

NOTICE: All slip opinions and orders are subject to formal revision and are superseded by the advance sheets and bound volumes of the Official Reports. If you find a typographical error or other formal error, please notify the Reporter of Decisions, Supreme Judicial Court, John Adams Courthouse, 1 Pemberton Square, Suite 2500, Boston, MA, 02108-1750; (617) 557-1030; SJCRreporter@sjc.state.ma.us

25-P-383

Appeals Court

MICHAEL BRUNO & another¹ vs. ALLIANCE RENTAL GROUP, LLC.

No. 25-P-383.

Middlesex. January 13, 2026. - October 5, 2026.

Present: Vuono, Neyman, & Sacks, JJ.

Jurisdiction, Reconsideration of order or judgment. Practice, Civil, Entry of judgment, Notice of appeal, Reconsideration, Consumer protection case, Interest, Attorney's fees. Consumer Protection Act, Businessman's claim, Interest. Judgment, Interest. Mechanic's Lien.

Civil action commenced in the Superior Court Department on May 23, 2019.

Following review by this court, 103 Mass. App. Ct. 170 (2023), the entry of judgment was ordered by Camille F. Sarrouf, Jr., J., and Salim Tabit, J., and a motion for reconsideration also was heard by Camille F. Sarrouf, Jr., J.

David H. Travers for the defendant.
Christian W. Habersaat for the plaintiffs.

¹ Great Midwest Insurance Company, as surety to the lien bonds executed by Michael Bruno.

NEYMAN, J. The defendant, Alliance Rental Group, LLC (Alliance), appeals from a judgment entered in the Superior Court following a remand from a prior appeal (remand judgment).² See Bruno v. Alliance Rental Group, LLC, 103 Mass. App. Ct. 170 (2023). Alliance contends that the judge on remand (remand judge) erred in awarding the plaintiff, Michael Bruno, damages under G. L. c. 93A (c. 93A), because Bruno did not suffer a legally cognizable injury.³ Alliance further asserts that it is entitled to postjudgment interest calculated from the date of the original judgment rather than from the date of the remand judgment. We affirm the remand judgment in favor of Bruno and also conclude that Alliance is entitled to postjudgment interest accruing from the date of the original judgment.

² The substance of the remand judgment is set forth in two separate orders addressing the parties' respective claims, each titled "Judgment After Rescript." Although the orders are not separate final judgments, we refer to them as separate "judgments" in addressing the proceedings below, consistent with their separate form in the record, and collectively, as the "remand judgment" for purposes of our disposition.

³ We refer to the judge who presided over the proceedings on remand and entered the judgment after rescript on Bruno's c. 93A claim as the "remand judge." A different judge entered the judgment after rescript on Alliance's mechanic's lien claim in accordance with this court's instructions on remand.

Background.⁴ 1. Facts. On March 27, 2013, Bruno and Ivester Construction Corp. (Ivester) entered into a contract pursuant to which Ivester agreed to perform subdivision improvements on property in North Reading.⁵ To complete the work, Ivester entered into a rental contract with Alliance for the use of an excavator and a loader (the equipment).⁶ After Ivester took possession of the equipment, there were various periods of "down time" during the project in which construction was paused and the equipment was unused.⁷ Ivester failed to pay

⁴ The underlying facts are recounted in more detail in the prior opinion of this court. See Bruno, 103 Mass. App. Ct. at 171-173.

⁵ The contract covered work on a road in the subdivision and on "Lots 1-11" identified in the subdivision plan and located at 6, 8, 9, 10, 11, 12, 14, 15, 16, 17, and 19 Charles Street. Bruno agreed to pay Ivester \$300,000 pursuant to a distribution schedule, and to transfer lots 6 and 7 to Ivester upon completion of the work.

⁶ The owner of Alliance had known the owner of Ivester "for about fifteen years" prior to trial and had made two personal loans to him in the total amount of \$400,000, with the understanding that Ivester "would get two lots at the completion of the [p]roject[.]" To fund the loans, the owner of Alliance used his personal home equity line of credit.

