SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1735-16T1

IN THE MATTER OF THE
ESTATE OF JOHN GARAY.

Submitted January 25, 2018 – Decided March 20, 2018

Before Judges Simonelli and Gooden Brown.

On appeal from Superior Court of New Jersey, Chancery Division, Somerset County, Docket No. 80-73.

Lanza & Lanza, LLP, attorneys for appellants Dale Garay, D. Michelle Garay and Patricia Garay (John E. Lanza and Christopher J. Trofimov, of counsel and on the brief).

Law Office of Raymond A. Grimes, PC, attorneys for respondents Nancy Garay and Mark Segal.

PER CURIAM

In this matter, plaintiffs Dale Garay (Dale), D. Michelle Garay (Michelle), and Patricia Garay (Patricia),[1] sued their

[1] We refer to the parties by their first names to avoid confusion caused by their common surname. We intend no disrespect. We shall sometimes collectively refer to Dale, Michelle, and Patricia as plaintiffs.

sister, defendant Nancy Garay (Nancy), and her husband, defendant Mark Segal,[2] for fraud and unjust enrichment relating to defendants' purchase of property owned by their mother, Donna Garay (Donna), and the estate of their deceased father, John Garay (John). Plaintiffs appeal from the June 17, 2016 order, which granted summary judgment to defendants and dismissed the amended complaint with prejudice. Plaintiffs also appeal from the November 17, 2016 order, which imposed frivolous lawsuit sanctions against them pursuant to N.J.S.A. 2A:15-59.1 and Rule 1:4-8. We affirm both orders.

I.

Plaintiffs and Nancy are four of John's and Donna's thirteen children. John and Donna owned property as joint tenants by the entirety. When they divorced in 1975, their respective interests in the property converted to a fifty-percent interest as tenants in common. Donna resided in the property until it was sold to defendants in 2013.

John died testate in December 1979. In his Last Will and Testament, John made monetary bequests to each of his children, including a $10,000 bequest to Nancy. The Will also made the children equal residual beneficiaries, and appointed John's sister

[2] We shall sometimes collectively refer to Nancy and Mark Segal as defendants.

and son, Mark Garay (Mark), as co-executors of his estate. The Will authorized and empowered the co-executors to sell any real property in which John had an interest at the time of his death and "execute any and all instruments and documents that shall be necessary and proper for the fulfillment of [that power]."

In March 2011, the property was appraised at $335,000. A second appraisal valued the property between $239,900 and $249,900. Patricia acknowledged the property was probably worth only $250,000, stating: "At first I thought geez, $250K for a house in that neighborhood? That seems way low. But then you look at all that's wrong with it, mold, water damage, rotted subfloors, et cetera, et cetera, and maybe it's not so crazy. Maybe it is a tear down."

In July 2013, the co-executors and Donna executed a contract to sell the property to defendants for $335,000. Donna gave defendants a $90,000 gift equity toward the purchase price, and defendants obtained a mortgage in the amount of $245,000 for the balance. The co-executors and Donna approved the gift equity and sale, and signed a gift letter and the HUD-1 Settlement Statement, which listed the purchase price at $335,000, as well as the gift equity. The attorney representing the estate also consented to the sale and signed the HUD-1 Settlement Statement. Donna and the

estate each received $122,500 from the balance of the sale proceeds.

Plaintiffs filed an amended complaint, asserting claims of fraud and unjust enrichment, and alleging that:

> (1) defendants made material misrepresentations to the estate and its attorney about the gift equity and "slipped the term" into the contract, which defendants prepared;
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> (2) Nancy's share of the estate was not $45,000 in gift equity attributed to the estate for purposes of reducing the purchase price. Nancy was entitled to no more than $10,000 plus her share of the residuary estate and unjustly enriched herself to the estate's detriment by over $30,000;
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> (3) defendants defrauded the estate by taking advantage of Donna's and Mark's poor health and failed to provide adequate consideration for the estate's interest in the property;
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> (4) defendants defrauded the estate by making material misrepresentations to the estate's attorney regarding gifts allegedly owed from the estate for the purpose of reducing the purchase price;
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> (4) the estate and its attorney relied on those material misrepresentations in facilitating the closing of title at an artificially reduced price; and
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> (5) as a consequence, defendants unjustly enriched themselves at the expense of the beneficiaries of the estate and cause the estate damages.

