[Cite as *Kings/71, L.L.C. v. Millenium Operations, L.L.C.*, 2026-Ohio-4425.]

IN THE COURT OF APPEALS

TWELFTH APPELLATE DISTRICT OF OHIO

WARREN COUNTY

KINGS/71, LLC,	:	
		CASE NO. CA2026-01-005
Appellant,	:	
		OPINION AND
vs.	:	JUDGMENT ENTRY
		11/9/2026
MILLENNIUM OPERATIONS, LLC, et al.	:	
	:	
Appellees.		
	:	

CIVIL APPEAL FROM WARREN COUNTY COURT OF COMMON PLEAS
Case No. 23 CV 96221

Cleveland Construction, Inc., and Daniel R. Wireman and Luis A. Cortinas; and Dinsmore & Shohl LLP, and Peter J. Georgiton and Gregory P. Mathews, for appellant.

Reminger Co., LPA, and Michael P. Gilbride and Hunter M. Wilde, for appellee, Millennium Operations, LLC.

O P I N I O N

SIEBERT, J.

{¶ 1} Appellant, Kings/71, L.L.C., appeals the judgment of the Warren County Court of Common Pleas following a bench trial in a dispute with appellees, Millennium

Operations L.L.C. and Cedar Fair, L.P. (collectively "Cedar Fair"), concerning the development and operation of Camp Cedar.[1]

{¶ 2} The central issue in this appeal is whether the parties' Facility Management Agreement ("FMA") made Cedar Fair responsible for the design and development decisions that Kings/71 claims contributed to Camp Cedar's financial difficulties. Because the FMA did not assign those responsibilities to Cedar Fair, and because Kings/71 has not demonstrated reversible error with respect to its negligence, indemnification, and attorney-fee claims, we affirm the trial court's judgment.

I. Facts and Procedural History

A. Camp Cedar and the FMA

{¶ 3} Kings/71 developed Camp Cedar, a resort and campground near Kings Island in Warren County, Ohio. In connection with the project, Kings/71 entered into the FMA with Cedar Fair, under which Cedar Fair agreed to provide management and operational services. The contemplated services included staffing, training, budgeting, food and beverage operations, maintenance, and marketing.

{¶ 4} Camp Cedar opened in 2021. Disputes subsequently arose over the resort's development and operation. Kings/71 alleged that Cedar Fair made several recommendations, which resulted in an overbuilt and economically unsuccessful project. Specifically, Kings/71 maintained that Cedar Fair recommended amenities, including a larger swimming pool and a more extensive dining facility, that increased the project's size, cost, and staffing requirements without generating the anticipated financial returns. Kings/71 also alleged that Cedar Fair mismanaged aspects of Camp Cedar's operations and failed to properly winterize portions of the property.

1. Millennium and Cedar Fair are affiliated entities. Because no issue on appeal requires us to distinguish between them, we refer to the appellees collectively as "Cedar Fair."

B. Complaint, Summary Judgment, and Bench Trial

{¶ 5} On March 10, 2023, Kings/71 filed a complaint against Cedar Fair asserting claims for professional negligence, breach of contract, and indemnification. The parties later filed competing motions for summary judgment.

{¶ 6} On November 25, 2024, the trial court granted summary judgment in favor of Cedar Fair on Kings/71's claim for professional negligence and portions of its breach-of-contract and indemnification claims.

{¶ 7} The remaining claims proceeded to a bench trial. The trial court found that Cedar Fair breached the FMA by failing to properly winterize portions of Camp Cedar and awarded $313,460 in damages. The court otherwise found in favor of Cedar Fair, concluding that many of the project's key concepts and developmental decisions predated Cedar Fair's involvement and that Kings/71 retained authority over the project's ultimate design and development. The court further found that, although Cedar Fair provided recommendations, suggestions, and feedback concerning various aspects of the project, the FMA did not make Cedar Fair responsible for the project's ultimate success or failure. The court also entered judgment in favor of Cedar Fair on Kings/71's remaining indemnification claim.

C. Attorney Fees and Final Judgment

{¶ 8} Following the trial court's decision, Kings/71 moved for attorney fees. The court denied the motion, finding that Kings/71 had not established a contractual entitlement to fees and had failed to adequately establish the reasonableness of the requested amount.

{¶ 9} On November 12, 2025, the trial court entered a final judgment incorporating its prior decisions. The court awarded Kings/71 damages and prejudgment

interest on its winterization-related breach-of-contract claim, entered judgment in favor of Cedar Fair on the remaining claims, and denied Kings/71's request for attorney fees.

