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APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4943-08T2

BINDOO RUGHANI-SHAH, M.D.,

Plaintiff-Respondent/
Cross-Appellant,

v.

GOLAM G. NOAZ, M.D., PAUL R. FARRELL, M.D., and OCEAN PEDIATRIC GROUP, P.A.,

Defendants-Appellants/
Cross-Respondents,

and

RICHARD J. DeGROOTE,

Defendant.

Argued: March 28, 2011 - Decided: September 16, 2011

Before Judges A.A. Rodríguez, Grall and C.L. Miniman.

On appeal from Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. C-24-08.

John F. Gelson argued the cause for appellants/cross-respondents (McLaughlin, Gelson, D'Apolito & Stauffer, LLC, attorneys; Mr. Gelson, of counsel and on the briefs; Shannon Fury Curtis, on the briefs).

Stephan T. Mashel argued the cause for respondent/cross-appellant (Law Offices of

Stephan T. Mashel, attorneys; Mr. Mashel, of counsel and on the briefs; Priya C. Vimalassery, on the briefs).

PER CURIAM

This appeal concerns a contract dispute among the members of a medical practice respecting their rights and obligations under employment and shareholder agreements. This dispute arose when plaintiff Bindoo Rughani-Shah, M.D., left the practice. Defendants Golam G. Noaz, M.D. (Noaz), Paul R. Farrell, M.D. (Farrell), and Ocean Pediatric Group, P.A. (Ocean), appeal from orders denying their requests to compel plaintiff to sell her shares in Ocean to defendants and to require plaintiff to adhere to the post-employment restrictive covenant in her employment agreement;[1] requiring Noaz and Farrell to purchase plaintiff's share in Ocean for the sum of $218,685; requiring Noaz, Farrell, and Ocean to pay plaintiff the sum of $6892.56 for overpayments they took from corporate monies; requiring them to pay plaintiff $11,686.44 in lieu of health benefits;[2] denying defendants' motion for a new trial as to damages; and awarding counsel fees

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[1] Defendants did not address this order in any of their points on appeal and thus abandoned their appeal from the September 18, 2008, order. See Dougherty v. N.J. State Parole Bd., 325 N.J. Super. 549, 553 (App. Div. 1999) (declining to consider issues not raised in point headings), certif. denied, 163 N.J. 77 (2000).

[2] The judge dismissed plaintiff's complaint against defendant Richard J. DeGroote, M.D. (DeGroote), and that ruling is not challenged.

to plaintiff as a sanction defendants' violation of litigant's rights pursuant to Rule 1:10-3. Plaintiff cross-appeals contending that the judge erred by denying her motion for leave to file an amended complaint stating additional causes of action dismissing her claims for relief as an oppressed minority shareholder, N.J.S.A. 14A:12-7. We now affirm in all respects.

I

Noaz formed Ocean in 1975; DeGroote joined the practice as a partner one year later and was in charge of Ocean's bookkeeping. Farrell joined the practice in 1978 and became a partner in 1990. The building in which defendants practiced medicine in Brielle was owned by a real-estate partnership formed in the mid-1980s by Noaz, DeGroote, and Farrell.[3] Ocean also had a satellite office in Eatontown, but that building was not owned by the real-estate partnership.

In 1993, Noaz, DeGroote and Farrell entered into a shareholders agreement, which provided that termination of employment for any reason would be treated as an offer to sell the shares held by the departing shareholder to the remaining shareholders. Paragraph 6 of the agreement established the

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[3] Ocean also had an office in Eatontown, which was owned by an unrelated company.

methodology for determining the purchase price for such shares as follows:

> a. Purchase Price In All Events. The purchase price in all events shall be determined by multiplying the selling shareholders percent of ownership by book value of all of the stock of the Company. Book value when used throughout this Paragraph 6 shall be as determined as of the date of the event creating the offer to sell by using the accrual method of accounting,[4] excluding goodwill (except when previously carried on the books of the Company) and insurance proceeds on policies purchased for the purpose of funding this Agreement, but including any cash value on such policies subject, however, to the adjustments hereinafter provided.
>
> . . . .
>
> (3) Accounts Receivable. Accounts receivable shall be reduced by fifteen (15%) percent to allow for uncollectability and administration in collection.

