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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-5359-15T2

CHRISTINE NEWLAND,

Plaintiff-Appellant,

v.

JOSEPH D. BORRELL,

Defendant-Respondent.

Submitted October 24, 2017 – Decided January 9, 2018

Before Judges Sumners and Moynihan.

On appeal from Superior Court of New Jersey,
Chancery Division, Family Part, Gloucester
County, Docket No. FM-08-0081-12.

Archer & Greiner, PC, attorneys for appellant
(Michael A. Weinberg, of counsel; Jennie A.
Owens, on the brief).

Puff & Cockerill, LLC, attorneys for
respondent (Barbara Barclay Moore, on the
brief).

PER CURIAM

Plaintiff Christine Newland appeals from an order granting the motion by her former husband, defendant Joseph Borrell, to reduce sanctions against him in the amount of \$236,000 to \$2000

for failing to comply with two provisions of a December 12, 2012 Supplemental Final Judgment of Divorce (the judgment).¹ Defendant was required to remove plaintiff as an obligated party on a business credit card, and to place the title of a 2007 Chevrolet Suburban in plaintiff's name. On April 5, 2013, in response to plaintiff's motion to enforce litigant's rights, the court ordered defendant to comply with both obligations within fourteen days, and if he failed to do so, daily sanctions of \$250 would be imposed for each failed obligation. Having failed to comply with either obligation for almost a year, defendant was again ordered to comply.

Two years later, defendant filed a motion requesting the court determine the amount of money he owed to plaintiff arising from the judgment. In turn, plaintiff sought confirmation that defendant owed total sanctions of \$236,000—\$91,500 for taking a year to transfer title of the vehicle to plaintiff, and \$144,500 for failing to remove plaintiff's name from the business credit card for over a year and a half. Following argument, the court entered an order reducing defendant's total sanctions to \$2000.

¹ Although the judgment, as well as subsequent court orders enforcing the judgment, dealt with many issues, we only address the two provisions that are germane to this appeal.

In its oral decision, recognizing the disparity between the vehicle valued at \$7500 for which plaintiff had use of, and the \$91,000 sanction, the court noted the sanction has to be fair "and relate to obtaining compliance with the Court order." The court stated, "\$1000 on each of those issues is appropriate and fair in this case." The court determined \$91,500 and \$144,500 in sanctions were excessive and unreasonable since the purpose of a sanction is to attain compliance with a court order which defendant eventually did. The court mentioned that it conducted research, but did not cite any law when making its comments at argument or in a written memorandum attached to its order. The court's written decision provided that \$236,000 in sanctions were excessive and unreasonable, and non-compliance with the court's orders warranted \$2000 in sanctions.

In this appeal, plaintiff argues the trial court abused its discretion in reducing defendant's sanctions despite his non-compliance with court's enforcement orders for a significant time. Plaintiff maintains defendant waived his right for a reduction of the sanctions because he never sought relief from the court's orders prior to his application to reduce the sanctions two years after the last enforcement order. Thus, defendant's application for reconsideration was untimely under Rule 4:49-2, since it was not made within twenty days following the court's orders.

Moreover, plaintiff contends the forty-five day time limit to appeal the court's enforcement orders had expired. R. 2:4-1(a). Lastly, plaintiff argues that the court did not make specific findings of facts and conclusions of law as to why the sanctions were reduced as required by Rule 1:7-4(a).

Defendant counters that his motion to reduce the sanctions was pursuant to Rule 4:50-1(f), which does not impose a specific time limit but requires the motion be made within a reasonable time. Defendant also argues the court made specific findings as to why it reduced the amount owed by defendant to plaintiff.

In her reply brief, plaintiff asserts defendant failed to demonstrate exceptional circumstances under Rule 4:50-1(f), which would excuse his non-compliance with the court orders over the past several years.

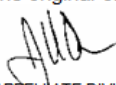
We review a trial court's imposition of sanctions against a litigant pursuant to Rule 1:10-3 under the abuse of discretion standard. Barr v. Barr, 418 N.J. Super. 18, 46 (App. Div. 2011). "An abuse of discretion 'arises when a decision is made without a rational explanation, inexplicably departed from established policies, or rested on an impermissible basis.'" Ibid. (quoting Flagg v. Essex Cty. Prosecutor, 171 N.J. 561, 571 (2002)). Yet, our court's ability to resolve an appeal is largely dependent upon the trial court's compliance with its obligation to state findings

of fact and conclusions of law as required by Rule 1:7-4(a). To comply, the court must articulate factual findings and correlate them with the principles of law. Curtis v. Finneran, 83 N.J. 563, 570 (1980). When that is not done, this court's review is impeded and a remand is necessary. Elrom v. Elrom, 439 N.J. Super. 424, 443 (App. Div. 2015).

Here, neither the trial court's comments at argument nor its written decision explained the facts and law supporting its determination to reduce defendant's sanctions. We appreciate that the court's lack of findings may be the product of the multitude of post-judgment divorce issues addressed in its order. Nonetheless, the court's conclusory determination that sanctions totaling \$236,000 were excessive and unreasonable and should be reduced to \$2000 without articulating factual findings and legal conclusions hinders our ability to determine the issues raised in this appeal. Therefore, we reverse and remand to the court for specific factual findings and conclusions of law as required by Rule 1:7-4(a). We take no position on whether the court should grant defendant's request to reduce the sanctions, and if so, the amount of the reduction.

Reversed and remanded. We do not retain jurisdiction.

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


CLERK OF THE APPELLATE DIVISION