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January 28, 2010

Superior Court of New Jersey, Law Division
Bergen County Justice Center
10 Main Street
Hackensack, New Jersey 07601
Attn: Civil Motions Clerk

Re: L&K Dental P.A., et al. vs. Receivable Management Service, et als.
Docket No.: BER-L-9555-09
Motion of Defendant Transantional Communications International For Sanctions Against Plaintiffs and Their Counsel

Trial Date: February 7, 2011

Dear Sir/Madam:

This firm represents the defendant Transnational Communications International ("TNCI") in reference to the above matter which is presently scheduled for trial on February 7, 2011. Please accept this letter memorandum in support of TNCI's motion for sanctions against plaintiffs and their counsel pursuant to R. 1:4-8.

In further support of the motion, TNCI relies upon the Certification of Services submitted by its counsel, as well as the prior pleadings submitted both in support of, and in opposition to, TNCI's motion for summary judgment. Due the voluminous nature of the summary judgment motion record, TNCI has not provided an additional copy of the summary judgment pleadings. If requested by the Court or opposing counsel, TNCI will produce a complete copy of the summary judgment motion record.

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Kindly forward these motion pleadings to the trial judge assigned to hear this matter. The Honorable Estella M. De La Cruz presided over prior motion practice in this case. I am unsure whether this motion will be assigned to Judge De La Cruz, though in my opinion it should be because Her Honor is eminently familiar with this case.

PRELIMINARY STATEMENT

This case was filed by a professional dentist ("Dr. Lee") and his medical practice ("L&K Dental") alleging various claims against defendants under the Fair Debt Collection Practices Act ("FDCPA"), the New Jersey Consumer Fraud Act ("NJCFA"), and for the intentional infliction of emotional distress all arising from a simple commercial business transaction involving TNCI's installation of high speed Internet and telephone service in L&K Dental's office. The plaintiffs later filed an Amended Complaint asserting claims for breach of contract and breach of fiduciary duty against TNCI.

As set forth in the Certification of Services submitted herewith, TNCI seeks reimbursement of $20,402.50 in legal fees plus $1,030.52 in expenses, for a total of $21,433.02.[1] This is exclusive of additional attorneys' fees and costs incurred by TNCI in preparing and filing the within sanctions motion. TNCI reserves the right to supplement its fee request after the motion is filed, for at that time TNCI will know what its additional fees and costs are.

The complete frivolous nature of the plaintiffs' case initially was borne out in pretrial discovery when Dr. Lee admitted during his deposition that his business suffered no loss, that he signed the contract in his corporate capacity, that he never paid TNCI a dime, and thereafter

[1] All fees and expenses were incurred from March 26, 2010 forward – the date that TNCI's counsel issued a safe harbor sanction letter indicating that the Complaint against TNCI for allegedly violating the NCCFA was frivolous, and demanding withdrawal of the pleading.

TNCI's summary judgment motion. In fact, Judge De La Cruz found that TNCI's claim under the NJCFA suffered a fatal flaw – that being their failure to demonstrate an ascertainable loss.

PROCEDURAL HISTORY

For the convenience of the Court, the following procedural history is copied verbatim from the Certification of Services, with the paragraph numbering and citation to exhibits corresponding exactly as appearing in the Certification of Services.

* * *

4. Plaintiffs, a dentist ("Dr. Lee") and his medical practice ("L&K Dental") filed their Complaint on October 30, 2009 alleging that the defendants, including TNCI, violated the Fair Deb Collection Practices Act ("FDCPA"), the New Jersey Consumer Fraud Act ("NJCFA"), and committed the tort of intentional infliction of emotional distress. A true copy of the Complaint is annexed hereto as **Exhibit A**. The claims arose from a straightforward contract between TNCI and L&K Dental for the installation of a high speed Internet connection and telephone service at L&K Dental's office.

5. In lieu of answering, defendants TNCI and Receivable Management Services ("RMS") each filed a motion to dismiss the Complaint for failure to state a claim pursuant to R. 4:6-2(e).

6. Pursuant to an Order entered on March 19, 2010, Count One of the Complaint was dismissed as to TNCI, Count Two of the Complaint was dismissed as to RMS, and Count Three was dismissed as to both RMS and TNCI. A true copy of this Order is annexed hereto as **Exhibit B**.