Goodwill not previously carried on the books was excluded in order to protect Ocean's value.

Plaintiff became an employee of Ocean in July 1994. She signed an employment contract which gave her an opportunity to become a partner after three years of satisfactory performance.

Effective January 1, 1998, the shareholders amended their agreement to lower the reduction in Paragraph 6(a)(3) for bad

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[4] The accrual method recognizes revenue when earned, not when received.

debt in the accounts receivable from fifteen to ten percent. Those figures were derived from the then-existing proportion of bad debt to collectible debt.

That year, plaintiff purchased an interest in Ocean for $160,375. The first component of that amount was $11,250 for a twenty-five percent interest in the tangible assets of Ocean. The second component was $149,125 for a twenty-five percent interest in Ocean's goodwill.[5] Of the total sum, $25,000 was to be paid presently and was allocated for the purchase of twenty-five percent of Ocean's issued and outstanding stock held by Noaz, DeGroote, and Farrell, and the balance of the purchase price was to be paid by a salary adjustment. Additionally, the existing stockholders would be entitled to withdraw $108,000 in salary adjustments for Ocean's then-existing good accounts receivable. Various adjustments were to be made for interest and tax differentials. Thus, the total compensation paid to Noaz, DeGroote, and Farrell upon plaintiff's purchase was $268,375. The parties signed the amended shareholders agreement giving plaintiff a twenty-five percent interest in Ocean, and plaintiff agreed to be bound by the original agreement. They

[5] Goodwill was determined to be thirty-five percent of Ocean's average gross receipts for the three most recent years. Payment for goodwill was included because plaintiff was being given a patient base she did not have before.

also signed a stock-purchase agreement, a salary-memorandum agreement, a severance-pay agreement, individual deferred-compensation agreements, and a side agreement relating to deferred compensation. Plaintiff also executed a promissory note in the amount of $8,333.33 to be paid in 60 monthly installments of $171, which included interest at eight and one-half percent per annum.

Pursuant to the salary-memorandum agreement, the four shareholders received annual base salaries of $130,000 and twenty-five percent of Ocean's net distributable income. Noaz, DeGroote, and Farrell received annual seniority pay of $20,043 for a five-year term. From plaintiff's salary, the sum of $60,129 was deducted to pay the purchase price of her interest in Ocean. At the time the document was prepared, it was anticipated that plaintiff's total buy-in figure including interest would be $275,535. However, plaintiff claimed that she actually paid $330,000 for the buy-in.

Noaz claimed that the deferred-compensation agreement was the vehicle by which a departing shareholder was paid for goodwill, although the stated purpose of the agreement was "to induce [plaintiff] to continue in the employ of [Ocean] and to utilize h[er] best efforts to maintain and enhance the business of [Ocean]." The agreement required plaintiff to work fifteen years before becoming eligible for the deferred compensation upon two years disability or retirement at age forty-five.

On May 6, 2004, Noaz, DeGroote, and Farrell issued a stock certificate to plaintiff indicating that as of that date the buyout amount for her twenty-five percent interest in Ocean was $150,000. Plaintiff claimed that she was not given the opportunity to buy into the real-estate partnership. However, DeGroote claimed that he offered plaintiff a chance to do so when she became a shareholder but she responded that she was not interested. He further claimed that plaintiff declined to buy his share in the real-estate partnership when he left Ocean in 2005. Farrell confirmed this testimony.

DeGroote first indicated his intention to resign at the end of 2003. The other partners offered DeGroote various buyout proposals, including one where he would be paid $200,000 over five years, which he rejected because, under the terms of the proposed agreement, he would have been prevented from practicing. DeGroote actually stopped working at the practice in early 2005. In 2006, he agreed to a lump sum buyout of $77,500 less one car payment of $500 because he was tired of the hassling. The buyout did not include goodwill. An agreement for the sale of his one-quarter interest in Ocean for $77,500 was eventually signed on August 31, 2006. The buyout was paid, in part, through a $75,000 loan from Sun Bank. Plaintiff was asked to sign the loan.

In the meantime, Noaz asked plaintiff to take over the bookkeeping duties from DeGroote in early 2005. DeGroote and plaintiff's husband, Sanjeev Shah, a systems analyst who worked for a financial company, helped her become familiar with the computer accounting program. At the request of Ocean's accountant, the accounting program was changed from Peachtree to QuickBooks.

Upon taking over the bookkeeping, plaintiff discovered that Ocean owed the real-estate partnership $67,528.54. She stated that she was shocked by this discovery because her partners had kept her in the dark about this liability. Shah discussed the matter with Noaz and Farrell, who did not know from where the figure came. Farrell stated that he did not learn about the liability until a meeting with plaintiff and Shah in late 2005 or early 2006. DeGroote did not learn about the liability until after this litigation had commenced. Defendants stipulated at trial that Ocean did not owe the real-estate partnership $67,528.54.

Ocean was paying $5000 a month in rent for the 2037-square-foot office to the real-estate partnership in 2005. Plaintiff and Plaintiff's husband believed that was too high because Ocean was paying $4800 at its other office in Eatontown even though that office had nearly 2000 more square feet. Plaintiff also thought it was unfair that the other partners were receiving rental payments while she was not receiving payments in lieu of the rent. Plaintiff expressed her concern to the other partners, as well as her desire to receive in-lieu payments retroactive to when she became a partner in 1998; Noaz and Farrell agreed to let her take an extra $500 per paycheck in the future to compensate for the excessive rent payments.

Plaintiff received health coverage through Ocean; Noaz and Farrell did not. Instead, they received $500 per paycheck in lieu of that coverage. Farrell further stated that the three would take, on average, $500 to $2000 in net profit each year. At the end of 2005, plaintiff determined, with the aid of Ocean's accounting firm, that there was a bonus pool of $10,000, $6000 of which was distributed to Farrell and $4000 to plaintiff. Noaz did not get a bonus, according to plaintiff, because his expenses far outweighed any possible bonus. The expenses included items such as credit cards and automobiles. Noaz expressed his unhappiness to plaintiff regarding the bonus distribution. He believed that he was shortchanged by $3000 because of the expenses plaintiff charged to him.

In late 2006, plaintiff paid $25,000 to Sun Bank as a prepayment on the loan Ocean took to buy DeGroote's shares. She did so because she believed that Ocean had just had a very profitable year and she wanted to reduce Ocean's debt. Plaintiff did not consult with Noaz or Farrell before making the payment. Deborah Mathis, who was executive director of CG Healthcare Solutions, the company that provided billing services to Ocean, told plaintiff and plaintiff's husband at the year-end meeting in 2006[6] that paying down the Sun Bank loan was not tax deductible but rather would generate taxable income resulting in a tax of $10,500. The shareholders' relationship began to sour after this unauthorized payment, and Ocean began to unravel.

Noaz and Farrell were unhappy when they found out about the payment to Sun Bank. Noaz was also dissatisfied over the application of his benefits and in-lieu payments to offset his 2006 year end distribution. As a result, Noaz and Farrell called a meeting in February 2007 to express their dissatisfaction to plaintiff. Noaz and Farrell thought that plaintiff's husband's involvement was unnecessary and objected to the $9000 charges assessed against each of them without their consent for the rent payments they received in 2006. Plaintiff

[6] Shah attended year-end meetings with Ocean's accountants in 2005 and 2006. He also helped plaintiff with the year-end balance sheets.

viewed this as a "fair and equitable solution to the excessive payment of rent" to the other two partners. They told her that if she continued to do the books in the manner she had been doing, they would take the responsibility away from her. Plaintiff, who was very upset, told them they were welcome to do that.

On March 29, 2007, plaintiff received a letter from Noaz in which he demanded that Ocean pay him $20,000 and pay Farrell $10,000 for 2005 and 2006. Plaintiff described herself as in a "state of shock" upon receiving this letter and was unsure about to what the payment demands related. Although she was "disgusted," in April 2007 plaintiff issued checks from Ocean to Noaz and Farrell for $10,000 each and in 2008 issued another check to Noaz for $10,000 in order to "keep peace."[7]

Following receipt of this letter, according to plaintiff, "things went downhill tremendously. Every communication was shut down except for patient care related issues." This was particularly true with respect to Noaz. In one incident, plaintiff heard Noaz tell plaintiff's staff that they better realize who the bosses were. After that, plaintiff noticed a change in the attitude of the staff towards her. In another

[7] Plaintiff sought to be repaid in this action for the $10,000 checks she wrote to Noaz in 2007 and 2008, to which she claimed Noaz was not entitled.

incident, when plaintiff and Noaz were seeing sibling patients, Noaz came into the room where plaintiff was and asked the mother to come into the other room. Plaintiff felt "disrespect[ed]" and "humiliated." Also in 2007, plaintiff claimed that Noaz prevented the disciplining of an employee who had called plaintiff a "bitch."

