

MICHAEL ZANI et al.

v.

MEDORA ZANI et al.

Submitted on Briefs February 19, 2025
Decided March 4, 2025

Panel: MEAD, HORTON, CONNORS, and DOUGLAS, JJ.

MEMORANDUM OF DECISION

Michael Zani and Peter Zani appeal from a grant of summary judgment entered by the Superior Court (Lincoln County, *Billings, J.*) on Count 3 of their complaint in favor of St. Jude Children’s Research Hospital.¹ Count 3 requests that a constructive trust be imposed on all assets of the estate of their late mother, Patricia Spofford. They also appeal a sanctions order directing them to pay attorney fees to the hospital and the other defendants pursuant to M.R.

¹ The Zanis filed a four-count complaint against eleven devisees of their mother’s will. The complaint named as defendants Medora Zani, Nicholas Zani, Adella Zani, Christopher Zani, Todd Elwell, Eric Spofford, Jacqueline Spofford, Nancy Carter, Midcoast Humane Society, St. Jude Children’s Research Hospital, and Kathryn Read. Count 1 of the complaint, brought against all defendants, alleged that Spofford lacked testamentary capacity and sought to invalidate the will. Count 2 alleged wrongful interference with an expectancy against a single defendant, Nancy Carter. Count 3 requested that a constructive trust be imposed on all assets of their mother’s estate and to restore the Zanis’ inheritance rights prior to the most recent will. Count 4 alleged fraud against a single defendant, Kathryn Read. In a previous appeal in this matter, we dismissed Count 1 for lack of subject matter jurisdiction; affirmed a grant of summary judgment on Count 4 in favor of Read; determined that “a constructive trust is a remedy and not a stand-alone claim” and thus Count 3 remained outstanding but only as a remedy for Count 2; and remanded for further proceedings. *Zani v. Zani*, 2023 ME 42, ¶ 14, 16, 21, 299 A.3d 9.

Civ. P. 16B(1) on account of the plaintiffs' failure to appear for court-ordered mediation. The trial court certified the appeal of Count 3 as a partial final judgment pursuant to M.R. Civ. P. 54(b).

We determine that the trial court properly exercised its discretion by certifying its judgment on Count 3 as a partial final judgment pursuant to M.R. Civ. P. 54(b)(1). *Marquis v. Town of Kennebunk*, 2011 ME 128, ¶ 14, 36 A.3d 861 (concluding the trial court did not abuse its discretion by certifying the appeal because the court identified and discussed each factor and found that each factor supported certification). We affirm the court's grant of summary judgment on Count 3 in favor of St. Jude Children's Research Hospital. *See Tikalsky v. Friedman*, 2019 WI 56, ¶¶ 23, 33, 386 Wis.2d 757, 928 N.W.2d 502.

The Superior Court's certification of a partial final judgment applied only to the grant of summary judgment as to Count 3. The plaintiffs' appeal of the sanctions order is interlocutory. We nonetheless address that issue under the judicial economy exception to the final judgment rule. *See Town of Minot v. Starbird*, 2012 ME 25, ¶ 9, 39 A.3d 897 (stating the judicial economy exception may be invoked when appellate review of a nonfinal order can establish a practically final disposition of the entire litigation and that the interests of justice require that an immediate review be undertaken); *Efstathiou v. The Aspinquid, Inc.*, 2008 ME 145, ¶ 23, 956 A.2d 110 (invoking the judicial economy exception in the "unusual circumstance" where there is "an exceedingly long history" of the litigation).² The record supports the Superior Court's findings that the plaintiffs did not meet their burden of establishing good cause for failing to appear for court-ordered mediation and that an award of attorney fees to the opposing parties as a sanction would be "unjust under the circumstances." *See* M.R. Civ. P. 16B(l).³ Therefore, the court did not err nor

² This marks the plaintiffs' third appeal during the five-year period in which they have been challenging the administration of their mother's estate. *See, e.g., Zani*, 2023 ME 42, 299 A.3d 9; *Est. of Spofford*, 2025 ME 15, --- A.3d ---.

³ Rule 16B(l) provides in relevant part:

If a party or a party's lawyer fails without good cause to appear at a dispute resolution conference scheduled pursuant to this rule, . . . [i]n lieu of or in addition to any other sanction, the court shall require the party or lawyer, or both, to pay the reasonable expenses, including attorney fees, of the opposing party . . . incurred by reason of the

abuse its discretion in ordering the plaintiffs to pay reasonable attorney fees as a sanction. *See also Merrifield v. Hadlock*, 2009 ME 1, ¶¶ 7-8, 961 A.2d 1107 (endorsing sanctions “when non-compliance with scheduling orders frustrates the purpose of the alternative dispute resolution process”).

The entry is:

Judgment on Count 3 as to St. Jude Children’s Hospital affirmed. Order granting the defendants’ motion for sanctions affirmed. Remanded for further proceedings consistent with this decision.

Christopher K. MacLean, Esq., Dirigo Law Group LLP, Camden, for appellants Michael Zani and Peter Zani

Oliver Mac Walton, Esq., and Jeana M. McCormick, Esq., Drummond Woodsum, Portland, for appellee St. Jude Children’s Research Hospital

Marie J. Mueller, Esq., Verrill Dana, LLP, Portland, for appellee Kathryn Read

Lincoln County Superior Court docket number CV-2020-17
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nonappearance, unless the judge finds an award would be unjust in the circumstances.

M.R. Civ. P. 16B(l).