{¶ 10} Kings/71 now appeals, raising four assignments of error for review.

II. Appeal

A. Professional Negligence Claim

{¶ 11} In its first assignment of error, Kings/71 argues that the trial court erred by granting summary judgment in favor of Cedar Fair on its claim for professional negligence. Although the parties and the trial court generally refer to this claim as one for "professional negligence," Kings/71's argument on appeal is based upon the principles set forth in Section 552 of the Restatement (Second) of Torts, which are akin to claims for negligent misrepresentation—evaluating whether reliance on "false" information led to damages. Accordingly, we analyze the claim under that framework.

{¶ 12} We review a trial court's decision granting summary judgment de novo. *Ludwigsen v. Lakeside Plaza, L.L.C.*, 2014-Ohio-5493, ¶ 8 (12th Dist.). Summary judgment is appropriate when (1) there is no genuine issue of material fact, (2) the moving party is entitled to judgment as a matter of law and, (3) construing the evidence most strongly in favor of the nonmoving party, reasonable minds can come to only one conclusion, and that conclusion is adverse to the nonmoving party. Civ.R. 56(C); *Zivich v. Mentor Soccer Club, Inc.*, 82 Ohio St. 3d 367, 369-70 (1998).

{¶ 13} The moving party bears the initial burden of informing the court of the basis for the motion and demonstrating the absence of a genuine issue of material fact. *Robinson v. Cameron*, 2015-Ohio-1486, ¶ 9 (12th Dist.). Once this burden is met, the nonmoving party has a reciprocal burden to set forth specific facts showing there is some genuine issue of material fact yet remaining for the trier of fact to resolve. *Id*. In determining whether a genuine issue of material fact exists, the evidence must be

construed in favor of the nonmoving party. *Avila v. Hughes*, 2021-Ohio-2463, ¶ 34 (12th Dist.).

1. The Economic Loss Rule

{¶ 14} As an initial matter, we note that Cedar Fair devotes a portion of its brief to a discussion of the economic loss rule. Kings/71 seeks to recover economic losses it suffered due to lost revenue and profits allegedly caused by Cedar Fair's recommendations leading to the "overbuild." Whether such losses are recoverable in tort implicates the economic loss rule, which generally limits recovery of purely economic damages arising from commercial relationships governed by contract. *See Corporex Dev. & Constr. Mgt., Inc. v. Shook*, 2005-Ohio-5409, ¶ 6.

{¶ 15} The economic loss rule reflects the distinction between contract and tort law. Contract law is designed to redress losses, including economic losses, that a party to the contract suffers when the other party breaches its duty under the contract. Tort law, on the other hand, is designed to redress losses from breach of duties imposed by law independent of any contract. *Id*; *Floor Craft Floor Covering, Inc. v. Parma Community Gen. Hosp. Assn.*, 54 Ohio St.3d 1, 4-5 (1990).

{¶ 16} Kings/71 argues that Cedar Fair owed an independent duty not to provide false information and that Cedar Fair's alleged breach of that duty caused economic harm. Cedar Fair responds that the parties' relationship and any duties owed arose solely from the FMA and that "Ohio law does not permit a party to bypass the limits of its contractual duties by recasting it as a tort."

{¶ 17} However, we need not resolve the applicability of the economic loss rule or any exception to it in this case. Assuming without deciding that Kings/71 may pursue a claim for "professional negligence" under Section 552 and that such a claim is not barred by the economic loss rule, the record does not establish a genuine issue of material fact

regarding another essential element of that claim—whether Kings/71 identified evidence that Cedar Fair supplied false information within the meaning of Section 552.

2. Professional Negligence Analysis

{¶ 18} Ohio recognizes a tort claim under Section 552 of the Restatement (Second) of Torts ("Section 552 Claim"). *See Haddon View Invest. Co. v. Coopers & Lybrand*, 70 Ohio St.2d 154, 156, fn. 1 (1982); *Delman v. Cleveland Heights*, 41 Ohio St.3d 1, 4 (1989). Under the Restatement,

> one who, in the course of his business, profession or employment, or in any other transaction in which he has a pecuniary interest, supplies false information for the guidance of others in their business transactions, is subject to liability for pecuniary loss caused to them by their justifiable reliance upon the information, if he fails to exercise reasonable care or competence in obtaining or communicating the information.