Plaintiff claimed that, prior to 2007, she was consulted about hiring and firing decisions. However, in 2007 Noaz terminated two employees and promoted another without consulting her. Noaz also purchased equipment for the office without consulting her. Additionally, plaintiff claimed that she was not consulted in 2007 when Noaz and Farrell offered another physician in the office an opportunity to become a partner in Ocean. She also learned from Rosemary Maringola, Ocean's office manager, that Noaz and Farrell were having meetings without her.

Noaz admitted that he and Farrell did not consult with plaintiff before they (1) hired a new company, Cowan Gunteski, in June 2007 to do Ocean's billing; (2) purchased new equipment; (3) fired two employees; and (4) offered a position to a physician.[8] An outside company was hired, according to Farrell, because in-house billing management had been a "disaster," as plaintiff knew.

[8] The new physician was hired in 2006 and left after nine months.

Farrell testified that it was customary for one partner to purchase equipment when there was an immediate need and Noaz was primarily in charge of hiring and firing. Farrell stated that he too did not find out about the firing of the two employees, and the rehiring of the other, until after the fact. In addition, Farrell stated that he switched corporate bank accounts late in 2007 and informed plaintiff of the change.

Maringola began having difficulties with some of the people in the Brielle office in 2007. She fired an employee for theft, but Noaz rehired her. This led to friction between Maringola and Noaz. In another incident, an employee called Maringola and plaintiff a "bad word." Maringola "wrote her up," but Noaz told Maringola that she could not give such a warning.

In July 2007, Noaz told Maringola that he would not discuss business matters in her presence because he did want her repeating the information to plaintiff. Maringola relayed this conservation to Farrell, who did not respond. Farrell conceded that by 2007 he and Noaz had discussed being careful not to mention business matters in front of Maringola because she was a conduit to plaintiff. Farrell also conceded that Maringola told him that plaintiff felt that she was being frozen out of Ocean's operation. According to Farrell, by the spring of 2007, there was a lot of "background chatter" in the office that plaintiff was unhappy and was planning to leave.

Maringola also became aware of meetings that Farrell and Noaz were conducting in the summer of 2007 that excluded plaintiff. She sent her an email on August 6, 2007, informing her of the meetings, which upset plaintiff. The specific meeting in question was with another doctor in the practice about renewing the doctor's contract. According to Maringola, plaintiff's relationship with Noaz turned cold in 2007 and got progressively worse. Plaintiff agreed that she was barely communicating with Noaz, whom she described as cold and at times intimidating. Her relationship with Farrell was not as bad. Maringola left the practice at the end of 2007.

Farrell sent plaintiff a fax on August 28, 2007, informing her that he and Noaz had decided to assume responsibility for the office finances. Farrell admitted that they had concluded they should do so in late July or early August. He did not recall the "sentinel event" which precipitated the change, but claimed that he learned that plaintiff had consulted an attorney. Plaintiff was "devastated" and felt "shut out" upon receiving this news. She told Farrell that she was thinking of leaving Ocean. She subsequently retained legal representation and on September 19, 2007, her attorney wrote a letter to

Farrell and Noaz stating that plaintiff wanted to initiate the process for Ocean's dissolution.

On November 9, 2007, plaintiff's attorney wrote to defendants' attorney requesting that plaintiff be bought out by the end of the year. The attorney also stated that plaintiff intended to take an immediate leave of absence. Plaintiff went out on a leave of absence in late December. She did so because she wanted to "sort things out" and did not want her emotional state to affect her patient care. Plaintiff's husband testified that plaintiff was very frustrated and had difficulty concentrating at work. Apparently, plaintiff eventually returned to work at Ocean, but the record is not totally clear on this point.

Plaintiff stopped taking health insurance at the start of 2008. However, she did not receive the $500 payments per pay period in-lieu of health insurance that Noaz and Farrell received. Farrell admitted that plaintiff sought a year-end financial summary for the 2007 tax year but he "never got around to doing it."

