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STATE OF MICHIGAN

COURT OF APPEALS

DANIEL SKIDMORE,

Plaintiff-Appellant,

v

HIDEO HAYASHI, MAKIE HAYASHI, and JULIE SKIDMORE,

Defendants-Appellees,

and

POTOMOC TOWNE II ASSOCIATION,

Defendant.

FOR PUBLICATION
October 21, 2026
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No. 371345
Oakland Circuit Court
LC No. 2023-198678-CH

HIDEO HAYASHI and MAKIE HAYASHI,

Plaintiffs-Appellees,

v

DANIEL SKIDMORE,

Defendant-Appellant,

and

JULIE SKIDMORE,

Defendant.

No. 371349
Oakland Circuit Court
LC No. 2022-194491-CK

Before: MURRAY, P.J., and BOONSTRA and RIORDAN, JJ.

BOONSTRA, J.

These consolidated appeals arise from a landlord-tenant dispute about the habitability of a rental unit and the tenants' continued obligation to pay rent. Landlords Hideo and Makie Hayashi sued defendants Daniel and Julie Skidmore for breach of contract. In a separate lawsuit, Daniel raised several related claims against the Hayashis, Julie,[1] and Potomac Towne II Association (the Association).[2] The trial court consolidated the two cases. In Docket No. 371345, Daniel appeals by right the trial court's order granting summary disposition in favor of Julie and the Hayashis on Daniel's claims against them. In Docket No. 371349, Daniel also appeals by delayed leave granted[3] the same order granting summary disposition in favor of the Hayashis on their claims against Daniel. We affirm in part, reverse in part, and remand for further proceedings.

I. PERTINENT FACTS AND PROCEDURAL HISTORY

In June 2017, Daniel and Julie entered into a one-year lease agreement with the Hayashis to rent a condominium unit owned by the Hayashis in Oakland County. In May 2018, the parties extended the lease through June 2019, and in May 2019, they extended the lease through June 2021.

According to Daniel, upon moving into the unit in 2017, he noticed that the roof and certain other parts of the unit were leaking. The parties discussed and exchanged several emails regarding the leaks, and Daniel expressed his frustration that the Hayashis had not done anything about the leaks despite knowing about the issue for months. The Association's summary of work orders for the unit showed that the Skidmores had submitted multiple work orders, associated with various third-party contractors, related to leaks in the unit throughout their occupancy, all of which had been marked as "closed." According to an e-mail sent by a client-communications specialist from Kramer Triad Management Group to an individual named "Dean,"[4] a representative from Kearns Brothers, Inc. "did a temporary repair on 5-30-18 and sent a proposal for the permanent fix to the manager." Dean forwarded the e-mail to Daniel, noted that the repair was a temporary fix, and asked Daniel to notify him and the service company if he experienced any more rain-water leakage.

In September 2019, Daniel e-mailed Dean to report concerns about mold in one of the bedrooms and asking for the Association to "immediately" repair the leak in the roof and for a mold inspector to be sent to the unit to assess the damage and give repair recommendations. In April 2020, Julie e-mailed Dean to report the Skidmores' concerns about continued leaking, noting

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[1] The Hayashis dismissed their complaint against Julie with prejudice. This opinion also addresses Daniel's claims against Julie, but Julie has not filed a brief in this appeal.

[2] Daniel settled his claims against Potomac. The trial court accordingly dismissed the claims against Potomac with prejudice, and Potomac is not involved in this appeal.

[3] *Hayashi v Skidmore*, unpublished order of the Court of Appeals, entered September 26, 2024 (Docket No. 371349). This Court consolidated the appeals on its own initiative in the same order. *Id*.

[4] From context, it appears that "Dean" may be a pseudonym for Hideo.

that they had not received "the timeline as to when the roof might be replaced," that they "had issues in the past with health problems related to mold allergies, and that the possibility of water sitting in the rafters and creating moldy conditions" was "a big worry." In May 2020, Daniel e-mailed Hideo to inform him that Daniel was canceling the lease because of "constant roof leaks and mold," claiming that the Hayashis' "failure to provide a watertight residence can allow for termination of a lease." Daniel left the unit in November 2020 after depositing several months' rent into an escrow account.[5]

The Hayashis sued the Skidmores in 2022, claiming that the Skidmores had breached the lease agreement by failing to pay $25,034.88 in rent and late fees as of the date that the lease expired and that they had failed to maintain the premises in good repair. The trial court denied Daniel's motion for leave to file a counterclaim against the Hayashis and Julie because he had not attached a copy of the proposed counterclaim to the motion. Instead of refiling the motion with the expected attachment, Daniel filed a separate lawsuit. The trial court consolidated the two cases.

In resolving several motions for summary disposition, the trial court dismissed each of Daniel's 18 claims.[6] It also granted summary disposition in favor of the Hayashis on their breach-of-contract claim, leaving only the issue of damages for trial. These consolidated appeals followed, and this Court stayed further proceedings in the trial court.[7]

II. JURISDICTION

As a preliminary matter, we address the Hayashis' challenge to our jurisdiction in these cases. See *Clohset v No Name Corp (On Remand)*, 302 Mich App 550, 560; 840 NW2d 375 (2013)

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[5] According to Daniel and Julie's daughter, Daniel and Julie had ended their relationship in early 2020 and planned to separate in June 2020, but it is unclear when Julie vacated the unit.

[6] On May 2, 2023, the trial court granted partial summary disposition in favor of the Hayashis, dismissing Count IV (conversion of property other than the security deposit), Count V (violation of the Truth in Renting Act (TIRA), MCL 554.631 *et seq*.), Count VI (violation of the Michigan Consumer Protection Act, MCL 445.901 *et seq*.), Count XII (violation of the anti-lockout statute, MCL 600.2918), Count XIII (personal injury), XIV (violation of the Housing Law of Michigan (HLM), MCL 125.401 *et seq*.), and Count XV (intentional infliction of emotional distress). On June 20, 2023, the trial court granted summary disposition in favor of Julie, dismissing Count XVI (breach of fiduciary duty), Count XVII (contribution), and Count XVIII (breach of contract). On March 27, 2024, the trial court denied Daniel's motion for declaratory judgment that the lease was illegal and granted the Hayashis' motion for summary disposition, dismissing Count I (illegal contract), Count II (disgorgement), Count III (unjust enrichment), Count IV (conversion of the security deposit), Count VII (breach of contract), Count VIII (silent fraud), Count IX (innocent misrepresentation), Count X (violation of the Landlord-Tenant Act, MCL 554.601 *et seq*.), and Count XI (exemplary damages). In the same opinion, the trial court granted summary disposition in favor of the Hayashis on their breach-of-contract claim against Daniel.

[7] *Hayashi v Skidmore*, unpublished order of the Court of Appeals, entered September 26, 2024 (Docket No. 371349).

(explaining that all courts must address challenges to subject-matter jurisdiction). We review this issue de novo. See *Chen v Wayne State Univ*, 284 Mich App 172, 191; 771 NW2d 820 (2009). The Hayashis argue that this Court lacks jurisdiction over the claim of appeal in Docket No. 371345, which is associated with Daniel's complaint in lower court case no. 2023-198678-CH, because the trial court consolidated that case with the Hayashis' case in lower court case no. 2022-194491-CK, which has not been litigated to a final order. The Hayashis also contend that this Court lacks jurisdiction in Docket No. 371349 because Daniel's application for leave to appeal in that case was untimely. We disagree.

The Hayashis previously brought motions to dismiss these appeals on the same jurisdictional grounds, which this Court has already denied. *Skidmore v Hayashi*, unpublished order of the Court of Appeals, entered September 26, 2024 (Docket No. 371345); *Hayashi v Skidmore*, unpublished order of the Court of Appeals, entered September 26, 2024 (Docket No. 371349). Daniel's application for leave to appeal in Docket No. 371349 was filed just 30 seconds after the deadline for filing an application under MCR 7.205(A)(1)(b). At this Court's request, Daniel promptly amended his application to include a statement of his reasons for the delay, and this Court granted his delayed application for leave to appeal under MCR 7.205(4). Regarding Daniel's claim of appeal in Docket No. 371345, Daniel had the right to appeal the trial court's order dismissing his claims because that order was final with respect to lower court case no. 2023-198678-CH. See *Chen*, 284 Mich App at 199 ("Because the cases retained their separate identities [after consolidation], the time for appeal must be determined by reference to the final judgment or order for the individual cases."). Accordingly, this Court has jurisdiction and may determine the issues on appeal.

III. CLAIMS BETWEEN DANIEL AND THE HAYASHIS (DOCKET NOS. 371345 & 371349)

Daniel challenges the trial court's decision to dismiss many of his claims against the Hayashis and to grant the Hayashis' motion for summary disposition of their own breach-of-contract claim.[8] We address each of Daniel's arguments in turn.

A. STANDARDS OF REVIEW

The trial court granted summary disposition of Daniel's complaint in favor of the Hayashis and Julie under MCR 2.116(C)(8) and (10). A trial court's decision on a motion of summary disposition is reviewed de novo. *BC Tile & Marble Co, Inc v Multi Bldg Co, Inc*, 288 Mich App 576, 583; 794 NW2d 76 (2010). Certain portions of the trial court's opinions do not identify whether its decision was based on MCR 2.116(C)(8) or (C)(10).[9] For issues in which the trial

[8] In Docket No. 371345, Daniel appeals the trial court's decision to grant summary disposition on Counts I, II, III, IV, V, VII, XI, XII, XIV, XVII, and XVIII. In Docket No. 371349, Daniel appeals the trial court's decision to grant summary disposition on the Hayashis' breach-of-contract claim.

[9] The trial court clearly granted summary disposition under MCR 2.116(C)(10) for the Hayashis' breach-of-contract claim and under MCR 2.116(C)(8) for Daniel's Count V (TIRA), Count XIV

court considered documentary evidence outside of the pleadings, this Court will review the trial court's decision under MCR 2.116(C)(10). See *BC Tile*, 288 Mich App at 582 ("Where the parties rely on documentary evidence, appellate courts proceed under the standards of review applicable to a motion made under MCR 2.116(C)(10).") (quotation marks and citation omitted). Otherwise, we will review the decisions under MCR 2.116(C)(8).

MCR 2.116(C)(8) tests the legal sufficiency of the complaint. *Bailey v Schaaf*, 494 Mich 595, 603; 835 NW2d 413 (2013). The trial court must decide the motion on the basis of the pleadings alone and it must accept as true all factual allegations supporting the claim. *Gorman v American Honda Motor Co, Inc*, 302 Mich App 113, 131; 839 NW2d 223 (2013). A motion under MCR 2.116(C)(8) "may be granted only when the claim is so clearly unenforceable as a matter of law that no factual development could possibly justify recovery." *Id*. at 131-132.

"MCR 2.116(C)(10) tests the factual sufficiency of the complaint." *Bernardoni v Saginaw*, 499 Mich 470, 472; 886 NW2d 109 (2016). Summary disposition under MCR 2.116(C)(10) is appropriate when, "[e]xcept as to the amount of damages, there is no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as a matter of law." MCR 2.116(C)(10). "In deciding a motion under subrule (C)(10), the trial court views affidavits and other documentary evidence in the light most favorable to the nonmoving party." *Lockport Twp v Three Rivers*, 319 Mich App 516, 519; 902 NW2d 430 (2017) (quotation marks and citation omitted).

B. ILLEGAL CONTRACT

Daniel first argues that the trial court erred when it determined that the lease was legally enforceable. We agree.

In his complaint, Daniel alleged that the lease was void *ab initio* in part because the Hayashis failed to obtain a rental certificate of compliance for the unit, which meant that the unit could not be legally rented or occupied. In their answer to Daniel's complaint, the Hayashis admitted that the unit did not have a certificate of compliance from West Bloomfield Township during the time period that Daniel resided in the unit, but they maintained that the lease was still enforceable.

"Contracts founded on acts prohibited by a statute, or contracts in violation of public policy, are void." *Michelson v Voison*, 254 Mich App 691, 694; 658 NW2d 188 (2003). If the illegal provision was "central to the parties' agreement" such that "the agreements are interdependent and the parties would not have entered into one in the absence of the other," then the entire contract is void. *Stokes v Millen Roofing Co*, 466 Mich 660, 666; 649 NW2d 371 (2002) (quotation marks and citation omitted).

(HLM), and Count IV (conversion of property other than the security deposit). It did not identify which rule justified summary disposition of the other claims addressed in this section.

