

STATE OF MICHIGAN
COURT OF APPEALS

LAW OFFICES OF JOUMANA KAYROUZ,
P.L.L.C.,

UNPUBLISHED
August 21, 2012

Plaintiff-Appellee,

v

NAZEK A. GAPPY,

No. 305008
Oakland Circuit Court
LC No. 2010-114610-CK

Defendant-Appellant.

Before: SAAD, P.J., and SAWYER and CAVANAGH, JJ.

PER CURIAM.

Defendant appeals as of right the trial court's order denying her request for attorney fees as a sanction against plaintiff. We affirm.

Defendant, an attorney who was employed by plaintiff, was terminated from her employment on or about October 27, 2010. On or about the same day, defendant began to represent one of plaintiff's former clients ("the client"). On November 1, 2010, plaintiff filed a complaint against defendant, alleging tortious interference with a contract and tortious interference with a business relationship. Plaintiff alleged that defendant improperly induced the client to terminate his contract and business relationship with plaintiff. After discovery, the trial court granted summary disposition to defendant because it found that the client chose to discontinue plaintiff's services, and that defendant did not improperly influence the client to do so.

Defendant, who proceeded in propria persona, alleged that she was entitled to her costs and attorney fees as the prevailing party because plaintiff filed a frivolous complaint. The trial court denied her request for attorney fees because it found that plaintiff's complaint was not frivolous at its inception. However, the trial court granted defendant's motion for costs. Defendant contends that the trial court erred in declining to award her attorney fees under MCL 600.2591 and MCR 2.114(F), which allows a party pleading a frivolous claim to be subject to costs under MCR 2.625(A)(2). We disagree.

Defendant's claim fails because a pro se litigant is not entitled to recover her attorney fees under MCL 600.2591 or MCR 2.625(A)(2). *FMB-First Mich Bank v Bailey*, 232 Mich App 711, 725-727; 591 NW2d 676 (1998). As explained in *FMB-First Mich Bank*, MCL 600.2591 and MCR 2.625(A)(2) predicate an award of attorney fees on the idea that fees are actually

incurred by the litigant. *Id.* at 725-726. A pro se litigant does not incur attorney fees because she represents herself. *Id.* at 726. Moreover, even a pro se litigant who is an attorney, as defendant is in this case, cannot act as an “attorney” for herself. *Id.* Indeed, “an attorney is an agent or substitute who acts in the stead of another, a party acting in propria persona cannot truly be said to be an attorney for himself.” *Id.* Thus, an attorney who acts in propria persona is not entitled to recover her attorney fees under MCL 600.2591 or MCR 2.625(A)(2) because she neither acts as an attorney for herself nor incurs attorney fees. *Id.* Accordingly, defendant is not entitled to recover her attorney fees. *Id.* Although the trial court did not decide the case on this ground, we may nonetheless affirm the trial court’s order denying defendant’s request for her attorney fees on this alternate ground. *Lavey v Mills*, 248 Mich App 244, 250; 639 NW2d 261 (2001) (quotation omitted, alteration in original) (“[w]hen this Court concludes that a trial court has reached the correct result, this Court will affirm even if it does so under alternative reasoning.”).

Affirmed.

/s/ Henry William Saad

/s/ David H. Sawyer

/s/ Mark J. Cavanagh