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This opinion shall not "constitute precedent or be binding upon any court." 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-1277-21**

MICHAEL TZOUMAS,

Plaintiff-Respondent/
Cross-Appellant,

v.

**KATHY TZOUMAS, n/k/a
KATHY XANTHOS,**

Defendant-Appellant/
Cross-Respondent.

Submitted February 28, 2023 – Decided May 4, 2023

Before Judges Gilson and Gummer.

On appeal from the Superior Court of New Jersey,
Chancery Division, Family Part, Bergen County,
Docket No. FM-02-2665-12.

Herbert & Weiss, LLP, attorneys for appellant/cross-
respondent (Helene C. Herbert and Margaret M.
Ochner, on the briefs).

Miller, Meyerson & Corbo, attorneys for
respondent/cross-appellant (Nirmalan Nagulendran, on
the briefs).

PER CURIAM

The parties cross-appeal from several post-divorce-judgment orders addressing parenting issues and applications for attorneys' fees. Defendant Kathy Xanthos challenges provisions of orders appointing a parenting coordinator and denying her request for attorneys' fees. Plaintiff Michael Tzoumas appeals from the portion of an order denying his application for attorneys' fees. Discerning no abuse of discretion or error of law, we affirm all the challenged orders.

I.

The parties married in 2003 and divorced ten years later in May 2013. They have two children, a daughter, born in April 2008, and a son, born in April 2011.

The parties resolved the issues related to their divorce in a written property settlement agreement (PSA), which was incorporated into their judgment of divorce. In the PSA, the parties agreed to share joint legal custody of their children, with defendant, the mother, being the parent of primary residential custody, and plaintiff, the father, being the parent of alternate residential custody. The PSA also provided that plaintiff would enjoy parenting time with the children every other weekend and an overnight visit on the Monday

following the weekend the children were with their mother. In an addendum to their PSA, the parties agreed "to make every effort to foster feelings of affection between the children and the other parent. Neither party shall do anything which may injure the children's opinion [or] attitude towards the other parent nor which may hamper the development of the children's love and respect for the other parent."

Following the divorce, the parties have had a contentious relationship and numerous disputes concerning their children. Both parents have repeatedly accused each of making disparaging comments about the other to the children and trying to alienate the children's affections. The parties have also filed several motions alleging interference with parenting time and seeking various assistance with their parental relationships, including reunification therapy and psychological evaluations.

This appeal arises out of motions filed in 2020 and 2021. In July 2020, plaintiff moved to enforce prior court orders, to compel reunification therapy with his daughter, to require family therapy, and to be awarded attorneys' fees. Defendant cross-moved, seeking various forms of relief, including finding plaintiff in violation of litigant's rights because he had allegedly made

disparaging comments about defendant to the children, requiring plaintiff to undergo a psychiatric evaluation, and suspending plaintiff's parenting time.

On August 21, 2020, the family court entered an order that (1) partially restored plaintiff's parenting time with his son; (2) suspended plaintiff's parenting time with his daughter; and (3) appointed a guardian ad litem (Guardian) to look into the best interests of the children.

For the next year, the Guardian sought to work with the parents to foster their relationship with the children and to avoid involving the children in their disputes. The Guardian arranged for reunification therapy between plaintiff and his daughter, worked with the parents on their communication skills, and met with the children to try to understand their concerns. Despite the Guardian's diligent efforts, she had limited success in improving the parties' contentious parental disputes. As an illustration of that ongoing difficulty, each party contends that he or she, but not the other parent, was successful in collaborating with the Guardian and that the Guardian felt that the other parent, but not she or he, was the problem.

The Guardian summarized her efforts and recommendations in a written report dated July 27, 2021. On August 6, 2021, with the parties and their counsel present, the Guardian presented her report and recommendations to the family

court on the record. The Guardian summarized her efforts of working with the parents, coordinating therapy, and interviewing the children. She reported that the parties had "an extremely contentious relationship" and that "this angry and hostile relationship . . . has severely impacted both of their children." The Guardian then made several recommendations to try to assist the parties develop a better relationship in caring for their children.

On August 6, 2021, the court incorporated the Guardian's recommendations into an order. That order provided, among other things, that (1) defendant was to "engage in a therapeutic process to help her maximize the tools to peacefully coexist and co-parent with [plaintiff]"; (2) plaintiff was to see and consult with a psychologist on a weekly basis; (3) the psychologist and professionals who were working with the family would determine when, and under what circumstances, plaintiff would have parenting time with his children; (4) both parties were directed not to make inappropriate comments about the other parent to the children; and (5) the parties were to select a parenting coordinator and if they could not agree on a coordinator, the court would select one. The order also provided that both parties could apply for attorneys' fees.

