

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
August 7, 2024 Session

FILED
09/24/2024
Clerk of the
Appellate Courts

GREGORY F. HEERDINK v. DAWN A. OSBORNE, ET AL.

**Appeal from the Chancery Court for Bedford County
No. 32511 J.B. Cox, Chancellor**

No. M2023-00816-COA-R3-CV

ANDY D. BENNETT, J., concurring. CARMA DENNIS MCGEE, J., joins.

I believe that the majority opinion accurately reflects existing law. Therefore, I concur. I write separately to express my concern that the existing law on voluntary nonsuits as outlined in this opinion allows a plaintiff to avoid sanctions for his bad actions taken before the nonsuit. In my opinion, defendant Osborne had at least an inchoate right to receive an undetermined amount of attorney’s fees based on the trial court’s order that “the Plaintiff should be ordered to pay all of each Defendant’s attorney’s fees associated with Plaintiff’s delays, including attendance at prior hearings on Motions to Withdraw, today’s hearing and all preparations for any such hearings.” The sanction was ordered. Only the amount was yet to be determined. A voluntary nonsuit should not allow Plaintiff to escape responsibility for his actions or to prevent Osborne from being properly compensated for Plaintiff’s wrongdoing.

/s/ Andy D. Bennett
ANDY D. BENNETT, JUDGE