Plaintiffs sought damages in the amount of $45,000, or an order voiding the sale. Because the co-executors had resigned, plaintiffs also sought an order appointing Dale and Michelle as administrators C.T.A. of the estate. No one objected to that request.[3]

In their interrogatories to plaintiffs, defendants requested specific and detailed facts supporting plaintiffs' allegation that defendants made material misrepresentations to the estate and its attorney that they were to receive the gift equity and "slipped the term" into the contract of sale. Plaintiffs responded: "Defendants' mortgage application, which is under [s]ubpoena, will confirm these allegations. See also the attached [c]ontract. Plaintiffs reserve the right to amend this [i]nterrogatory [a]nswer upon completion of depositions of [d]efendants." Plaintiffs never produced the mortgage application.

Defendants requested specific and detailed facts supporting plaintiffs' allegation that Nancy unjustly enriched herself to the estate's detriment by over $30,000. Plaintiffs responded: "See the attached Will of John Garay, Deceased. See also attached mortgage closing documents and notes from [the estate's

[3] Because no one objected, the court sua sponte entered an order on September 26, 2016, appointing Dale and Michelle as administrators C.T.A.

attorney.]" However, plaintiffs did not attach the mortgage closing documents or the estate's attorney's notes.

Defendants requested specific and detailed facts supporting plaintiffs' allegation that defendants defrauded the estate by taking advantage of Donna's and Mark's poor health and failed to provide adequate consideration for the estate's interest. Plaintiffs responded: "Plaintiffs intend to develop the factual basis of these allegations by the way of the deposition of Mark []. Plaintiffs also have personal knowledge of [Donna's] dementia, documentation of which shall be obtained by subpoena." Donna and Mark were never deposed, they gave no certification or affidavit supporting this allegation, and plaintiffs never produced documentation of Donna's alleged dementia or Mark's alleged poor health.

Defendants requested specific and detailed facts supporting plaintiffs' allegation that defendants defrauded the estate by making material misrepresentations to the estate's attorney regarding gifts allegedly owed from the estate for the purpose of reducing the purchase price. Plaintiffs responded: "See responses to Interrogatories 1-6." However, plaintiffs' responses to those interrogatories did not provide any specific or detailed facts supporting the allegation.

Defendants requested specific and detailed facts supporting plaintiffs' allegation that the estate and its attorney relied on defendants' material misrepresentations in facilitating the closing of title at an artificially reduced price. Plaintiffs responded: "See all documents produced by [the estate's attorney]. Plaintiffs intend to further develop factual basis of this allegation via the deposition of [the estate's attorney]." Plaintiffs did not identify or attach the attorney's documents or depose him, and he gave no certification or affidavit supporting this or the prior allegation.

Lastly, defendants requested specific and detailed facts supporting plaintiffs' allegation that defendants unjustly enriched themselves at the expense of the beneficiaries of the estate causing damages. Plaintiffs responded: "see responses to interrogatories 1-8." However, plaintiffs' responses to these interrogatories did not provide any specific or detailed facts supporting this allegation.

On November 5, 2015, defendants' attorney advised plaintiffs' attorney the interrogatory answers were deficient and demanded more responsive answers. Plaintiffs did not respond or amend their interrogatory answers.

Following the close of discovery, defendants filed a motion for summary judgment to dismiss the complaint with prejudice.

Defendants also sought an order compelling the estate to release $14,104.69 to Nancy,[4] and freezing the estate's remaining assets pending a motion for an order awarding frivolous lawsuit sanctions against plaintiffs and their attorney.

On June 17, 2016, Judge Margaret Goodzeit entered an order and written statement of reasons granting the motion for summary judgment, dismissing the complaint with prejudice, freezing the estate's remaining assets, and denying defendants' requests to release $14,104.69 from the estate's funds and for attorney's fees for the summary judgment motion.[5]

In dismissing the fraud claim, the judge found plaintiffs provided no proof that Donna or Mark suffered from any health problems "let alone those which would have impacted their judgment." The judge also found plaintiffs' allegations in the amended complaint failed to set forth with specificity, and the evidence did not establish, the elements of fraud. The judge determined that plaintiffs failed to specify in the amended complaint or provide evidence of what material misrepresentations defendants made regarding the gift equity; that defendants knew

[4] Nancy's share of the residuary estate was calculated at $4,104.69.

