NOT FOR PUBLICATION WITHOUT THE APPROVAL OF THE APPELLATE DIVISION

Argued May 2, 2012 -

Before Judges Graves, J. N. Harris, and Koblitz.

Defendant C & M Pools & Installations, Inc. (C&M) appeals from a September 1, 2011 order denying its Rule 1:4-8 motion for sanctions against plaintiff's attorneys, Pressler and Pressler, LLP (Pressler and Pressler). We affirm.

In 2002, plaintiff New Century Financial Services, Inc., obtained a judgment against Keith S. Wilson in the amount of $8,767.55. Wilson was a part-time seasonal employee of defendant. In June 2007, plaintiff served a wage garnishment on defendant. When no payments were received, plaintiff sent written inquiries to defendant regarding its failure to comply with the wage execution order in September and October 2007.

On February 5, 2008, plaintiff served defendant with a summons and complaint. Plaintiff stated in its complaint that the wage execution was served on June 5, 2007, and that defendant failed to comply. Plaintiff demanded payment in the full amount owed by Wilson together with interest and court costs.

Robert Doty, president of C&M, attempted to file a pro se answer in March 2008. However, the answer was not accepted for filing by the clerk of the court because "[a] business entity, other than a sole proprietorship, must be represented by an attorney in a Special Civil Part (DC) case." See R. 1:21-1(c).

Thereafter, plaintiff obtained a default judgment against defendant on May 27, 2008, in the amount of $11,548.57, and subsequently obtained an execution against defendant's goods and chattels. During the summer of 2008, Wilson returned to work at C&M on a part-time basis, and defendant proceeded to garnish his wages. Defendant submitted a total of $397 to plaintiff during the period from June through October 2008.

Following further correspondence regarding "the status of the garnishment," defendant retained counsel. On April 13, 2009, defense counsel sent "a safe harbor letter" to Pressler and Pressler, claiming "[t]here was no legal or factual basis for the entry of a default judgment against the

defendant for the full amount owed by the debtor." Defendant's counsel demanded that plaintiff vacate the default judgment and stated that an application for Rule 1:4-8 sanctions would be filed if plaintiff failed to comply within twenty-eight days. In a response dated April 22, 2009, Pressler and Pressler indicated that defendant's "late compliance with the original writ [was] not in itself sufficient grounds for the judgment to be vacated," but counsel also stated it remained "open to discussing an amicable resolution."

On May 22, 2009, defendant moved to vacate the May 27, 2008 default judgment. Thereafter, the parties entered into a consent order on June 25, 2009. In addition to vacating the default judgment and dismissing plaintiff's complaint, the consent order stated defendant "shall comply with the [w]rit of [e]xecution against the wages of Keith Wilson, should Wilson become employed by the [d]efendant and until the judgment against Wilson is satisfied."

On July 27, 2009, defendant filed a motion for sanctions and an order compelling plaintiff to reimburse defendant for litigation costs and attorney's fees. In a supporting certification, defense counsel asserted that plaintiff violated Rule 1:4-8 "because there was no good faith factual or legal basis" to assert that the defendant owed the full amount of the judgment against Wilson.

Following oral argument, the trial court denied defendant's motion on September 1, 2011. In an oral decision, the court stated:

Plaintiff's numerous notices to the defendant indicate that plaintiff was actually trying to act in good faith and make sure the defendant was heard in this matter.

Now in light of the fact that at all relevant times plaintiff's interpretation of [N.J.S.A. 2A:17-54] was objectively reasonable and made in good faith that the plaintiff had a reasonable and good faith belief in the merit of the cause, an award of attorney's fees . . . sought pursuant to Rule 1:4-8 is precluded.

On appeal, defendant primarily argues that the trial court's denial of sanctions was a "mistaken exercise of discretion." We do not agree.

Under N.J.S.A. 2A:17-54, any "person, agent or officer failing or refusing" to make the payments required under an execution against wages of a debtor will be "liable to an action therefor by the judgment creditor named in the execution." See also Snelling & Snelling v. Goyden, 181 N.J. Super. 479, 481 (App. Div. 1981) (noting that N.J.S.A. 2A:17-54 "permits a direct action against a non-complying employer" for refusing to honor a wage execution).

Moreover, Rule 1:4-8 sanctions are specifically designed "to ensure that attorneys do not initiate or pursue litigation that is frivolous." LoBiondo v. Schwartz, 199 N.J. 62, 98 (2009). Thus, the rule provides for sanctions when an attorney files a pleading or a motion with an "improper purpose, such

as to harass or to cause unnecessary delay or needless increase in the cost of litigation." R. 1:4-8(a)(1). "The nature of litigation conduct warranting sanction under the rule has been strictly construed." Pressler & Verniero, Current N.J. Court Rules, comment 2 on R. 1:4-8 (2013) (citing K.D. v. Bozarth, 313 N.J. Super. 561, 574-75 (App. Div.), certif. denied, 156 N.J. 425 (1998)). Accordingly, the sanctions permitted by Rule 1:4-8 will not be imposed against an attorney who mistakenly filed a complaint in good faith. See First Atl. Fed. Credit Union v. Perez, 391 N.J. Super. 419, 432 (App. Div. 2007) ("Where a party has reasonable and good faith belief in the merit of the cause, attorney's fees will not be awarded.").

In this case, Judge William Daniel made detailed findings that are fully supported by the record. Accordingly, we find no abuse of discretion or reversible error. See Rendine v. Pantzer, 141 N.J. 292, 317 (1995) ("[F]ee determinations by trial courts will be disturbed only on the rarest occasions, and then only because of a clear abuse of discretion.").

To the extent that we have not specifically addressed any of defendant's arguments, we find them to be without sufficient merit to warrant additional discussion. R. 2:11-3(e)(1)(E).

Affirmed.