In an email to Noaz in late February, after this lawsuit was filed, Farrell wrote that they would "have to bite the bullet and find . . . a legal way to fire" plaintiff. Noaz and Farrell adopted a resolution on August 4, 2008, terminating plaintiff's employment and giving her ninety days notice. Noaz stated that it was a combination of things that caused them to reach this decision. Plaintiff described this news as a "blow," adding that she wanted to work at Ocean for "many, many more years." Plaintiff's final day of employment was November 13, 2008. She did not receive any distributions for 2008.

At trial, plaintiff's accounting expert, Melvin Crystal, opined that Ocean's book value as of December 31, 2007, was $656,056. In his report, Crystal listed Ocean's then-current assets at $16,648 based on Ocean's tax return. He listed the accounts receivable as $716,080 and reduced it by ten percent, $71,608, as required by the shareholders agreement. He then added $48,362 for the company's fixed assets and $4900 for its security deposits, again based on Ocean's tax return. Total assets came to $785,241. Crystal determined that Ocean's liabilities, including accounts payable, were $115,847, and its long-term debt was $13,338. Subtracting the liabilities from the assets resulted in a net book value of $656,056. Plaintiff's one-third interest came to $218,685.

In determining goodwill, Crystal concluded that Ocean's average annual gross revenue for 2005-2007 was $1,776,419. Therefore, the amount of goodwill to which plaintiff was entitled was $207,264. Adding that to plaintiff's one-third interest of $218,685 produced a total of $425,949 for book value and goodwill. This figure, Crystal "believe[d]," was the fair value of plaintiff's interest.

Mathis testified as defendants' valuation expert. She stated that the growth of Ocean's accounts receivable, which had been $206,628 at the end of 2002, was a significant problem. They had grown to $267,299 in 2003; $298,094 in 2004; $408,455 in 2005; $632,069 in 2006; and $716,177 in 2007. She opined that there were two ways accounts receivable could grow—mismanagement and growth of the practice. Mathis concluded that, while there was growth in the practice, it was not enough to explain the increase. Therefore, she concluded that the accounts receivable growth was due to mismanagement.

Mathis discovered that there had been payments from insurers and patients that had not been posted in Ocean's computer system and claims for services provided as much as five years earlier that had not been paid. The other significant problem was capitation, which is a flat monthly fee paid by an insurer to the practice for the number of patients the practice had regardless of how many times a patient was seen. The practice only collected the patient co-pay. The problem discovered by Mathis was that the charges for "capitated" patients were still appearing as accounts receivable even though they had been received.

In addition, Mathis found several thousand claims outstanding that had not been subject to collection efforts. Another problem identified by Mathis was that credit balances in the amount of $130,000 were artificially inflating the accounts receivable. To calculate accounts receivable, Mathis started with the $716,080 listed by Ocean, and then reduced that by $371,645 for contractual discounts, namely, the difference between the practice's fee schedule and what it is obligated to collect under its insurance agreement, and $213,165 for the capitation and old uncollected receivables. This resulted in a net accounts receivable figure of $131,270.

Mathis did not take the ten percent reduction called for by the shareholders agreement because it was not a generally accepted accounting principle to include a contractual discount in determining value. Had she applied such a deduction, she would have applied it to the $131,270 net receivables figure.

Mathis determined that Ocean's total assets on an accrual basis as of December 31, 2007, were $241,870. Current assets, cash and inventory, were $67,507. Net fixed assets constituted $38,193. Mathis then added $4900 for other assets, resulting in a total asset figure of $241,870. She then deducted $116,457 for total liabilities, and added $199,413 for retained earnings, to arrive at the total value figure of $125,413 for the partnership. Plaintiff's one-third interest was $41,804.33.

Mathis testified that both she and Crystal agreed upon, and applied, generally accepted accounting principles in preparing their balance sheets. She provided Crystal with information for his valuation, including the $716,080 accounts receivable figure, which served as the starting point for determining the book value of the accounts receivable.

With respect to liabilities, Mathis noted that there was a slight difference in their accounts payable and income taxes payable. The major difference between Mathis and Crystal was the accounts receivable. Both left off the purported $67,000 owed to the real-estate partnership.

II.

The judge made very thorough findings of fact based on substantial evidence in the record that we have described above. She then drew ultimate conclusions in the case. First, in rejecting plaintiff's shareholder oppression claim, the judge found:

> Just because a minority shareholder has been outvoted as to a particular course of conduct of the corporation[] does not elevate the majority's action to oppressive conduct.

> . . . .
>
> The reality of the situation is that the majority here tried to acc[o]mmodate . . . plaintiff with respect to her claims for rent. The insurance provisions were in effect when . . . plaintiff arrived, and remained in effect until she left. There is no evidence to suggest that . . . defendants engaged in any action to oppress . . . plaintiff or devalue her stock interest. Plaintiff acquiesced in the payments to her in lieu of rent, and in payments to . . . defendants in lieu of insurance. In fact, she claims the same right. This only became an issue after the filing of the complaint.
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> The Court believes that it's unfair if [plaintiff] were able to seek judicial intervention after years of acquiescence and participation in compensation schemes practiced by the parties.

The judge found that "there has been an irretrievable breakdown among the shareholders which is not susceptible to rehabilitation." As a result, pursuant to the shareholders agreement, plaintiff was entitled to have her shares purchased by defendants, which was the relief defendants sought in their counterclaim.

Second, in determining the purchase price, the judge agreed with Mathis that the accounts receivable were inflated because of the bookkeeping procedures utilized by Ocean. The details regarding the accounts receivable were "suspect" and "murky." The judge stated:

[T]he calculation by . . . Mathis reduces the accounts receivable by more than ten percent for uncollectability which is contrary to the shareholders agreement. If the [c]ourt accepts . . . Crystal's calculation, the value of [plaintiff's] shares is $218,685. If the [c]ourt accepts . . . Mathis'[s] analysis, the value of [plaintiff's] shares is $44,886.

The [c]ourt notes that both accountants used the same methodology as described in the shareholders agreement. Both started with almost the same numbers. Both begin with the same number for accounts receivable, $716,080. . . . Crystal discounts that by ten percent, according to the shareholders agreement. . . . Mathis'[s] analysis deviates from the shareholders agreement and reduces the accounts receivable to $131,270, which is an 82 percent reduction.

. . . .

Except for the year 2007, the growth of this business is essentially stagnant. But the [c]ourt cannot conceive that the book value is only $134,657, and [plaintiff's] share is only $44,886. . . .

. . . .

It seems inconceivable that a one quarter interest in a business grossing approximately $1.7 million consistently over five years, and generating net income of over $600,000, to be divided among the principals, could be bought for only a $25,000 note. . . .

. . . .

Based on this analysis . . . , the [c]ourt concludes that the fair market value

> of [Ocean] as of December [31, 2007,] is $656,056.
>
> [Plaintiff's] one third interest is valued at $218,685, which is . . . Crystal's calculation without goodwill. The [c]ourt accepts . . . Crystal's calculation because it complies with the methodology of the shareholders agreement.

Third, the judge found that plaintiff was entitled to $18,277 plus pre-judgment interest for in-lieu-of-rent payments and medical payments to which plaintiff was entitled.

In denying defendants' new trial motion, the judge rejected their claim that the judge had ordered the sale pursuant to the oppressed shareholders statute: "[A]lthough referring to the above statute, the [c]ourt ordered the purchase of the minority shareholder[]s shares pursuant to the shareholder[]s agreement." The judge noted that she found both Crystal and Mathis to be credible but that she adopted Crystal's calculation because it "comported more accurately with the shareholder[]s agreement." She added:

> In the shareholder[]s agreement there was a 10 percent reduction for accounts receivable . . . . The [c]ourt found that this was the number to be used despite the fact that the actual percentage for uncollectibility might be higher or lower.
>
> Defendants also argue that the [c]ourt used extrinsic evidence in analyzing the fair market value. In analyzing the evidence, the [c]ourt relied not only on the analysis by the accountants, but looked at

> other factors including [plaintiff's] buy in, the gross receipts and the net profits to get a feel as to whether or not . . . Crystal's calculation of fair market value was correct.
>
> In effect, what the [c]ourt was trying to do was to test this number with an analysis of other numbers derived by the [c]ourt from other evidence. After analyzing the so[-]called extrinsic evidence, the [c]ourt found that . . . Crystal's analysis and final number [were] persuasive.