Restatement of the Law 2d ,Torts, § 552; *see also Levy v. Seiber*, 2016-Ohio-68, ¶ 36 (12th Dist.). Thus, a plaintiff must establish, among other elements, that the defendant supplied false information, that the plaintiff justifiably relied on the information, and that the reliance caused a pecuniary loss. *Delman* at 4; *D&H Autobath v. PJCS Properties I, Inc.*, 2012-Ohio-5845, ¶ 37 (12th Dist.).

{¶ 19} The trial court concluded that Kings/71 could not maintain its Section 552 Claim because Cedar Fair did not belong to a recognized professional class and that any duties Cedar Fair owed arose from the parties' contract rather than an independent duty imposed by tort law.

{¶ 20} On appeal, Kings/71 argues that the trial court improperly characterized its Section 552 Claim as one for traditional professional malpractice and incorrectly limited liability under Section 552 to members of traditionally licensed professions. We need not resolve that question. Even if Kings/71 may pursue its Section 552 Claim though the work of traditionally licensed professionals was not at issue, the record does not establish a

genuine issue of material fact on the essential element of whether Cedar Fair supplied false information to Kings/71. We therefore may affirm the trial court's judgment on grounds different from those relied upon below. *Dixon v. Residential Fin. Corp*., 2010-Ohio-4409, ¶ 10, fn. 1 (12th Dist.).

{¶ 21} A Section 552 Claim requires proof that the defendant supplied "false information." *Delman*, 41 Ohio St.3d at 4. Here, Kings/71 has not identified evidence creating a genuine issue of material fact that Cedar Fair supplied false information or misrepresented an existing fact. Although Kings/71 points to recommendations concerning the swimming pool, dining facilities, amenities, staffing, and other aspects of the project, it does not identify a specific representation that was false when made or explain how the challenged recommendations were based upon false information. Rather, its claim rests on the conclusory assertion that those recommendations ultimately contributed to Camp Cedar's financial difficulties. That argument assumes the project's later financial performance demonstrates that Cedar Fair's recommendations were false when communicated. But evidence that recommendations proved unsuccessful does not establish that they were based on false information or constituted misrepresentations of existing fact.

{¶ 22} At most, Cedar Fair's recommendations could be analyzed under Section 552's discussion of opinions, i.e., "an opinion given upon facts equally well known to both the supplier and the recipient." Restatement of the Law 2d ,Torts, § 552, Comment b. Since Section 552 liability is based upon negligence, a defendant is liable only if he has "failed to exercise the care or competence of a reasonable man in obtaining or communicating the information." *Id*. at Comment e. When the information in question consists "of an opinion upon facts supplied by the recipient or otherwise known to him,

the recipient is entitled to expect a careful consideration of the facts and competence in arriving at an intelligent judgment." *Id*.

{¶ 23} Here, the recommendations at issue concerned characteristics and operational considerations that were generally known to both parties, including the location of the proposed project, its proximity to Kings Island and its related dining and waterpark amenities, as well as the project's intended focus on travelers (specifically RV travelers) coming to visit Kings Island. Kings/71 contends that Cedar Fair made recommendations, such as those concerning the swimming pool and dining facilities, that increased Camp Cedar's costs without producing the anticipated financial returns. However, the fact that Cedar Fair made the recommendations identified by Kings/71 does not resolve the issue. Evidence that Cedar Fair made certain recommendations about a project that later proved to be unsuccessful does not, standing alone, establish that Cedar Fair did not carefully consider the facts before arriving at an intelligent judgment. *Id*. at Comment e.

{¶ 24} The project's later performance does not, by itself, establish that the recommendations were false when made. Afterall, hindsight is 20/20. A recommendation may prove unwise, and a projection may fail to materialize, without establishing that the information supplied was "false" (i.e., made without the careful consideration and intelligent judgment necessary). *See Malek v. eResearch Technology, Inc*., 2022-Ohio-3330, ¶ 49 (8th Dist.) (statements concerning future events constituted opinions and predictions rather than actionable misrepresentations), citing *Telxon Corp. v. Smart Media of Delaware, Inc*., 2005-Ohio-4931, ¶ 33 (9th Dist.) (negligent misrepresentation claims require misrepresentations of "past or existing facts, not promises or representations relating to future actions or conduct.").

{¶ 25} Even construing the evidence most strongly in Kings/71's favor, these circumstances do not establish the falsity of information supplied by Cedar Fair. Recommendations that turn out, in hindsight, to be unwise are not equivalent to supplying false information. Because Kings/71 failed to identify evidence creating a genuine issue of material fact on the false-information element of its claim, Cedar Fair was entitled to summary judgment.