[5] On June 30, 2016, the judge entered an amended order permitting the release of $14,104.69 from the estate's funds.

or believed their material misrepresentations were false; how defendants intended that plaintiffs rely on their material misrepresentations; and that plaintiffs reasonably relied on the alleged material misrepresentations. The judge emphasized that plaintiffs were not parties to the contract or sale transaction, the individuals involved were not parties to this litigation, and plaintiffs did not assert any claims on their behalf. The judge further found that, although plaintiffs pled the co-executors relied on defendants' misrepresentations, there was no evidence demonstrating the co-executors or Donna were deprived of the opportunity to evaluate the misrepresentations before consenting to the gift equity or sale. Lastly, the judge found defendants owed no duty to plaintiffs to disclose the gift equity because there was no fiduciary relationship between them.

In dismissing the unjust enrichment claim, Judge Goodzeit found there was no genuine issue that: the purchase price was $335,000; defendants received a $90,000 gift equity and $245,000 mortgage loan; Donna and the co-executors signed a gift letter to defendants for $90,000; and Donna and the estate each received fifty percent of the balance of the sale proceeds. The judge stated the genuine issue was whether the gift equity came from Donna solely, or from Donna and the estate. The judge concluded

this issue was a dispute between plaintiffs and the co-executors and Donna, not between plaintiffs and defendants.

Judge Goodzeit found the co-executors knew, understood, and agreed to the gift equity, were permitted to make reasonable decisions about the estate's assets, including the property, and the Will authorized and empowered them to sell the property. The judge emphasized the co-executors were under no obligation to consent to the gift equity or accept one-half of the sale proceeds, and concluded:

> Plaintiffs' position is that the estate was provided $45,000 less than what it should have received had the entire gift equity been attributed to Donna []. This is not a claim that plaintiffs have against [defendants] but against the co-executors' decision to allow the proceeds to be divided equally between the estate and Donna [] rather than by attributing the $90,000 gift to Donna []. Plaintiffs' claims of improper disbursement of assets are being asserted against the wrong party. Plaintiffs' claims do not demonstrate that it was [defendants] who unjustly enriched themselves.

II.

On appeal, plaintiffs do not address Judge Goodzeit's dismissal of the fraud claim for failure to set forth with specificity, or provide evidence establishing, the elements of fraud. Rather, they argue that summary judgment was improper because there are material issues of fact as to whether there was

a $45,000 gift equity from the estate to defendants, and there was no evidence the estate consented to the gift equity. Plaintiffs also argue defendants never alleged there were necessary parties not joined in the litigation, and were estopped from making that argument on summary judgment, but the judge considered it nonetheless. These arguments lack merit.

Our review of a ruling on summary judgment is de novo, applying the same legal standard as the trial court. Conley v. Guerrero, 228 N.J. 339, 346 (2017). Thus, we consider, as the motion judge did, "whether the evidence presents a sufficient disagreement to require submission to a jury or whether it is so one-sided that one party must prevail as a matter of law." Liberty Surplus Ins. Corp. v. Nowell Amoroso, PA, 189 N.J. 436, 445-46 (2007) (quoting Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 536 (1995)). Summary judgment must be granted "if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law." Templo Fuente De Vida Corp. v. Nat'l Union Fire Ins. Co., 224 N.J. 189, 199 (2016) (quoting R. 4:46-2(c)). "To defeat a motion for summary judgment, the opponent must 'come forward with evidence that creates a genuine issue of material fact.'" Cortez

v. Gindhart, 435 N.J. Super. 589, 605 (App. Div. 2014) (quoting Horizon Blue Cross Blue Shield of N.J. v. State, 425 N.J. Super. 1, 32 (App. Div. 2012)).

If there is no genuine issue of material fact, we must then "decide whether the trial court correctly interpreted the law." DepoLink Court Reporting & Litig. Support Servs. v. Rochman, 430 N.J. Super. 325, 333 (App. Div. 2013) (citation omitted). "When no issue of fact exists, and only a question of law remains, [we] afford[] no special deference to the legal determinations of the trial court." Templo Fuente, 224 N.J. at 199 (citation omitted). Applying the above standards, we discern no reason to disturb the grant of summary judgment.