⁷ The "down time" included "a one-year period waiting for a street permit, a one-year period waiting for an electrical permit and a period waiting for broken drains to be fixed." Bruno, 103 Mass. App. Ct. at 172. In addition, North Reading subdivision regulations "prohibited subdivision construction between December 1 and March 15 of each year. Both pieces of equipment were also removed from the property in order to complete repairs -- the excavator twice and the loader once." Id. Furthermore, "[a]llthough required by the rental agreements

Alliance any of the rental fees, and Alliance established mechanic's liens on Bruno's property totaling \$697,479.06 for amounts related to the equipment, including charges for periods of nonuse and charges for repairs.⁸

2. Procedural history. On May 23, 2019, Bruno brought an action against Alliance pursuant to G. L. c. 254, § 15A, to dissolve the mechanic's liens. He later amended his complaint to add, inter alia, a count for violation of c. 93A, alleging that Alliance had filed unmeritorious lien claims based on inflated rental fees. Following a bench trial, the judge (trial judge) concluded that Bruno owed Alliance \$180,000 on the mechanic's liens rather than the \$697,479.06 that Alliance claimed. The trial judge found that \$180,000 reflected the fair market value of the rental equipment during its period of actual use instead of the mechanic's liens' recorded value of \$697,479.06. The trial judge also found in favor of Bruno on the c. 93A claim and awarded him \$100,182 in c. 93A damages,

between Ivester and Alliance, Ivester did not maintain daily logs to track the use of the equipment during the construction, so there was no documentary evidence of how and when the equipment was used." Id.

⁸ Under G. L. c. 254, § 4, a person who rents equipment to a contractor for use in improving property owned by a third party may obtain a mechanic's lien on that property, even though the rental agreement is with the contractor rather than the property owner. See NES Rentals, Inc. v. Maine Drilling & Blasting, Inc., 465 Mass. 856, 859-860 (2013).

consisting of his attorney's fees and costs in defending what the judge determined was "a scheme by Alliance, [the owner of Alliance], and Ivester to extract money[] from Bruno well beyond any commercially justifiable amount."⁹ On August 9, 2021, judgment entered for Alliance on its counterclaim to enforce the mechanic's liens under G. L. c. 254, § 11, in the amount of \$180,000 as determined by the trial judge, and for Bruno on his c. 93A claim. The parties appealed therefrom.

On August 29, 2023, we issued our decision in Bruno, 103 Mass. App. Ct. at 177, in which we held that the trial judge erred in reducing the amount of the liens based on "fair rental value" because a mechanic's lien under G. L. c. 254, § 4, is not so limited. See Bruno, supra ("To reduce the recoverable amount here to the fair rental value for the period of actual use would be a large expansion of the existing law without legislative authority, which we decline to do"). We determined that the judgment should be amended to provide an award of \$585,505 in favor of Alliance, reflecting the total value of the mechanic's liens minus the repair costs, \$111,974.06. Id. at 185. We otherwise affirmed the validity of the mechanic's liens and affirmed the judgment as to Bruno's c. 93A award but remanded

⁹ The trial judge explained that "Alliance did not violate c. 93A to the extent that a portion of the liens was legitimate; only the grossly excessive claim was unfair and deceptive."

the case for the trial judge to "reconsider the appropriate amount of c. 93A damages consistent with th[e] opinion." Id.

On April 29, 2024, the remand judge¹⁰ held a nonevidentiary hearing, and on October 7, 2024, he issued his order on remand. The remand judge awarded Bruno \$505,687 on his c. 93A claim, consisting of \$405,505 in damages and \$100,182 in attorney's fees and costs. The \$405,505 represented the portion of Alliance's \$585,505 in claimed rental charges that exceeded the \$180,000 that the trial judge had determined to be the reasonable rental value of the equipment. On October 10, 2024, a remand judgment entered in favor of Bruno in the amount of \$758,903.70, reflecting the \$505,687 award discussed above plus prejudgment interest of \$253,216.70. On October 16, 2024, a remand judgment entered in favor of Alliance in the amount of \$585,505. The judgment in favor of Alliance made no provision for interest.

On October 28, 2024, Alliance served a "motion for reconsideration of [the] order on remand and to amend [the remand] judgment" (motion for reconsideration) pursuant to Mass. R. Civ. P. 59 (e), 365 Mass. 827 (1974) (rule 59 [e]). On

¹⁰ The trial judge had retired by the time the case was remanded to the Superior Court.

January 29, 2025, the remand judge denied Alliance's motion. On February 26, 2025, Alliance filed its notice of appeal.