{¶ 26} We overrule Kings/71's first assignment of error.

B. Contract Claim

{¶ 27} In its second assignment of error, Kings/71 argues that the trial court erred in rejecting its remaining breach-of-contract claims following the bench trial. The dispute centers on the scope of Cedar Fair's obligations under the FMA and whether Cedar Fair breached those obligations through its involvement in the development and operation of Camp Cedar.

{¶ 28} Kings/71 contends this assignment presents a purely legal issue subject to de novo review because it involves contract interpretation. Although interpretation of an unambiguous contract presents a question of law reviewed de novo, Kings/71 also challenges factual findings made by the trial court following the bench trial. Accordingly, we review the trial court's interpretation of the FMA de novo and defer to its factual findings when they are supported by competent, credible evidence. *Loury v. Westside Automotive Group*, 2022-Ohio-3673, ¶ 20 (8th Dist.).

{¶ 29} In order to prevail on a breach-of-contract claim, a plaintiff must prove the existence of a contract, the plaintiff's performance under the contract, the defendant's breach, and damages resulting from that breach. *Underwood v. Boeppler*, 2015-Ohio-156, ¶ 13 (12th Dist.). The parties do not dispute the existence of the FMA. Rather, they disagree about the scope of Cedar Fair's contractual obligations and whether Cedar Fair

breached those obligations through its recommendations and involvement in Camp Cedar's development and operation.

{¶ 30} Kings/71 first argues that the trial court misconstrued Exhibit A to the FMA, which describes Cedar Fair's pre-opening services. It states:

> **EXHIBIT A**
>
> **PRE-OPENING SERVICES**
>
> **Preopening Process Phase 1: operations Staffing, Systems, and Procedures**
>
> Manager's services related to the Pre-Opening process shall include, without limitation, the following:
>
> - no later than sixty (60) days following the Effective Date, prepare a Pro Forma Operating Budget that covers the period between the Effective Date and the date of the Grand Opening and submit for Owner's approval.
>
> - On or before December 31, 2020 prepare an Annual Plan that includes an initial Operating Budget that covers the period between the Effective Date and the date of the Grand Opening and submit for Owner's approval.
>
> - manage the recruiting, training and supervision of all Facility staff responsible for delivery of the following:
>
> - all operations personnel required for operations, guest services and security.
>
> - food & beverage ops, systems & procedures.
>
> - retail/merchandise.
>
> - technical services & general maintenance.
>
> - daily financial management and reporting systems.
>
> - IT systems management and spec for related POS system (POS system to be provided by Owner).

- IT system management and specs for related PMS system (Property Management system provided by Owner).
- sales & marketing programs.
- pool staffing.
- preventive maintenance & facility safety programs.
- staff training programs.
- consult related cabin and FF&E procurement.

In particular, Kings/71 relies on the provision stating that those services "shall include, without limitation." According to Kings/71, this language establishes that the enumerated services were merely illustrative and that Cedar Fair's obligations extended to project design, such as the swimming pool, and the issues it contends contributed to the financial failures of Camp Cedar.

{¶ 31} We disagree. It is well established that a contract must be read as a whole, with its provisions interpreted in context rather than in isolation. *Drone Consultants, L.L.C. v. Armstrong*, 2016-Ohio-3222, ¶ 22 (12th Dist.). The phrase "without limitation" indicates that the listed services are not exhaustive. But it does not eliminate the need to determine the nature and scope of the services the parties agreed Cedar Fair would provide. *See Faith Ranch & Farms Fund, Inc. v. PNC Bank, Natl. Assn.*, 2026-Ohio-1145, ¶ 14.

{¶ 32} Read as a whole, Exhibit A concerns the services necessary to prepare Camp Cedar for opening and to establish the systems needed to operate the resort. Those services included staffing, training, budgeting, procurement, maintenance, food and beverage operations, marketing, and related policies and procedures. While there was some evidence that Cedar Fair provided input and recommendations regarding certain planning decisions, nothing in the FMA indicates that Cedar Fair assumed

responsibility for the project's architectural design, facility configuration, or construction-related decisions.

{¶ 33} The distinction is significant. Kings/71 seeks to hold Cedar Fair responsible for decisions concerning the project's design and development, including the size and configuration of the swimming pool, the capacity of the dining facilities, and other choices affecting the project's construction costs and overall scale. But the FMA does not assign those responsibilities to Cedar Fair, and Kings/71 has not demonstrated that they fall within the scope of the pre-opening services described in Exhibit A—even though it contains the phrase "without limitation."

