

IN THE COURT OF APPEALS OF TENNESSEE  
AT NASHVILLE  
March 25, 2026 Session

**FILED**

08/13/2026

Clerk of the  
Appellate Courts

**LARRY E. PARRISH, P.C. v. NOVEMBER 14, 2017 JUDGMENT**

**Appeal from the Chancery Court for Lincoln County**  
**No. 15747 J.B. Cox, Chancellor**

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**No. M2025-00276-COA-R3-CV**

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This appeal involves an attempt to set aside an allegedly void judgment pursuant to Tennessee Rule of Civil Procedure 60.02(3). The trial court determined that the Rule 60.02(3) independent action was frivolous and dismissed it pursuant to the doctrine of res judicata. We affirm.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court**  
**Affirmed; Case Remanded**

JOHN W. MCCLARTY, P.J., E.S., delivered the opinion of the court, in which JEFFREY USMAN and VALERIE L. SMITH, JJ., joined.

Larry E. Parrish, Memphis, Tennessee, for the appellant, Larry E. Parrish, P.C.

Larry E. Parrish, Memphis, Tennessee, pro se appellant.

Timothy T. Ishii, Nashville, Tennessee, for the appellee, Nancy J. Strong.

**OPINION**

**I. BACKGROUND**

In the early 2000s, former business partners Paul Braden and appellee Nancy J. Strong, litigated issues stemming from the dissolution of their partnerships in the Chancery Court for Lincoln County (“trial court”). *See Strong v. Baker*, No. M2007-00339-COA-R3-CV, 2008 WL 859086, at \*1 (Tenn. Ct. App. Mar. 31, 2008). On December 30, 2004, Ms. Strong entered into a retainer agreement with attorney Larry E. Parrish of the law firm Larry E. Parrish, P.C. (“LEP”), which was a Tennessee professional corporation, to pursue a legal malpractice action against her original attorney in the partnership dissolution case.

*Larry E. Parrish, P.C. v. Dodson*, No. M2011-00349-COA-R3-CV, 2011 WL 4529607, at \*1 (Tenn. Ct. App. Sept. 29, 2011). The legal malpractice action against Ms. Strong's original attorney in the partnership case and against his firm was filed in January 2005. *Larry E. Parrish, P.C. v. Strong*, No. M2017-02451-COA-R3-CV, 2018 WL 6843402, at \*1 (Tenn. Ct. App. Dec. 28, 2018), *perm. app. denied* (Tenn. July 25, 2019). Mr. Parrish failed to comply with deadlines in the scheduling order for Ms. Strong's legal malpractice action, most significantly the deadline to disclose expert witnesses. *Larry E. Parrish, P.C. v. Dodson*, 2011 WL 4529607, at \*2. By September 2005, Ms. Strong had already paid over \$38,000 in attorney fees to Mr. Parrish. *Id.* In 2006, the malpractice case proceeded to a hearing on cross motions for summary judgment. *Id.* By then, Mr. Parrish still had not filed an expert affidavit on behalf of Ms. Strong that addressed the standard of professional practice for attorneys. *Id.* As a result of Mr. Parrish's serious error, Ms. Strong lost the malpractice lawsuit on summary judgment and it was dismissed. *Id.* This Court affirmed the judgment, holding that "summary judgment was properly granted because of [Ms. Strong's] failure to submit expert proof on the issues of the standard of care and breach of the standard of care." *Strong v. Baker*, 2008 WL 859086, at \*8.

On the day Ms. Strong's malpractice lawsuit was dismissed, Mr. Parrish presented Ms. Strong with a document entitled Assignment Of Chose-In-Action. *Larry E. Parrish, P.C. v. Dodson*, 2011 WL 4529607, at \*2. Five days later, on August 28, 2006, Ms. Strong signed the chose-in-action without consulting an attorney and delivered it to Mr. Parrish. *Id.* Pursuant to said document, Ms. Strong agreed to assign the rights and entitlements from her suit in the partnership dissolution action to "secure payment and reimbursement of money advanced to defray costs and expenses" in accordance with the 2004 retainer agreement between her and Mr. Parrish. *Id.* The chose-in-action stated that "the maximum principle indebtedness ever to be secured by this assignment is fifty thousand dollars (\$50,000)." It further provided that if a dispute arose, "the prevailing party in the lawsuit shall be entitled to an award of attorneys' fees and costs incurred by the prevailing party, and the court is and shall be authorized to enter a judgment against the non-prevailing party in an amount equal to the attorneys' fees and costs incurred by the prevailing party."

