpe*, ___ Mich ___, ___; ___ NW3d ___ (2025) (Docket Nos. 166627 and 166628); slip op at 10. Whether the verdict was sufficiently favorable to avoid sanctions is likewise reviewed de novo. *Id.* We also review the interpretation and application of court rules de novo. *Dawley v Hall*, 501 Mich 166, 169; 905 NW2d 863 (2018).

MCR 2.403 was amended effective January 1, 2022, to eliminate case-evaluation sanctions. *Webster*, ___ Mich at ___; slip op at 3. Under MCR 1.102, however, a trial court has discretion to permit a pending action to proceed under the former rules when application of the amended rules would not be feasible or would work injustice. *Id.* at ___; slip op at 11-12. Here, the parties and the trial court proceeded under former MCR 2.403(O), and neither side argues on appeal that doing so was error. We therefore address the parties' arguments under the former rule.

We first consider defendants' contention that plaintiffs' motion for return of the $48,000 was fatally deficient because the supporting brief cited only MCR 2.403(O). MCR 2.119(A)(2) provides that a motion presenting an issue of law "must be accompanied by a brief citing the authority on which it is based." Defendants are correct that courts are not the parties' research assistants. *Tolas Oil & Gas Exploration Co v Bach Servs & Mfg, LLC*, 347 Mich App 280, 293; 14 NW3d 472 (2023). Briefs should contain the argument, facts, and law necessary to resolve the dispute. *City of Westland v Kodlowski*, 298 Mich App 647, 662; 828 NW2d 67 (2012), rev'd in part on other grounds 495 Mich 871 (2013).

However, plaintiffs did not simply announce a request for $48,000 and leave the court to invent a theory. Their motion identified the stipulated order, explained that this Court had reversed and remanded for retrial, asserted that plaintiffs had prevailed at the retrial, and cited former MCR 2.403(O) as the governing rule. More importantly, the same case-evaluation question had already been fully litigated on Wicker's motion for sanctions, which the trial court denied only months earlier. The court plainly understood both the issue and plaintiffs' legal theory. MCR 2.119(A)(2) did not require the court to disregard an otherwise supported motion merely because the accompanying brief was short. Defendants have shown no error on this ground.

Turning to the merits, defendants argue that plaintiffs' verdict was not sufficiently favorable to preclude case-evaluation sanctions. Former MCR 2.403(O)(1) generally required a party who rejected a case evaluation to pay the opposing party's actual costs unless the verdict was more favorable to the rejecting party than the evaluation. Former MCR 2.403(O)(3) provided that a verdict was more favorable to a plaintiff if it was more than 10% above the evaluation. The rule was intended to encourage settlement and shift the costs of continued litigation to a party who rejected an evaluation and failed to obtain a sufficiently better result. *Dessart v Burak*, 252 Mich App 490, 498; 652 NW2d 669 (2002), aff'd 470 Mich 37 (2004).

For cases involving multiple parties, former MCR 2.403(O)(4)(a) provided that the court generally was required to compare "only the amount of the evaluation and verdict as to the particular pair of parties, rather than the aggregate evaluation or verdict as to all parties." The rule then provided, however, that "costs may not be imposed on a plaintiff who obtains an aggregate verdict more favorable to the plaintiff than the aggregate evaluation." Thus, a plaintiff who obtains a sufficiently favorable aggregate verdict is protected from case-evaluation sanctions even when the pair-by-pair comparison would point the other way.

Consistent with that language, *Frank v William A Kibbe & Assoc, Inc*, 208 Mich App 346, 354; 527 NW2d 82 (1995), held that an aggregate verdict is "more favorable" for purposes of MCR 2.403(O)(4)(a) only if it exceeds the aggregate evaluation by more than the 10% required by MCR 2.403(O)(3). *Broadway Coney Island, Inc v Commercial Union Ins Cos*, 217 Mich App 109, 115-116; 550 NW2d 838 (1996), applied the same rule.

Here, the case-evaluation panel entered a $6,000 evaluation against Wicker but entered no evaluation as to Cosmopolitan Homes. Thus, the aggregate case evaluation was $6,000. At trial, however, the jury awarded plaintiffs $4,344 against Cosmopolitan Homes and $4,344.05 against Wicker, producing an aggregate verdict of $8,688.05. Because $8,688.05 exceeds $6,000 by more than 10%, plaintiffs obtained an aggregate verdict more favorable than the aggregate evaluation. Former MCR 2.403(O)(4)(a) therefore prohibited the imposition of case-evaluation sanctions. *Frank*, 208 Mich App at 354; *Broadway Coney Island*, 217 Mich App at 115-116.

Defendants emphasize that the jury separately considered Wicker and Cosmopolitan Homes and separately allocated damages. But that is precisely why the two comparisons produce different results. Looking only at Wicker, the $4,344.05 verdict was less favorable to plaintiffs than the $6,000 evaluation. Looking at the case in the aggregate, however, plaintiffs recovered $8,688.05 against the two defendants on a $6,000 aggregate evaluation. Former MCR 2.403(O)(4)(a) expressly protects a plaintiff who obtains the more favorable aggregate result.

Defendants further contend that the aggregate-verdict provision does not apply because the evaluation panel entered no award as to Cosmopolitan Homes. But defendants identify no authority imposing such a limitation, and the text of former MCR 2.403(O)(4)(a) contains none. See *Greater Bethesda Healing Springs Ministry v Evangel Builders & Constr Managers, LLC*, 282 Mich App 410, 413; 766 NW2d 874 (2009) ("An appellant may not merely announce its position and leave it to this Court to discover and rationalize the basis for its claims, unravel or elaborate its argument, or search for authority for its position. Insufficiently briefed issues are deemed abandoned on appeal."). The absence of an evaluation as to Cosmopolitan Homes therefore does not alter the aggregate comparison.