Discussion. 1. Jurisdiction. We must first determine whether Alliance's appeal from the remand judgment on Bruno's G. L. c. 93A, § 11 (§ 11), claim is timely. Bruno argues that the appeal is untimely because Alliance did not file its notice of appeal within thirty days of the entry of the remand judgment dated October 10, 2024. See Mass. R. A. P. 4 (a) (1), as appearing in 481 Mass. 1606 (2019). According to Bruno, the thirty-day appeal period began on October 10, 2024, when the remand judgment first entered in his favor, rather than on October 16, 2024, when judgment entered disposing of the remaining claim (Alliance's claim against Bruno). In addition, Bruno contends that Alliance did not preserve its appellate rights because it failed to serve a timely motion for reconsideration within the ten-day period prescribed by Mass. R. Civ. P. 59 (e). Because Alliance did not serve its motion for reconsideration until October 28, 2024, Bruno argues that the motion did not toll the time for filing a notice of appeal. The argument is unavailing.

In a civil case, the notice of appeal shall be filed within thirty days of the date of the entry of final judgment. Mass. R. A. P. 4 (a). Pursuant to rule 59 (e) however, a party may serve and file a motion seeking reconsideration of the court's

decision within ten days after entry of judgment.¹¹ The motion "tolls the time for taking an appeal from the judgment; the time does not begin to run again until after the disposition of the motion." Reporter's Notes to Rule 59 (e) (1973), Massachusetts Rules of Court, Rules of Civil Procedure, at 86 (Thomson Reuters 2026). "A motion to alter or amend the judgment shall be served not later than 10 days after entry of the judgment." Mass. R. Civ. P. 59 (e).

"A judgment is not final for purposes of Mass. R. A. P. 4 (a) until all claims against all parties have been resolved." Governo Law Firm LLC v. Bergeron, 487 Mass. 188, 192 n.10 (2021). Thus, where a "judgment" is entered on the docket, but not all claims against all parties have been disposed of, that judgment is interlocutory rather than final, and the time for appeal does not commence until a later judgment disposes of the remaining claims. See Calderon v. Royal Park, LLC, 96 Mass. App. Ct. 49, 52 n.5 (2019) (entry of "judgment on motion to dismiss" that dismissed only one count of two-count complaint

¹¹ Although rule 59 (e) refers to "[a] motion to alter or amend the judgment," the rule "encompasses many motions seeking relief of a type which technically might not be considered a motion for a new trial: for example, a motion for rehearing, reconsideration or vacation; a motion to amend a judgment of dismissal 'without prejudice'; or one to vacate a dismissal for want of jurisdiction." Reporter's Notes to Rule 59 (e) (1973), Massachusetts Rules of Court, Rules of Civil Procedure, at 86 (Thomson Reuters 2026).

did not start appeal clock); Pisano v. Pisano, 87 Mass. App. Ct. 403, 410-411 (2015) (notwithstanding nomenclature, "bifurcated judgment" was not final and appealable; later "supplemental judgment" constituted final judgment).

Applying these principles to the present case, the October 10, 2024 "judgment" for Bruno on his c. 93A claim did not become final until October 16, 2024, when judgment entered for Alliance on its G. L. c. 254 (c. 254) claim. On the first business day after ten days had passed, i.e., October 28, 2024,¹² Alliance served its motion under rule 59 (e), seeking to alter or amend both the c. 93A and c. 254 aspects of the judgment. Alliance's service of that motion stopped the appeal clock, pursuant to Mass. R. A. P. 4 (a) (2) (C), as appearing in 481 Mass. 1606 (2019), until "the entry of the order disposing of the last such remaining motion." Id. Once Alliance's rule 59 (e) motion was denied on January 29, 2025, Alliance timely filed its notice of appeal on February 26, 2025 -- within thirty days pursuant to

¹² The motion for reconsideration was timely served. When determining whether a motion for reconsideration was served within ten days after the entry of judgment "[t]he last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday." Mass. R. Civ. P. 6 (a), 365 Mass. 747 (1974). Ten days after October 16, 2024, was a Saturday, and thus service on Monday, October 28, 2024 -- the next day which was not a weekend or a holiday -- was timely.

Mass. R. A. P. 4 (a) (2) (C). Therefore, Alliance's appeal was timely filed, and we have jurisdiction over this appeal.