On March 16, 2009, Mr. Parrish on behalf of LEP filed a lawsuit, number 13039, in the trial court against Ms. Strong and others not relevant here, styled in part: "Sworn In Rem Complaint to Trace and Recover Res and for Other Equitable Relief." Ms. Strong was identified in the complaint as one of the "Non-Party Respondents," even though LEP sought affirmative relief from her. LEP claimed entitlement "to immediate and exclusive actual possession, dominion and control of the Res," and the Res was defined to be \$116,316.35 in principal, accrued interest, and accruing interest transferred to LEP pursuant to the "Assignment of Chose-In-Action" executed on August 28, 2006. *Larry E. Parrish, P.C. v. Strong*, 2018 WL 6843402, at \*2. As part of the relief sought, LEP requested that the trial court "declare, mandate and adjudge" its rights in the Res and require Ms. Strong, to turn the Res over to LEP or deliver it to the registry of the court. *Id.*

Although no summons was issued or served on her, Ms. Strong filed an answer to the in rem complaint and a counter-complaint against LEP. *Larry E. Parrish, P.C. v. Dodson*, 2011 WL 4529607, at \*3. Ms. Strong’s answer and counter-complaint were filed in the trial court on March 30, 2009. She amended her counter-complaint on April 6, 2009. We later rejected LEP’s argument that Ms. Strong was not a party to this lawsuit, finding that “she is a necessary party due in principal part to the fact [LEP] sought to obtain judicial relief against her in its complaint.”<sup>1</sup> *Id.* at \*9. In her answer, Ms. Strong denied LEP’s entitlement to the res, asserting that Mr. Parrish violated numerous professional conduct rules in the procurement of the chose-in-action. In her counter-complaint, Ms. Strong asserted counterclaims for legal malpractice, breach of contract, and violations of the Tennessee Consumer Protection Act (“TCPA”). She requested compensatory and punitive damages.

“On August 13, 2009, Ms. Strong took a voluntary nonsuit of her counterclaims for legal malpractice and violations of the TCPA; an order of nonsuit was entered by the trial court on August 18, 2009. Ms. Strong’s claim for breach of contract remained.” *Id.* at \*4. In a previous opinion, we noted that the August 18, 2009 order

states that Ms. Strong made application under Tenn. R. Civ. P. 41 for a voluntary dismissal without prejudice on her counterclaim “as it addresses legal malpractice and the application of the Tennessee Consumer Protection Act.” The trial court ordered “that a voluntary dismissal is hereby entered on the claim for legal malpractice against the plaintiff, Larry Parrish, P.C. and the application of the Tennessee Consumer Protection Act.”

*Larry E. Parrish, P.C. v. Strong*, 2018 WL 6843402, at \*5. “On August 21, 2009, [LEP] filed a partial nonsuit of its claim. A second notice of voluntary nonsuit without prejudice was filed on August 24, 2009.” *Larry E. Parrish, P.C. v. Dodson*, 2011 WL 4529607, at

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<sup>1</sup> We reasoned:

The trial court in this action would have had no power and no jurisdiction to grant [LEP] the relief it sought in paragraphs 8, 9, 10, 11, and 12 of its Complaint unless Ms. Strong was a party to the action. [LEP], however, failed to prepare a summons for Ms. Strong, thereby thwarting the issuance or service of summons on her. As a consequence, she would not have been subject to personal jurisdiction without such service of process; however, Ms. Strong waived service of process by filing an Answer and Counterclaim. *See Landers v. Jones*, 872 S.W.2d 674, 675 (Tenn. 1994) (holding that a court’s lack of personal jurisdiction may be waived and “one method of waiver is by making a voluntary ‘general appearance’ before the court in order to defend the suit on the merits, . . .”); *see also Dixie Savings Stores, Inc. v. Turner*, 767 S.W.2d 408, 410 (Tenn. Ct. App. 1988). Accordingly, Ms. Strong acquiesced to the jurisdiction of the court.

*Larry E. Parrish, P.C. v. Dodson*, 2011 WL 4529607, at \*10.

\*4. LEP and Mr. Parrish state that “in substance, this was an amendment under Rule 15 rather than a dismissal of a whole cause of action.” However, LEP did not dismiss any claim or party by voluntary nonsuit because no order was entered by the trial court as required by Tennessee Rule of Civil Procedure 41.01(3). *Id.* at n.5.

On August 13, 2010, Ms. Strong filed a “Complaint for Legal Malpractice” in the Circuit Court of Lincoln County against LEP and Larry Parrish, individually. *Larry E. Parrish, P.C. v. Strong*, 2018 WL 6843402, at \*5. Three months passed, and Ms. Strong dismissed her complaint in circuit court on November 29, 2010, meaning the circuit court action never proceeded to trial. *Id.* at \*5–6. This Court concluded that Ms. Strong’s circuit court action “never had any preclusive effect upon the action in the trial court,” meaning it did not preclude any of the proceedings in Lincoln County Chancery Court case 13039. *Id.* at \*6.