To ensure "healthy, safe, and sanitary conditions in residential rental dwelling units," West Bloomfield Township prohibits renting[10] or occupying a rental unit unless the unit has been issued a certificate of compliance after passing an inspection by a code official. W.B. Code C-746-D, §§ 8-410(a); 8-415; 8-416. At the time that the parties first entered the lease agreement in 2017,[11] the pertinent provisions of the Code stated as follows:

> The provisions of this article shall apply to any dwelling unit or part thereof, which is occupied or offered for occupancy by persons other than the owner pursuant to any oral or written rental or lease agreement or arrangement.
>
> * * *
>
> Persons shall not occupy, and owners shall not rent or allow occupancy, of a residential unit unless a certificate of compliance has been applied for and issued for the unit. [W.B. Code C-746, §§ 8-411; 8-414 (September 20, 2010).]

The Code also specified the penalty for violations of this requirement:

> (a) A violation of this article is a municipal civil infraction, subjecting persons found responsible for violations to the fines in subsection (b), plus costs and to the sanctions, remedies and procedures as set forth in subsection 1-10(b) of this Code,[12] with the provision that each day is a separate offense specifically applicable to all violations of this article.
>
> (b) The fine for a first offense of failure to obtain an inspection, failure to file the required registration or failure to maintain the registration containing current information shall be one hundred dollars ($100.00). The fine for all other violations shall be in an amount not to exceed five hundred dollars ($500.00). [W.B. Code C-746, § 8-424 (September 20, 2010).]

The trial court held that Daniel could not claim that a violation of the West Bloomfield ordinance made the lease illegal because the ordinance provided for fines and sanctions as the exclusive remedy, which did not give Daniel a private cause of action to enforce the ordinance

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[10] Under the ordinance, to rent is "to provide for or offer possession or occupancy of a dwelling unit pursuant to any oral or written rental agreement, lease agreement, or other arrangement to a person(s) who is not the owner for a period during which the owner does not reside or occupy the dwelling unit." W.B. Code C-746-D, § 8-412. It is undisputed that the Hayashis rented the condominium to Daniel.

[11] The Code was amended several times throughout the duration of the lease agreement, but the requirement for a certificate of compliance and the penalties for violation remained substantially the same.

[12] Subsection 1-10(b) addressed the procedure for assessing various costs, damages, and expenses. W.B. Code C-664, § 1-10(b) (November 17, 2003). That subsection is not relevant to this appeal.

against the Hayashis. The trial court noted that "where a new right is created or a new duty is imposed by statute, the remedy provided for enforcement of that right by the statute for its violation and nonperformance is exclusive." *Pompey v General Motors Corp*, 385 Mich 537, 552; 189 NW2d 243 (1971). It also compared this case to *McMillan v Douglas*, 322 Mich App 354; 913 NW2d 336 (2017), in which this Court addressed a claim based on a similar ordinance.

In *McMillan*, the plaintiff-tenant, Robert McMillan, sued the defendant-landlord under a local ordinance to recoup rent paid to the defendant after McMillan was ordered to vacate his rental unit because the unit did not have a valid rental permit for the entire duration of his lease. *Id*. at 355-356. McMillan claimed that Section 842.06(c) of the Battle Creek Code of Ordinances provided a private cause of action for the recoupment of rent because that ordinance "precludes an owner from accepting, retaining, or recovering rent in the absence of a current, valid rental permit." *McMillan*, 322 Mich App at 359. This Court disagreed, noting that "the rental permit requirement is not a common-law obligation" and that the ordinance provided for administration and enforcement by the city, not private individuals. *Id*. at 360-361. Furthermore, "the rental permit requirements impose a public duty on landlords, not an obligation owed by a landlord to a tenant. . . . And because the permit requirement is a public duty, it does not give rise to a private cause of action for a tenant." *Id*. at 359-360.

The trial court erred when it held that the lease was enforceable under *McMillan*. Daniel alleges that the Hayashis have violated a West Bloomfield ordinance by renting the unit to him without obtaining the required certificate of compliance, but he structures his claims much differently than did the plaintiff in *McMillan*. In fact, Daniel agrees with the trial court that the West Bloomfield ordinance does not create an independent, private cause of action against the Hayashis.[13] But unlike in *McMillan*, Daniel does not purport to sue *under* the ordinance, nor is his purpose to enforce the ordinance. Instead, Daniel claims, *inter alia*, that the lease is void because performance of the contract would violate the ordinance, or alternatively that the Hayashis breached the contract by violating the ordinance because the lessor's compliance with local health and safety laws is incorporated into lease agreements as a contractual duty under MCL 554.139.[14]

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[13] Indeed, the only issue before the Court in *McMillan* was "whether [the ordinance] creates a private right of action that allows a tenant to demand the return of rent that was paid to a landlord during a period in which the landlord did not have a valid rental permit." *McMillan*, 322 Mich App at 356.

[14] MCL 554.139 states, in relevant part:

> (1) In every lease or license of residential premises, the lessor or licensor covenants:
>
> (a) That the premises and all common areas are fit for the use intended by the parties.
>
> (b) To keep the premises in reasonable repair during the term of the lease or license, *and to comply with the applicable health and safety laws of the state and of the local unit of government* where the premises are located, except when the

In other words, Daniel's claim is based in contract law, whereas McMillan's claim was brought under the ordinance itself. And Daniel's claim is not for the return of rent (as in *McMillan*), but rather is for a declaratory judgment as to the validity of the lease.

The trial court erred by characterizing Daniel's argument that the contract was void as a request for a "remedy" for the ordinance violation. But longstanding contract principles have established that a contract is void if it is made contrary to law or public policy. *Int'l Harvester Co of America v Eaton Cir Judge*, 163 Mich 55, 61; 127 NW 695 (1910) ("It is undoubtedly the general rule that a contract made in violation of a statute is void, and no recovery can be had upon it.") (quotation marks and citation omitted). That contract principle exists independently of the remedies provided for the violation of a statute or ordinance itself. Under the trial court's reasoning, one could not hold that a contract is void for illegality unless the law that is violated by its performance provides for a private cause of action. We decline to adopt such a rule; courts should not recognize illegal contracts regardless of who has a right to enforce the underlying law.

