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This opinion shall not "constitute precedent or be binding upon any court."  
Although it is posted on the internet, this opinion is binding only on the  
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-1490-15T4

ESTATE OF PATRICIA  
M. QUINN,

Plaintiff-Respondent,

v.

MICHAEL F. QUINN,  
(deceased),

Defendant.

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Submitted March 14, 2017 – Decided July 12, 2017

Before Judges Reisner and Rothstadt.

On appeal from the Superior Court of New  
Jersey, Chancery Division, Family Part,  
Union County, Docket No. FM-20-9858-69.

Marita Quinn, appellant pro se.

Post, Polak, Goodsell & Strauchler, P.A.,  
attorneys for respondent John N. Post, Esq.  
(John N. Post, of counsel and on the brief;  
Siobhan Beere, on the brief).

Graham Curtin, attorneys for respondents  
Ceconi & Cheifetz, LLC and Sheryl J. Seiden,  
Esq. (Christopher J. Carey, of counsel;  
Theodore T. Reilly, on the brief).

PER CURIAM

The dispute in this post-judgment matrimonial matter relates to claims made by the estates of both parties who are now deceased. Specifically, Marita Quinn, second wife and executrix of defendant Michael Quinn's estate, appeals from Judge Lisa F. Chrystal's October 23, 2015 order denying Marita's<sup>1</sup> "informal request" for Rule 1:4-8 sanctions against plaintiff's counsel. We now affirm, substantially for the reasons expressed by Judge Chrystal in her oral decision of the same date.

In 2015, we issued an opinion reversing and remanding a different judge's resolution of a dispute over Michael's life insurance proceeds between Marita and plaintiff's testatrix, the late Patricia Quinn. See Estate of Quinn v. Quinn, No. A-0855-13 (App. Div. April 22, 2015). In our opinion, we set forth the history of the parties' relationship and the details of the dispute over the insurance proceeds. We need not repeat those details here. Suffice it to say, we remanded the matter to the Family Part with specific instructions for the court to enter an order directing the release of certain funds to Marita. Id. at 11-12.

After we issued our opinion, Marita wrote to Judge Chrystal asking her to impose Rule 1:4-8 sanctions upon plaintiff's counsel.

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<sup>1</sup> Because the various parties share the same last name, we refer to the parties by their first names to avoid confusion.

According to Marita, counsel engaged in fraudulent conduct over the years with Patricia in an attempt to prevent Marita from recovering her portion of Michael's life insurance proceeds.

In response to our remand, Judge Chrystal entered an order to show cause allowing the parties to raise any arguments they had about distribution of the funds in accordance with our earlier opinion. Marita's response to the order to show cause expanded upon her assertions regarding her informal request for sanctions, noting Patricia's counsels' alleged failure to comply with court orders concerning disbursement of the life insurance proceeds or to respond to Marita's letters requesting compliance.

On the return date, the judge disbursed the funds as we directed. As to Marita's request for sanctions, the judge noted she considered the request even though it was made informally and found there were "no facts nor legal arguments that support this [c]ourt issuing any sanction against those attorneys." Judge Chrystal stated "[t]here was not . . . one fact set forth in any of the extensive legal arguments . . . that point to any impropriety . . . by these attorneys in this case." The judge concluded, "[u]nder these circumstances, the [c]ourt is constrained to deny with prejudice any informal request by Marita for sanctions or any other . . . fees or costs to be awarded against the counsel in this case." This appeal followed.

Generally, we review "[a] trial judge's decision to [not] award attorney's fees pursuant to Rule 1:4-8," under an abuse of discretion standard. McDaniel v. Lee, 419 N.J. Super. 482, 498 (App. Div. 2011); United Hearts, L.L.C. v. Zahabian, 407 N.J. Super. 379, 390 (App. Div.), certif. denied, 200 N.J. 367 (2009). "Reversal is warranted when 'the discretionary act was not premised upon consideration of all relevant factors, was based upon consideration of irrelevant or inappropriate factors, or amounts to a clear error in judgment.'" Ferolito v. Park Hill Condo Ass'n, 408 N.J. Super. 401, 407 (App. Div.) (quoting Masone v. Levine, 382 N.J. Super. 181, 193 (App. Div. 2005)), certif. denied, 200 N.J. 502 (2009); see also Flagg v. Essex County Prosecutor, 171 N.J. 561, 571 (2002).

We conclude from our review that Judge Chrystal properly exercised her discretion and denied Marita's informal request for Rule 1:4-8 sanctions. We find Marita's thirteen points of argument, with numerous sub-parts, to be without sufficient merit to warrant extensive discussion in a written opinion. R. 2:11-3(e)(1)(E). We add only the following brief comments.

Preliminarily, we note that Marita's frivolous litigation claims under the Rule were beyond the scope of our remand that addressed only the disbursement of the insurance proceeds. Further, if Marita wanted to raise a claim under the Rule, she was

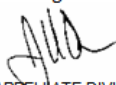
obligated to follow the detailed procedures set forth in Rule 1:4-8 for a litigant to seek sanctions against an attorney for pursuing a frivolous claim. See Toll Bros., Inc. v. Twp. of W. Windsor, 190 N.J. 61, 68-69 (2007). Among the specific requirements for pursuing sanctions, a litigant must make a formal motion to the court, "separate[] from other applications," supported by a certification stating that written demand was made upon the attorney to withdraw the pleading or other document that the litigant believes was frivolous. R. 1:4-8(b)(1); see also United Hearts, supra, 407 N.J. Super. at 389. Strict application of the rule is required. LoBiondo v. Schwartz, 199 N.J. 62, 99 (2009).

Moreover, Marita's allegations of fraud and the like did not give rise to a cognizable claim for sanctions under the rule. The nature of conduct warranting sanction under Rule 1:4-8 has been strictly construed in order to avoid limiting access to the court system. See First Atl. Fed. Credit Union v. Perez, 391 N.J. Super. 419, 432-33(2007). Even if they did and she had complied with the Rule's procedural requirements, Judge Chrystal could not have awarded Marita fees as sanctions because she pursued an award of fees for periods while she appeared as a self-represented litigant. "Th[e] rule simply compensates a party for the legal fees and expenses it actually incurred and became obligated for as a direct result of the adversary pursuing frivolous litigation," and not

for damages incurred as a result of appearing pro se. Alpert, Goldberg, Butler, Norton & Weiss, P.C. v. Quinn, 410 N.J. Super. 510, 546 (App. Div. 2009), certif. denied, 203 N.J. 93 (2010). In any event, Judge Chrystal determined there was no evidence that supported Marita's allegations. We have no reason to disagree.

Affirmed.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.

  
CLERK OF THE APPELLATE DIVISION