Case number 13039 was bifurcated and, five years after it began, was tried before a jury. This Court summarized those proceedings as follows:

On September 2, 2014, the jury returned a verdict on the first phase of the trial. The verdict form reflects the jury’s finding that, although the parties’ agreement was valid, Mr. Parrish’s firm had breached the contract. The jury awarded Ms. Strong compensatory damages to reimburse her for attorney’s fees and costs of the action. The court reduced the jury’s compensatory damages verdict to judgment of \$194,978.70 on November 4, 2014. In addition to compensatory damages, the jury also found that Ms. Strong was entitled to punitive damages, the amount of which would be determined in the second phase of the bifurcated trial.

*Larry E. Parrish, P.C. v. Strong*, No. M2015-02495-COA-R9-CV, 2016 WL 5888935, at \*1 (Tenn. Ct. App. Oct. 7, 2016). The questions on the September 2, 2014 verdict form to which the jury answered “yes” included: “Is the “Assignment of Chose in Action” a valid and enforceable contract?” and “Did Larry E. Parrish, P.C. materially breach the contract?”<sup>2</sup>

Before the second phase of the trial was set, Ms. Strong filed various motions for substitution of parties or to pierce the corporate veil, so as to have Mr. Parrish held personally liable for the damages assessed against his law firm, LEP. *Id.* These motions were denied. *Id.*

In August 2017, a second jury awarded Ms. Strong two million dollars in punitive

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<sup>2</sup> During the trial, the parties agreed that the amount of compensatory damages would be the amount of attorney fees and costs related to the breach of the contract and that the court would review the fees for reasonableness.

damages against LEP, finding that LEP had intentionally falsified, destroyed, or concealed records containing material evidence with the purpose of wrongfully evading liability in this case. *Larry E. Parrish, P.C. v. Strong*, 2018 WL 6843402, at \*3. The trial court affirmed the award as reasonably supported by the proof. *Id.*

By order entered November 14, 2017, the trial court granted Ms. Strong's motion for attorney fees as "a judgment against the non-prevailing party (Larry E. Parrish, P.C.) in an amount equal to the attorneys' fees incurred by the prevailing party (Nancy J. Strong)." The trial court denied Ms. Strong's motion for additional costs. The court observed that LEP had given notice that it would not appear and participate in the second jury phase of this case. The trial court's November 14, 2017 order also denied LEP's motion for judgment notwithstanding verdict; overruled LEP's objection to entry of the order containing the jury verdict entered August 23, 2017; overruled LEP's objection to the second jury hearing the punitive damages phase of the case; awarded Ms. Strong a \$98,900 judgment for attorney fees incurred in the matter between September 2, 2014, and August 23, 2017; ordered that the aforementioned attorney fee award was in addition to the \$194,978.70 in compensatory damages previously awarded on September 2, 2014, and was in addition to the \$2,000,000 judgment for punitive damages awarded by the jury to Ms. Strong in the cause on August 23, 2017; and found that the sum of the awards to Ms. Strong was \$2,293,878.70 on which interest shall continue to accrue "according to applicable contract or statute." This Court previously determined that "in accordance with the trial court's order, the judgment against LEP is subject to post-judgment interest." *Id.* at \*10.

Much aggrieved, LEP, through Mr. Parrish, relentlessly filed motions to which Ms. Strong responded. Some of these motions reasserted arguments that had been decided to finality. LEP, through Mr. Parrish, then sought recusal of the forbearing trial court judge, Chancellor J.B. Cox. We dismissed LEP's petitions for recusal appeal because they were untimely. *Larry E. Parrish, P.C. v. Strong*, No. M2024-01141-COA-T10B-CV, 2024 WL 3886224, at \*3 (Tenn. Ct. App. Aug. 21, 2024), *perm. app. denied* (Tenn. Sept. 30, 2024); *Larry E. Parrish, P.C. v. Strong*, No. M2024-01140-COA-T10B-CV, 2024 WL 3885505, at \*3 (Tenn. Ct. App. Aug. 21, 2024). Taking issue with our 2018 opinion in this case, LEP sued three of this Court's judges in the United States District Court for the Middle District of Tennessee. *Larry E. Parrish, P.C. v. Bennett*, No. 3:20-CV-00275, 2020 WL 3895187 (M.D. Tenn. July 10, 2020). The action was dismissed, *id.* at \*5, and the District Court's judgment was affirmed on appeal. *Larry E. Parrish, P.C. v. Bennett*, 989 F.3d 452, 457 (6th Cir. 2021). In 2020, LEP filed a frivolous appeal about disbursement of the funds from Ms. Strong's partnership dissolution case. *Larry E. Parrish, P.C. v. Strong*, No. M2020-01145-COA-R3-CV, 2021 WL 4471113 (Tenn. Ct. App. Sept. 30, 2021), *perm. app. denied*. (Tenn. Aug. 8, 2023). LEP commenced a separate mandamus action against the trial judge and the Lincoln County Chancery Court Clerk & Master. It was dismissed in the trial court. On LEP's appeal, this Court affirmed the trial court's dismissal of the mandamus action and awarded the appellees damages for LEP's frivolous appeal. *State ex*

*rel. Larry E. Parrish, P.C. v. Cox*, No. M2021-00029-COA-R3-CV, 2021 WL 4449076, at \*3 (Tenn. Ct. App. Sept. 29, 2021), *perm. app denied* (Tenn. Jan. 13, 2022). In 2024, LEP filed a circuit court “complaint for torts” against Chancellor Cox. And so forth.

