

STATE OF MICHIGAN
COURT OF APPEALS

FRANK BOWLER,

Plaintiff-Appellant,

v

REPUBLIC BANK, d/b/a REPUBLIC BANC
MORTGAGE CORPORATION,

Defendant-Appellee.

UNPUBLISHED

November 25, 2003

No. 242015

Oakland Circuit Court

LC No. 01-035169-CH

Before: Cooper, P.J., and Markey and Meter, JJ.

MEMORANDUM.

Plaintiff appeals as of right from a circuit court order granting defendant's motion for sanctions under MCR 2.114 and MCL 600.2591. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff first contends that the court erred in awarding sanctions because defendant did not make a timely request. Plaintiff did not raise this issue below and thus it has not been preserved for appeal. *Head v Phillips Camper Sales & Rental, Inc*, 234 Mich App 94, 110; 593 NW2d 595 (1999). Reviewing the issue nonetheless, we find no error. To the extent sanctions were sought under the court rule, the motion was timely because the request was made before the court entered the order of dismissal, and the matter was preserved in that order. *Maryland Cas Co v Allen*, 221 Mich App 26, 30; 561 NW2d 103 (1997). To the extent sanctions were sought under the statute, the motion was timely because it was filed within a reasonable time after the prevailing party was determined. *In re Attorney Fees & Costs*, 233 Mich App 694, 699-701; 593 NW2d 589 (1999).

Plaintiff next contends that the trial court erred in granting defendant's motion because he had been precluded from conducting any meaningful discovery and the discovery period was open. Plaintiff has not cited any case law or other authority in support of his position and thus the issue is deemed abandoned. *Central Cartage Co v Fewless*, 232 Mich App 517, 529; 591 NW2d 422 (1998).

Plaintiff also contends that the court erred in finding that sanctions were appropriate because he had argued that he had a meritorious basis for filing the complaint. This issue has not been preserved because it was not included in the statement of questions presented. *Busch v Holmes*, 256 Mich App 4, 12; 662 NW2d 64 (2003). Even if plaintiff had preserved the issue, he

has failed to brief the merits of his claim and thus it is deemed abandoned. *FMB-First Michigan Bank v Bailey*, 232 Mich App 711, 717; 591 NW2d 676 (1998).

Plaintiff finally argues that the court abused its discretion in determining the amount of sanctions to be awarded. Again, plaintiff did not raise this issue below and thus it has not been preserved for appeal. *Head, supra*. In addition, he has not briefed the merits of the claim and thus it is deemed abandoned. *FMB-First Michigan Bank, supra*.

Affirmed.

/s/ Jessica R. Cooper

/s/ Jane E. Markey

/s/ Patrick M. Meter