2. G. L. c. 93A injury. Alliance argues that Bruno did not suffer an injury within the meaning of c. 93A¹³ because Bruno will still make a profit after paying Alliance the total value of the mechanic's liens. Specifically, Alliance claims that Bruno never transferred lots 6 and 7 to Ivester, which were valued at \$900,000, and therefore, even if Bruno pays the entire value of the mechanic's liens (\$585,505) to Alliance, he still makes an added profit of \$314,495 as a result of the scheme.¹⁴ See notes 5 and 6, supra. The argument fails.

We first note that we remanded this case "for reconsideration of the c. 93A damages" in order to "give the [remand] judge an opportunity to consider whether Bruno may

¹³ In its brief, Alliance erroneously cites to G. L. c. 93A, § 9 (§ 9), and related cases to argue that Bruno cannot establish that he suffered an "injury" within the meaning of c. 93A. Section 9 is not applicable here as the present litigation is a business-to-business dispute controlled by G. L. c. 93A, § 11. "General Laws c. 93A distinguishes between 'consumer' and 'business' claims, the former actionable under § 9, the latter actionable under § 11." Frullo v. Landenberger, 61 Mass. App. Ct. 814, 821 (2004). "A business claim cannot be asserted under § 9." Id. Accordingly, we analyze Alliance's claim under § 11.

¹⁴ The \$900,000 value attributed to lots 6 and 7 represented the remaining portion of the \$1.2 million Bruno agreed to pay Ivester under their contract. In essence, Alliance contends that Bruno's failure to transfer the lots offset the \$585,505 in mechanic's liens and left him with an effective savings of \$314,495.

recover" the portions of the mechanic's liens that the trial judge concluded were "unreasonably, unfairly[,] and deceptively inflated." Bruno, 103 Mass. App. Ct. at 185. We did not order a remand for the purpose of allowing Alliance to relitigate the existence or success of the c. 93A claim itself. Whether Bruno suffered a loss of money or property was outside the scope of the remand order and had already been decided by the trial judge, whose determination that Bruno had suffered such a loss was affirmed on appeal. Bruno, supra at 183-185. See Lannin v. Buckley, 268 Mass. 106, 111 (1929) ("It is the duty of the trial court, unless in its discretion it permits new issues to be raised, to follow implicitly the terms of the rescript and not to travel outside what is there laid down, read in the light of the opinion on which it is founded").

In any event, as the trial judge found, Bruno did lose money or property as a result of Alliance's c. 93A violation. "We review a judge's findings of fact [on a c. 93A claim] under the clearly erroneous standard and . . . conclusions of law de novo" (citation omitted). Klaimont v. Gainsboro Restaurant, Inc., 465 Mass. 165, 171 (2013). The judge's ultimate conclusion of law that Bruno lost money or property is likewise reviewed de novo. See id. A successful claim under G. L. c. 93A, § 11, must establish (1) that the defendant engaged in an unfair method of competition or committed an unfair or

deceptive act or practice; (2) a loss of money or property suffered as a result; and (3) a causal connection between the loss suffered and the defendant's unfair or deceptive method, act, or practice. See Auto Flat Car Crushers, Inc. v. Hanover Ins. Co., 469 Mass. 813, 820 (2014).

The Supreme Judicial Court has made clear that "a plaintiff who can establish that it has sustained . . . concrete money or property loss will have satisfied the actual damages element of § 11, without also having to prove that the loss remains uncompensated." See Auto Flat Car Crushers, Inc., 469 Mass. at 822. Recovery under the statute is not "limited by traditional tort and contract law requirements." Id., quoting Slaney v. Westwood Auto, Inc., 366 Mass. 688, 693 (1975). Even where the plaintiff has been made whole for its underlying loss through other means, that compensation does not necessarily preclude a finding that the plaintiff lost money or property under § 11. Id. at 823.

