

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2016 CA 0492

JEW

L. WALKER ALLEN, II

VERSUS

ROBERT C. LOWE, JEFFREY M. HOFFMAN,
LOWE, STEIN, HOFFMAN, ALLWEIS & HAUSER, LLP,
SUSAN TAYLOR MARTIN AKA SUSAN TAYLOR ALLEN,
ELIZABETH MARTIN ARMSTRONG, JOHN DOE, AND
THE JOHN DOE COMPANY, INC.

Judgment Rendered: DEC 22 2016

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Appealed from the
22nd Judicial District Court
In and for the Parish of St. Tammany, Louisiana
Trial Court Number 2013-15920

Honorable Robert J. Burns, Judge Ad Hoc

* * * * *

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Plaintiff – Lange Walker Allen, II

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Attorneys for Appellees
Defendants – Robert C. Lowe, Jeffrey
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Hoffman, Allweiss and Hauver, LLP

* * * * *

BEFORE: WELCH, CRAIN, AND HOLDRIDGE, JJ.

WJ
Crain, J concurs

Holdridge J., dissents.

WELCH, J.

The plaintiff/appellant, Lange Walker Allen, II, appeals a November 2, 2015 judgment granting an award for sanctions under La. C.C.P. art. 863 against him and in favor of the defendants/appellees, Robert C. Lowe, Jeffrey M. Hoffman, Lowe, Stein, Hoffman, Allweiss & Hauver, LLP (referred to herein collectively as the “Lowe Defendants”) and Susan Taylor Martin. For the following reasons, we affirm the judgment of the trial court.

FACTUAL AND PROCEDURAL BACKGROUND

Summary of Earlier Procedural History

This is the third appeal filed by Mr. Allen in connection with the instant underlying suit. The facts of this suit are fully delineated in our opinion, **Allen v. Lowe**, 2016-0070 (La. App. 1st Cir. 12/16/16), _____ WL _____. However, we include a review of the pertinent facts and procedural history of this suit, as the course of Mr. Allen’s actions are integral to understanding the matter at hand.

Mr. Allen filed the instant civil action against his ex-wife, Ms. Martin, and the Lowe Defendants, who represented Ms. Martin in domestic proceedings against Mr. Allen. Mr. Allen alleged that during the domestic proceeding, and in particular in connection with a contempt judgment entered against Mr. Allen, the defendants entered “into an informal *ad hoc* partnership, joint venture, or civil conspiracy” to deprive him of money and property. Mr. Allen sought recovery under three distinct theories of recovery: (1) 42 U.S.C. § 1983; (2) the Louisiana Unfair Trade Practices Act, La. R.S. 51:1401, *et seq.* (“LUTPA”); and (3) intentional tort claims alleging that the Lowe Defendants’ actions violated the Louisiana Rules of Professional Conduct.

In January 2014, the Lowe Defendants removed the claims against them to the United States District Court for the Eastern District of Louisiana, and filed a motion to dismiss. The federal district court granted the Lowe Defendants’ motion

to dismiss as to Mr. Allen's 42 U.S.C. § 1983 and LUTPA claims for failure "to state a claim that is plausible on its face." See F.R.C.P. Rule 12(b)(6); **Allen v. Lowe**, 2014-204 (E.D. La. 09/09/14), 2014 WL 4450359, 2. However, the federal district court declined to exercise its supplemental jurisdiction to consider Mr. Allen's intentional tort claim against the Lowe Defendants, and this claim was remanded to the state court.

The federal district court also granted the Lowe Defendants attorney's fees finding that Mr. Allen's 42 U.S.C. §1983 and LUTPA claims were objectively "groundless and brought in bad faith." See **Allen v. Lowe**, 2014-204 (E.D. La. 3/9/15), 2015 WL 1021695, 3. The federal district court found that Mr. Allen's civil conspiracy suit was a litigation tactic in the domestic proceeding with the objective of creating a conflict of interest between Ms. Martin and her attorneys to prevent the Lowe Defendants from representing Ms. Martin. **Allen v. Lowe**, 2015 WL 1021695, 3. In support of its finding that Mr. Allen's suit was groundless and in bad faith, the federal district court classified the suit as a collateral attack on the contempt judgment in the domestic proceeding and noted that Mr. Allen had sought to have the Lowe Defendants disqualified from representing Ms. Martin in the domestic proceeding by asserting that a conflict of interest was created by the filing of his civil action. *Id.*