7. On March 26, 2010, I served plaintiffs' counsel with written notice that the Complaint asserting a NJCFA claim against TNCI constituted a frivolous pleading in

violation of N.J.S.A. 2A:15-59.1 and R. 1:4-8. In this letter, I specifically informed my adversary that an application for sanctions would be filed unless the sole remaining count of the Complaint (Count Two asserting a claim under the NJCFA) was withdrawn within 28 days. A true copy of my March 26, 2010 correspondence is attached hereto as **Exhibit C**. (Plaintiffs' counsel never withdrew the Complaint, however. Instead, as noted below, he expanded the case by filing an Amended Complaint asserting two (2) additional and frivolous causes of action against TNCI.)

8. By Order entered on August 13, 2010, the Court granted plaintiffs' motion to amend their Complaint to add a new party and to clarify their claims.

9. On or about August 20, 2010, plaintiffs filed their Amended Complaint naming RDS Solutions as an additional defendant, and adding two (2) new causes of action against TNCI; namely, breach of contract, and breach of fiduciary duty. A true copy of the Amended Complaint is annexed hereto as **Exhibit D**.

10. On September 30, 2010, TNCI filed its Answer to the Amended Complaint, including a Counterclaim for damages resulting from plaintiffs' breach of contract. A true copy of TNCI's Answer and Counterclaim is annexed hereto as **Exhibit E**.

11. On or about December 3, 2010, the Court granted RMS' motion for summary judgment by dismissing plaintiffs' sole remaining cause of action against RMS under the FDCPA. Thus, RMS is out of the case.

12. By Order entered on January 25, 2011, the Court granted TNCI's summary motion by dismissing the entirety of the Amended Complaint "with prejudice."

A true copy of the Court's January 25, 2011 Order and 8-page Rider is annexed hereto as **Exhibit F.**

STATEMENT OF FACTS

For the convenience of the Court, plaintiffs and opposing counsel, the following undisputed material facts previously set forth in TNCI's recently granted motion for summary judgment are repeated herein.[2] The exhibits cited therein are contained in separately filed Certifications. Again, due to the voluminous summary judgment motion record TNCI has not produced a separate copy of those Certifications but will do so upon request of the Court and/or opposing counsel.

1. TNCI is a commercial entity which maintains a principal place of business at 2 Charlesgate West, Boston, Massachusetts. (Gnepp Cert., at ¶2).

2. TNCI is in the business of repackaging and reselling telecommunications services and products primarily to business customers through independent agents. (Id. at ¶3.)

3. L&K Dental, P.A. ("L&K Dental") is a dental practice incorporated as a professional association and maintains a principal place of business at 460 Sylvan Avenue, Englewood Cliffs, New Jersey. (Plaintiffs' Amended Complaint, at ¶2, a copy of which is annexed as **Exhibit A** to the Reiser Cert.)

[2] When responding to TNCI's summary judgment motion, plaintiffs failed to comply with R. 4:42-2(b) which requires that every statement of material fact set forth in the moving party's motion be specifically disputed by citation confirming with subsection (a) of the same Rule. All material facts that are sufficiently supported by the movant will be deemed admitted unless the responding party properly disputes same.

4. L&K Dental was formed as a corporation and remains a corporation to this day. (Deposition of Dong Lee, July 16, 2010, Tr. 13, L. 12-16, annexed as **Exhibit G** to Reiser Cert.).

5. Dong Hyun Lee ("Dr. Lee") is a principal and owner of L&K Dental. (Plaintiffs' Amended Complaint, at ¶2, annexed as **Exhibit A** to Reiser Cert..)

6. Dr. Lee is a doctor of dental surgery, obtaining his degree from New York University. (Deposition of Dong Lee, July 16, 2010, Tr. 9, L. 6-10, annexed as **Exhibit G** to Reiser Cert.)

7. Prior to engaging in a relationship with TNCI, Dr. Lee was seeking a solution to lower the cost of L&K Dental's telephone bill that his business was incurring to XO Communications. (Id., Tr. 20, L. 3-9).

8. On or about December 31, 2008, L&K Dental entered into entered into a three-year contract ("Contract") with TNCI for local and long distance phone service, and Internet service, at the rate of $480.00/month (not inclusive of taxes, surcharges, long distance charges, etc). (See **Exhibit A** to Gnepp Cert.)