Eventually, case number 13039 proceeded to a third jury trial held on May 24 and May 25, 2023. The third jury trial was to determine the issue of piercing LEP’s corporate veil such that Larry E. Parrish should be held personally liable for the judgments entered against LEP and in favor of Nancy J. Strong. Mr. Parrish testified in the 2023 trial. LEP was represented by attorney Ryker Eley. LEP did not move for a directed verdict at the close of Ms. Strong’s proof, at the close of its own proof, or before the jury was dismissed. The jury’s unanimous verdict was memorialized in an order entered June 2, 2023. The jury found that Ms. Strong proved by a preponderance of the evidence all the facts necessary to pierce the veil of the corporate entity Larry E. Parrish, P.C. and to hold Larry E. Parrish personally liable for the actions of the corporation. The jury awarded Ms. Strong her attorney fees and costs of the cause. The trial court ordered “that Mr. Parrish is hereby personally liable for all the damages, attorneys’ fees, costs, and interest whether statutory, contractual, or previously ordered by any court and thereby assessed and awarded against the P.C.”

On June 13, 2023, LEP, through Mr. Parrish, initiated the lawsuit underlying the instant appeal in the same trial court: a “Rule 60.02(3) Independent Action to Set Aside November 14, 2017 Judgment for Lack of Court’s Post-Nonsuit Subject Matter Jurisdiction.” The case was assigned trial court case number 15747 and styled “Larry E. Parrish, P.C., a Tennessee Professional Corporation, Claimant v. November 14, 2017 Judgment, *Res.*” In its claim for relief, LEP sought “to expunge” the final judgment in case number 13039 “because on November 14, 2017 and at all times since August 2009, [the trial] court lacked and continues to lack subject matter jurisdiction to adjudicate any claims in [case 13039].” Ms. Strong responded in opposition on July 12, 2023. On October 5, 2023, the trial court dismissed the Rule 60.02(3) Independent Action. The trial court determined that:

[Ms. Strong’s counsel] has timely raised the issue of Res Judicata.

This entire “Rule 60.02(3) Independent Action” is merely another attempt by Mr. Parrish to subvert final judgments which have been entered against the PC and against him personally. His whole premise in his argument for this “Action” surviving is that there has never been an Order directly addressing the issues raised in the “Action.”

This argument could not be further from the truth. Throughout the entire previous litigation, Mr. Parrish on behalf of the PC[,] both himself and other counsel who have been involved, have argued the very same legal concepts that are raised in this action. Claims by the PC, pursuant to Tennessee Rules

of Civil Procedure Rule 60.02(3), that the judgment was void, were set forth in pleadings filed on July 29, 2020, and on March 14, 2022. These claims were rejected by this Court in an Order filed June 23, 2022, in Case No. 13039 in the Chancery Court of Lincoln County, and by the Court of Appeals. *See Larry E. Parrish, P.C. v. Dodson*, No. M2011-00349-COA-R3-CV, 2011 WL 4529607 (Tenn. Ct. App. Sept. 29, 2011); *Larry E. Parrish, P.C. v. Strong*, No. M2017-02451-SC-R11-CV (Tenn. July 25, 2019); *Larry E. Parrish P.C. v. Strong*, M2020-01145-COA-R3-CV, 2021 WL 4471113 (Tenn. Ct. App. Sept. 30, 2021); M2020-01145-SC-R11-CV (Feb. 10, 2022).

This is yet another, third, attempt at an end run on a valid judgment. This is a frivolous pleading. Pursuant to Rule 11, this Court hereby sanctions Mr. Parrish and the PC, for which attorney fees and costs of the cause are awarded to Ms. Strong. The Court will review the submission of the fees of counsel for Ms. Strong as to reasonableness.

Further, the trial court ordered LEP and Mr. Parrish to be jointly and severally liable for the attorney fees and costs in case 15747. Finally, the trial court ordered “that Mr. Parrish and Larry E. Parrish, P.C. shall be enjoined from any further pleadings absent Court permission.”

Mr. Parrish, on behalf of LEP, continued filing documents in both cases, 13039 and 15747. These included motions to recuse the trial judge. On April 4, 2024, Ms. Strong moved the trial court to hold LEP and Mr. Parrish in contempt of the court’s October 5, 2023 order. In that motion, she also requested that the trial court enter an order “[r]equiring the Lincoln County Chancery and Circuit Court clerks to refuse to file any pleadings or documents by [LEP or Mr. Parrish] without the prior review and approval of this Court.” On November 13, 2024, the trial court approved as reasonable the itemized and sworn attorney fees submitted by Ms. Strong’s counsel. These were the Rule 11 attorney fees assessed to LEP and Mr. Parrish jointly and severally as a sanction for filing the Rule 60.02(3) action against which Ms. Strong defended. The total amount was \$7,992.50.