And in this case, there was no genuine dispute that the Hayashis violated the West Bloomfield ordinance. They admitted in their answer to Daniel's complaint "that they did not receive a rental certificate of compliance from West Bloomfield Township for the time period that [Daniel] resided at the Subject Property." Yet the Hayashis rented the unit anyway, and Daniel occupied the property until 2020. Both the Hayashis' decision to rent the property and Daniel's occupation of the property violated W.B. Code C-746, § 8-414 (September 20, 2010). And because renting and occupying the unit was undeniably "central to the parties' agreement," the entire contract is void *ab initio*. See *Stokes*, 466 Mich at 666. See also *Herschfus v Southfield Housing Comm*, unpublished opinion of the Court of Appeals, issued August 7, 2003 (Docket Nos. 232316 & 234464), p 5 (holding that a contract premised on the rental of a property lacking a rental registration certificate in violation of local ordinance "fails for illegality and is void as against public policy.").[15] Therefore, the trial court erred when it denied Daniel's motion for a declaratory judgment determining that the lease was void and when it granted the Hayashis' motion for summary disposition on Daniel's claim that the contract was illegal.

Because the lease was void *ab initio* and unenforceable, the trial court erred when it granted summary disposition in favor of the Hayashis on their breach-of-contract claim against Daniel. The Hayashis' breach-of-contract claim fails as a matter of law and, on remand, the trial court shall dismiss that claim.[16] By the same logic, Daniel's claim for breach-of-contract against the Hayashis also fails, so the trial court did not ultimately err when it granted summary disposition in favor of

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> disrepair or violation of the applicable health or safety laws has been caused by the tenants [sic] wilful or irresponsible conduct or lack of conduct. [Emphasis added.]

[15] Unpublished opinions are not binding but may be considered for their persuasive value. *Cox v Hartman*, 322 Mich App 292, 307; 911 NW2d 219 (2017).

[16] Because we conclude that the Hayashis' breach-of-contract claim must be dismissed on this basis, we need not address Daniel's alternative arguments that he did not breach the contract, that the Hayashis breached first, or that he was not obligated to pay rent under the agreement because he was constructively evicted.

the Hayashis as to that claim. See *Bailey v Antrim Co*, 341 Mich App 411, 420; 990 NW2d 372 (2022) ("[W]e will not reverse a trial court's decision when it reaches the right result, even if it was for the wrong reason.") (quotation marks and citation omitted).

C. DISGORGEMENT AND UNJUST ENRICHMENT

Daniel claims in Counts II and III of his complaint that the Hayshis are liable for disgorgement and restitution for unjust enrichment because they "received a benefit in relation to an unenforceable rental agreement in the form of sizeable monthly payments, a security deposit, a lawsuit settlement against Julie Skidmore, condo upgrades, and other property."

Unjust enrichment is an independent cause of action that does not rely on the existence of a valid contract. *Wright v Genesee Co*, 504 Mich 410, 419-420; 934 NW2d 805 (2019). "Unjust enrichment is a cause of action to correct a defendant's unjust retention of a benefit owed to another." *Id*. at 417. "A claim of unjust enrichment can arise when a party has and retains money or benefits which in justice and equity belong to another." *Id*. at 418 (quotation marks and citation omitted). "The remedy for unjust enrichment is restitution." *Id*. "In a breach-of-contract action, an injured party may seek damages for an injury caused by another party's breach of a contractual obligation." *Id*. at 419. "Unjust enrichment, by contrast, doesn't seek to compensate for an injury but to correct against one party's retention of a benefit at another's expense." *Id*.

The trial court granted the Hayashis' motion for summary disposition and dismissed these claims on the basis that the lease was legal and enforceable. But as stated earlier, that legal conclusion was erroneous—the lease was void *ab initio* because it was created in violation of a local ordinance. Accordingly, the trial court erred when it granted the Hayashis' motion for summary disposition on Counts II and III of Daniel's complaint.

D. CONVERSION

In Count IV of his complaint, Daniel claims that the Hayashis are liable for conversion because the void lease did not grant them any right to Daniel's property, so they had converted his property to their own use.

Common-law conversion is an intentional tort that is defined as "any distinct act of dominion wrongfully exerted over another's personal property in denial of or inconsistent with [their] rights therein." *Aroma Wines & Equip, Inc v Columbian Distribution Servs, Inc*, 497 Mich 337, 351-352; 871 NW2d 136 (2015) (quotation marks and citation omitted). As relevant here, statutory conversion, by contrast, is "[a]nother person's stealing or embezzling property or converting property to the other person's own use." *Powers v Brown*, 328 Mich App 617, 621; 939 NW2d 733 (2019), quoting MCL 600.2919a(1)(a). The tort of conversion aims to secure the "right to personal property by allowing someone wrongfully deprived of his or her property to recover either that property or monetary damages, or both, for the wrongful deprivation." *Aroma Wines & Equip*, 497 Mich at 348. Furthermore, "[t]o support an action for conversion of money, the defendant must have obtained the money without the owner's consent to the creation of a debtor-creditor relationship and must have had an obligation to return the specific money entrusted to his care." *Lawsuit Fin, LLC v Curry*, 261 Mich App 579, 591; 683 NW2d 233 (2004) (quotation marks and citation omitted).

Initially, the Hayashis moved for partial summary disposition of the conversion claim only as it related to any property other than the security deposit, and the trial court granted that motion on the basis that the complaint failed to specify the property converted. Daniel argues that the trial court erred because he was "not required to specify each and every piece of property that was converted." Daniel also contends that he identified the property in other parts of the complaint, principally in the section covering unjust enrichment in which he alleged the Hayashis "received a benefit in relation to an unenforceable lease agreement in the form of sizeable monthly payments, a security deposit, a lawsuit settlement against Julie Skidmore, condo upgrades, and other property."

A party's complaint must contain "[a] statement of the facts, without repetition, on which the pleader relies in stating the cause of action, with the specific allegations necessary reasonably to inform the adverse party of the nature of the claims the adverse party is called on to defend . . . ." MCR 2.111(B)(1). "[T]he primary function of a pleading in Michigan is to give notice of the nature of the claim or defense sufficient to permit the opposite party to take a responsive position." *Stanke v State Farm Mut Auto Ins Co*, 200 Mich App 307, 317; 503 NW2d 758 (1993). Concerning conversion, Daniel's complaint alleged that the "Hayashis never had a valid legal right to convert any of Skidmore's property his own [sic] personal uses." Daniel also alleged that the "Hayashis intentionally, knowingly, recklessly, or negligently converted Skidmore's property received to his own [sic] uses." Daniel asserted in the complaint:

> If this Court finds, for any reason, that Hayashis and [Daniel] still had a valid lease after [Daniel] surrendered possession, Hayashis further converted the Property to their own uses by engaging in illegal lockouts, wrongfully exercising dominion over the security deposit, and purposefully restricting [Daniel's] access to the Property or [Daniel's] property that was left at the Property.