"A complaint sounding in fraud, must on its face, satisfy the requirements of Rule 4:5-8." State, Dep't of Treasury ex rel. McCormac v. Qwest Commc'ns Int'l, Inc., 387 N.J. Super. 469, 484 (App. Div. 2006). "The heightened fraud pleading requirements set forth in the Rule provide the 'particulars of the wrong, with dates and items if necessary, shall be stated insofar as practicable. Malice, intent, knowledge, and other condition of mind of a person may be alleged generally.'" Ibid. (quoting R. 4:5-8(a)). "A court may dismiss a complaint alleging fraud if 'the allegations do not set forth with specificity, nor do they constitute as pleaded, satisfaction of the elements of legal or

equitable fraud.'" Ibid. (quoting Levinson v. D'Alfonso & Stein, 320 N.J. Super. 312, 315 (App. Div. 1999)).

> To state a claim for common law fraud, the following elements must be pled:
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> (1) a material misrepresentation of a presently existing or past fact; (2) knowledge or belief by the defendant of its falsity; (3) an intention that the other person rely on it; (4) reasonable reliance thereon by the other person; and (5) resulting damages.
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> [Id. at 485 (citations omitted).]

Stated differently, "legal fraud consists of a material representation of a presently existing or past fact, made with knowledge of its falsity and with the intention that the other party rely thereon, resulting in reliance by that party to his detriment." Jewish Ctr. of Sussex Cty. v. Whale, 86 N.J. 619, 624 (1981). "Misrepresentation and reliance are the hallmarks of any fraud claim, and a fraud cause of action fails without them." Banco Popular N. Am. v. Gandi, 184 N.J. 161, 174 (2005).

"To prove a claim for unjust enrichment, a party must demonstrate that the opposing party 'received a benefit and that retention of that benefit without payment would be unjust.'" Thieme v. Aucoin-Thieme, 227 N.J. 269, 288 (2016) (quoting Iliadis v. Wal-Mart Stores, Inc., 191 N.J. 88, 110 (2007)). "Recovery under [this] doctrine[] requires a determination that defendant has benefitted from plaintiff's performance." Woodlands Cmty.

Ass'n v. Mitchell, 450 N.J. Super. 310, 318 (App. Div. 2017) (emphasis added).

Plaintiffs' allegations in their amended complaint did not set forth with specificity, and the evidence did not establish, the elements of fraud. The record is devoid of evidence that: defendants made material misrepresentations to Donna, the co-executors, or the estate's attorney regarding the gift equity; knew or believed the misrepresentations were false; intended that these individuals rely on the misrepresentations; and these individuals relied on the misrepresentations to their detriment. Jewish Ctr. of Sussex Cty., 86 N.J. at 624; State, Dep't of Treasury, 387 N.J. Super. at 485. Accordingly, Judge Goodzeit properly dismissed the fraud claim with prejudice.

Even if plaintiffs had properly pled or established the elements of fraud, summary judgment was still proper, as defendants had no duty to disclose the gift equity to plaintiffs. It is well settled that "a party has no duty to disclose information to another party in a business transaction [1] unless a fiduciary relationship exists between them, [2] unless the transaction itself is fiduciary in nature, or [3] unless one party 'expressly reposes a trust and confidence in the other.'" N.J. Econ. Dev. Auth. v. Pavonia Rest., Inc., 319 N.J. Super. 435, 446 (App. Div. 1998). Here, no fiduciary relationship existed between plaintiffs

and defendants, as defendants were not executors of the estate. Although the sale transaction was fiduciary in nature, plaintiffs were not parties to it, and there was no evidence that plaintiffs or defendants expressly reposed trust and confidence in the other regarding the sale. The fiduciary relationship existed between plaintiffs and the co-executors, who consented to the gift equity and sale, and plaintiffs' dispute was with them, not defendants.

Judge Goodzeit also properly dismissed the unjust enrichment claim. Plaintiffs were not parties to the contract and sale transaction, and thus defendants derived no benefit from them. Woodlands Cmty. Ass'n, 450 N.J. Super. at 318. In addition, the documentary evidence confirms the purchase price was $335,000 with a $90,000 gift equity. Defendants paid the balance of $245,000, which, as Patricia acknowledged, was a fair value for the property based on its poor condition, and in accord with the second appraisal. The estate received its one-half share of the balance. There was no unjust enrichment.

III.

Shortly after service of the amended complaint, defendants' attorney served a written notice and demand on plaintiffs' attorney, stating the amended complaint was frivolous and the basis for that belief, demanding withdrawal, and advising an application for frivolous lawsuit sanctions pursuant to N.J.S.A.

2A:15-59.1 and Rule 1:4-8 would be made if the complaint was not withdrawn within twenty-eight days. Plaintiffs did not withdraw the complaint, proceeded with the litigation, and ignored defendants' attorney's November 15, 2015 demand for more specific answers to interrogatories.