9. Dr. Lee signed the Contract in his capacity as President of L&K Dental. (See **Exhibit A** to Gnepp Cert.; Deposition of Dong Lee, July 16, 2010, Tr. 22, L. 19-20, annexed as **Exhibit G** to Reiser Cert.)

10. When L&K Dental contracted with TNCI, Dr. Lee was looking to obtain enhanced services – better than what his company had with its existing carrier XO Communications ("XO"). (Deposition of Dong Lee, July 16, 2010, Tr. 56, L. 21-25, annexed as **Exhibit G** to Reiser Cert.")

11. Specifically, L&K Dental ordered local and long distance phone service, and 1024 kbps internet service from TNCI. (Gnepp Cert., at ¶5, and **Exhibit B** thereto.)

12. The Contract itself did not include the purchase or lease of any equipment. (Id., at ¶6.)

13. The Contract expressly incorporated TNCI's Long Distance Terms and Conditions displayed on its website at http://www.tncii.com/bac_generalinfo.htm" (Id., and **Exhibit A** thereto.)

14. Pursuant to TNCI's Long Distance Terms & Conditions, L&K Dental, as the "Customer" agreed, at its sole expense, to provide the proper environment and electrical and telecommunications connections. Specifically, L&K Dental agreed as follows:

> Customer agrees, at its sole expense, to provide the proper environment and electrical and telecommunications connections for [TNCI's] Equipment. Customer is solely responsible for correcting any hazardous conditions that may adversely affect [TNCI's] Equipment. If Customer is unable or unwilling to schedule or accept delivery or installation on the date [TNCI] tenders delivery or installation, [TNCI] shall have the right to initiate billing for the amounts due hereunder as of the date delivery was tendered. . . . Customer shall remain obligated to pay the Equipment Use Charge for the remainder of the applicable Equipment Rental Term notwithstanding the early termination of the Equipment Rental Schedule or the Agreement.

(Id., at ¶7, and **Exhibit C** thereto.)

15. At the time of entering into the Contract with TNCI, L&K Dental expressly declined to either lease or purchase new equipment from TNCI and advised TNCI that it had comparable equipment from XO, its previous telecommunications and Internet service provider. In an e-mail from TNCI representative Vicki Simpkins to Dr. Lee dated March 13, 2009, Ms. Simpkins stated, in pertinent part:

> When we spoke you said you owned the equipment you currently have with XO. That is why I did not order it with any equipment. It costs more in order this type of circuit with equipment. It wasn't until the turn up day that I found out . . . that you did not own the equipment your current services work with. . . .

(Id., at ¶8, and **Exhibit D** thereto.)

16. At the time L&K Dental entered into the Contract with TNCI, Dr. Lee knew that the Internet router was owned by XO and that his company would have to return the equipment to XO upon cancellation of XO's service. (Deposition of Dong Lee, Tr. 66, L. 11 – 23; Tr. 67, L. 7-11, annexed as **Exhibit G** to Reiser Cert.)

17. After signing the Contract with TNCI, Dr. Lee requested a more enhanced Internet speed than what his business had been receiving from XO. (Id., at Tr. 57, L. 5-10; Tr. 59, L. 18-24.)

18. On the day that TNCI arrived at L&K Dental's offices to install the new phone and Internet service in or about March of 2009, TNCI learned that L&K Dental did not possess the necessary equipment, including the router required to utilize TNCI's telecommunications and Internet services. At this time, TNCI learned, for the first time, that L&K Dental had leased its equipment from XO, and that when L&K Dental cancelled XO's service, L&K Dental returned the router and other related equipment to XO. This was in direct contravention of Dr. Lee's representation to TNCI that L&K Dental possessed the necessary equipment. (Gnepp Cert., at ¶9.)

19. In E-mail correspondence dated March 13, 2009 from Dr. Lee to Ms. Simpkins, he stated, in pertinent part:

> You asked me if I own phone system and I said you(sic) yes.
> No one actually own circuit equipment, it only owned by phone or internet company.

> TNCI will provide us circuit equipment while we keep service with [TNCI].
> If you can, can you ask if we can get 10 mbps speed internet.

(Id., and **Exhibit E** thereto.)