Although Daniel never expressly stated that the Hayashis converted his rental payments, the complaint, when read as a whole, suggests that Daniel was seeking the return of his rental payments. Moreover, the complaint itself identifies property other than the security deposit that was allegedly converted; for example, the complaint alleges that the Hayashis converted the "Property" itself[17] and that they converted Daniel's personal property that was left in the rental unit during the alleged illegal lockouts. Therefore, the trial court erred when it granted the Hayashis' initial motion for partial summary disposition of the conversion claim on the basis that Daniel had failed to identify the property converted.

The Hayashis later moved for summary disposition of the conversion claim as it related to the security deposit, and the trial court granted that motion on the basis that the Hayashis were entitled to retain the security deposit as payment for rent in arrearage pursuant to the valid lease agreement. The lease agreement required the Skidmores to pay $2,922 as a security deposit, which

[17] We note that an action for conversion cannot be made with respect to real property. *Aliska A Peskin-Shepherd, PLLC v Blume*, 509 Mich 1046 (2022), citing *Eadus v Hunter*, 268 Mich 233, 237; 256 NW 323 (1934).

the Hayashis agreed to hold and administer pursuant to the Landlord-Tenant Act, MCL 554.601 *et seq*. The Landlord-Tenant Act allows the landlord to use the security deposit to pay for "all rent in arrearage under the rental agreement." MCL 554.607(b). If the lease were enforceable and Daniel had no meritorious defense to his nonpayment of rent, then the Hayashis would be entitled to retain the security deposit.

As we have held, however, the lease was void *ab initio*, so there was no enforceable rental agreement to establish any rights or obligations with respect to the security deposit. Nor does the Landlord-Tenant Act govern the parties' rights in this situation because it "applies only to security deposits held *pursuant to leases*." MCL 554.616 (emphasis added). Without a valid lease, Daniel was under no obligation to pay the security deposit in the first place, and the Hayashis were under no "obligation to return the specific money entrusted to [their] care." *Lawsuit Fin*, 261 Mich App at 591 (quotation marks and citation omitted). Because the Hayashis owed no duty to return the security deposit, Daniel's claim that the Hayashis converted the security deposit fails as a matter of law.[18]

We therefore affirm the trial court's decision to grant the Hayashis' motion for summary disposition of Daniel's claim for conversion of the security deposit but reverse the trial court's decision to grant the Hayashis' motion for summary disposition of Daniel's claim for conversion of any other personal property.

E. TRUTH IN RENTING ACT

In Count V of his complaint, Daniel claims that the Hayashis violated the Truth in Renting Act (TIRA), MCL 554.631 *et seq.*

Under TIRA, a tenant has a cause of action against a landlord for violations of certain duties. MCL 554.636(1). As relief under TIRA, the tenant may choose to "void the rental agreement and terminate the tenancy," to enjoin the lessor from including a provision that violates TIRA in subsequent rental agreements, and to "recover damages in the amount of $250.00 per action, or actual damages, whichever is greater." MCL 554.636(1). For purposes of MCL 554.636, " 'tenant' means a person who is currently a party to a rental agreement with the lessor." MCL 554.636(7).

The trial court concluded that Daniel's TIRA claim failed as a matter of because he was "no longer a party to the rental agreement" after he vacated the premises in 2020. But because the lease was void *ab initio* due to its violation of a local ordinance, Daniel was never a party to a

[18] This holding does not leave Daniel entirely without remedy regarding the security deposit. The fact that the Hayashis retained the security deposit may be relevant to Daniel's claims for disgorgement and unjust enrichment. And although the Landlord-Tenant Act technically does not apply in this case, on remand the trial court may consider that the parties had intended to be bound by the Act when they agreed to the security deposit. See *Wright*, 504 Mich at 418 ("A claim of unjust enrichment can arise when a party has and retains money or benefits which in justice and equity belong to another.") (quotation marks and citation omitted).

rental agreement to begin with. He therefore lacked standing to bring an action under TIRA,[19] and the trial court did not err when it granted the Hayashis' motion for summary disposition of that claim.

F. ANTI-LOCKOUT STATUTE

Daniel also argues that the trial court erred when it dismissed his claim that he was illegally locked out of his rental unit, contrary to MCL 600.2918. We disagree.

The "anti-lockout" statute, MCL 600.2918, provides a cause of action for a tenant who was unlawfully ejected from the premises, or whose possessory interest has been unlawfully interfered with by the owner. The trial court dismissed the lockout claim on the basis that Daniel's complaint did not properly allege that the Hayashis ejected Daniel or kept him out by force. We affirm the trial court's decision without reaching the merits of this issue because the lockout claim was undoubtedly time-barred. See *Jackson Co Hog Producers v Consumers Power Co*, 234 Mich App 72, 82; 592 NW2d 112 (1999) ("This Court may affirm a decision of a trial court for reasons different than those relied on by the trial court.").

Under MCL 600.2918(8), "[a]n action for damages under this section must be commenced within 1 year after the time the cause of action arises." Daniel vacated the rental unit in November 2020, but he did not file his initial complaint until February 7, 2023, more than two years later. Because Daniel's cause of action could not have arisen at any time after he permanently vacated the rental unit, his claim under MCL 600.2918 was time-barred. Accordingly, the trial court did not err when it granted summary disposition in favor of the Hayashis relating to this claim.

G. HOUSING LAW OF MICHIGAN

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[19] Daniel argues in the alternative that he had standing to bring an action under TIRA because he suffered a "special injury" by the Hayashis' alleged violation of the statute. In support of this argument, Daniel cites *Lansing Sch Ed Ass'n v Lansing Bd of Ed*, 487 Mich 349, 372; 792 NW2d 686 (2010):

> Where a cause of action is not provided at law, then a court should, in its discretion, determine whether a litigant has standing. A litigant may have standing . . . if the litigant has a special injury or right, or substantial interest, that will be detrimentally affected in a manner different from the citizenry at large or if the statutory scheme implies that the Legislature intended to confer standing on the litigant.