On January 21, 2025, the parties attended a hearing in both cases, 13039 and 15747. Ms. Strong’s counsel pressed the trial court to

expand its already-existing injunction to the clerks not to accept any further filings from Mr. Parrish, without the Court’s prior approval. Because he obviously just ignores the injunction and keeps filing matters and we have to respond to them. This is dragging this matter out like crazy and costing my client, who’s done nothing wrong, and she is trying to finally get her order final.

In response, Mr. Parrish drew a distinction between motions and pleadings under Rule 7 and stated that he did not violate any court order.

The trial court entered orders dated February 6, 2025, in both case 13039 and this case, 15747. Ms. Strong appealed to this Court in case 13039. *See Larry E. Parrish, P.C. v. Nancy J. Strong*, No. M2025-00239-COA-R3-CV. As relevant to the issues raised in this appeal, the trial court reviewed and denied LEP's motion to reconsider its order awarding Ms. Strong \$7,992.50 for sanctions. The court found that changing its previous order was unwarranted under the Rules of Civil Procedure and LEP's arguments. This appeal from the trial court's February 6, 2025 order followed.<sup>3</sup>

## II. ISSUES

Appellants LEP and Mr. Parrish raise the following issues on appeal:

- A. Whether, following the parties' 2009 notices of nonsuit, the chancery court retained whatever, if any, subject matter jurisdiction to adjudicate claims or to enter the November 14, 2017 judgment.
- B. Whether the trial court erred in dismissing the Rule 60.02(3) Independent Action.
- C. Whether sanctions were improper when LEP advanced a good faith jurisdictional theory supported by *Craftique*, *Stinson*, and *Adamson*.
- D. Whether *Industrial Boiler & Mechanical Co., [Inc.] v. Evatt*, [No. E2024-00952-COA-R3-CV,] 2025 WL [2268275 (Tenn. Ct. App. Aug. 8, 2025)], is an unpersuasive misreading of Rule 41 that collapses Rule 15's amendment regime, and whether the Court should adopt instead the *Craftique/Stinson* construction.

Appellee Ms. Strong raises the following issues on appeal:

- E. Whether the doctrine of res judicata precludes LEP and Mr. Parrish, individually, from rearguing the issue of subject matter jurisdiction.

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<sup>3</sup> Both Ms. Strong and LEP filed notices of appeal from the trial court's February 6, 2025 order in this case. Originally, Ms. Strong was designated as the appellant. On August 22, 2025, she moved to voluntarily dismiss her appeal. In response, LEP stated that it wished to raise an issue regarding this Court's subject matter jurisdiction. By order entered September 12, 2025, this Court dismissed Ms. Strong's appeal under Tennessee Rule of Appellate Procedure 15(a), designated LEP as appellant, and designated Ms. Strong as appellee.

F. Whether the trial court erred in not granting Ms. Strong's motion for expanded injunctive relief.

### III. STANDARD OF REVIEW

"A trial court's decision that a claim is barred by the doctrine of res judicata or claim preclusion involves a question of law which will be reviewed de novo on appeal without a presumption of correctness." *Jackson v. Smith*, 387 S.W.3d 486, 491 (Tenn. 2012). We review a trial court's ruling on a Tennessee Rule of Civil Procedure 60.02 motion for relief from a final judgment for abuse of discretion. *Discover Bank v. Morgan*, 363 S.W.3d 479, 487 (Tenn. 2012); *Henry v. Goins*, 104 S.W.3d 475, 479 (Tenn. 2003). Under this standard, we are not permitted to "substitute [our] judgment for that of the trial court[.]" and the trial court's ruling will be upheld unless it affirmatively appears that the "decision was against logic or reasoning, and caused an injustice or injury to the party complaining." *Eldridge v. Eldridge*, 42 S.W.3d 82, 85 (Tenn. 2001); *Battleson v. Battleson*, 223 S.W.3d 278, 283 (Tenn. Ct. App. 2006).

### IV. DISCUSSION

#### *Dismissal of "Rule 60.02(3) Independent Action"*

Tennessee Rule of Civil Procedure 60.02 contains a provision clarifying that the Rule "does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order or proceeding, or to set aside a judgment for fraud upon the court." Tenn. R. Civ. P. 60.02. Although there is no time limit for filing an independent action to set aside a judgment, it may be filed "only under unusual and exceptional circumstances" and "only where no other remedy is available or adequate." *Whitaker v. Whirlpool Corp.*, 32 S.W.3d 222, 229–30 (Tenn. Ct. App. 2000) (citing *Jenkins v. McKinney*, 533 S.W.2d 275, 281 (Tenn. 1976)).