The same conclusion resolves defendants' claim to retain the $48,000 paid after the first trial. The parties' stipulated order provided for reimbursement if this Court reversed and remanded for trial and plaintiffs were thereafter deemed the prevailing parties. Both conditions were satisfied. This Court reversed the directed verdict and remanded for a new trial, and, for the reasons already explained, plaintiffs' aggregate verdict after retrial was sufficiently favorable under former MCR 2.403(O) to preclude case-evaluation sanctions. Plaintiffs therefore satisfied the condition for reimbursement, and the trial court did not err by ordering the return of the $48,000.

Defendants also argue that their counsel had no obligation to provide plaintiffs an accounting of the $48,000. An accounting is an equitable remedy used to determine what amount is due to a party. *Basinger v Provident Life & Accident Ins Co*, 67 Mich App 1, 6-7; 239 NW2d 735 (1976). The trial court did not order an accounting; it ordered the return of a fixed and undisputed amount, $48,000. Because the trial court imposed no accounting requirement, defendants' challenge to such a requirement is moot. See *In re Pollack Trust*, 309 Mich App 125, 154; 867 NW2d 884 (2015).

B. SANCTIONS FOR PLAINTIFFS' MOTION

Defendants next argue that plaintiffs should have been sanctioned under MCR 1.109(E) because their motion for return of the funds was not adequately supported by law. We disagree.

We review a trial court's decision regarding sanctions for an abuse of discretion. *Legacy Custom Builders, Inc v Rogers*, 345 Mich App 514, 522; 8 NW3d 207 (2023). A court abuses its discretion when its decision falls outside the range of reasonable and principled outcomes, and it necessarily abuses its discretion when it makes an error of law. *Pirgu v United Servs Auto Ass'n*, 499 Mich 269, 274; 884 NW2d 257 (2016). The interpretation of a court rule presents a question of law that we review de novo. *Dawley*, 501 Mich at 169.

MCR 1.109(E)(5) provides that an attorney's signature on a filed document certifies, among other things, that 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." If a document is signed in violation of that requirement, MCR 1.109(E)(6) requires the court to impose an appropriate sanction. The rule principally addresses frivolous court filings. *Bradley v Frye-Chaiken*, 514 Mich 679, 705; 22 NW3d 458 (2024).

There was no violation here. Plaintiffs relied on the stipulated order, this Court's reversal and order of remand, and former MCR 2.403(O). As discussed, those authorities supported the relief plaintiffs requested. The fact that their brief was concise did not render the motion frivolous or unwarranted by existing law.

Defendants rely on *Wolfson v Grech*, unpublished per curiam opinion of the Court of Appeals, issued December 19, 2006 (Docket No. 269930), pp 3-4. Unpublished opinions are "not precedentially binding under the rule of stare decisis." MCR 7.215(C)(1). *Wolfson* is distinguishable in any event. There, this Court upheld an award of sanctions when the movant supplied neither factual nor legal support for the allegations at issue. *Wolfson*, unpub op at 3-4. In this matter, plaintiffs cited the governing court rule and sought relief grounded in the stipulated order and the procedural history of this case. The trial court thus did not abuse its discretion by declining to sanction them.[2]

C. RECONSIDERATION

Finally, defendants argue that the trial court abused its discretion by denying reconsideration. We disagree.

We review a trial court's denial of reconsideration for an abuse of discretion. *Farm Bureau Ins Co v TNT Equip, Inc*, 328 Mich App 667, 672; 939 NW2d 738 (2019). Under MCR 2.119(F)(3), the moving party must "demonstrate a palpable error by which the court and the parties have been misled" and show that correcting the error requires a different disposition. *Sanders v McLaren-Macomb*, 323 Mich App 254, 264; 916 NW2d 305 (2018). A palpable error is one that is plain, obvious, or readily apparent. *Luckow Estate v Luckow*, 291 Mich App 417, 426; 805 NW2d 453 (2011). Although a trial court has considerable discretion to reconsider an earlier ruling, including discretion to give a litigant a "second chance" even when nothing new is presented, it is not required to do so. *Sanders*, 323 Mich App at 264-265; *Yoost v Caspari*, 295 Mich App 209, 220; 813 NW2d 783 (2012).

Defendants' motion for reconsideration reiterated that plaintiffs' motion for return of the $48,000 lacked adequate legal support, that plaintiffs were not prevailing parties after retrial, and that the verdicts against Wicker and Cosmopolitan Homes could not be considered in the aggregate. We have rejected each of those arguments. Defendants therefore failed to establish a palpable error requiring a different disposition, and the trial court did not abuse its discretion by denying reconsideration.

Defendants alternatively argue that, even if reimbursement was required, the repayment obligation belonged to defendants rather than their counsel. Their appellate brief offers no

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[2] Defendants' statement of the issues presented on appeal also invokes former MCR 2.114(D)(2), but their appellate brief does not develop an argument explaining how that former rule independently requires sanctions. That undeveloped argument is abandoned. *Greater Bethesda Healing Springs Ministry*, 282 Mich App at 413.

authority supporting that proposition, and we need not develop the argument for them. *Greater Bethesda Healing Springs Ministry*, 282 Mich App at 413. In any event, the stipulated order required plaintiffs to pay the $48,000 directly to defendants' counsel and declared those funds counsel's property unless the stated condition occurred. It also provided that plaintiffs would be entitled to reimbursement if it did. Once that condition occurred, the trial court did not err by ordering the holder of the funds to return them.

Affirmed.

/s/ Anica Letica
/s/ Michelle M. Rick
/s/ Kristina Robinson Garrett