But this discretionary standing only applies when the statute does not already provide for a private cause of action. MCL 554.636(1) provides for a cause of action, and MCL 554.636(7) clarifies who may bring that action. *Lansing Sch Ed Ass'n* does not grant this Court discretion to expand the scope of TIRA's cause of action beyond what the Legislature expressly stated.

Next, Daniel contends that the trial court erred when it dismissed his claim under the Housing Law of Michigan (HLM), MCL 125.401 *et seq*. We disagree.

The relevant portion of the HLM is contained in MCL 125.536(1):

> When the owner of a dwelling regulated by this act permits unsafe, unsanitary or unhealthful conditions to exist unabated in any portion of the dwelling, whether a portion designated for the exclusive use and occupation of residents or a part of the common areas, where such condition exists in violation of this act, any occupant, after notice to the owner and a failure thereafter to make the necessary corrections, shall have an action against the owner for such damages he has actually suffered as a consequence of the condition. When the condition is a continuing interference with the use and occupation of the premises, the occupant shall also have injunctive and other relief appropriate to the abatement of the condition.

See also MCL 125.534 ("An owner or *occupant* of the premises upon which a violation exists may bring an action to enforce this act in his or her own name.") (emphasis added).

The trial court dismissed the HLM claim after holding that the statute only provides a cause of action to a person who is currently an occupant at the time that he brings the action, not former occupants such as Daniel. Daniel now argues that his claim should have survived because the word "occupant" encompasses both current and former residents.

The HLM does not define the term "occupant," and no case has yet interpreted the term in the context of the HLM. "[W]e give undefined statutory terms their plain and ordinary meanings. In those situations, we may consult dictionary definitions." *Koontz v Ameritech Servs, Inc*, 466 Mich 304, 312; 645 NW2d 34 (2002) (citations omitted). An "occupant" is generally "[s]omeone who *has* possessory rights in, or control over, certain property or premises." *Black's Law Dictionary* (12th ed) (emphasis added). This indicates that the possessory rights or control must be currently existing at the time of the action. Daniel agrees that dictionary definitions of the term "occupant" generally describe a person's present status in relation to the property, but he nonetheless argues that the HLM expanded the usual definition because MCL 125.402 instructs that "[w]ords used in the present tense include the future." But "occupant" is a noun, not a verb. It cannot adopt a present or future tense, so MCL 125.402 does not assist our interpretation.

Other provisions of the HLM support the interpretation that "occupant" includes only those who occupy the property at the time that the action is brought. For example, MCL 125.534(5) explains that in an action under the HLM, "[i]f an occupant is not the cause of an unsafe, unhealthy, or unsanitary condition, or a violation of this act, and is the complainant, the court may authorize the occupant to correct the violation and deduct the cost from the rent upon terms the court determines just." The Legislature intended that the occupant would currently have possession or control over the premises in a manner that would allow him to correct a violation. Similarly, MCL 125.532(2) requires the enforcing agency to "notify the occupant in writing of [a] violation only if the violation constitutes a serious and imminent hazard to the health or safety of the occupant." Someone who has permanently vacated the unit and terminated his lease would never be subject to such a health or safety hazard. And the HLM's provision for garbage bins is perhaps

the clearest indication of the Legislature's intent. Under MCL 125.478, "in the case of private and 2 family dwellings, *the occupant or occupants thereof*, shall provide" the dwelling's garbage bins. It would be absurd to hold that every former resident of a private or two-family rental home is obligated to provide garbage bins for the building in perpetuity.

Both the dictionary definition and other provisions of the HLM indicate that an "occupant" must be a current resident. Daniel was not a current resident when he filed his claim under the HLM. Accordingly, the trial court did not err when it granted summary disposition of the HLM claim in favor of the Hayashis.

H. EXEMPLARY DAMAGES

In Count XI his complaint, Daniel requests additional relief in the form of a "claim" for exemplary damages. The trial court dismissed the claim on the basis that it had already dismissed all of Daniel's other claims, so Daniel was not entitled to exemplary damages. We affirm the trial court's decision to dismiss the claim for exemplary damages, but only because exemplary damages are a remedy, not an independent cause of action. Because this opinion reinstates some of Daniel's claims, he may request exemplary damages as an additional remedy for those claims on remand. We decline to address the merits of any such request, especially because Daniel only referred to exemplary damages in the headings of his appellate brief without any supporting authority or arguments in the body of his brief. See *Van Tine v Van Tine*, 348 Mich 189, 190; 82 NW2d 486 (1957) (holding that issues raised in the statement of questions involved but not discussed in the brief are "treated as abandoned or waived and will not be considered").

IV. CLAIMS AGAINST JULIE (DOCKET NO. 371345)

Daniel also brought claims against his former partner, Julie,[20] for contribution and breach of contract. He argues that the trial court erred when it granted Julie's motion for summary disposition on these claims. We disagree.

A. STANDARD OF REVIEW

The trial court granted Julie's motion for summary disposition on the breach-of-contract claim under MCR 2.116(C)(8). The trial court did not indicate which rule formed the basis for its decision to grant summary disposition of the contribution claim, but because it did not consider documentary evidence outside of the pleadings, we review that decision under MCR 2.116(C)(8) as well. See *BC Tile*, 288 Mich App at 582.

B. ANALYSIS

Regarding the contribution claim, Daniel disagrees with the trial court's conclusion that an action for contribution is available only against a party who is jointly or severally liable in tort with the claimant, so his contribution claim fails because the Hayashis had not brought any tort

[20] Although Daniel and Julie share a surname and were once in a relationship, the record does not indicate whether they were ever married.

claims against Daniel and Julie. Without addressing the merits of this argument, we affirm the trial court's decision to grant Julie's motion for summary disposition on this claim because even if an action for contribution were available in contractual matters, we have already held that the Hayashis' breach-of-contract claim against Daniel fails as a matter of law, so Daniel and Julie share no joint or several liability that could form a basis for a contribution claim.

