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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

SP INVESTMENT FUND I, Plaintiff and Respondent, v. IVAN GROSSMAN, Defendant and Appellant.	B284289 (Los Angeles County Super. Ct. No. BC577467)

APPEAL from a judgment of the Superior Court of Los Angeles County, Gregory Alarcon, Judge. Affirmed.

Henry J. Josefsberg for Defendant and Appellant.

Greenberg Glusker Fields Claman & Machtinger, Garrett L. Hanken and Daniel G. Stone for Plaintiff and Respondent.

INTRODUCTION

SP Investment Fund I, LLC (SP) sued Ivan Grossman for breach of contract and conversion. A jury trial resulted in a verdict in favor of SP. The court entered a judgment in favor of SP that awarded prejudgment interest, but the space for the amount of prejudgment interest was left blank. SP moved to have the prejudgment interest amount inserted into the judgment, and also moved for attorney fees and costs. The court granted SP's motions, and Grossman appealed.

Grossman asserts that the procedure by which SP requested that the court include the amount of prejudgment interest was improper, because it was tantamount to an untimely motion for new trial. We disagree; SP's request that the court fill in the amount of prejudgment interest that had already been awarded did not require a substantive change in the judgment. Grossman also contends that the trial court abused its discretion in awarding attorney fees based on counsel declarations summarizing the attorneys' time, rather than more detailed billing statements. We find no error. Finally, Grossman asserts that the trial court erred in granting a request for court reporter fees that SP included with its attorney fee motion, but did not include in its memorandum of costs. However, this purported cost award is not included in the judgment, so it does not warrant reversal. The judgment is therefore affirmed.

FACTUAL AND PROCEDURAL BACKGROUND

A. Facts, trials, and the original judgment

Neither party's appellate briefing contains a meaningful statement of facts; the following facts are gleaned from the record on appeal. Grossman owned a 1.80625% share of Morrisania IV Associates, a limited partnership that owned low-income

residential rental property. SP is in the business of purchasing limited partnership interests in affordable housing. In January 2011, Grossman agreed to sell SP his share of Morrisania for $4,200. The parties executed a purchase agreement, and after getting necessary approvals and meeting other conditions, the sale was completed on May 15, 2012. As a result of the agreement, Grossman was required to transfer to SP all economic benefits received from Morrisania. On January 21, 2015, Grossman received a distribution from Morrisania for $294,620.90. Grossman did not forward the payment to SP. SP asserted that it was damaged from this breach of the parties' agreement.

On April 2, 2015, SP filed a complaint against Grossman for breach of contract and conversion. It requested compensatory damages, specific performance, punitive damages, attorney fees, costs, and prejudgment interest. Grossman filed a cross-complaint, alleging financial elder abuse, cancellation of contract, rescission of contract based on unconscionability, and requesting declaratory relief. He alleged that SP followed a practice of manipulating elderly people into selling investments for nominal sums, and then suing those individuals.

The case proceeded to a bifurcated trial. Following a bench trial on Grossman's cross-complaint in August 2016, the court found in favor of SP. The issues in SP's complaint were then tried before a jury in January 2017, and the jury returned a verdict for SP. The jury determined that SP's damages amounted to $294,620.90.

The court signed the proposed judgment on March 15, 2017, which stated in part that SP was entitled to recover "the sum of $294,620.90, together with prejudgment interest thereon

in the sum of _____, attorney's fees in the amount of $ _____, and costs of suit in the amount of $ _____." The blank spaces were not filled in. The judgment was served on Grossman on March 17, 2017, and he did not file a notice of appeal relating to this judgment.

B. Post-trial motions

On May 16, 2017, SP filed a motion "to correct the judgment entered by the Court on March 15, 2017 to include an award of pre-judgment interest . . . in the amount of $63,343.49." SP argued that the court had already held that SP was entitled to prejudgment interest, but "the Court made a clerical error in failing to compute the interest prior to entering Judgment."