After the grant of summary judgment, defendants filed a motion for frivolous lawsuit sanctions against plaintiffs and their attorney. Defendants sought $20,666.69 for all of their attorney's fees and costs incurred from the inception of the litigation. In a supporting certification of services, defendants' attorney stated:

> I am an attorney at law in the State of New Jersey and have been practicing law since 1988. My hourly rate is $325.00 per hour which is fair and reasonable in cases such as this and in this County. I have been representing these defendants since January 2015 in this matter. As the court is aware, after all discovery was complete, I was able to obtain an order granting summary judgment for the defendants regarding the claims filed by plaintiff [a]s is set forth in Exhibit L, the total amount of attorney's fees and costs incurred as a result of this litigation is $20,666.69, which is all broken down into time spent and disbursements.

The attorney attached invoices for all services rendered. The invoices described the services rendered and time spent on each activity, itemized disbursements, and indicated whether the bill was paid and the date of payment.

On November 17, 2016, Judge Goodzeit entered an order and written statement of reasons, awarding defendants $13,335.20, and entering judgment against plaintiffs, jointly and severally, in that amount. The judge declined to assess sanctions against plaintiffs' attorney, finding that

> the vindictive desire of the plaintiffs to cause the defendants to suffer undoubtedly directed the instigation of this lawsuit and its continuation after the [Rule] 1:4-8 letter and demands for responsive discovery (and threatened motion for sanctions) were sent. The [c]ourt does not perceive that [plaintiffs' attorney] had the ability to direct the plaintiffs to discontinue the litigation which was commenced by litigants who had their own agenda: harm of the defendants.
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> This [c]ourt of equity has overseen this action since September 2015 when I became the [presiding judge] of Chancery. The [c]ourt is convinced that while [plaintiffs' attorney] was aggressively advocating his clients' positions, he should not bear the consequences of the plaintiffs' decision to follow the path they chose.

Judge Goodzeit reviewed defendants' attorney's certification of services and found it substantially complied with the requirements of Rule 4:42-9. The judge determined that the attorney's billing rate was reasonable compared to other practitioners of his experience in this area of law, the total time charged for the services rendered was reasonable and appropriate, and all invoices submitted, except three, were

stamped "Paid 07/21/2016." However, the judge only awarded fees incurred since November 15, 2015, finding as follows:

> a substantial portion of [the $20,666.69 sought], but not its entirety, shall be included in the award. At the outset, plaintiffs' [c]omplaint also had as a component a request that [a]dministrators C.T.A. be appointed, as the [co-e]xecutors (who approved the real estate transaction in issue) had both resigned and there were no estate fiduciaries in place. Ultimately, the [c]ourt did allow the plaintiffs' suggested [] Michelle [] and Dale [] to be named as [a]dministrators C.T.A. as no one objected thereto. Accordingly, there was at least one sound reason to file a [c]omplaint, albeit virtually no time or effort was incurred in connection with litigation of this request.
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> Further, defendants did not file a motion to dismiss the [c]omplaint upon the initiation of this action. Had they done so, and had the [c]omplaint been dismissed, a year's worth of litigation and incurrence of counsel fees may have been avoided. That is not to say that defendants should be blamed for this litigation; clearly that is not the case. However, as the defendants participated in this litigation willingly rather than attempting to have it dismissed at the beginning, and as there was one request that was legitimately filed, the [c]ourt finds that some portion of defendants' fees should be borne by them. Accordingly, the [c]ourt finds that starting with the date upon which [defense counsel] sent plaintiffs a critique of their unresponsive answers to interrogatories and a demand for more responsive answers, to wit: November 5, [2015], plaintiffs shall be responsible for defendants' legal fees. The [c]ourt, thus, finds that defendants' counsel fees starting on November 5, 2015, through the conclusion

> of this matter, shall be deemed the sanctions which will have to be paid. To be specific, those fees are [in the amount of $13,335.20].

On appeal, plaintiffs argue that frivolous lawsuit sanctions were not warranted, as there was no showing of bad faith; rather, they acted in good faith believing defendants had cheated the estate out of $45,000. Without specifying any deficiencies in defendants' attorney's certification of services, plaintiffs argue the certification did not meet the standards of N.J.S.A. 2A:15-59.1.