The trial judge found, and we affirmed on appeal, that Alliance and Ivester engaged in a deceptive scheme to inflate rental costs and repair fees. See Bruno, 103 Mass. App. Ct. at 183-184. Bruno then paid lien bonds to cover the costs of the mechanic's liens. Moreover, Bruno was also required to hire counsel and engage in protracted litigation against Alliance to

protect his interests.¹⁵ As such, Bruno established that he "sustained such concrete monetary or property loss" from Alliance's c. 93A violation and satisfied the actual damages element of § 11. Auto Flat Car Crushers, Inc., 469 Mass. at 822.¹⁶

3. Postjudgment interest. Alliance next argues that it is entitled to postjudgment interest dating back to August 9, 2021, when judgment first entered for Alliance on its mechanic's liens, rather than October 16, 2024, the date of the remand judgment. We agree. "Every judgment for the payment of money shall bear interest up to the date of payment of said judgment," ordinarily calculated "from the date of entry of [the]

¹⁵ The trial judge found, inter alia, that "Bruno had to pay for and file lien bonds. He had to bring this action to dissolve two invalid liens and to defend against two unreasonably, unfairly and deceptively inflated liens."

¹⁶ Were we to accept Alliance's argument, § 11 would lose its force; subcontractors would be free to engage in deceptive behavior in violation of c. 93A, with the knowledge that, so long as other financial offsets ultimately left the property owner with no net loss, statutory liability would be avoided. See, e.g., Auto Flat Car Crushers, Inc., 469 Mass. at 825. "Section 11, the particular provision governing actions between businesses, serves 'the important public policy of encouraging the fair and efficient resolution of business disputes'; it is intended to deter misconduct while providing a remedy for those who have suffered a specific harm as a result of a defendant's prohibited conduct." Id. at 822. Precluding claims based on Alliance's theory in the present context would undermine these principles.

judgment." Mass. R. Civ. P. 54 (f), 382 Mass. 822 (1974).¹⁷ The question here is when, for postjudgment interest purposes, the judgment for Alliance should be considered to have entered.

In general, "where a judgment is affirmed on appeal, the date of judgment is the date judgment originally entered in the trial court." Peak v. Massachusetts Bay Transp. Auth., 20 Mass. App. Ct. 726, 729 (1985). The present case, however, comes to us in a different posture, and we are unaware of any Massachusetts authority involving the same factual and procedural circumstances before us -- namely, whether postjudgment interest begins to accrue when an appellate court orders a money judgment increased by a specific amount, using amounts already ascertained in the trial court but omitted from the original judgment because of the trial court's legal error. In the Federal courts, "[t]he standard for determining whether post-judgment interest should run from the original judgment is

¹⁷ Similarly, G. L. c. 235, § 8, provides in pertinent part: "Every judgment for the payment of money shall bear interest from the day of its entry at the same rate per annum as provided for prejudgment interest in such award, report, verdict or finding." A wrinkle in mechanic's lien cases is that no prejudgment interest is due, because the nature of the case is in rem, not one "'based on contractual obligations' [or] one 'in which damages are awarded.'" National Lumber Co. v. United Cas. & Sur. Ins. Co., 440 Mass. 723, 730 (2004), quoting G. L. c. 231, §§ 6C, 6H. There is no dispute here, however, that twelve percent postjudgment interest is due; the dispute concerns when it began to accrue.

well established."¹⁸ Loughman v. Consol-Pennsylvania Coal Co., 6 F.3d 88, 97 (3d Cir. 1993). "Specifically, the decision turns on the degree to which the original judgment was upheld or invalidated on appeal." Id. "[D]istilled to its essence," the inquiry involves "the extent to which liability and damages, as finally determined, were ascertained or established in the first judgment[]." Id. at 98. "In particular, the case law is clear that when the essential legal and evidentiary basis for damages is established, but the amount is recalculated after appeal, post-judgment interest accrues from entry of the first judgment." Id. at 99-100. In the absence of controlling Massachusetts case law, we discern no reason why that principle should not govern here. See note 18, supra.

In this case, the trial judge originally awarded damages totaling \$180,000 to Alliance, reflecting "the fair market value of the actual use of each piece of equipment," Bruno, 103 Mass.

¹⁸ We have looked to Federal law on prior occasions for guidance on the application of postjudgment interest. See, e.g., Bernier v. Bernier, 82 Mass. App. Ct. 81, 93 n.22 (2012), relying on Thomas O'Connor & Co. v. Medford, 20 Mass. App. Ct. 761, 765 n.6 (1985), and cases cited (noting that Fed. R. A. P. 37 [a], governing postjudgment interest after affirmance, "finds expression in our case law" and that "[t]here is no Massachusetts analogue" for Fed. R. A. P. 37 [b])). See also 16AA C.A. Wright, A.R. Miller, E.H. Cooper, & C.T. Struve, Federal Practice and Procedure § 3983, at 529-530 (2020) (explaining that Fed. R. A. P. 37, which governs postjudgment interest on money judgments in civil cases, has not been amended except in 1998, when rule was divided into two subdivisions).