For years of this long litigation, LEP, through Mr. Parrish, has repeatedly argued that the trial court's jurisdiction was extinguished after Ms. Strong voluntarily dismissed some but not all of her claims. In this appeal, LEP asserts:

Every jurisdictional thread in this record leads to the same terminus: the chancery court lost authority on August 13, 2009, when Strong nonsuited her counter-claims. The later filings—the August 24, 2009 partial nonsuit, the 2010 circuit-court malpractice complaint and its dismissal with prejudice, and the 2017 chancery decree—were all procedurally untethered. The chancery court retained whatever, if any, jurisdiction remained, which was

none. The November 14, 2017 paper therefore stands *coram non judice*, void *ab initio*, and must be expunged from the record.

In its reply brief, LEP states that “[t]he post-nonsuit jurisdiction issue has never been presented to any court except the trial court below.” This is incorrect. In the 2018 appeal, LEP argued that because of Ms. Strong’s voluntary nonsuit of her legal malpractice and Tennessee Consumer Protection Act claims she “lost the right to pursue her breach of contract claim.” *Larry E. Parrish, P.C. v. Strong*, 2018 WL 6843402, at \*5. This Court determined that LEP’s jurisdictional theory was misplaced and that Ms. Strong’s nonsuit in the Circuit Court of Lincoln County had no bearing on any of the proceedings in the trial court:

[LEP] next asserts that Ms. Strong’s August 13, 2009 nonsuit combined with a circuit court complaint removes all claims for relief purported to be stated in her March 30, 2009 answer/counterclaim.

A little history is necessary to understand LEP’s position here. In her answer and counterclaim filed on March 30, 2009, Ms. Strong included counterclaims against “counter-defendant Parrish” for breach of contract, legal malpractice, and violation of the Tennessee Consumer Protection Act. She amended her counter-complaint on April 6, 2009. The nonsuit order at issue here was filed on August 18, 2009, in the trial court and states that Ms. Strong made application under Tenn. R. Civ. P. 41 for a voluntary dismissal without prejudice on her counterclaim “as it addresses legal malpractice and the application of the Tennessee Consumer Protection Act.” The trial court ordered “that a voluntary dismissal is hereby entered on the claim for legal malpractice against the plaintiff, Larry Parrish, P.C. and the application of the Tennessee Consumer Protection Act.” On August 13, 2010, Ms. Strong filed a “Complaint for Legal Malpractice” in the circuit court against LEP and Larry Parrish, individually. Ms. Strong dismissed her complaint in circuit court on November 29, 2010.

[LEP] now argues that Ms. Strong lost the right to pursue her breach of contract claim. As the basis for this position, LEP relies upon the prohibition on splitting causes of action, one of the principles embedded in the doctrine of res judicata. *See Hawkins v. Dawn*, 347 S.W.2d 480, 481-82 (Tenn. 1961). We believe, however, that LEP misapplies the prohibition on splitting causes of action in this case. As applied to plaintiffs, the doctrine against splitting causes of action prevents them “from fragmenting their accrued claims by litigating part of them to a final judgment and then filing a second suit against the same defendant on alternate claims or theories.” *Lowe v. First City Bank of Rutherford Cnty.*, No. 01-A-01-9305-CV00205, 1994 WL 570082, at \*3 (Tenn. Ct. App. Oct. 19, 1994). The rule does not,

however, operate prospectively; it operates only as “an estoppel after judgment.” *Henegar v. Int’l Minerals & Chem. Corp.*, 354 S.W.2d 69, 70-71 (Tenn. 1962) (quoting *Phillips v. U.S.*, 102 F. Supp. 943, 948 (E.D. Tenn. 1952)). Thus, the rule against splitting a cause of action precludes the second action, not the first. *In re Linebaugh*, No. 03A01-9309-JV-00310, 1994 WL 17074, at \*4 (Tenn. Ct. App. Jan. 24, 1994).

In this case, Ms. Strong’s circuit court action was dismissed after three months and never went to trial. Thus, it never had any preclusive effect upon the action in the trial court.

Furthermore, we find no evidence in the record that LEP raised this issue before the trial court or this court prior to this appeal. *In Larry E. Parrish, P.C. v. Dodson*, filed on September 29, 2011, we stated: “Ms. Strong’s claim for breach of contract remained.” *Larry E. Parrish, P.C. v. Dodson*, 2011 WL 4529607, at \*4. In its brief in this case, [LEP] reasons that this court’s understanding of the facts should be ignored:

There is no mention nor acknowledgment that this Court, at the time of the 2011 COA Opinion, had any knowledge concerning the existence of the Circuit Court Complaint. Therefore, the mention in the 2011 COA Opinion that Appellee, after the August 18, 2009 nonsuit in the trial court below, Appellee retained a breach of contract claim neither adjudicates nor even comments, by *dicta*, on the legal effect and consequences of the Circuit Court Complaint.

