

STATE OF MICHIGAN
COURT OF APPEALS

GWANJUN KIM,

Plaintiff/Counter-Defendant-
Appellant,

and

KEESOO KIM,

Plaintiff,

v

RONALD C. WERNETTE, JR., and BON GOU
LEE,

Defendants/Counter-Plaintiffs-
Appellees.

UNPUBLISHED

May 15, 2008

No. 277362

Kent Circuit Court

LC No. 07-000187-CZ

Before: Donofrio, P.J., and Sawyer and Murphy, JJ.

PER CURIAM.

Plaintiff GwanJun Kim, acting *in propria persona*, appeals as of right the circuit court's order granting summary disposition in favor of defendants and imposing sanctions. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

GwanJun Kim and plaintiff Keesoo Kim sued Kia Motors America alleging that a certain newspaper advertisement violated Michigan's pricing and advertising act, MCL 445.351 *et seq.* *Kim v Kia Motors America*, Kent Circuit Court Docket No. 03-008356-CZ. The trial court granted Kia's motion for summary disposition pursuant to MCR 2.116(C)(10), finding that plaintiffs could not show that a genuine issue of material fact existed as to whether a representation in the advertisement was "untrue, deceptive or misleading." MCL 445.356(1). In *Kim v Kia Motors America*, unpublished opinion per curiam of the Court of Appeals, issued April 12, 2005 (Docket No. 260071), this Court affirmed the trial court's decision.

Thereafter, plaintiffs filed the instant case, alleging that defendant Wernette, counsel for Kia Motors America in the underlying case, and defendant Lee, the president of Kia Motors America, committed perjury and subornation of perjury, respectively, during the course of the underlying case. A first amended complaint signed by GwanJun Kim, only, alleged that

defendants committed perjury and subornation of perjury in the circuit court during the course of the underlying case, and during the course of the appeal in this Court.

Defendants moved for summary disposition pursuant to MCR 2.116(C)(7), (8), and (10), and sought sanctions pursuant to MCR 2.114(E) and (F), and MCL 600.2591 on the ground that the action was frivolous. The trial court granted summary disposition for defendants, noting that Michigan law did not recognize a civil action for perjury. The trial court awarded sanctions against GwanJun Kim in the amount of \$11,188.51 on the ground that the claim was devoid of arguable legal merit.

We review a trial court's decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2002).

If a court finds that a claim is frivolous, it shall award sanctions to the prevailing party. MCL 600.2591(1). A claim is frivolous when: (1) the party's primary purpose in bringing the claim was to harass, embarrass, or injure the prevailing party; (2) the party had no reasonable basis to believe the underlying facts were true; or (3) the party's position was devoid of arguable legal merit. MCL 600.2591(3). Sanctions include reasonable costs and fees, including attorney fees. MCL 600.2591(2). The filing of a signed pleading that is not well-grounded in fact and law subjects the filer to sanctions. MCR 2.114(D)(2) and (E). The determination whether a claim was frivolous must be based on the circumstances that existed at the time the claim was asserted. *Jerico Construction, Inc v Quadrants, Inc*, 257 Mich App 22, 36; 666 NW2d 310 (2003). We review the trial court's determination of the amount of sanctions imposed for an abuse of discretion. *In re Costs & Attorney Fees*, 250 Mich App 89, 104; 645 NW2d 697 (2002).

We affirm. Plaintiff cannot accept that in the underlying case, the trial court and this Court rejected his argument on the ground that it is without legal merit. Plaintiff's assertions that the trial court and this Court conspired with defendants are not worthy of our consideration.

Plaintiff filed the instant action alleging that defendants engaged in perjury to convince the trial court and this Court to rule in their favor. However, the trial court correctly granted summary disposition for defendants on the ground that Michigan does not recognize a civil cause of action for perjury. See *Meyer v Hubbell*, 117 Mich App 699, 704; 324 NW2d 139 (1982); *Rogoski v Muskegon*, 107 Mich App 730, 736; 309 NW2d 718 (1981).

Plaintiff presents no argument and cites no authority to establish that the trial court erred in finding that his position was without arguable legal merit, or that the trial court's award of sanctions constituted an abuse of discretion. This argument has not been presented in proper form; therefore, we consider it abandoned. See *In re Application of Indiana Michigan Power Co*, 275 Mich App 369, 376; 738 NW2d 289 (2007).

Affirmed.

/s/ Pat M. Donofrio
/s/ David H. Sawyer
/s/ William B. Murphy