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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

YOON MAN CHOI,

Plaintiff and Respondent,

v.

HYUNDAE HEALTH CENTER,  
INC., et al.,

Defendants and Appellants.

B271782

(Los Angeles County  
Super. Ct. No. BC450378)

APPEAL from an order of the Superior Court of Los Angeles County, Mel Red Recana, Judge. Affirmed.

David M. Browne for Defendants and Appellants.

Moon & Dorsett and Dana M. Dorsett for Plaintiff and Respondent.

In a case in which a worker alleged that his employer had failed to pay him any wages for a period of more than four years, the trial court entered judgment for the employee and ordered the employer to pay damages, attorney's fees and costs. The employer appeals only the award of attorney's fees. Finding no abuse of discretion by the trial court, we affirm.

### **FACTUAL AND PROCEDURAL SUMMARY**

Yoon Man Choi filed a complaint against Hyundai Health Center, Inc. and Yoon Hee Yeh (Yeh), asserting employment related claims (Lab. Code, §§ 226.7, 510, 512, 1194, 1197 and violations of Wage Order No. 4-2001) and violation of Business and Professions Code section 17200. The parties tried the case to the court, beginning on September 16, 2013; the trial was completed on September 3, 2014.<sup>1</sup> The court entered judgment and issued its Statement of Decision on October 28, 2015.

The court found, based on the evidence presented at trial, Choi had worked as Yeh's employee for more than four and one-half years. During that time, Choi had operated a shoeshine business for eight hours a day, six days a week, at Yeh's place of business; Choi performed work for Yeh an additional seven to eight hours six days a week, and up to fifteen hours on the seventh day. During that entire period, Yeh failed to pay Choi any wages, and also failed to maintain payroll records.

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<sup>1</sup> There were 31 trial days during the one-year period between the start and end of the trial. The trial was held on nonconsecutive days. Interpreters were required for witnesses.

The court found that Choi was the prevailing party on all counts of the complaint, and awarded damages, jointly and severally, against both defendants. The court awarded attorney's fees to Choi pursuant to Labor Code section 1194, with the amount to be determined by hearing after noticed motion.

Choi filed his motion for attorney's fees on February 10, 2016. In support of the motion, he filed detailed billing statements, his attorneys' resumes, and information related to billing rates in the community. Because the case related to enforcement of Labor Code policies, and because the fee was contingent, Choi requested that a multiplier of 1.7 be applied to the lodestar amount; his total request for fees and costs was \$1,994,950.89.

Yeh opposed the motion, challenging the rates of both sets of counsel who had represented Choi,<sup>2</sup> asserting that counsel had spent too much time preparing for, and presenting, the case and the posttrial proceedings, and arguing that application of a multiplier was not justified. The opposition did not identify any specific time entries as unwarranted. The only support for the challenge to the hourly rates was the opinion of Yeh's trial counsel contained in a declaration stating the rates were too high but presenting no evidence to support that opinion.<sup>3</sup> Yeh did not

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<sup>2</sup> Choi was represented prior to trial by different counsel than his trial counsel.

<sup>3</sup> Choi filed detailed evidentiary objections to this declaration, but the record does not reflect a ruling on the

object to any of the evidence Choi submitted in support of his motion.

The trial court heard argument from the parties, and issued its ruling, making specific and detailed reductions in the number of hours claimed, reducing the hourly rates, and awarding fees in the amount of \$918,786. The court found: “This was a long and difficult trial demanding skill, exhaustive research and careful preparation. Plaintiff, almost penniless, had worked for a wealthy businessman who did not pay him for his services. From July 5, 2012 to the present counsel have handled this case without compensation given plaintiff’s financial condition. It is rare for a lawyer to take this case without a retainer for expenses and costs. Thus, the Court applied a multiplier of 1.5.”

After Choi filed a motion to correct clerical errors, the Court amended the award. The final attorney’s fees award was \$61,600 to initial counsel and \$994,521 to trial counsel. The court found the fees and costs “necessary, justified and reasonable.” Yeh appealed.

## **DISCUSSION**

On appeal, Yeh asserts both that the number of hours expended at the trial court, and the hourly rates awarded, were excessive.<sup>4</sup> Yeh also argues that Choi achieved only limited

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objections. Neither party challenges the trial court’s failure to rule.

