

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

S & J DEVELOPMENT III, LLC,

Plaintiff-Appellee,

v

RS OF HOLLAND, INC., MATTHEW  
D. TRAVIS, and MICHAEL TRAVIS, SR.,

Defendants,

and

RENTAL SPECIALISTS OF HOLLAND, LLC,

Defendant-Appellant.

---

UNPUBLISHED

April 29, 2008

No. 274805

Ottawa Circuit Court

LC No. 04-050825-CZ

Before: Bandstra, P.J., and Fitzgerald and Markey, JJ.

MEMORANDUM.

Defendant Rental Specialists of Holland, LLC, appeals as of right an order denying it case evaluation sanctions against plaintiff under MCR 2.403. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff brought suit against RS of Holland, Inc., based on a lease agreement and a promissory note. RS of Holland, Inc., added Rental Specialists of Holland, LLC, as a party defendant, seeking declaratory relief that it was the alter ego of RS of Holland. A case evaluation panel subsequently issued an award of \$100,000 against RS of Holland and a “no cause” against Rental Specialists. Plaintiff and RS of Holland rejected this award, but Rental Specialists accepted the “no cause.” Following a bench trial, the court found that RS of Holland was liable to plaintiff, but that plaintiff was not entitled to a declaration that Rental Specialists was the alter ego of RS of Holland.

MCR 2.403(K)(2) provides that the case evaluation “must include a separate award as to the plaintiff’s claim against each defendant . . .”, and that all “claims filed by any one party against any other party shall be treated as a single claim.” MCR 2.403(K)(3) provides that “the evaluation may not include a separate award on any claim for equitable relief,” although the

panel may consider such claims in determining the amount of an award. We review de novo the interpretation and application of MCR 2.403. *Allard v State Farm Ins Co*, 271 Mich App 394, 397; 722 NW2d 268 (2006).

Rental Specialists argues that plaintiff was seeking money damages against it since plaintiff was seeking to pierce the corporate veil such that it would be subject to any monetary award against RS of Holland. Further, Rental Specialists avers that plaintiff's failure to object to mediation of the equitable claim should, in essence, estop it from denying the evaluation. However, MCR 2.403(K)(2) required a separate award against Rental Specialists. The case evaluation of this award was not combined with the evaluation of any award against RS of Holland and, coextensively, was not considered along with any legal claim. MCR 2.403 (K)(3) provides that the "evaluation may not include a separate award on any claim for equitable relief." Since the case evaluation could not include a separate award on any claim for equitable relief, it follows that sanctions could not be awarded for failure to formally accept an award based solely on an equitable claim.

Affirmed.

/s/ Richard A. Bandstra  
/s/ E. Thomas Fitzgerald  
/s/ Jane E. Markey