We review a judge's decision on a motion for frivolous lawsuit sanctions under an abuse-of-discretion standard. United Hearts, LLC v. Zahabian, 407 N.J. Super. 379, 390 (App. Div. 2009). We will reverse a decision 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." Masone v. Levine, 382 N.J. Super. 181, 193 (App. Div. 2005).

N.J.S.A. 2A:15-59.1(a)(1), which governs frivolous lawsuit claims against parties,[6] provides that:

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[6] Rule 1:4-8 governs frivolous lawsuit claims against attorneys, which is not the case here. Claims against parties governed by N.J.S.A. 2A:15-59.1 are affected by the procedural but not the substantive provisions of Rule 1:4-8. Toll Bros., Inc. v. Twp. Of W. Windsor, 190 N.J. 61, 69-73 (2007). Plaintiffs do not

> [a] party who prevails in a civil action, either as plaintiff or defendant, against any other party may be awarded all reasonable litigation costs and reasonable attorney fees, if the judge finds at any time during the proceedings or upon judgment that a complaint, counterclaim, cross-claim or defense of the nonprevailing party was frivolous.

The frivolous litigation statute is interpreted restrictively. DeBrango v. Summit Bancorp, 328 N.J. Super. 219, 226 (App. Div. 2000).

Litigation is considered frivolous when it is "commenced, used or continued in bad faith, solely for the purpose of harassment, delay or malicious injury" or if the non-prevailing party "knew, or should have known, that the complaint, counterclaim, cross-claim or defense was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law." N.J.S.A. 2A:15-59.1(b)(1) and (2). Counts of a complaint may be severed "for purposes of determining whether [the counts are] 'frivolous.'" Lake Lenore Estates, Assocs. v. Twp. of Parsippany-Troy Hills Bd. of Ed., 312 N.J. Super. 409, 421 (App. Div. 1998).

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dispute that defendants complied with the procedural requirements of Rule 1:4-8.

A motion for sanctions under Rule 1:4-8 will be denied where the pleading party had an objectively reasonable and good faith belief in the merits of the claim. First Atl. Fed. Credit Union v. Perez, 391 N.J. Super. 419, 433 (App. Div. 2007). However, litigation may become frivolous, and therefore sanctionable, by continued prosecution of a meritless claim, even if the initial pleading was not frivolous or brought in bad faith. DeBrango, 328 N.J. Super. at 227-28, 230. This is because the "requisite bad faith or knowledge of lack of well-groundedness may arise during the conduct of the litigation." United Hearts, 407 N.J. Super. at 390 (citation omitted). In such cases, the party seeking sanctions would only be entitled to fees and/or costs incurred from the time the litigation became frivolous, rather than from the inception of the litigation. DeBrango, 328 N.J. Super. at 230.

The court may award "reasonable" expenses and attorney's fee to the prevailing party on a motion for frivolous lawsuit sanctions. R. 1:4-8(b)(2). In order to establish reasonableness, the moving party's attorney must submit an affidavit of services, which shall include the following information:

> (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal services properly;

> (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
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> (3) the fee customarily charged in the locality for similar legal services;
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> (4) the amount involved and the results obtained;
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> (5) the time limitations imposed by the client or by the circumstances;
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> (6) the nature and length of the professional relationship with the client;
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> (7) the experience, reputation, and ability of the lawyer or lawyers performing the services;
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> (8) whether the fee is fixed or contingent[.]
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> [R.P.C. 1.5(a).]

The affidavit of services must also include "a detailed statement of the time spent and services rendered by paraprofessionals, a summary of the paraprofessionals' qualifications, and the attorney's billing rate for paraprofessional services to clients generally[,]" and a statement as to how much the client had paid, and "what provision, if any, has been made for the payment of fees to the attorney in the future." R. 4:42-9(b) and (c).

We agree that defendants' attorney's certification of services substantially complied with the requirements of Rule 4:42-9, and are satisfied that frivolous lawsuit sanctions were

warranted. The litigation was frivolous because the fraud and unjust enrichment claims were without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification, or reversal of existing law. N.J.S.A. 2A:15-59.1(b). Even if the amended complaint was not frivolous, the litigation clearly became frivolous, and therefore, sanctionable, by plaintiffs' continued prosecution of meritless claims that had no evidential support whatsoever. United Hearts, 407 N.J. Super. at 390; DeBrango, 328 N.J. Super. at 227-28, 230. Accordingly, Judge Goodzeit did not abuse her discretion in awarding frivolous lawsuit sanctions, and properly apportioned the amount awarded from November 15, 2015.

Affirmed.