SP filed a motion for attorney fees and costs the same day, asserting that it was entitled to fees and costs under Civil Code section 1717 as prevailing party in the litigation, and based on the parties' contract. It requested attorney fees of $433,583.00, and costs of $5,625.21. SP submitted declarations by SP's primary counsel on the case, attorneys Garrett L. Hanken and Daniel G. Stone, discussing the nature of the attorneys' work. Hanken, the partner responsible for the matter, had an hourly billing rate of $625 in 2015, $650 in 2016, and $675 in 2017. The hourly billing rate for Stone, an associate, was $395 in 2015, $425 in 2016, and $475 in 2017. Some minor additional charges were billed by other attorneys and non-attorney staff. The attorneys billed 772 hours through both trials, and 42.75 hours on post-trial matters. In his declaration, Stone divided the attorneys' work into five categories: (1) investigation analysis, and pleadings (5.25 hours, $3,223.50); (2) opposition to Grossman's pretrial motions (122 hours, $60,890); (3) discovery and depositions (94 hours, $49,972.50); (4) trial preparation and trial (545.5 hours,

$284,284.25); and (5) post-trial matters (42.75 hours, $20,367.75). Some of these categories were broken down further, such as the time spent opposing certain motions and the time spent on each phase of the trial.

SP said in its motion for attorney fees that it filed a memorandum of costs, but it is not included in the record on appeal. The motion stated that SP had requested $15,592.93 in its memorandum of costs. It also said, "Moreover, in addition to the costs SP identified in its Memorandum of Costs, SP also incurred the following $5,625.21 in costs and expenses in connection with the litigation of this matter." SP listed the costs it was seeking, most of which related to court reporters and transcript fees. SP said these costs were "basic litigation expenses" that "are unquestionably reasonable and necessary, and are therefore also recoverable by SP under [Civil Code] Section 1717."

Grossman opposed the motion for prejudgment interest, asserting that SP had not asked for prejudgment interest during trial and the motion for prejudgment interest was essentially an untimely motion for new trial. Grossman reasoned that because prejudgment interest is an element of damages, a party must request it no later than the deadline for a motion for new trial, and that deadline had passed. Grossman also argued that the blank spaces in the judgment were not the result of a court error, but rather were caused by SP's failure to provide the court with any relevant information relating to prejudgment interest.

Grossman also opposed the motion for attorney fees and costs, contending that the fee request was excessive because it was disproportionate to the damages award. He also argued that the amounts billed were inflated based on unreasonable litigation

tactics, overstaffing, and improper billing. Grossman also asserted that because SP had litigated similar matters against other defendants, its counsel was double-billing for the same work it had done in other cases. Grossman also argued that SP's request for costs was excessive. With his motion, Grossman filed an appendix of exhibits totaling more than 450 pages, which included deposition transcripts, pretrial motions, communications between the parties, and complaints from other cases in which SP was a plaintiff.

Regarding costs, Grossman argued that the court reporter fees SP requested should have been included in SP's memorandum of costs but were not. He stated, "As [SP] admits that these are 'basic litigation expenses' . . . they are inappropriately sought long after the due date for the Memorandum of Costs."

In its reply, SP asserted that Grossman's opposition was an untimely challenge to the court's award of prejudgment interest, because fixing an *amount* of interest that had already been awarded was not tantamount to a new request to *add* prejudgment interest to an existing judgment that did not include an award of prejudgment interest. Regarding its motion for attorney fees, SP asserted that it had incurred additional attorney fees as a result of its post-trial motions, and therefore revised its request for attorney fees to $450,608.00. SP also contended that its billing was appropriate to the case and the costs were reasonable.

The court granted SP's motion as to prejudgment interest, and stated in its written order, "Rather than a motion to correct the judgment, the court permits an amended judgment that should be submitted and served by [SP] within 10 days." The

court said that "the interest was requested timely in some allowable procedure, and, alternatively, that [Grossman] effectively waived any objection by not objecting to the Judgment filed 3/15/17, providing for interest."

The court also granted SP's motion for attorney fees. It awarded SP $450,608.00 in attorney fees, the amount requested in SP's reply. The court stated in a written order that "the moving party's proof suffices, and the opposing evidence does not prove that any amounts are unreasonable." The court referenced SP's cost request with a single statement: "Finally, costs issues are to be handled via a motion to tax, not in opposition to fees motions. *E.g.*, CRC Rule 3.1700(b)(4)."

The court's order was filed on June 12, 2017, and a notice of ruling was served on Grossman on June 22, 2017. SP served a proposed amended judgment pursuant to the court's order, which included the prejudgment interest and attorney fees awarded by the court. However, the proposed amended judgment included only the amount of costs SP requested in its memorandum of costs—$15,592.93—but not the additional $5,625.21 in costs SP requested in its motion.

Grossman filed a notice of appeal on August 7, 2017, which stated that he was appealing from the court's post-judgment orders. The court signed the proposed amended judgment on September 29, 2017. Grossman filed another notice of appeal on December 11, 2017, stating that he was appealing from the amended judgment.