Following remand of the matter to the state court, the Lowe Defendants and Ms. Martin filed exceptions of no cause of action. These exceptions were heard at a February 25, 2015 hearing, which neither Mr. Allen nor his counsel attended. In a judgment signed March 25, 2015, the trial court sustained the defendants' exceptions and dismissed all claims against the Lowe Defendants and Ms. Martin with prejudice. Additionally, the March 25, 2015 judgment by the trial court ruled that Mr. Allen's claims were frivolous, unreasonable, groundless, brought in bad faith, and/or for purposes of harassment allowing the defendants recovery of

attorney's fees and litigation expenses pursuant to 42 U.S.C. § 1988 and La. R.S. 51:1409. However, no award of sanctions was imposed, and the trial court directed the defendants to file a rule to tax.

Mr. Allen filed an appeal challenging the March 25, 2015 judgment, wherein he asserted that the notice by the trial court re-setting the hearing on the exceptions for February 25, 2015 was not served on either Mr. Allen or his counsel of record as required by La. C.C.P. art. 1313(C).¹ **Allen v. Lowe**, 2015-0983 (La. App. 1st Cir. 12/23/15), 2015 WL 9466853, 3. This court, on its own motion, raised and sustained an exception of no cause of action, and dismissed Mr. Allen's suit against the defendants with prejudice. *Id.* at 6-8.

The defendants filed separate motions to tax attorney's fees and costs. See Allen v. Lowe, 2016-0070 (La. App. 1st Cir. 12/16/16), _____ WL _____. Both Ms. Martin and the Lowe Defendants filed memorandums in support setting forth the grounds upon which their claims for sanctions under La. C.C.P. art. 863 rested. Mr. Allen filed an opposition to the Lowe Defendants' motion to tax, wherein he argued that he did not receive proper notice of the February 25, 2015 hearing on the exceptions. He further argued that his suit against Ms. Martin and her attorneys was founded on the good faith belief that the filings of contempt proceedings by the defendants herein and the family court's actions therein amounted to an abuse of process. Following a hearing at which counsel for Mr.

¹ Both exceptions were initially set for hearing on January 14, 2015, by order of Judge Knight. Mr. Allen's attorney was served by the St. Tammany Sheriff's Office with the separate rule to show cause orders on November 24, 2014 and December 31, 2014. Due to a suit filed by Mr. Allen against all of the judges in the 22nd Judicial District Court in connection with the contempt judgment, Judge Knight recused himself, and Judge Burns was appointed *ad hoc* by the Louisiana Supreme Court. On January 6, 2015, Judge Knight vacated his order on both of the rule to show cause orders, which had set the hearing on January 14, 2015, with identical notations on each order: "Order. Vacated. Signed in error after recusal. Present to Judge Burns." As per the notations on the rule to show cause orders, on January 15, 2015, Judge Burns ordered the resetting of the hearing on both exceptions for February 25, 2015. On January 21, 2015, the clerk of court sent notice via letter to counsel for parties providing notice that the hearing on exceptions of no cause of action originally set for January 14, 2015 before Judge Knight was reset for February 25, 2015 before Judge Burns. The clerk of court's letter noted that certified copies of the modified rule to show cause orders were attached. See Allen v. Lowe, 2015-0983 (La. App. 1st Cir. 12/23/15), 2015 WL 9466853, 2-3.

Allen appeared and argued, the trial court granted the motions to tax and provided oral reasons for his ruling. The judgment, rendered and signed on July 21, 2015, awarded Ms. Martin \$8,415.00 in attorney's fees, and \$416.79 in costs. The Lowe Defendants were awarded \$14,155.00 in attorney's fees and \$460.15 in costs.

Mr. Allen appealed the July 21, 2015 judgment imposing sanctions and this court affirmed the trial court's imposition of sanctions on Mr. Allen. See Allen v. Lowe, 2016-0070 (La. App. 1st Cir. 12/16/16), _____ WL _____. Relevantly, we found sufficient evidence in the record to support the trial court's award of sanctions under La. C.C.P. art. 863, and we found that the July 21, 2015 judgment imposing sanctions against Mr. Allen met the requisite notice requirements of La. C.C.P. art. 863(E).