The trial court also did not err when it dismissed Daniel's breach-of-contract claim against Julie. To prevail on a claim for breach of contract, a party must demonstrate that (1) there was a contract, (2) the other party breached the contract, and (3) the breach resulted in damages. *Bank of America, NA v First American Title Ins Co*, 499 Mich 74, 100; 878 NW2d 816 (2016). The trial court held that Daniel failed to state a claim for breach of contract in part because his complaint failed to identify the damages resulting from the alleged breach. In his complaint, Daniel alleges that he entered various agreements with Julie, including to share equally in rent payments, to make repairs, and to terminate the lease. But in his complaint, Daniel only pleaded specific damages in relation to an alleged agreement to terminate the lease:

> [Daniel] was damaged because the parties agreed to terminate that rental in May 2023 [sic, 2020], and then Julie Skidmore's subsequent breach refusing to settle/terminate exposed [Daniel] to the claims asserted by [the] Hayashis for unpaid rent, such that if any liability were to be found for rent, it is Julie Skidmore's liability alone, and not [Daniel]'s.

For all other alleged breaches, the complaint contains only the conclusory statement that Daniel "was damaged and is entitled to damages from breach of those agreements."

Daniel's statement that he was "damaged" was insufficient to plead a claim for breach of contract. See *Stanke*, 200 Mich App at 317. The alleged damages for breach of an agreement to terminate the lease was more specific, but Daniel cannot recover those pleaded damages because the lease was void *ab initio* and we have directed the dismissal of the Hayashis' claim against Daniel, so there is no liability for rent that could constitute damages for a breach. For those reasons, we affirm the trial court's decision to grant Julie's motion for summary disposition on the breach-of-contract claim against her.

V. DEFAULT (DOCKET NO. 371345)

Daniel also argues that the trial court abused its discretion when it set aside the default entered against the Hayashis and abused its discretion when it denied his motion for default judgment. We disagree.

A. STANDARD OF REVIEW

A trial court's decision on a motion to set aside a default is reviewed for "a clear abuse of discretion." *Tindle v Legend Health, PLLC*, 346 Mich App 468, 474; 12 NW3d 667 (2023) (quotation marks and citation omitted). The trial court's decision on a motion for default judgment is also reviewed for abuse of discretion. *Huntington Nat'l Bank v Ristich*, 292 Mich App 376, 383; 808 NW2d 511 (2011). "[A]n abuse of discretion occurs only when the trial court's decision is

outside the range of reasonable and principled outcomes." *Saffian v Simmons*, 477 Mich 8, 12; 727 NW2d 132 (2007).

B. ANALYSIS

"A motion to set aside a default or a default judgment, except when grounded on lack of jurisdiction over the defendant, shall be granted only if good cause is shown and a statement of facts showing a meritorious defense, verified in the manner prescribed by MCR 1.109(D)(3), is filed." MCR 2.603(D). MCR 1.109(D)(3)(a), in turn, provides that if a document is required to be verified, it may be done by "oath or affirmation of the party or of someone having knowledge of the facts stated." "Although defaults are not favored, neither is setting aside defaults." *Saffian*, 477 Mich at 15.

In the trial court, Daniel moved for entry of default after the Hayashis' trial counsel withdrew from the case and the Hayashis failed to respond to Daniel's discovery requests. After receiving an entry of default, the Hayashis obtained new counsel and, in addition to moving to set aside the default, responded in opposition to Daniel's motion for entry of a default judgment on the basis that they had limited English proficiency and issues with mental cognition because of their advanced age. Ultimately, the trial court granted the Hayashis' motion to set aside the default and denied Daniel's motion for default judgment.

Daniel argues that the trial court should not have set aside the default because the Hayashis did not provide an affidavit supporting a meritorious defense. According to Daniel, the Hayashis' verified motion is insufficient because it does not use the words contained in MCR 2.119(B)(1), which states that an affidavit must be "made on personal knowledge," must "state with particularity" admissible facts; and must state that the "affiant . . . can testify competently to the facts stated in the affidavit." Daniel's argument that MCR 2.603(D) requires a motion to set aside a default to comply with MCR 2.119(B)(1) in addition to MCR 1.109(D)(3) relies on *Miller v Rondeau*, 174 Mich App 483, 487; 436 NW2d 393 (1988) (holding that a motion to set aside an entry of default requires an affidavit that complies with MCR 2.119(B)(1)). But *Miller* was decided on the basis of an earlier version of MCR 2.603(D)(1) that expressly required the motion to be supported with "an *affidavit* of facts showing a meritorious defense." *Miller*, 174 Mich App at 485 (emphasis added). The current version of the rule requires only "a *statement of facts* showing a meritorious defense, verified in the manner prescribed by MCR 1.109(D)(3)." MCR 2.603(D)(1) (emphasis added). In the verification section of their motion to set aside default, the Hayashis stated that they "in accordance with MCR 1.109(D)(3) do hereby affirm under oath that the facts stated above are true and correct to the best of my knowledge." This statement plainly complies with MCR 1.109(D)(3).

Daniel also contends that the trial court abused its discretion because the Hayashis failed to show good cause to set aside the default. Good cause includes "(1) a substantial irregularity or defect in the proceeding upon which the default is based, (2) a reasonable excuse for failure to comply with the requirements which created the default, or (3) some other reason showing that manifest injustice would result if the default is not set aside." *Reed v Walsh*, 170 Mich App 61, 64; 427 NW2d 588 (1988).

According to Daniel, failure to understand the litigation process is not good cause, and the Hayashis were never found to be mentally incapacitated. In their verified motion, the Hayashis stated as follows:

> The Hayashis are an elderly couple that are suffering from diminished mental capacity to the point that they are in the process of giving their son power of attorney over all of their financial affairs because it has become too difficult for them to manage at their age. Moreover, they are native Japanese speakers with limited English ability. Because of these two factors it was very difficult for them to retain legal counsel, to understand the nature of the proceedings, and what was required of them while they were attempting to obtain legal counsel.
>
> As a result of their language limitations and mental capacity limitations, a default was entered against Hayashi [sic] on August 16, 2023 for apparently failing to follow some sort of legal procedures. Hayashi [sic] does not actually understand what they were supposed to do and why the default was entered. Their new counsel is trying to pull together records, and get familiar with the case, but their counsel does not yet have understanding of what procedural mishap caused the default. But with the clients so confused about the proceedings, it is no wonder that they failed to comply with one or more requirements.