Finally, she rejected defendants' claim that Crystal's opinion was a net opinion because "[t]his was a [question of] mathematical computation that d[id] not involve an issue of credibility." With respect to defendants' claim that the wrong valuation date was utilized, the judge stated that "the only evidence submitted by either party as to valuation [date] was December [31,] 2007."

With respect to plaintiff's cross-motion for a new trial on the issue of shareholder oppression, the judge reiterated her holding in her decision: "[W]hile the parties could not work together based on a lack of trust beginning with plaintiff's unilateral action in paying down a certain debt, the action of . . . defendants did not rise to the level of oppression required under the statute." This appeal followed.

III.

Noaz, Farrell, and Ocean present the following issues for our consideration:

> POINT I - THE TRIAL COURT'S REFUSAL TO REFORM ITS MONETARY JUDGMENT TO CONFORM WITH ITS ACTUAL FINDINGS OF FACT AND CONCLUSIONS OF LAW WAS AN ABUSE OF DISCRETION.
>
> POINT II - THE TRIAL COURT'S ERRORS IN THE INTERPRETATION AND APPLICATION OF PRECEDENT TO THE ESTABLISHED FACTS IN THIS CASE ARE NOT ENTITLED TO DEFERENCE ON APPEAL.
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> > A. The [t]rial [c]ourt was required to adhere to the terms of the Shareholders Agreement and had no authority to rely upon the oppressed minority shareholder statute.
> >
> > b. The [t]rial [c]ourt's consideration of extrinsic information in the determination of [Ocean's] book value was prohibited by Shareholders Agreement.
> >
> > C. The [t]rial [c]ourt erred as a matter of law in failing to constrain itself to the four corners of the parties' Shareholders Agreement.
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> POINT III - THE TRIAL COURT'S FINDINGS OF FACT WITH RESPECT TO THE MONETARY JUDGMENT ENTERED IN FAVOR OF [PLAINTIFF] ARE NOT SUPPORTED BY THE RECORD.
>
> > A. The record does not support the [c]ourt's calculation of the book value of [Ocean].

B. The $218,685 purchase price for [plaintiff's] one-third interest as of December 31, 2007, does not comport with the $75,000 purchase price . . . [plaintiff] paid for [DeGroote's] one-quarter interest in 2005.

C. The [c]ourt failed to use its equity powers to appoint a receiver to collect the accounts receivable.

D. The record does not support the lump sum [j]udgment of $18,589 in favor of [plaintiff].

POINT IV - THE TRIAL COURT ERRED IN ALLOWING PLAINTIFF'S EXPERT WITNESS TO TESTIFY.

A. Plaintiff neither identified her expert nor submitted his report until the eve of trial, which was long after the [c]ourt's deadline for the submission of expert reports had passed.

B. Plaintiff's purported expert was incompetent to testify as to the accounting matters at issue, as he had never before valuated a medical practice.

C. The report and testimony of [p]laintiff's expert constituted a mere net opinion.

POINT V - IT WAS HARMFUL ERROR FOR THE TRIAL COURT TO EXCLUDE FROM EVIDENCE AN E-MAIL IN WHICH PLAINTIFF'S EXPERT WAS INSTRUCTED AS TO WHAT HIS "OPINION" MUST BE AS TO THE ACCOUNTS RECEIVABLE.

POINT VI - IT WAS HARMFUL ERROR FOR THE TRIAL COURT TO ADMIT INTO EVIDENCE, OVER DEFENDANTS' HEARSAY OBJECTION, A LETTER FROM

PLAINTIFF'S FORMER ATTORNEY TO DEFENDANTS' FORMER CORPORATE ATTORNEY.

POINT VII - THE TRIAL COURT ABUSED ITS DISCRETION WHEN IT HELD DEFENDANTS IN CONTEMPT FOR NOT SIGNING, ON ONLY TWO DAYS NOTICE, A PROMISSORY NOTE DRAFTED BY PLAINTIFF'S COUNSEL THAT WAS REPLETE WITH ERRORS.

