

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

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SUGARBUSH GOLF CLUB and PATSY LOU  
WILLIAMSON,

UNPUBLISHED  
January 31, 2003

Plaintiffs-Appellees,

v

No. 237980  
Genesee County Court  
LC No. 00-068209-CK

WRXF/WLSP RADIO STATION and JAY  
ALEXANDER,

Defendants-Appellants.

and

DAVE CORLEY,

Defendant/Not-Participating.<sup>1</sup>

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Before: White, P.J. and Kelly and Gribbs\*, JJ.

PER CURIAM

Defendants WRXF/WLSP Radio Station and Jay Alexander appeal as of right from the trial court's order denying their motion for case evaluation sanctions. We affirm.

I. Basic Facts and Procedural History

Plaintiffs Sugarbush Golf Club and Patsy Lou Williamson, the club's owner, entered into an agreement with defendants to hold a golf outing in May 1999. Defendants initially sent payment to plaintiffs in the form of a check for \$4,400; however, defendant Corley, a representative of defendant WRXF, stopped payment on the check. Defendants tendered no further payment to plaintiffs.

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<sup>1</sup> Defendant Dave Corley failed to answer or otherwise defend in the trial court, and was defaulted. He is not a party to this appeal.

\* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

Plaintiffs filed a three-count complaint alleging breach of contract, misrepresentation, and fraud. Plaintiffs sought actual damages in the amount of \$4,400 plus costs and attorney fees, as well as exemplary damages in excess of \$25,000. In their answer, defendants admitted the existence of the contract, but contested the method of payment. Defendants also asserted lack of subject-matter jurisdiction as an affirmative defense.

Following a pre-trial conference, the trial court issued a scheduling order requiring motions to be “filed and heard on or before the cut-off date” of March 5, 2001. The order also provided that case evaluation would be scheduled after April 1, 2001. Defendants did not file any motions prior to either the cut-off date set forth in the trial court’s scheduling order or before the case evaluation date.

The case was submitted to case evaluation and the evaluation panel recommended an award of \$3,500 in favor of plaintiffs. Defendants accepted the evaluation, but plaintiffs rejected it.

On the date set for trial, defendants moved to dismiss the case for lack of subject-matter jurisdiction and for attorney fees and sanctions. Defendants argued that plaintiffs’ only available cause of action was the \$4,400 breach of contract claim and that the misrepresentation and fraud counts were duplicative of the contract claim. Relying on *Kewin v Massachusetts Mutual Life Ins Co*, 409 Mich 401, 419-420; 295 NW2d 50 (1980), defendants argued that exemplary damages were not available for contract claims and therefore the amount in controversy was less than the circuit court’s jurisdictional threshold of \$25,000. MCL 600.8301(1). Defendants also sought sanctions pursuant to MCL 600.2591, MCR 2.114, and MCR 2.625 on the ground that plaintiffs’ claims were frivolous.

The trial court granted defendants’ motion to dismiss the case, but denied the request for sanctions. The trial court reasoned that because plaintiffs’ complaint did not allege the existence of a duty separate from the contract obligation, plaintiffs could not proceed on the fraud and misrepresentation counts. The trial court observed that because exemplary damages were not available in a contract action, the amount in controversy did not exceed \$25,000. Accordingly, the trial court dismissed the action without prejudice “for failure of jurisdiction.” Neither party requested, and the trial court did not order, that the action be transferred to the district court pursuant to MCR 2.227.

After the case was dismissed, defendants moved for case evaluation sanctions, including attorney fees, in the amount of \$6,350.70. MCR 2.403(O)(1). Defendants asserted that the trial court’s ruling on the motion to dismiss constituted a verdict for purposes of application of the case evaluation rule. MCR 2.403(O)(2)(c). The trial court declined to award case evaluation sanctions on the ground that defendants’ motion to dismiss was not filed and heard prior to the matter being submitted to case evaluation.

## II. Standard of Review

A trial court’s decision to award case evaluation sanctions is a question of law subject to de novo review. *Cheron, Inc v Don Jones*, 244 Mich App 212, 218; 625 NW2d 93 (2000). Whether a trial court has subject-matter jurisdiction is also a question of law that this Court

reviews de novo. *Etefia v Credit Technologies, Inc*, 245 Mich App 466, 472; 628 NW2d 577 (2001).

### III. Analysis

Defendants argue that the trial court erred by denying defendants' motion for case evaluation sanctions. We disagree, but on different grounds than those relied upon by the trial court.

At the time the trial court denied defendants' request for case evaluation sanctions, the case had been dismissed without prejudice for lack of subject-matter jurisdiction. Jurisdiction is the power of a court to act and the authority of a court to hear and determine a case. *Trost v Buckstop Lure Co, Inc*, 249 Mich App 580, 586; 644 NW2d 54 (2002), quoting *Grubb Creek Action Committee v Shiawassee Co Drain Comm'r*, 218 Mich App 665, 668-669; 554 NW2d 612 (1996). If a court lacks subject-matter jurisdiction, it is powerless to act and its acts and proceedings are of no force and validity. *Id.*

Here, because the case had properly been dismissed for lack of subject-matter jurisdiction, the trial court had no authority to entertain the motion for case evaluation sanctions. Thus, we find that the trial court did not err in denying defendants' motion.<sup>2</sup> This Court will affirm where the trial court reached the correct result for the wrong reason. *Norris v State Farm Fire & Casualty Co*, 229 Mich App 231, 240; 581 NW2d 746 (1998).

Affirmed.

/s/ Kirsten Frank Kelly  
/s/ Roman S. Gribbs

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<sup>2</sup> Case evaluation sanctions would have been available to defendants had they sought transfer of case under MCR 2.227, rather than dismissal, because "the rulings of the original court become, in effect, the rulings of the new court." *Huber v Frankenmuth Mutual Ins Co*, 160 Mich App 568, 575; 408 NW2d 505 (1987) The district court would have been "empowered" to act upon those orders as if the orders were its own. *Id.* Here, the case was mediated in the circuit court pursuant to order. Upon the transfer of the case to district court, the district court would have the authority to enforce the result of the case evaluation by applying MCR 2.403(O) if the ultimate verdict was more favorable to defendants than the evaluation plaintiffs rejected.