20. Additionally, at or around the same time TNCI installed the telecommunications and Internet services for L&K Dental, Dr. Lee requested 10 mpbs internet service, rather than the much slower 1024 kbps he originally requested pursuant to the Contract and Order Form. (Id. at ¶ 10, and **Exhibit B** thereto.)

21. TNCI informed Dr. Lee that if he wanted this enhanced faster service then L&K Dental would need to obtain and install compatible equipment. Indeed, TNCI offered to lease L&K Dental this equipment, as stated below in pertinent part, in an e-mail from Ms. Simpkins to Dr. Lee:

> The service you currently have . . . cannot be modified to provide you with 10 mbps of internet. The most you will have is 1024 k on this circuit. I will see what they have to their portfolio that might give you speeds at least approaching what you requested.

(Id., and **Exhibit E** thereto.)

22. In this regard, TNCI informed L&K that the price to lease the necessary equipment for the enhanced faster service required a one-time $250.00 fee for installation, plus an additional $37.18/month fee for the use of the equipment over the three-year service term. This information was conveyed to plaintiffs in an e-mail from Ms. Simpkins to Dr. Lee on March 17, 2009, which states, in pertinent part:

> We were able to get the proper equipment for you through TNCI. They will come and install the equipment as well. . . . You will not own the equipment, TNCI will. You will pay them $37.18 monthly for the use of it. There is a one-time fee of $250.00 for the technician to come install the equipment, program it, and provide all the cabling and peripherals that are required. This will all be on

your TNCI bill.

(Id. at ¶1, and **Exhibit F** thereto.)

23. Indeed, said $250.00 fee was also disclosed as an applicable charge in TNCI's Long Distance Terms & Conditions. (Id. at ¶12, and **Exhibit C** thereto.)

24. Notwithstanding its clear obligation to do so, L&K Dental refused to pay the additional cost to TNCI and ultimately severed its relationship with TNCI in June of 2009. Dr. Lee simply stated in an email to Ms. Simpkins that he did "not agree with what [Ms. Simpkins] was saying," and that he just allegedly "agreed [to a] certain amount of monthly payment and once monthly charge is changed, contract no longer effective." (Id. at ¶13, and **Exhibit G** thereto.)

25. TNCI's Long Distance Terms & Conditions set forth several specific provisions requiring payments as a result of a client's cancellation of its service before the end of the service Contract. These cancellation charges can range anywhere from $150.00 to $500.00 per connection circuit, in addition to a $300.00 cancellation fee. (Id. at ¶14, and **Exhibit B** thereto.)

26. In a June 25, 2009 e-mail from Felix Kim, plaintiffs' network computer consultant/technician, TNCI was informed that L&K Dental "does not want to pay more than what he [Dr. Lee] signed," and to "cancel the order." (See **Exhibit H** to Gnepp Cert.)

27. To date, L&K has not paid TNCI a single dime pursuant to the Contract. (Gnepp Cert., at ¶17.)

28. TNCI never misrepresented its rates or services to L&K Dental. As stated in TNCI's Long Distance Terms & Conditions, the customer is "obligated to pay the Equipment Use Charge," and that TNCI has the right "to initiate billing for the amounts

due [for the rental of equipment] as of the date delivery was tendered." (Id., and **Exhibit B** thereto.)

29. L&K Dental is not claiming to have sustained any business losses in connection with its claims against TNCI. (Deposition of Dong Lee, July 16, 2010, Tr. 88, L. 18-19.)

30. In response to interrogatories propounded by co-defendant Receivable Management Services ("RMS"), plaintiffs responded "Not applicable" to question #15(d) asking plaintiffs to identify "the estimated amount of any prospective injury, damage or loss insofar as it was known at the presentation of the claim, together with the basis of computation of the amount claimed." (See **Exhibit C** to Reiser Cert.)

31. No fiduciary relationship existed between TNCI, L&K Dental, and Dr. Lee as a result of the Contract entered into between TNCI and L&K Dental.

32. TNCI did not breach its contract with L&K Dental.

33. Following L&K Dental's termination of TNCI in June 2009, L&K Dental returned to using XO. (See **Exhibit E** to Reiser Cert.)

LEGAL ARGUMENT

TNCI respectfully submits that a careful review of the prior summary judgment motion record, the Court's Rider to the January 25, 2011 Order granting TNCI's motion for summary judgment, and plaintiffs' counsel history of engaging in frivolous litigation can lead to just one conclusion – that plaintiffs and their counsel engaged in frivolous litigation against TNCI, and consequently they should reimburse TNCI for reasonable attorneys' fees and costs.