In her cross-appeal, plaintiff raises the following issues for our consideration, which we have renumbered to run consecutively to the issues raised by Noaz, Farrell, and Ocean:

POINT VIII - THE TRIAL COURT ERRED IN FINDING THAT PLAINTIFF FAILED TO ESTABLISH THAT SHE WAS OPPRESSED BY DEFENDANTS WITHIN THE MEANING OF THE OPPRESSED MINORITY SHAREHOLDER STATUTE, N.J.S.A. 14A:12-7.

A. The Trial Court Failed to Consider Decisional Law that a Minority Shareholder Need Not Establish Fault on the Part of the Majority in Order to Prove Oppression under N.J.S.A. 14A:12-7.

B. The Trial Court Overlooked the Weight of the Credible Evidence Presented at Trial Establishing [Plaintiff's] Reasonable Expectations as a Minority Shareholder in [Ocean} were Frustrated by Defendants.

. . . .

C. The Trial Court Erred in Failing to Consider Plaintiff's Entitlement to Goodwill in its Valuation of Her Shares in [Ocean].

D. The Trial Court Erred in Failing to Consider Whether Plaintiff is Entitled to an Award of Attorney's Fees and an Award of Expert Fees.

POINT IX - THE TRIAL COURT ERRED IN FAILING TO DRAW AN ADVERSE INFERENCE AS TO DEFENDANTS' FAILURE TO PRESENT [NOAZ], A NAMED DEFENDANT AND SHAREHOLDER IN [OCEAN] AS A WITNESS AT TRIAL.

POINT X - THE TRIAL COURT ERRED IN ITS CALCULATION OF PLAINTIFF'S COMPENSATORY DAMAGES.

POINT XI - THE TRIAL COURT ERRED IN DENYING PLAINTIFF'S MOTION TO AMEND THE COMPLAINT TO ADD A CONSCIENTIOUS EMPLOYEE PROTECTION ACT COUNT AND PUBLIC POLICY COUNT BASED ON RETALIATORY DISCHARGE FOR FILING A LAWSUIT UNDER N.J.S.A. 14A:12-7.

A. Good Cause Existed Before the Trial Court to Provide Plaintiff Leave to File an Amended Complaint and Pursue a CEPA Claim against Defendants.

B. Good Cause Existed Before the Trial Court to Provide Plaintiff Leave to File an Amended Complaint To Pursue CEPA and Pierce Claims.[9]

C. [Plaintiff] Would Have Been Able to Establish Her Prima Facie Case of Retaliation at Trial.

After carefully reviewing the record in light of the written and oral arguments advanced by the parties, we conclude

[9] N.J.S.A. 34:19-1 to -8; Pierce v. Ortho Pharm. Corp., 84 N.J. 58 (1980).

that the issues presented by Noaz, Farrell, and Ocean in Points I through VII and the issues presented by plaintiff in Points VIII to XI are without sufficient merit to warrant discussion in this opinion. R. 2:11-3(e)(1)(E). In addition, the judge's findings of fact are adequately supported by the record, R. 2:11-3(e)(1)(A), and the judge's determination on the motion does not constitute a manifest denial of justice, R. 2:11-3(e)(1)(C). We affirm substantially for the reasons expressed by the trial judge in her oral opinions delivered on March 31 and May 15, 2009.

Additionally, we note that evidentiary rulings are committed to a trial judge's sound discretion. Bd. of Educ. of Clifton v. Zoning Bd. of Adjustment of Clifton, 409 N.J. Super. 389, 430 (App. Div. 2009). We find no mistaken exercise of that discretion in any of the evidentiary rulings made by the judge.

We are further satisfied that the judge did not err in denying plaintiff's eve-of-trial motion to amend her complaint. This determination, too, was committed to the sound discretion of the judge. Morales v. N.J. Academy of Aquatic Sciences, 302 N.J. Super. 50, 56 (App. Div. 1997). The judge did not mistakenly exercise that discretion in denying plaintiff's belated motion to amend.

Moreover, "[t]he acceptance or rejection of the opinion of expert witnesses as to the value of a corporation's stock is a matter peculiarly within the province of the trier of fact and its determination will be accorded great deference." Lawson Mardon Wheaton Inc. v. Smith, 315 N.J. Super. 32, 68 (App. Div. 1998), rev'd on other grounds, 160 N.J. 383 (1999). We find no occasion here to depart from that deference.

Affirmed.