<sup>4</sup> The brief does not contain citation to relevant legal authority for all of the errors it asserts. Choi argues that

success in the case, based on the reduction in the damages awarded from those he originally sought, and that further reduction in fees is required on that basis. Yeh no longer challenges the award of fees to initial counsel, nor the multiplier awarded.<sup>5</sup>

**A. We Review the Award of Attorney’s Fees for Abuse of Discretion**

“Any challenge based on the amount of the fee awarded is reviewed for an abuse of discretion. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095 [95 Cal.Rptr.2d 198, 997 P.2d 511] (*PLCM Group*) [‘the trial court has broad authority to determine the amount of a reasonable fee’].) An appellate court will interfere with the trial court’s determination of the amount of reasonable attorney fees only where there has been a manifest abuse of discretion. (*Fed–Mart Corp. v. Pell Enterprises, Inc.* (1980) 111 Cal.App.3d 215, 228 [168 Cal.Rptr. 525].) “‘The ‘experienced trial judge is the best judge of the value of professional services rendered in [the] court, and while [the judge’s] judgment is of course subject to review, it will not be

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Yeh has thus forfeited its arguments (*Lonely Maiden Productions, LLC. v. GoldenTree Asset Management, LP* (2011) 201 Cal.App.4th 368, 384); although the briefing is deficient, we nonetheless reach the merits of the portions of this appeal supported by legal argument.

<sup>5</sup> Appellant refers to the multiplier as the “lodestar.” Despite this error, the context makes it clear that the challenge is solely to the determination of hours and fees.

disturbed unless the appellate court is convinced that it is clearly wrong[.]”—meaning that [the trial judge] abused [his or her] discretion.’ (*PLCM Group*, at p. 1095.)”” (*Heritage Pacific Financial, LLC v. Monroy* (2013) 215 Cal.App.4th 972, 1004 (*Heritage Pacific*).)

## **B. Labor Code Section 1194 Enforces Public Policy**

Labor Code section 1194, the basis for the fee award in this case, creates a private right of action to permit employees to enforce violations of minimum wage and overtime laws. The statute specifically provides that a successful employee is entitled to collect, along with unpaid wages, reasonable attorney’s fees and costs of suit. In enacting the statute, the Legislature made clear the important public policy reflected by the wage laws: “Labor Code section 1194 confirms ‘a clear public policy . . . that is specifically directed at the enforcement of California’s minimum wage and overtime laws for the benefit of workers.’ (*Earley v. Superior Court* (2000) 79 Cal.App.4th 1420, 1429–1430 [95 Cal.Rptr.2d 57].) . . . California’s overtime laws are remedial and are to be construed so as to promote employee protection. (*Ramirez v. Yosemite Water Co.* (1999) 20 Cal.4th 785, 794 [85 Cal.Rptr.2d 844, 978 P.2d 2].)” (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 340.)

That the wage and overtime laws serve a vital public purpose cannot be disputed. The facts of this case, as found by the trial court, are emblematic of the potential abuse of individuals that the law seeks to prevent:

““California courts have long recognized [that] wage and hours laws ‘concern not only the health and welfare of the workers themselves, but also the public health and general welfare.’ [Citation.] . . . [O]ne purpose of requiring payment of overtime wages is “to spread employment throughout the work force by putting financial pressure on the employer . . . .” [Citation.] Thus, overtime wages are another example of a public policy fostering society's interest in a stable job market. [Citation.] Furthermore . . . the Legislature’s decision to criminalize certain employer conduct reflects a determination [that] the conduct affects a broad public interest. . . . Under Labor Code section 1199 it is a crime for an employer to fail to pay overtime wages as fixed by the Industrial Welfare Commission.” (*Earley v. Superior Court* (2000) 79 Cal.App.4th 1420, 1430, [95 Cal.Rptr.2d 57].) [¶] Moreover, the overtime laws also serve the important public policy goal of protecting employees in a relatively weak bargaining position against “the evil of ‘overwork.’” (*Barrentine v. Arkansas–Best Freight System* (1981) 450 U.S. 728, 739 [67 L.Ed.2d 641, 101 S.Ct. 1437] [commenting on overtime provision of the federal Fair Labor Standards Act . . . .].)” (*Gentry v. Superior Court* (2007) 42 Cal.4th 443, 456, recognized as abrogated in *Williams v. Superior Court* (2017) 3 Cal.5th 531, 558.)

### **C. The Court Did Not Abuse Its Discretion in Determining the Lodestar Amount**

We address in this case only the lodestar—the calculation of the number of hours on which the court based its award, and

the hourly rates applied to those hours, as Yeh has not challenged the multiplier applied by the court to that number.

“[T]he fee setting inquiry in California ordinarily begins with the “lodestar,” i.e., the number of hours reasonably expended multiplied by the reasonable hourly rate. “California courts have consistently held that a computation of time spent on a case and the reasonable value of that time is fundamental to a determination of an appropriate attorneys’ fee award.” [Citation.] The reasonable hourly rate is that prevailing in the community for similar work. [Citations.] The lodestar figure may then be adjusted, based on consideration of factors specific to the case, in order to fix the fee at the fair market value for the legal services provided. [Citation.] Such an approach anchors the trial court’s analysis to an objective determination of the value of the attorney’s services, ensuring that the amount awarded is not arbitrary. [Citation.]’ (*PLCM Group, supra*, 22 Cal.4th at p. 1095.)” (*Heritage Pacific, supra*, 215 Cal.App.4th at p. 1004.)

### **1. The Trial Court Specified Its Reductions in Hours Claimed**

Yeh argues that the trial court abused its discretion by failing to reduce the number of hours included in the award for what it asserts to be duplication and unnecessary effort by Choi’s counsel. However, the trial court provided a detailed explanation of the hours that it had disallowed, attaching handwritten time sheets showing the hours deleted. The trial court was not required to make such specific calculations. (See *California Common Cause v. Duffy* (1987) 200 Cal.App.3d 730, 754-755 [trial



court has no sua sponte duty to specify findings underlying its calculation in the absence of a request for specific findings]; *Taylor v. Nabors Drilling USA, LP* (2014) 222 Cal.App.4th 1228, 1250 (*Taylor*).) The trial court having done so, however, we presume that it took duplicative or unnecessary effort it noted into account in making the reductions in hours allowed. We will not substitute our judgment, nor that of Yeh's attorney, for that of the experienced trial judge who conducted this lengthy trial.

## **2. The Trial Court Was Not Required To Make Further Reductions for Claimed Limited Success**

Yeh also asserts that Choi had limited success, and that the award of attorney's fees failed to reflect that. In making this argument, he relies on *Harman v. City and County of San Francisco* (2007) 158 Cal.App.4th 407 (*Harman*), but that reliance is misplaced.<sup>6</sup>

In *Harman*, unlike this case, only one of three plaintiffs prevailed, and then only on one of four causes of action. The court, like the court here, made reductions in the number of hours to be compensated, but declined to make additional adjustments based on the size of the recovery. On appeal, recognizing that the decision to make reductions, or not, was committed to the discretion of the trial court, the Court of Appeal found no abuse of discretion. The court concluded: "Although we

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<sup>6</sup> Harman is one of only two cases cited in appellants' brief. The other, *Shamblin v. Brattain* (1988) 44 Cal.3d 474, does not concern or address attorney's fees awards.

may have exercised our discretion differently, we ‘cannot conclude that the detailed findings made by the [trial court] . . . were clearly erroneous, or that the [trial court] abused its discretion in making this fee award.’” (*Harman, supra*, 158 Cal.App.4th at p. 428.)

In contrast, Choi prevailed on each cause of action he asserted. Thus, there was no need for the court to attempt to allocate fees spent on legal theories that he failed to prove at trial. In fact, the trial court would not have been required to do so even had Choi not succeeded on each claim. (*Taylor, supra*, 222 Cal.App.4th at p. 1251.)

In addition, and consistent with *Harman*, the fact that Choi did not recover the full amount of damages he sought also does not require a reduction beyond that performed by the trial court for the fees to be found within the bounds of the trial court’s discretion. Choi recovered substantial damages of close to \$200,000. Even had the award been a nominal amount, however, it could still have been viewed by the trial court as a victory supporting fees. This is particularly the case where, as here, the lawsuit vindicates public policy. (*Heritage Pacific, supra*, 215 Cal.App.4th at pp. 1006-1007.)

### **3. Yeh Has Not Demonstrated the Awarded Hourly Rates Are an Abuse of Discretion**

Without any citation to relevant legal authority or evidence in the record, Yeh argues the reduced hourly rates awarded by the court are unreasonable. Having failed to provide either factual or legal support for this claim either to the trial court or to this court, Yeh has forfeited it. (See, e.g., *Berger v. California*

*Ins. Guarantee Assn.* (2005) 128 Cal.App.4th 989, 1007 [parties must make coherent argument and cite authority in support of a contention; failure to do so waives the issue on appeal]; *Interinsurance Exchange v. Collins* (1994) 30 Cal.App.4th 1445, 1448 “[P]arties are required to include argument and citation to authority in their briefs, and the absence of these necessary elements allows this court to treat appellant’s sanction issue as waived”].)

## CONCLUSION

As in *Harman*, on which Yeh relies, we find no abuse of discretion in this fee award. (*Harman, supra*, 158 Cal.App.4th at p. 428.) The amount awarded does not “shock[ ] the conscience” nor “suggest[ ] that passion and prejudice influenced the determination.” (*Akins v. Enterprise Rent-A-Car Co.* (2000) 79 Cal.App.4th 1127, 1134.) The trial court here was experienced, handled this case throughout a lengthy pretrial and trial, and reviewed the billings carefully. Yeh has not demonstrated any basis to question the support for the court’s factual findings, and has not provided any reasoned argument suggesting that the court acted in an arbitrary manner.

### **DISPOSITION**

The order awarding attorney's fees and costs is affirmed.  
Respondent is to recover his costs on appeal.

ZELON, J.

We concur:

PERLUSS, P. J.

SEGAL, J.