[LEP] neglected to advise this court of the existence of the circuit court proceedings at any point during the pendency of the *Larry E. Parrish, P.C. v. Dodson* appeal despite its apparent belief that the existence of the circuit court action had dire consequences for Ms. Strong’s breach of contract claim. This court determined, in part, that summary judgment was not appropriate on Ms. Strong’s breach of contract claim, and the case was remanded for further proceedings. Since that time, there has been a jury trial, another appeal, and an award of punitive damages.

Res judicata is based upon a “public policy [that] dictates that litigation should be determined with reasonable expedition, and not protracted through inattention and lack of diligence on the part of litigants or their counsel.” *In re Linebaugh*, 1994 WL 17074, at \*4 (quoting *Nat’l Cordova Corp. v. City of Memphis*, 380 S.W.2d 793, 796 (Tenn. 1964)). This objection to Ms. Strong’s breach of contract counterclaim is precluded by res judicata.

*Larry E. Parrish, P.C. v. Strong*, 2018 WL 6843402, at \*5–6. LEP clearly disagreed with this Court’s decision on its subject matter jurisdiction arguments at that time, so it appealed to the Tennessee Supreme Court. The Tennessee Supreme Court denied the application for permission to appeal. Although LEP and Mr. Parrish still disagree with this Court’s decision, disparaging it as “nothing,” it controls. *See* Tenn. R. Sup. Ct. 4(G)(1) (“An unpublished opinion shall be considered controlling authority between the parties to the case when relevant under the doctrines of the law of the case, *res judicata*, [and] collateral estoppel” and “for all other purposes shall be considered persuasive authority.”); *Creech v. Addington*, 281 S.W.3d 363, 383 (Tenn. 2009) (“[U]nder the law of the case doctrine, an appellate court’s decision on an issue of law is binding in later trials and appeals of the same case if the facts on the second trial or appeal are substantially the same as the facts in the first trial or appeal.”).

Moreover, we take judicial notice that LEP, through Mr. Parrish, previously asserted *arguments identical* to those in this appeal in an appellate “motion to recall mandates or otherwise dismiss appeals for lack of post nonsuit subject matter jurisdiction and memorandum in support” filed December 31, 2022, in case 13039. After considering the parties’ written arguments, we denied the motion to recall the mandates by order entered January 12, 2023, in appellate case number M2020-01145-COA-R3-CV. Again, the Tennessee Supreme Court denied review.<sup>4</sup>

Notably missing from LEP’s briefing is any discussion about the doctrine of *res judicata* which was the basis of the trial court’s dismissal of LEP’s independent action seeking to invalidate the November 14, 2017 judgment entered in favor of Ms. Strong. *Res judicata* “bars a second suit between the same parties or their privies on the same cause of action with respect to all issues which were or could have been litigated in the former suit.” *Creech*, 281 S.W.3d at 376 (citing *Massengill v. Scott*, 738 S.W.2d 629, 631 (Tenn. 1987)). This doctrine’s purpose is to “promote finality in litigation, prevent inconsistent or contradictory judgments, conserve legal resources, and protect litigants from the cost and vexation of multiple lawsuits.” *Id.* (citing *Sweatt v. Tennessee Dep’t of Corr.*, 88 S.W.3d 567, 570 (Tenn. Ct. App. 2002)). *Res judicata* “prevent[s] a litigant from vexing an opposing party by taking multiple bites at the same apple.” *Nesmith v. Clemmons*, No. M2021-01030-COA-R3-CV, 2023 WL 194827, at \*12 (Tenn. Ct. App. Jan. 17, 2023) (citing *Edwards v. City of Memphis*, No. W2007-02449-COA-R3-CV, 2009 WL 2226222, at \*3 (Tenn. Ct. App. July 27, 2009)). Before filing the Rule 60.02(3) Independent Action on June 13, 2023, LEP, through Mr. Parrish, had at least twice sought the same relief (voiding the 2017 final judgment) based on the same facts (nonsuits from earlier in the underlying litigation) and involving the same parties. With all the foregoing considerations in mind, we conclude that the trial court did not err in dismissing the Rule 60.02(3) Independent Action.

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<sup>4</sup> M2020-01145-SC-R11-CV.

### *Rule 11 Sanctions*

LEP assigns as error the trial court's grant of Rule 11 sanctions in the form of Ms. Strong's attorney fees. Tennessee Rule of Appellate Procedure 27 instructs that the appellant's brief "shall contain:"

- (1) A table of contents, with references to the pages in the brief;
- (2) A table of authorities, including cases (alphabetically arranged), statutes and other authorities cited, with references to the pages in the brief where they are cited;
- ...
- (4) A statement of the issues presented for review;
- (5) A statement of the case, indicating briefly the nature of the case, the course of proceedings, and its disposition in the court below;
- (6) A statement of facts, setting forth the facts relevant to the issues presented for review with appropriate references to the record;
- (7) An argument, which may be preceded by a summary of argument, setting forth: (A) the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions require appellate relief, with citations to the authorities and appropriate references to the record (which may be quoted verbatim) relied on; and (B) for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues);
- (8) A short conclusion, stating the precise relief sought.