App. Ct. at 173, and not including repair costs. Id. at 177 n.6. This court affirmed the basic ruling that Alliance was entitled to recover on its mechanic's liens, but we ordered the judgment for Alliance to be amended "to provide an award to Alliance in the amount of \$585,505 (the total of the lien amount, \$697,479.06, minus repair costs, \$111,974.06)." Id. at 185. These amounts were all originally determined by the trial judge. We merely held that c. 254 did not authorize the trial judge's further step of reducing Alliance's recovery on its mechanic's liens from their face value to an amount he found reasonable, and that once that error was corrected, c. 254 required, as the trial judge originally recognized, that repair costs be excluded from the recovery. Bruno, supra at 177-178 & n.6.

As the United States Court of Appeals for the First Circuit has framed the standard, "[i]n general, where a first judgment lacks an evidentiary or legal basis, post-judgment interest accrues from the date of the second judgment; where the original judgment is basically sound but is modified on remand, post-judgment interest accrues from the date of the first judgment." Cordero v. De Jesus-Mendez, 922 F.2d 11, 16 (1st Cir. 1990). The case now before us falls into the second category. The original judgment for Alliance was basically sound, with both evidentiary and legal support. Alliance's mechanic's liens were

valid, apart from their inclusion of repair costs, but the judgment was too low, because of the trial judge's understandable but nevertheless erroneous conclusion that c. 254 authorized him to reduce Alliance's recovery from "amounts grossly in excess of market rentals" to commercially reasonable amounts. Bruno, 103 Mass. App. Ct. at 184-185. We remanded the matter to correct that error, and a remand judgment subsequently entered. Id. at 185. In the particular factual and procedural scenario before us,¹⁹ postjudgment interest on the amended judgment amount of \$585,505 should be calculated from the date of entry of the original judgment, August 9, 2021. Bruno cites no persuasive authority to the contrary.

4. Attorney's fees. Finally, we address Bruno's request for attorney's fees stemming from this appeal. "A party that prevails on a claim under G. L. c. 93A is statutorily entitled to recover reasonable appellate attorney's fees and costs with respect to the claims on which it prevailed." Fontaine v.

¹⁹ See Loughman, 6 F.3d at 98 ("While the general standard [for determining when postjudgment interest begins to run] is well formulated, its application in particular cases is often very fact specific"). See also 16AA C.A. Wright, A.R. Miller, E.H. Cooper, & C.T. Struve, *Federal Practice and Procedure* § 3983, at 534 (2020) (choice between imposing postjudgment interest from first or second judgments "will vary with the circumstances . . . if the first judgment is set aside for some less fundamental error, fairness may dictate that postjudgment interest run from the time of the first judgment").

Philip Morris USA Inc., 497 Mass. 436, 463 n.23 (2026). The party must have made the request for appellate attorney's fees in its brief. Fabre v. Walton, 441 Mass. 9, 10 (2004).

Bruno made such a request for attorney's fees relating to the c. 93A claim in his brief, and is entitled to recover reasonable attorney's fees associated with that claim on appeal.²⁰ See Castricone v. Mical, 74 Mass. App. Ct. 591, 604 (2009).²¹

5. Conclusion. The remand judgment is affirmed. The order denying Alliance's motion to reconsider is vacated insofar as it denied Alliance's request for postjudgment interest. The order denying the motion to reconsider is otherwise affirmed, and the case is remanded to the Superior Court for entry of a new order awarding Alliance postjudgment interest on the amount of \$585,505, accruing from August 9, 2021.

So ordered.

²⁰ Bruno may file a request for appellate attorney's fees and costs with this court within fourteen days of the date of the issuance of this opinion in accordance with the procedure described in Fabre, 441 Mass. at 10-11. Alliance shall then have fourteen days within which to respond. See Fariello v. Zhao, 101 Mass. App. Ct. 566, 573 n.5 (2022).

²¹ We reject Bruno's claim that Alliance's appeal is frivolous, and thus Bruno is not entitled to attorney's fees on the remaining claims. See Avery v. Steele, 414 Mass. 450, 455 (1993).