Motion for New Trial – Motion for Sanctions

On July 31, 2015 Mr. Allen filed a motion for new trial from the July 21, 2015 judgment awarding the defendants attorney's fees and costs under La. C.C.P. art. 863. In his motion for new trial, Mr. Allen argued that the July 21, 2015 sanction award by the trial court is a nullity, because he contends that he did not receive proper notice under La. C.C.P. arts. 1313 and 1314 for the February 25, 2015 hearing on the defendants' exceptions of no cause of action.

The defendants filed an opposition to Mr. Allen's motion for new trial. An order and a rule to show cause setting Mr. Allen's motion for new trial hearing for September 9, 2015 was issued. After the hearing, which neither Mr. Allen nor his counsel attended, the motion for new trial was denied.² The judgment denying Mr. Allen's motion for new trial was signed on September 25, 2015. Despite not attending the hearing, Mr. Allen requested written reasons for denial of his motion for new trial, which was denied by the trial court. Mr. Allen filed a supervisory

² A copy of the transcript for the September 9, 2015 hearing is not contained in the record before this court.

writ with this court challenging the trial court's denial of his motion for written reasons. This court denied Mr. Allen's writ application on the basis that the denial of a motion for new trial is not an appealable judgment, and, thus, written reasons are not required from the district court despite a timely filed request under La. C.C.P. art. 1917.

The defendants filed a motion for sanctions under La. C.C.P. art. 863 on the basis that the motion for new trial was just another of the plaintiff's tactics to prolong the litigation and burden the defendants with additional costs, not to advance a position with potential merit. The defendants further contended that Mr. Allen's failure to appear at the hearing reinforced this conclusion. The defendants sought a total of \$7,876.50 in attorney's fees and costs, with \$5,275.00 representing work associated with the motion for new trial, plus an additional \$2,500.00 associated with the filing and defending of their motion for sanctions. Attached to the motion for sanctions were the billing invoices evidencing legal work performed in connection with the motion.

A rule to show cause was issued setting the hearing on the defendants' motion for sanctions for October 15, 2015. On the day of the hearing, Mr. Allen filed an opposition to the motion for sanctions. Mr. Allen averred that the motion for new trial was soundly based on the law, as he was contesting the validity of the March 25, 2015 judgment on constitutional due process grounds because he did not receive notice of the February 25, 2015 hearing on the exceptions. Further, he excused his failure to attend the hearing on his own motion for new trial by arguing that the memorandum accompanying his motion for new trial was "more than sufficient to permit the Court, if it was minded to abide by the governing statutes, to rule in his favor."

At the October 15, 2015 hearing on the defendants' motion for sanctions, Mr. Allen appeared and reasserted his contention that the motion for new trial was

filed in good faith on the position that the March 25, 2015 judgment was a nullity on the basis of lack of service of notice for the February 25, 2015 hearing. In accordance with La. C.C.P. art. 863(B)(1), the trial court found that Mr. Allen filed the motion for new trial for the purpose of harassment, delay, and to needlessly increase litigation expenses in contravention of La. C.C.P. art. 863. The court considered the entire record of the civil suit, the exhibits attached to the motion for sanctions, and found all of which supported his ruling. The trial court signed a judgment on November 2, 2015, awarding the defendants, *in solido*, \$7,876.50 for fees and costs under La. C.C.P. art. 863.

Mr. Allen appeals the trial court's November 2, 2015 judgment.

LAW AND DISCUSSION

Sanctions

Louisiana Code of Civil Procedure article 863 imposes an obligation on litigants and their attorneys to make an objectively reasonable inquiry into the facts and law. **Sanchez v. Liberty Lloyds**, 95-0956 (La. App. 1st Cir. 4/4/96), 672 So.2d 268, 271, writ denied, 96-1123 (La. 6/7/96), 674 So.2d 972. Subjective good faith will not satisfy this duty of reasonable inquiry. *Id.*

In order to impose sanctions, a trial court must first find that one of the affirmative duties imposed by La. C.C.P. art. 863(B) has been violated. La. C.C.P. art. 863(D). Under the provisions of La. C.C.P. art. 863(B), an attorney certifies that he has read the pleading, and that to the best of his knowledge, information, and belief formed after reasonable inquiry, he certifies all of the following: (1) the pleading is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) each claim, defense, or other legal assertion in the pleading is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law; (3) each allegation or other factual assertion in the pleading has evidentiary

support or, for a specifically identified allegation or factual assertion, is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) each denial in the pleading of a factual assertion is warranted by the evidence or, for a specifically identified denial, is reasonably based on a lack of information or belief. A violation of any one of these duties fatally infects the entire certification. **Connelly v. Lee**, 96-1213 (La. App. 1st Cir. 5/9/97), 699 So.2d 411, 414.