The parties failed to agree on a parenting coordinator. Consequently, on September 15, 2021, the family court issued an order appointing Shireen

Meistrich as the parenting coordinator. Meistrich was first suggested as someone who could function as a parenting coordinator by the Guardian at the August 6, 2021 hearing. Plaintiff thereafter requested Meistrich's appointment.

Both parties applied for attorneys' fees related to the motions that they had filed in 2020 and 2021. Defendant sought an award of just over \$36,000, while plaintiff sought a fee award of just over \$46,000.

On November 18, 2021, the family court issued an order denying both parties' requests for attorneys' fees. That same day, the court placed its findings of facts and conclusions of law concerning the fee applications on the record.

II.

Defendant now appeals from the orders issued on August 6, September 15, and November 18, 2021. She contends that the family court erred in appointing a parenting coordinator without her consenting to the selected coordinator. She also argues that the court erred in denying her application for attorneys' fees. Plaintiff cross-appeals from the provision in the November 18, 2021 order denying his application for attorneys' fees. We find no merit in the arguments presented by either party and affirm all three orders.

A. The Appointment of a Parenting Coordinator.

Family judges have the authority to appoint a parenting coordinator. See Sup. Ct. of N.J., Notice to the Bar: Parenting Coordinators – Conclusion of Pilot Program: Continued Authority to Appoint in Individual Cases, (Nov. 13, 2012) (2012 Notice). In March 2007, our Supreme Court established a pilot program for parenting coordinators in four vicinages. See Sup. Ct. of N.J., Notice to the Bar: Parenting Coordinator Pilot Program, (Apr. 2, 2007) (2007 Notice). Four years later, in November 2012, the pilot program concluded, and family judges were authorized to "continue to appoint [p]arenting [c]oordinators in specific cases in any vicinage." 2012 Notice.

If appointed, the parenting coordinator must "be qualified to serve either by consent of the parties or by the court in the same manner as other experts." Ibid. Under the pilot program, if the parties could not agree on a particular coordinator, the court could appoint one on its own from an approved roster of qualified individuals maintained by the Administrative Office of the Courts. See 2007 Notice, § IIA. To qualify for that roster, an individual needed to be "a social worker, psychologist, psychiatrist, or marriage and family therapist who shall be licensed to practice in the State of New Jersey by the appropriate State board and agencies." Id. § IID. When the Supreme Court concluded the pilot

program, it removed the roster of parenting coordinators from the judiciary's website. Consequently, it is not clear that a parenting coordinator now appointed by a family judge needs to meet the same criteria established by the pilot program. What is clear, however, is that family judges still have authority to appoint a parenting coordinator without the parties' consent.

Defendant challenges the provisions of the August 6, 2021 order and the September 15, 2021 order appointing Meistrich as the parenting coordinator. Defendant has not challenged Meistrich based on her qualifications to serve as a coordinator. Instead, her sole challenge is that she did not consent to the appointment of Meistrich. We reject that position because the family judge had authority to appoint the coordinator without the consent of the parties and there is nothing in the record to suggest that Meistrich is not qualified to serve as a parenting coordinator. "The use of a [parenting coordinator] is designed to aid parents by providing a different forum to discuss parenting problems." Milne v. Goldenberg, 428 N.J. Super. 184, 205 (App. Div. 2012). Hopefully, both defendant and plaintiff will avail themselves of the services of the parenting coordinator to help them resolve their parenting problems for the benefit of their children.

B. The Attorneys' Fees.

An award of attorneys' fees in family matters rests in the sound discretion of the family judge. See N.J.S.A. 2A:34-23; R. 5:3-5(c). We will overturn the family judge's decision concerning a counsel fee award "only on the 'rarest occasion,' and then only because of a clear abuse of discretion." Barr v. Barr, 418 N.J. Super. 18, 46 (App. Div. 2011) (quoting Strahan v. Strahan, 402 N.J. Super. 298, 317 (App. Div. 2008) (citing Rendine v. Pantzer, 141 N.J. 292, 312 (1995))).

In this case, the family court properly analyzed the factors set forth in Rule 5:3-5(c) and determined that they were "balanced evenly" and, therefore, did not award either party attorneys' fees. Both parties take issue with the court's analysis of the Rule 5:3-5(c) factors. Plaintiff argues that the court failed to consider the financial circumstances of the parties. Not only did the court consider that factor, but it found that it weighed in plaintiff's favor. However, the court also found that it was balanced out by other factors weighing in defendant's favor, namely plaintiff's bad faith. Defendant argues the court failed to consider plaintiff's bad faith and erred in finding the financial circumstances of the parties weighed in plaintiff's favor without requesting additional financial information. Again, the court considered plaintiff's bad faith but found it was

balanced out by defendant's stronger financial position. Additionally, defendant acknowledges that she did not submit updated financial information. Consequently, we reject that argument because the family judge examined the parties' financial circumstances as reflected in the record. We also reject all other challenges to the fee award because we discern no abuse of discretion.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION