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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

AMER HANNA et al.,

Plaintiffs and Appellants,

v.

SUE ANNE GABRIEL, as Successor
Trustee, etc., et al.,

Defendants and Respondents.

B238484

(Los Angeles County
Super. Ct. No. KC059146)

APPEAL from an order of the Superior Court of Los Angeles County. Robert A. Dukes, Judge. Affirmed.

Law Offices of Eugene Alkana and Eugene S. Alkana for Plaintiffs and Appellants.

Davert & Loe, Lawyers, Benjamin N. Flint III, and David C. Loe for Defendants and Respondents.

Amer and Nadeela Hanna sued Sue Anne Gabriel, successor trustee of the Murray Ray Mickelson Trust, and Nancy R. Smith, trustee of the Nancy R. Smith Trust, on claims relating to a contract that provides for an award of attorney fees to the prevailing party. Defendants prevailed and sought an award of attorney fees in the amount of \$73,791.40, plus \$945 of attorney fees for appearing at the hearing on the attorney fees motion itself. Defendants supported the motion with a declaration from one attorney, describing the work that he and other attorneys performed in representing defendants in this case, including the number of hours worked and billing rates. Defendants submitted no billing records in support of the motion, claiming that such records were privileged, but they offered to provide the records to the court for *in camera* review.

The trial court granted the motion in part and denied it in part, awarding attorney fees in the amount of \$49,045.00. The court calculated that amount by deducting the following amounts from the total that was requested (and disallowing the \$945 requested for the hearing): \$8,098.00 incurred in connection with certain discovery motions, which were the subject of a previous award; \$9,450.00 for work that the court determined was excessive; and \$7,198.40 for work that the court determined was insufficiently substantiated by the evidence submitted by defendants. Plaintiffs timely appealed from the fee award.

On appeal, plaintiffs expressly concede that defendants are entitled to an award of attorney fees. Plaintiffs challenge only the amount of the award. We review the trial court's determination of the amount of an attorney fees award for abuse of discretion. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095.)

First, plaintiffs argue that the evidence submitted by defendants in support of their attorney fees motion was insufficiently detailed. Plaintiffs concede, however, that "an attorney need not submit contemporaneous time records in order to recover attorney fees, although an attorney's failure to keep books of account and other records has been found to be a basis for disciplinary action. [Citation.] Testimony of an attorney as to the number of hours worked on a particular case is sufficient evidence to support an award of attorney fees, even in the absence of detailed time records. [Citations.]" (*Martino v.*

Denevi (1986) 182 Cal.App.3d 553, 559.) In view of that concession, plaintiffs' arguments about the lack of detail in defendants' evidence fail to show that the trial court abused its discretion by awarding the amount that it did.

Second, plaintiffs argue that, contrary to their own concession, "[f]ee motions must be based on detailed time records." As authority for that proposition, plaintiffs cite *Crespin v. Shewry* (2004) 125 Cal.App.4th 259. That case does not, however, contain any holding or even dictum concerning the amount of evidentiary detail required to support an attorney fees motion. The principal issue presented in *Crespin v. Shewry* was whether the attorney fees motion was timely. (*Id.* at pp. 262-271.) After concluding that it was, the court addressed the additional argument that the prevailing party's substantial delay in moving for fees had caused unfair prejudice. (*Id.* at pp. 271-272.) The court rejected that argument as well, reasoning that "[t]his is not a case where key witnesses or documents have become unavailable," particularly because "fee motions must be based on detailed time records, not on the memories of the attorneys involved." (*Id.* at p. 271.) The court was stating merely that fee motions must be based on records rather than on memory. Nothing in the court's opinion tends to show that the trial court in the case before us abused its discretion when it determined the amount of the attorney fees award.

Third, plaintiffs argue that defendants' attorneys' billing records are not privileged. Assuming that plaintiffs are correct, the argument still fails to show that the trial court abused its discretion when it determined the amount of the attorney fees award, because the award was still reasonable and supported by substantial evidence.

The attorney fees award is approximately one-third less than the amount that defendants requested, and it was supported by substantial evidence. For all of the foregoing reasons, we conclude that plaintiffs have failed to show that the trial court abused its discretion when it determined the amount of the award.

DISPOSITION

The award of attorney fees is affirmed. Respondents shall recover their costs of appeal.

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ROTHSCHILD, J.

We concur:

MALLANO, P. J.

CHANEY, J.