Among factors to be considered in determining whether reasonable factual inquiry has been made are (1) the time available to the signer for investigation; (2) the extent of the attorney's reliance on his client for the factual support for the document; (3) the feasibility of a pre-filing investigation; (4) whether the signing attorney accepted the case from another member of the bar or forwarding attorney; (5) the complexity of the factual and legal issues; and (6) the extent to which development of the factual circumstances underlying the claim requires discovery. The factors for determining whether reasonable legal inquiry was made include (1) the time available to the attorney to prepare the document; (2) the plausibility of the legal view contained in the document; (3) the pro se status of the litigant; and (4) the complexity of the legal and factual issues raised. **Sanchez**, 672 So.2d at 272; **Connelly**, 699 So.2d at 414.

Louisiana Code of Civil Procedure article 863 is intended to be used only in exceptional circumstances; thus, where there is even the slightest justification for the assertion of a legal right, sanctions are not warranted. **Tubbs v. Tubbs**, 96-2095 (La. App. 1st Cir. 9/19/97), 700 So.2d 941, 945. The article does not empower a trial court to impose sanctions simply because a particular argument or ground for relief is subsequently found to be unjustified; failure to prevail does not trigger an award of sanctions. **Carrollton Presbyterian Church v. Presbytery of South Louisiana of Presbyterian Church (U.S.A.)**, 2014-1214 (La. App. 1st Cir.

3/9/15), 172 So.3d 1, 8, writ denied, 2015-0682 (La. 5/22/15), 171 So.3d 257. Advocating new or novel legal theories does not trigger a sanctions award under article 863. **Lafourche Parish Council v. Breaux**, 2002-1565 (La. App. 1st Cir. 5/9/03), 845 So.2d 645, 648. Article 863 seeks to strike a balance between the need to curtail abuse of the legal system and the need to encourage creativity and vitality in the law. **Penton v. Clarkson**, 93-0657, (La. App. 1st Cir. 3/11/94), 633 So.2d 918, 925, superceded by 1996 La. Acts., No. 9 on other grounds. The goal to be served by imposing sanctions is not wholesale fee shifting, but correction of litigation abuse. **Lafourche Parish Council**, 845 So.2d at 648. In determining whether a violation of La. C.C.P. art. 863 occurred, the trial court should avoid using hindsight and should test the signer's conduct at the time the pleading, motion or other paper was submitted. **Sanchez**, 672 So.2d at 272.

A trial court's determination regarding the imposition of sanctions is subject to the manifest error or clearly wrong standard of review. **Connelly v. Lee**, 96-1213 (La. App. 1st Cir. 5/9/97), 699 So.2d 411, 414, writ denied, 97-2825 (La. 1/30/98), 709 So.2d 710. Once the trial court finds a violation of La. C.C.P. art. 863 and imposes sanctions, the determination of the type and/or the amount of the sanction is reviewed on appeal utilizing the abuse of discretion standard. *Id.*

ISSUES ON APPEAL

Mr. Allen asserts the following assignments of error:

A. The trial court erred as a matter of law in awarding Article 863 sanctions against Mr. Allen where no evidence on the issue of liability had been adduced at the prior hearing and where that court had in the record before it no particle of evidence to support its conclusion that his [Mr. Allen's] sole motive in filing a motion for new trial was to harass the defendants and cause them delay and expense.

B. The trial court erred as a matter of law in awarding Article 863 sanctions to the Defendants in clear violation of the settled jurisprudence that sanctions are only to be awarded in extreme cases, are not triggered merely because a party's contentions prove to be without merit, and are precluded when there is even the slightest

justification for the claims asserted by the party against whom sanctions are sought.

In his brief filed with this court, Mr. Allen argues that there is no evidence in the record at either of the three hearings to support a finding that either Mr. Allen's original petition or motion for new trial were filed in bad faith or were any other way properly subject to sanctions under La. C.C.P. art. 863. He further argues that the trial court's award of sanctions was grounded "solely on the wholly unsupported arguments of the defendants-appellees' counsel and on the clear bias and prejudice evinced by the trial court judge's comments."