{¶ 34} Kings/71's interpretation would effectively transform a provision describing operational and management services into an open-ended assumption of responsibility for nearly every recommendation Cedar Fair made during the development process. Nothing in the FMA supports such a broad allocation of responsibility. In other words, the FMA did not make Cedar Fair responsible for every development decision that ultimately affected Camp Cedar's financial performance.

{¶ 35} The trial court's factual findings further support this conclusion. Following the bench trial, the court found that many of the fundamental concepts underlying Camp Cedar predated the FMA and that Kings/71 retained ultimate authority over the project's design and development decisions. The court also found that Cedar Fair made recommendations, suggestions, and provided feedback concerning various aspects of the project, but that the FMA did not make Cedar Fair responsible for the project's ultimate success or failure. These findings support the trial court's determination that Cedar Fair's participation in the development process did not make it contractually responsible for Camp Cedar's ultimate design, development, or financial performance.

{¶ 36} We defer to these findings because the trial court was in the best position to evaluate witness credibility and weigh the evidence concerning the parties' respective roles in the development of Camp Cedar. *Frisby v. Solberg*, 2016-Ohio-7644, ¶ 8 (12th Dist.). The record contains competent, credible evidence supporting the trial court's determination that Cedar Fair did not assume contractual responsibility for Camp Cedar's design and overall financial performance merely by participating in planning discussions and offering recommendations.

{¶ 37} In sum, the FMA's reference to services provided "without limitation" did not expand Cedar Fair's obligations beyond the operational and management services contemplated by the agreement, nor did it transform Cedar Fair into the party responsible for Camp Cedar's design, development, or financial success. The trial court's factual findings concerning the parties' respective roles are supported by competent, credible evidence, and Kings/71 has not established that Cedar Fair breached the FMA by making recommendations concerning resort design, amenities, staffing, programming, food-service offerings, or other development-related matters.

{¶ 38} Accordingly, Kings/71's second assignment of error is overruled.

C. Indemnification Claim

{¶ 39} In its third assignment of error, Kings/71 argues that the trial court erred in rejecting its indemnification claim. As with the contract claim, the resolution of this assignment of error depends on the scope of Cedar Fair's obligations under the FMA.

{¶ 40} The interpretation of a written contract presents a question of law that we review de novo. *In re All Kelley & Ferraro Asbestos Cases*, 2004-Ohio-7104, ¶ 28. In interpreting a contract, a court must give effect to the parties' intent as expressed in the contract's language. *Id*. at ¶ 29. When the terms of the contract are clear and

unambiguous, the court must apply their plain meaning. *Aultman Hosp. Assn. v. Community Mut. Ins. Co*., 46 Ohio St.3d 51, 55 (1989).

{¶ 41} Kings/71 directs us to two provisions in the FMA. Kings/71 first cites Section 12.3, which states:

> Indemnification by Manager. Manager agrees to defend, indemnify and hold harmless the Owner and its members, managers, directors, officers, employees, agents, successors and assigns (each, and "Owner Indemnitee") against any claims, causes of action, costs, expenses (including reasonable attorneys' fees) liabilities, losses or damages (collectively, "Losses") suffered by any of those Persons, arising out of or in connection with any (i) act or omission, negligent, tortuous or otherwise of Manager or any manager, officer, employee, agent, representative (other than Owner and its representative) or contractors of Manager in the performance of its obligations under this Agreement; or (ii) a breach by Manager of any of its representations and warranties, covenants or agreements set forth in this Agreement; or (iii) claim, cause of actions, enforcement proceeding of whatsoever nature related directly or indirectly to the recruitment, appointment, hiring, promoting, discharging and training or supervision of its personnel in connection with the Facility.

{¶ 42} The second, contained in Section 11.3, states:

> Errors and Omissions. Cedar Fair, L.P., the parent of Manager, shall indemnify Owner against any loss of money or other property which Owner shall sustain through professional errors or omissions an error committed by Manager or its employees, during the performance of the obligations under this Agreement or their employment. Alternatively, Manager may obtain a errors and omissions insurance policy covering the Manager, and all or any of its employees performing the obligations under this Agreement, which shall be obtained at Manager's sole cost and expense and shall provide Owner coverage of One Million Dollars ($1,000,000) per occurrence with no more than a One Hundred Thousand Dollar ($100,000) deductible, which deductible shall be an expense of Manager. If Manager elects to procure an errors and omissions insurance policy, Owner shall be furnished with a certificate or other satisfactory documentation relating to the errors and omission insurance policy immediately upon issuance thereof.