Pursuant to R. 1:4-8 the Court has the discretion to impose sanctions against both an attorney and litigant for advancing frivolous litigation. R. 1:4-8 provides as follows:

> (a) Effect of Signing, Filing or Advocating a Paper. The signature of an attorney or pro se party constitutes a certificate that the signatory has read the pleading, written motion or other paper. By signing, filing or advocating a pleading, written motion, or other paper, an attorney or pro se party certifies that to the best of his or her knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:
>
> (1) the paper is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
>
> (2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
>
> (3) the factual allegations have evidentiary support or, as to specifically identified allegations, they are either likely to have evidentiary support or they will be withdrawn or corrected if reasonable opportunity for further investigation or discovery indicates insufficient evidentiary support; and
>
> (4) the denials of factual allegations are warranted on the evidence or, as to specifically identified denials, they are reasonably based on a lack of information or belief or they will be withdrawn or corrected if a reasonable opportunity for further investigation or discovery indicates insufficient evidentiary support.
>
> If the pleading, written motion or other paper is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken and the action may proceed as though the document had not been served. Any adverse party may also seek sanctions in accordance with the provisions of paragraph (b) of this rule.

Ibid.

A prerequisite for seeking sanctions is the issuance of a safe harbor letter under subsection (b) of R. 1:4-8, which requires a minimum 28-days' notice of a written demand to withdraw the offending pleading. The same subsection requires the motion for sanctions be filed within 20 days of the entry of a final judgment. R. 1:4-8(b). Here, TNCI clearly satisfied these conditions precedent by sending plaintiffs' counsel the required safe harbor letter dated

March 26, 2010, which informed plaintiffs and their attorney that maintaining a claim against TNCI under the NJCFA was frivolous and that an application for sanctions would follow if the pleading were not voluntarily withdrawn within 28 days. See Exhibit C to Certification of Services. Also, TNCI has filed the motion within 20 days of the Court's January 25, 2011 Order granting TNCI's motion for summary judgment dismissing the NJCFA claim among others "with prejudice."

Pursuant to subsection (d) of R. 1:4-8, the Court may award the prevailing party "some or all of reasonable attorney's fees and other expenses incurred as a direct result of the violation, or both." R. 1:4-8(d)(2). The timeliness of the movant's filing of the motion is one of the factors for courts to consider when imposing sanctions under R. 1:4-8(d)(2). Further, the Court may impose sanctions against a litigant who violates R. 1:4-8 in the same manner as prescribed by N.J.S.A. 2A:15-59.1. R. 1:4-8(f).

Rule 1:4-8 counsel fee sanctions "are specifically designed to deter the filing or pursuit of frivolous litigation." LoBiondo v. Schwartz, 199 N.J. 62, 98 (2009). A second purpose of the rule is to compensate the opposing party in defending against frivolous litigation. Toll Bros., Inc. v. Twp. of W. Windsor, 90 N.J. 61, 71 (2007). The rule provides for imposition of sanctions where the attorney files a pleading or a motion with an "improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation," R. 1:4-8(a)(1), or by asserting a claim or defense that lack the legal or evidential support required by R. 1:4-8(a)(2), (3), and (4). State v. Franklin Sav. Account No. 2067, 389 N.J.Super. 272, 281 (App. Div. 2006).

The nature of litigation conduct warranting sanctions under this rule has been strictly construed. Pressler, Current N.J. Court Rules, comment 2. on R. 1:4-8 (2010) (citing K.D. v. Bozarth, 313 N.J.Super. 561, 574-75 (App. Div.) certif. denied, 156 N.J. 425 (1998)).

Accordingly, Rule 1:4-8 sanctions will not be imposed against an attorney who mistakenly files a claim in good faith. Horowitz v. Weishoff, 346 N.J.Super. 165, 166- 67 (App. Div. 2001); see also First Atl. Fed. Credit Union v. Perez, 391 N.J.Super. 419, 413 (App. Div. 2007) (holding that an objectively reasonable belief in the merits of a claim precludes an attorney fee award); Wiche v. Unsatisfied Claim & Judgment Fund, 383 N.J.Super. 554, 560-61 (App. Div. 2006) (holding that a legitimate effort to extend the law on a previously undecided issue precludes the award of sanctions); and K.D., supra, 313 N.J.Super. at 574-75 (declining to award counsel fees where there is no showing that the attorney acted in bad faith).