Contrary to Daniel's argument, setting aside a default as a result of confusion over the litigation process and changing of attorneys has been found to satisfy the good cause requirement. In *Bednarsh v Winshall*, 364 Mich 113, 114; 110 NW2d 729 (1961), our Supreme Court found that a defendant satisfied the good cause requirement after the defendant's attorney in other matters unexpectedly refused to represent him due to a conflict of interest and instead gave the summons to another lawyer, which "resulted in some confusion as to conducting the defense." Moreover, our Supreme Court found that the defendant acted diligently once default was entered. *Id*.

Similarly here, it appears that after the Hayashis' first attorney withdrew from the case, the responsiveness from the Hayashis faltered. However, the default was entered in June 2023, and Daniel moved for a default judgment in August 2023. The Hayashis moved to set aside the default the following month in September 2023, which was also the date in which their new attorney filed his appearance.[21] And although this Court has stated that lack of knowledge of the law "will not necessarily provide a reasonable excuse and good cause to set aside a default," when there is no evidence that the defendant intentionally attempted to delay the proceedings, and when there is a lack of prejudice, it is an abuse of discretion to fail to set aside a default. *Reed*, 170 Mich App at 65-66. In fact, given that the Hayashis had meritorious defenses to many of Daniel's claims (which this opinion demonstrates), to hold the Hayashis liable for all the outstanding claims against them would result in manifest injustice. See *id*. at 66. Accordingly, the trial court did not abuse

[21] In July 2023, Hideo filed a notice of appearance in which he stated that he represented himself and purported to represent Makie despite not being a lawyer. Obviously this filing had no legal effect—the Hayashis were undisputedly *in propria persona* at that time.

its discretion when it set aside the Hayashis' default and denied Daniel's motion for default judgment. We note, however, that Daniel is entitled to costs under MCR 2.625(D)(1) as a result of the order setting aside the default.

VI. SANCTIONS (DOCKET NO. 371345)

Finally, Daniel argues that the trial court abused its discretion when it sanctioned him for requesting a guardian for the Hayashis. We agree.

A. STANDARD OF REVIEW

This Court reviews a trial court's decision to impose sanctions for abuse of discretion. *Fette v Peters Constr Co*, 310 Mich App 535, 549; 871 NW2d 877 (2015). "[A]n abuse of discretion occurs only when the trial court's decision is outside the range of reasonable and principled outcomes." *Saffian*, 477 Mich at 12.

B. ANALYSIS

The trial court imposed $500 in sanctions after Daniel filed a motion for the Hayashis to be deemed incapacitated individuals and appointed a guardian under the Estates and Protected Individuals Code, MCL 700.1101 *et seq*. The trial court found that Daniel's pleading was not warranted by existing law because the probate court was the exclusive venue for the appointment of a guardian, and Daniel should have known that the trial court lacked the authority to grant his request. See MCR 1.109(E)(5) (stating that signing a document filed with the court certifies that the signer, after reasonable inquiry, believes that the document is warranted by existing law or a good-faith argument to change the law); MCR 1.109(E)(6) (requiring the court to impose sanctions for violation of that rule).

Daniel argues that the trial court abused its discretion when it imposed the sanctions in part because he was denied an opportunity to be heard on the Hayashis' request for sanctions. According to Daniel, he was denied due process because the Hayashis requested the sanctions in their response to his motion, and the trial court granted the request without a hearing.[22] MCR 1.109(E)(6) requires a court to impose sanctions if it finds a violation of MCR 1.109(E)(5), but the rule does not provide any particular procedure for doing so. Nevertheless, "a party must receive some type of reasonable notice and an opportunity to be heard before the imposition of sanctions." *Vittiglio v Vittiglio*, 297 Mich App 391, 405; 824 NW2d 591 (2012). A request for sanctions does not necessarily require a separate evidentiary hearing, but there must be *some* meaningful opportunity to be heard. *Id*. at 406. Daniel did not receive that opportunity. Because the Hayashis made their request for sanctions in their response to a motion, Daniel was not entitled to file a reply brief to address the issue. See MCR 2.119(A)(2)(b) ("Except as permitted by the court or as otherwise provided in these rules, no reply briefs, additional briefs, or supplemental briefs may be filed."). Without a hearing, the trial court imposed sanctions just five days after the

[22] The trial court dispensed with oral argument on the motions under MCR 2.119(E)(3).

Hayashis' request, and two of those days were on a weekend. Realistically, this was not enough time for Daniel (a pro se litigant) to file a motion for leave to file a reply brief.

A decision that violates a party's due-process rights falls outside the range of reasoned and principled outcomes. Accordingly, the trial court abused its discretion when it imposed the sanctions. See *Saffian*, 477 Mich at 12. And that error was not harmless. A sanction must be "appropriate," "which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the document, including reasonable attorney fees. The trial court may not assess punitive damages." MCR 1.109(E)(6). The Hayashis did not specify the amount to be awarded in its request for sanctions, and the trial court simply imposed a $500 sanction payable to the Hayashis' attorney without explanation of how that amount was reached. Therefore, even if Daniel had undeniably violated MCR 1.109(E)(5), the trial court's failure to provide him an opportunity to respond to the request for sanctions denied him the ability to challenge the amount of sanctions, for which there was no justification on the record.

VII. CONCLUSION

The trial court erred when it held that the lease was valid. The lease was void *ab initio* because it was formed in violation of a local ordinance. Accordingly, the trial court also erred when it granted summary disposition in favor of the Hayashis on the Hayashis' breach-of-contract claim and on Daniel's claims for disgorgement and unjust enrichment, but it did not err when it granted summary disposition in favor of the Hayashis on Daniel's breach-of-contract claim. Regarding Daniel's claim for conversion, we affirm the dismissal of the claim as it relates to the security deposit but reinstate the claim as it relates to other personal property that was allegedly converted. We also affirm the trial court's decision to dismiss Daniel's claims under TIRA, the anti-lockout statute, and the HLM, as well as his claims against Julie.

The trial court did not err when it set aside the Hayashis' default and denied Daniel's motion for default judgment, but Daniel is entitled to costs under MCR 2.625(D)(1). We reverse the imposition of $500 in sanctions against Daniel.

Affirmed in part, reversed in part, and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Mark T. Boonstra
/s/ Christopher M. Murray
/s/ Michael J. Riordan