As noted above, Mr. Allen has also appealed the July 21, 2015 judgment granting the defendants' motions to tax and imposing sanctions to this court. In our review of that record, we found sufficient evidence existed to support the trial court's award of sanctions under La. C.C.P. art. 863 in connection with Mr. Allen's filing of the petition and amended petition asserting claims for damages under 42 U.S.C. § 1983, LUTPA, and intentional tort. **Allen v. Lowe**, 2016-0070 (La. App. 1st Cir. 12/16/16), ____ WL _____. Thus, the question of evidence to support that finding has been challenged by Mr. Allen in that appeal and cannot be raised again in the instant appeal.

However, we do consider herein Mr. Allen's claim that there was no evidence adduced to support the trial court's November 2, 2015 judgment imposing sanctions under La. C.C.P. art. 863 in connection with his filing of the motion for new trial. Mr. Allen's argument on the issue of evidence to support the sanctions appears to be twofold. The first part of his argument contends that the defendants should have submitted some evidence, other than their motion, memorandum, and the record in support of its motion for sanctions; however, Mr. Allen makes no suggestion as to what type of evidence would be necessary for the defendants to present in addition to the suit record. We find no merit in Mr.

Allen's assertions. An action under La. C.C.P. art. 863 is by its very nature an action that challenges the propriety of a pleading filed by a party. Thus, we find that the record and the actions of the party evidenced by the record are appropriate and sufficient evidence for a trial court to rely upon when granting sanctions under La. C.C.P. art. 863. As such, we find no error in the trial court's reliance on the filings and attachments associated with the defendants' motion for sanctions, as well as the entire suit record in reaching a decision.

The second part of Mr. Allen's lack of evidence argument, he contends that there was insufficient evidence to support a finding that his motion for new trial was filed for an improper purpose, such as to harass, and thus subject to sanctions under La. C.C.P. art. 863. Mr. Allen maintains that "[i]n the instant case, the decision that resulted in the filing of the motion for new trial at issue was rendered at a hearing of which Mr. Allen, the defendant-in-rule, was given no notice."

At issue in the present case is the violation of La. C.C.P. art. 863. Louisiana Code of Civil Procedure article 863(E) provides that "[a] sanction authorized in Paragraph D shall be imposed only after a hearing at which any party or his counsel may present any evidence or argument relevant to the issue of imposition of the sanction." Under La. C.C.P. art. 863(E), no sanctions can be *imposed* unless there is a hearing first. However, the articles do not specify how notice of such a hearing is to be given. "[D]ue process requires that reasonable notice be given. Such notice would not have to be in writing, and actual notice would be sufficient." See **Lee v. Woodley**, 615 So.2d 349, 352 (La. App. 1st Cir.), writ denied, 618 So.2d. 411 (La. 1993). Since the manner of notice is not specified, appearing and acquiescing in the proceedings constitutes a waiver of such notice. **Alombro v. Alfortish**, 2002-1081 (La. App. 5th Cir. 4/29/03), 845 So.2d 1162, 1169, writ denied, 2003-1947 (La. 10/31/03), 857 So.2d 486.

Following the filing of the defendants' motions to tax, Mr. Allen had notice that a hearing to impose sanctions would take place; he was served with a rule to show cause notifying him to show cause "why the Court should not grant the requested relief, including but not limited to the award of attorney's fees pursuant to Louisiana Code of Civil Procedure article 863." Mr. Allen filed an opposition memorandum with attached exhibits setting forth his argument as to why sanctions should not be imposed, including arguments as to the merits of a finding that sanctions were not warranted under the facts presented herein. Further, he appeared at the hearing and presented argument; thus, he was given notice and the opportunity to challenge the award of sanctions, before an award of sanctions was imposed upon him.

Based on the above, we find that the facts of this case show that Mr. Allen had reasonable notice and that he participated in the hearing wherein sanctions were imposed; therefore, Mr. Allen received requisite notice under La. C.C.P. art. 863(E).

As to his second assignment of error, Mr. Allen cites the notice issue in support of his argument that there was a legal justification for his filing of the motion for new trial. He contends that if he could have been at the February 25, 2015 hearing on the exceptions of no cause of action he could have presented a good faith argument in support of his civil action against Ms. Martin and the Lowe Defendants. Such an argument is disingenuous based on the record of these proceedings, and further, Mr. Allen was offered reasonable notice and an opportunity to provide a justification for his suit in his opposition and in argument before the court at the contradictory hearing on July 1, 2015, on the motions to tax wherein sanctions were imposed.

Additionally, the defendants observe that the purported purpose of this suit was an unnecessary challenge to the contempt judgment, pursued for the purpose

of unnecessarily increasing the cost of litigation. In the numerous pleadings, memorandums, and appeals filed in this suit, Mr. Allen has made only the thinnest of attempts to justify his suit. Further, the defendants filed their exceptions of no cause of action after the federal district court had found Mr. Allen's 42 U.S.C. § 1983 and LUTPA claims groundless and filed in bad faith, and the federal district court's conclusions are borne out by previous review of the allegations contained in Mr. Allen's petition and amended petition. See Allen v. Lowe, 2016-0070 (La. App. 1st Cir. 12/16/16), _____ WL _____. Additionally, as we noted in our opinion reviewing the July 21, 2015 judgment on the motions to tax, under the Louisiana Supreme Court's holding in **Montalvo v. Sondes**, 637 So.2d 127, 131-132 (La. 1994), an intentional tort claim against his adversary's attorney cannot be filed until after a bona fide termination underlying suit is successfully concluded in favor of the person asserting such a claim. See Allen v. Lowe, 2016-0070 (La. App. 1st Cir. 12/16/16), _____ WL _____. There was never a bona fide termination of the contempt proceeding in Mr. Allen's favor at any time that justified the filing of this claim.

Based on the above, we find no error in the trial court's granting the defendants' motion for sanctions and finding that Mr. Allen's motion for new trial was presented for an improper purpose, to harass, cause necessary delay and needlessly increase the cost of litigation for the defendants.

ANSWER TO APPEAL

The defendants filed an answer to the appeal requesting that this court award them damages for frivolous appeal under La. C.C.P. art. 2164. The defendants certified that they incurred \$10,000.00 in attorney's fees and costs associated with defending the instant appeal. An appeal is not automatically deemed frivolous simply because it lacks merit. Louisiana Civil Code of Procedure article 2164 is penal in nature and must be strictly construed. **Nungesser v. Nungesser**, 558

So.2d 695, 701 (La. App. 1st Cir.), writ denied, 560 So.2d 30 (La. 1990). Under La. C.C.P. art. 2164, an appellate court may award damages for frivolous appeal when there is no serious legal question, when the appeal is taken solely for the purpose of delay, or when it is evident that appellant's counsel does not seriously believe in the position he advocates. See Guarantee Systems Construction & Restoration, Inc. v. Anthony, 97-1877 (La. App. 1st Cir. 9/25/98), 728 So.2d 398, 405, writ denied, 98-2701 (La. 12/18/98), 734 So.2d 636.

Our review of Mr. Allen's appeal brief and the arguments contained therein support the finding that this appeal has been taken for the purpose of delay. We thus conclude that damages for frivolous appeal are appropriate in this case. The appellate court, operating under the provisions of La. C.C.P. art. 2164, should take into account every legitimate item of damages which plaintiff has suffered by reason of an unwarranted appeal taken only for purposes of delay. **Samford v. Samford**, 297 So.2d 465, 468 (La. App. 2nd Cir. 1974). Attorney's fees for protecting a judgment on appeal are an element of damages for frivolous appeal. **Roland v. Roland**, 519 So. 2d 1177, 1179-1180 (La. App. 1st Cir. 1987).

After a thorough review of the record and assessment of the time and effort imposed on the defendants in preparing a response to Mr. Allen's appeal, as well as for preparing and attending oral arguments before this court, we award attorney's fees and costs in the amounts of \$2,000.00 to Ms. Martin and \$2,000.00 to the Lowe Defendants.

CONCLUSION

For the foregoing reasons, the judgment of the trial court signed July 21, 2015 in favor of Robert C. Lowe, Jeffrey M. Hoffman, Lowe, Stein, Hoffman, Allweiss & Hauver, LLP, and Susan Taylor Martin is affirmed. We further grant the answer to appeal filed by Robert C. Lowe, Jeffrey M. Hoffman, Lowe, Stein, Hoffman, Allweiss & Hauver, LLP, and Susan Taylor Martin and award them

\$2,000.00 each in attorney's fees and costs in connection with this appeal. All costs of this appeal are assessed against the appellant, Lange Walker Allen, II.

AFFIRMED; ANSWER TO APPEAL GRANTED.