Tenn. R. App. P. 27(a). Additionally, Rule 6 of the Tennessee Court of Appeals states in part:

- (a) Written argument in regard to each issue on appeal shall contain:
  - (1) A statement by the appellant of the alleged erroneous action of the trial court which raises the issue and a statement by the appellee of any action of the trial court which is relied upon to correct the alleged error, with citation to the record where the erroneous or corrective action is recorded.

(2) A statement showing how such alleged error was seasonably called to the attention of the trial judge with citation to that part of the record where appellant's challenge of the alleged error is recorded.

(3) A statement reciting wherein appellant was prejudiced by such alleged error, with citations to the record showing where the resultant prejudice is recorded.

(4) A statement of each determinative fact relied upon with citation to the record where evidence of each such fact may be found.

(b) No complaint of or reliance upon action by the trial court will be considered on appeal unless the argument contains a specific reference to the page or pages of the record where such action is recorded. No assertion of fact will be considered on appeal unless the argument contains a reference to the page or pages of the record where evidence of such fact is recorded.

Tenn. Ct. App. R. 6(a), (b).

On this issue, LEP does not provide citation to relevant legal authority, a developed argument, the standard by which it is reviewed on appeal, or citations to the relevant documents in the record. We may deem an issue waived "when the brief fails to include an argument satisfying the requirements of Tenn. R. App. P. 27(a)(7)." *Hodge v. Craig*, 382 S.W.3d 325, 335 (Tenn. 2012); *see also Newcomb v. Kohler Co.*, 222 S.W.3d 368, 401 (Tenn. Ct. App. 2006) (holding that the failure to cite to any legal authority or to fashion an argument constitutes waiver of an issue). Accordingly, LEP's issue concerning the \$7,992.50 sanction award in Ms. Strong's favor is waived.

#### *Frivolous Appeal*

In the posture of appellee, Ms. Strong contends that LEP filed a frivolous appeal, rendering it and Mr. Parrish liable for damages to her on appeal pursuant to Tennessee Code Annotated section 27-1-122, which provides as follows:

When it appears to any reviewing court that the appeal from any court of record was frivolous or taken solely for delay, the court may, either upon motion of a party or of its own motion, award just damages against the appellant, which may include but need not be limited to, costs, interest on the judgment, and expenses incurred by the appellee as a result of the appeal.

Tenn. Code Ann. § 27-1-122.

The decision whether to award damages for a frivolous appeal rests solely in our discretion. *Chiozza v. Chiozza*, 315 S.W.3d 482, 493 (Tenn. Ct. App. 2009). Appellate courts exercise their discretion to award fees under this statute “sparingly so as not to discourage legitimate appeals.” *Eberbach v. Eberbach*, 535 S.W.3d 467, 475 (Tenn. 2017) (quoting *Whalum v. Marshall*, 224 S.W.3d 169, 181 (Tenn. Ct. App. 2006)). “Successful litigants should not have to bear the expense and vexation of groundless appeals.” *Whalum*, 224 S.W.3d at 181 (quoting *Davis v. Gulf Ins. Grp.*, 546 S.W.2d 583, 586 (Tenn. 1977)). “A frivolous appeal is one that is ‘devoid of merit,’ or one in which there is little prospect that it can ever succeed.” *Indus. Dev. Bd. v. Hancock*, 901 S.W.2d 382, 385 (Tenn. Ct. App. 1995).

This appeal is a redundant effort by LEP and Mr. Parrish to avoid the final judgments entered against them. The appellants pursued this meritless appeal to rehash the same arguments that this Court had already rejected. Exercising our discretion, we grant Ms. Strong her attorney fees incurred on appeal, the amount of which the trial court shall determine upon remand.

#### *Remaining Issues*

Our holdings above are dispositive of this appeal. Ms. Strong’s assignment of error from the trial court’s denial of her request to enjoin the trial court Clerk’s Office from accepting any further filings from LEP or Mr. Parrish is fully addressed in our opinion in *Larry E. Parrish, P.C. v. Nancy J. Strong*, No. M2025-00239-COA-R3-CV. Any issues or arguments not specifically addressed in this opinion are pretermitted as unnecessary in view of our disposition of this matter.

### **V. CONCLUSION**

For the foregoing reasons, we affirm the trial court’s judgment. The case is remanded for such further proceedings as may be necessary and consistent with this opinion, including a determination of Nancy J. Strong’s reasonable and necessary appellate attorney fees and entry of judgment thereon. Costs of the appeal are taxed jointly and severally to the appellants, Larry E. Parrish and Larry E. Parrish, P.C.

s/ John W. McClarty  
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JOHN W. MCCLARTY, JUDGE