{¶ 43} Kings/71 argues that these provisions broadly require Cedar Fair to indemnify it for losses arising from Cedar Fair's recommendations concerning Camp Cedar's design, staffing, programming, food and beverage operations, and other project decisions. We find this argument unpersuasive because it reads the indemnification provisions more broadly than their language permits.

{¶ 44} The first provision does not make Cedar Fair responsible for every loss connected to Camp Cedar's development. Rather, Section 12.3 applies only to losses arising from acts or omissions committed by the Manager "in the performance of its obligations under this Agreement" or from a breach of the Manager's contractual obligations. Accordingly, the provision must be read in conjunction with the substantive terms defining the services Cedar Fair agreed to provide.

{¶ 45} As explained under the second assignment of error, the FMA assigns Cedar Fair management and operational responsibilities, not responsibility for Camp Cedar's architectural design, construction, or fundamental development decisions. The trial court further found that many of those decisions predated the FMA and that Kings/71 retained ultimate authority over the project's development. Accordingly, Kings/71 cannot invoke the indemnification provisions to impose liability for responsibilities that Cedar Fair never assumed.

{¶ 46} The separate provision in Section 11.3 concerning professional errors or omissions does not alter the analysis. That provision applies to errors or omissions committed in performing the Manager's contractual obligations. It therefore does not eliminate the need to identify an obligation Cedar Fair undertook under the FMA and an error or omission within the scope of that obligation. Kings/71 has simply not established that Cedar Fair assumed responsibility for the design and development decisions underlying the losses for which it seeks indemnification.

{¶ 47} Because Kings/71 has not established that the losses underlying its indemnification claim arose from acts or omissions within the scope of Cedar Fair's contractual obligations, or from a breach of those obligations, the trial court properly rejected the claim. Accordingly, Kings/71's third assignment of error is overruled.

D. Attorney Fees

{¶ 48} In its fourth assignment of error, Kings/71 argues that the trial court erred in denying its request for attorney fees under the FMA.

{¶ 49} Ohio generally follows the "American rule," under which a prevailing party in a civil action may not recover attorney fees as part of its litigation costs. *Wilborn v. Bank One Corp.*, 2009-Ohio-306, ¶ 7. An award of attorney fees may be authorized, however, by statute or an enforceable contract that specifically provides for their recovery. *Id*.

{¶ 50} Kings/71 sought $328,365.00 in attorney fees and $13,889.53 in legal expenses based on the trial court's finding that Cedar Fair breached the FMA by failing to properly winterize the pool. Kings/71 argued that the FMA's indemnification entitled it to recover those amounts.

{¶ 51} The trial court denied the request on two independent grounds. It concluded that the FMA did not entitle Kings/71 to attorney fees under the indemnification provision and that Kings/71 had failed to establish the reasonableness of the fees requested.

{¶ 52} On appeal, Kings/71 expressly declines to challenge the trial court's determination that it failed to establish the reasonableness of its requested fees. Instead, it raises this assignment of error solely to preserve its argument that the FMA entitles it to recover attorney fees incurred in this appeal and any future proceedings.

{¶ 53} Because Kings/71 does not challenge the trial court's independent determination that it failed to establish the reasonableness of the requested fees, it has not demonstrated reversible error. Even if Kings/71 were correct that the FMA authorizes

attorney-fee recovery, the unchallenged ground independently supports the trial court's denial of its request. We therefore need not decide whether the FMA otherwise authorizes recovery of attorney fees under the circumstances presented.

{¶ 54} Accordingly, Kings/71's fourth assignment of error is overruled.

III. Conclusion

{¶ 55} Having overruled all four assignments of error, we affirm the judgment of the trial court.

{¶ 56} Judgment affirmed.

PIPER, P.J., and M. POWELL, J., concur.

JUDGMENT ENTRY

The assignments of error properly before this court having been ruled upon, it is the order of this court that the judgment or final order appealed from be, and the same hereby is, affirmed.

It is further ordered that a mandate be sent to the Warren County Court of Common Pleas for execution upon this judgment and that a certified copy of this Opinion and Judgment Entry shall constitute the mandate pursuant to App.R. 27.

Costs to be taxed in compliance with App.R. 24.

/s/ Robin N. Piper, Presiding Judge

/s/ Mike Powell, Judge

/s/ Melena S. Siebert, Judge