Under the totality of the circumstances, the Court should find that plaintiffs' initial Complaint asserting violations against TNCI under the NJCFA (which were continued by the filing of their Amended Complaint, which also expanded the scope of the frivolous lawsuit by including breach of contract and breach of fiduciary duty) constitutes a frivolous pleading deserving of sanctions under R. 1:4-8. Plaintiffs proceeded with their NJCFA claim, and vigorously opposed TNCI's summary judgment motion to dismiss the claim, despite Mr. Kimm conceding months earlier during Dr. Lee's deposition that L&K Dental suffered no business loss. Further, plaintiffs knew they never paid TNCI a single dime for the service they received, a fact emphasized by Judge De La Cruz in dismissing the NJCFA claim:

> With respect to Plaintiffs' claim for violation of the CFA, this Court finds that Plaintiffs' claim is without merit. . . Plaintiffs are unable to demonstrate any ascertainable loss. Plaintiffs received telephone service and internet service from TNCI for four months, but have not paid anything whatsoever in return. Had Plaintiffs paid for the service, and then demonstrated that they did not receive the service that they paid for, they may have been able to demonstrate an ascertainable loss. However, Plaintiffs have not paid for anything, and therefore they have not lost any money whatsoever. There is no loss claimed that is, in fact, ascertainable, and as such there is a fatal deficiency in Plaintiff L&K's CFA claim.

See page 7 of Rider to January 25, 2011 Order annexed as Exhibit F to Certification of Services. The ludicrousness of plaintiffs' proofs on damages truly came to light when during oral argument plaintiffs' counsel literally pulled numbers out of thin air when responding to one of Judge De La Cruz's pointed questions.

The Court should not hesitate to impose sanctions because this is not the first time that plaintiffs' counsel Michael Kimm has engaged in frivolous litigation. As previously noted, the New Jersey Supreme Court censured Mr. Kimm in 2007 for engaging in frivolous litigation that the Disciplinary Review Board concluded exceeded the bounds of zealous advocacy. See In re Michael Kimm, 191 N.J. 552 (2007)(Imposing a censure for violating RPC 3.1(bringing a proceeding knowing or reasonably believing that it is frivolous), and RPC 8.4 (conduct prejudicial to the administration of justice)).

Unfortunately, this case is an example of how bad lawyering reflects upon the public's perception of the legal profession. Any lawyer with common sense would not have agreed to file this case. How could a dental office (a professional association) which hasn't paid a dime for Internet and telephone service over a 4-month period possibly have sustained any compensable damages? For that matter, why was an individual such as Dr. Lee, who never signed the contract with TNCI, joined as a plaintiff in the case? [3] After conceding during his client's deposition that the dental practice suffered no business loss why did Mr. Kimm continue prosecuting this case on behalf of his clients, including vigorously opposing TNCI's summary judgment motion to dismiss the NJCFA claim? This type of renegade lawyering should not be tolerated. Dr. Lee and his dental practice are equally at fault for their relentless pursuit of such a

[3] TNCI maintains this was a strategic move by Mr. Kimm to gain standing under the NJCFA, because the act is designed to protect consumers and in most instances a business will not qualify as a consumer to come within the act's protection.

far-fetched and ridiculous case. The end result is that TNCI has suffered substantially because of the misconduct of plaintiffs and their lawyer in being forced to expend significant sums to defend claims that were clearly frivolous at the outset.

CONCLUSION

For the foregoing reasons and authorities cited, the Court should impose sanctions against plaintiffs and their counsel Michael Kimm, Esq. in the form of reasonable attorneys' fees and expenses pursuant to R. 1:4-8. Excluding the additional fees and costs in preparing and filing the within motion, which TNCI reserves the right to request, TNCI seeks reimbursement of $20,402.50 in legal fees plus $1,030.52 in expenses, for a total of $21,433.02.

Thank you for the Court's careful consideration of this motion.

Respectfully submitted

Glenn. Reiser

Cc: Michael Kimm, Esq. (w/encl.)
Colleen McCarthy, Esq. (w/encl.)
Rocco T. Casale, Esq. (w/encl.)