

STATE OF MICHIGAN
COURT OF APPEALS

MAYFAIR INSURANCE AGENCY, INC., d/b/a
OAKLAND INSURANCE AGENCY, INC.,

UNPUBLISHED
June 26, 2012

Plaintiff/Counter-Defendant-
Appellant,

v

No. 303188
Oakland Circuit Court
LC No. 2008-092877-CK

DOUG CHARON, a/k/a DOUGLAS E.
CHARON,

Defendant/Counter-Plaintiff-
Appellee

and

MATTHEW T. SZURA & COMPANY, d/b/a
SZURA INSURANCE SERVICES, INC.,

Defendant-Appellee.

Before: K. F. KELLY, P.J., and SAWYER and RONAYNE KRAUSE, JJ.

PER CURIAM.

Plaintiff appeals as of right an order granting plaintiff's motion for sanctions under MCR 2.114, but awarding substantially less than the amount plaintiff requested, and an order denying reconsideration of that amount. We affirm.

I. FACTS AND PROCEDURAL HISTORY

This case arose out of plaintiff's lawsuit against defendant Charon for breaching an employment agreement by working for defendant Matthew T. Szura & Company (Szura). Plaintiff also sued Szura for tortious interference with the employment agreement between plaintiff and Charon. The case was sent to case evaluation, which found against both defendants in the amount of \$50,000 each, for an aggregate amount of \$100,000 in plaintiff's favor. All parties rejected the case evaluation award, and the matter proceeded to binding arbitration. The arbitrator awarded plaintiff \$237,138 against Charon but found no cause of action against Szura.

After the trial court entered the award, Szura filed a motion for costs and attorneys fees under MCR 2.403(O), which the trial court denied.

As a result of that denial, plaintiff moved for sanctions against Szura under MCR 2.114 (D) and (E). The trial court granted the motion, stating that Szura had no basis for bringing the MCR 2.403 motion. Szura requested an opportunity to file a supplemental brief, which the trial court granted, but it warned Szura that if plaintiff had to respond, the cost of doing so would be added to any costs awarded. Szura filed a supplemental brief, and plaintiff responded to it. The trial court ruled that Szura's motion had been frivolous, but, without any further explication, awarded plaintiff only \$1,000, several times less than plaintiff had requested. Plaintiff moved for reconsideration, which the trial court denied, and this appeal followed.

II. STANDARD OF REVIEW

A lower court's decision to impose sanctions under MCR 2.114 is reviewed for clear error. *Shadewald v Brule*, 225 Mich App 26, 41; 570 NW2d 788 (2011). However, the amount awarded is reviewed by this court for abuse of discretion. *BJ's & Sons Constr Co, Inc v Van Sickle*, 266 Mich App 400, 440; 700 NW2d 432 (2005) (internal citations omitted). This Court reviews all relevant questions of law de novo. *Luckow v Luckow*, 291 Mich App 417, 423; 805 NW2d 453 (2011).

Denial of a motion for reconsideration is review by this Court for an abuse of discretion. *Tinman v Blue Cross and Blue Shield of Michigan*, 264 Mich App 546, 556-557; 692 NW2d 58 (2004), citing *Kokx v Bylenga*, 241 Mich App 655, 658; 617 NW2d 368 (2000). Under MCR 2.119(F)(3), a motion for reconsideration should be granted when the trial court and parties were misled by palpable error. This Court has explained that an abuse of discretion is found when "the trial court's decision is outside the range of reasonable and principled outcomes." *Shawl v Spence Bros, Inc*, 280 Mich App 213, 221; 760 NW2d 674 (2008).

III. SANCTIONS UNDER MCR 2.114

For a court to award sanctions pursuant to MCR 2.114(E), the court must find that a document, which can include a motion pursuant to MCR 2.114(A), was signed in violation of MCR 2.114(D). *Whalen v Doyle*, 200 Mich App 41, 42; 503 NW2d 678 (1993). If the court so finds, it must impose sanctions. *FMB-First Mich Bank v Bailey*, 232 Mich App 711, 726; 591 NW2d 676 (1998). However, pursuant to the plain language of the court rule, the *amount* of sanctions is merely whatever the court, in its discretion, considers "appropriate," subject only to the limitation that the court may not impose punitive damages. MCR 2.114(E). The sanctions need not include reasonable attorney fees, although the court is permitted to include them if it deems doing so appropriate. *FMB*, 232 Mich App at 726. Therefore, it was within the court's discretion whether or not to impose attorney fees.

Plaintiff contends that the trial court should otherwise have simply given it all that it asked for, or at least explained why it only awarded an amount of \$1,000. As to the latter, while this Court appreciates explanations by the trial court of their reasoning, and we are sure the parties also appreciate such explanations, "[f]indings of fact and conclusions of law are unnecessary in decisions on motions unless findings are required by a particular rule." MCR

2.517(A)(4). Nowhere in MCR 2.114 is the trial court required to explain why it concludes that a particular amount is appropriate. As to the latter, we note that MCR 2.114 also does not specify that an appropriate award is synonymous with a party's actual costs, but rather that it *may* include reasonable costs. The trial court might conclude that a party's actual costs are unreasonable or simply that, under the unique circumstances of the case before it, some lesser amount would be more appropriate. Plaintiff simply does not articulate why the award is an unprincipled outcome beyond, as noted, asserting that the trial court should have awarded it everything. The trial court is not obligated to do so.

IV. CONCLUSION

We do believe that the better practice would be for trial courts to place on the record at least some articulation of why they believe a particular amount to be the most appropriate sanction. Doing so would make our review easier, and it is always of benefit to parties and counsel to understand the reasoning behind courts' decisions. However, we do not find that it was technically required, and we do not find that the amount of the award was outside the range of principled outcomes.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ David H. Sawyer
/s/ Amy Ronayne Krause