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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-3311-15T2

PAUL J. LEE,

Plaintiff-Appellant,

v.

FLORENCE A. LEE, n/k/a FLORENCE
A. LANDI,

Defendant-Respondent.

Submitted April 25, 2017 – Decided May 2, 2017

Before Judges Fisher and Leone.

On appeal from the Superior Court of New Jersey, Chancery Division, Family Part, Warren County, Docket No. FM-21-134-12.

Scholl, Whittlesey & Gruenberg, LLC, attorneys for appellant (Franklin G. Whittlesey, on the brief).

Winegar, Wilhelm, Glynn & Roemersma, attorneys for respondent (Dennis W. Winegar, of counsel; James E. Sensor, on the brief).

PER CURIAM

In this appeal, we are asked to examine only that part of a post-judgment matrimonial order that awarded \$3165 in counsel fees. Finding no abuse of discretion, we affirm.

The parties were divorced in 2012. Although their settlement agreement provided for shared custody, their two children soon resided on a full-time basis with plaintiff, their father. In May 2015, defendant – the children's mother – moved to enforce the original parenting arrangement, and in June 2015, the court held that a plenary hearing was required regarding the parenting arrangement for the parties' youngest child.¹ Before the hearing could occur, the parties reached an agreement – memorialized in a September 28, 2015 consent order – that called for mother and child to engage in reunification therapy.

In January 2016, defendant moved for enforcement of the consent order, and plaintiff cross-moved for child support. By way of her February 26, 2016 order, the judge found plaintiff violated the consent order and granted defendant's request for reunification therapy on a weekly basis. The order also: compelled plaintiff to produce the child for therapy when scheduled; imposed on plaintiff a \$100 sanction for any missed sessions; confirmed that the parties continued to share joint legal custody; directed plaintiff to pay \$50 per month in alimony arrears; required his payment of alimony through wage garnishment; and denied without prejudice plaintiff's application for child support. The judge,

¹ The child in question was born in 2001. By the time of defendant's motion, the parties' older child had turned eighteen years old.

however, denied defendant's requests for parenting time every other weekend during the reunification-therapy period and her request for additional sanctions. The judge also rejected defendant's request that plaintiff be ordered to undergo a psychological evaluation.

Plaintiff appeals, but only that part of the February 26, 2016 order that compelled his payment to defendant of \$3165 – the full amount of the counsel fee she incurred in seeking enforcement. Plaintiff argues the judge abused her discretion by awarding the full amount sought, when, on its face, the order reveals defendant had not been entirely successful. Plaintiff also argues the judge relied on hearsay and lacked sufficient information about the parties' relative incomes to properly assess the fee request. We find insufficient merit in plaintiff's arguments to warrant further discussion in a written opinion, R. 2:11-3(e)(1)(E), and add only the following brief comments.

Family judges possess considerable discretion when ruling on fee applications; we will not disturb a family judge's exercise of that discretion absent a showing of abuse. Berkowitz v. Berkowitz, 55 N.J. 564, 570 (1970); Tannen v. Tannen, 416 N.J. Super. 248, 285 (App. Div. 2010), aff'd o.b., 208 N.J. 409 (2011). The judge was familiar with the parties' financial situation through her consideration of the case information statements

provided prior to the plenary hearing that never occurred. There was no doubt that plaintiff's annual income of approximately \$70,000 far exceeded the minimal income defendant earned as she pursued further education; defendant clearly had a need for the payment of her fees, and plaintiff possessed the ability to pay. The record also demonstrates that the motion resulted from what the judge referred to as plaintiff's "[s]elf-righteous, sanctimonious attitude" toward defendant that "infected the household and . . . the children." Further considering the fact that the judge rightly recognized that the post-judgment motions were primarily intended to "salvag[e] [defendant's] relationship" with the child, and that the parties' few financial disputes were of small importance, it was fair for the judge to conclude that defendant thoroughly achieved what she chiefly pursued. Therefore, the judge properly compensated defendant for the full amount of the reasonable fee charged by her attorney.

Plaintiff has suggested no principled reason for our second-guessing the judge's fair and equitable decision.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION