

STATE OF MICHIGAN
COURT OF APPEALS

KEITH B. ALANDT and MONICA L. ALANDT,
Plaintiffs-Appellees,

UNPUBLISHED
November 9, 2004

v

BALDWIN INTERNATIONAL and FEDMET
INTERNATIONAL CORPORATION,

No. 248964
Macomb Circuit Court
LC No. 2002-005020-NO

Defendants,

and

WASHINGTON CORPORATION,

Defendant-Appellant.

Before: Murray, P.J., and Sawyer and Smolenski, JJ.

MEMORANDUM.

Defendant Washington Corporation appeals as of right the circuit court order dismissing claims against it with prejudice but without costs. We affirm.

Plaintiffs erroneously included defendant as a party to this action, which they assert was based on wrong information received from the Corporations Division. After defendant filed an answer, plaintiffs moved to dismiss the complaint as to defendant with prejudice and without costs. Defendant asserted that the court should retain jurisdiction to determine whether the complaint was filed in violation of MCR 2.114. The trial court granted plaintiffs' motion.

MCR 2.114 provides in part:

(D) The signature of an attorney or party, whether or not the party is represented by an attorney, constitutes a certification by the signer that

(1) he or she has read the document;

(2) 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

(3) the document is not interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation.

(E) If a document is signed in violation of this rule, the court, on the motion of a party or on its own initiative, shall impose upon the person who signed it, a represented party, or both, 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. The court may not assess punitive damages.

The imposition of a sanction under MCR 2.114 is mandatory after finding that a pleading was signed in violation of the court rule or a frivolous action or defense has been pleaded. *Schadewald v Brulé*, 225 Mich App 26, 41; 570 NW2d 788 (1997). This Court reviews a trial court's decision regarding the imposition of a sanction to determine if it is clearly erroneous. *Id.*

As plaintiffs point out, defendant never filed a motion for sanctions. Nevertheless, MCR 2.114(E) allows the court on its own initiative to impose sanctions. Plaintiffs admitted that they erroneously named defendant as a party to this action and explained that this decision was based on erroneous information obtained from the Corporations Division. Defendant has not refuted this assertion. There is no showing that the trial court clearly erred in failing to sua sponte impose sanctions on plaintiffs where the evidence does not establish that plaintiffs filed their complaint without a reasonable basis for believing that the facts were true.

Affirmed.

/s/ Christopher M. Murray
/s/ David H. Sawyer
/s/ Michael R. Smolenski