DISCUSSION

A. Prejudgment interest

Grossman contends the trial court erred in awarding SP prejudgment interest. He challenges only the procedure by which

SP requested that the court determine the prejudgment interest amount; he does not challenge SP's entitlement to prejudgment interest or the amount of the award. We find no error.

The initial judgment stated that SP was entitled to recover "the sum of $294,620.90, together with prejudgment interest thereon in the sum of _____, attorney's fees in the amount of $ _____, and costs of suit in the amount of $ _____." SP asserts that "the trial court adjudicated SP's entitlement to pre-judgment interest in the Original Judgment, dated March 15, 2017." Notice of entry of this judgment was served on Grossman on March 17, 2017. A notice of appeal must be filed within 60 days of service of notice of entry of judgment. (Cal Rules of Court, rule 8.104(a)(1)(B).) Grossman did not file a notice of appeal following this judgment; instead, he filed one notice of appeal from the court's order on SP's post-trial motions, and a separate notice of appeal from the amended judgment that included the amount of interest, attorney fees, and costs.

SP asserts that because prejudgment interest was awarded in the initial judgment, and Grossman did not appeal from that judgment, Grossman's challenge to the prejudgment interest award is untimely and has been forfeited. Grossman, on the other hand, responds that he is not challenging the "theoretical propriety of interest" awarded in this case or the calculation of that interest. Instead, Grossman says he is challenging "the method and timing by which SP . . . alleged the right to assess an amount of prejudgment interest" because SP "elected to seek an amount of interest with a tardy post-judgment motion." In other words, according to Grossman, the issue is not SP's entitlement to or the amount of the prejudgment interest, but rather "an entirely different defect: the untimeliness of [SP's] request to

have an amount inserted" in the blank space allotted for prejudgment interest.

Civil Code section 3287, subdivision (a) states, "A person who is entitled to recover damages certain, or capable of being made certain by calculation, and the right to recover which is vested in the person upon a particular day, is entitled also to recover interest thereon from that day." "No statutes specify the timing or mechanism for seeking prejudgment interest," and "no rule of court specifies when prejudgment interest must be sought." (*Watson Bowman Acme Corporation v. RGW Construction, Inc.* (2016) 2 Cal.App.5th 279, 296-297 (*Watson*).)

It is clear, however, that a party must make a reasonably timely request for prejudgment interest. "[P]rejudgment interest is not a cost, but an element of damages," and therefore "prejudgment interest should be awarded in the judgment on the basis of a specific request therefor made before entry of judgment." (*North Oakland Medical Clinic v. Rogers* (1998) 65 Cal.App.4th 824, 830 (*North Oakland*).) That "specific request" may come in the form of a prayer in the complaint. (*Id.* at p. 829.) When such a request has been made and liability has been established, "[u]nder [Civil Code section 3287,] subdivision (a) the court has no discretion, but must award prejudgment interest upon request, from the first day there exists both a breach and a liquidated claim." (*Id.* at p. 828.)

Here, SP specifically requested prejudgment interest in its complaint. SP submitted a proposed judgment to the court with the prejudgment interest line left blank. According to Civil Code section 3289, subdivision (b), when a contract does not provide for a legal rate of prejudgment interest, the prejudgment interest rate is ten percent per annum. Prejudgment interest should be

calculated from the day of the breach—here, January 21, 2015—to the day the judgment was signed by the court. California Rules of Court, rule 3.1802 states, "The clerk must include in the judgment any interest awarded by the court." Here, the clerk did not do so. The court signed the judgment, but left the prejudgment interest space blank.

SP moved to correct this omission in its motion to correct the judgment. It characterized the omission as a "clerical error" that could be corrected under Code of Civil Procedure section 473, subdivision (d). (See Code Civ. Proc. § 473, subd. (d) ["The court may, upon motion of the injured party, or its own motion, correct clerical mistakes in its judgment or orders as entered, so as to conform to the judgment or order directed."].) Given that the court included an award of prejudgment interest in the judgment but did not fill in the amount, and the amount is fixed by statute, SP's request to correct the judgment to include the amount of prejudgment interest was reasonable. It is "well settled" that "'[w]here the judgment is modified merely to add costs, attorney fees and interest, the original judgment is not substantially changed.'" (*Torres v. City of San Diego* (2007) 154 Cal.App.4th 214, 222; see also *Guseinov v. Burns* (2006) 145 Cal.App.4th 944, 951 [an amended judgment that "merely quantified the amount of prejudgment interest awarded in the original judgment" does "not substantially change the original judgment"].)

Grossman asserts that SP's motion to correct the judgment should be viewed as a motion for new trial, and based on that perspective, the motion was untimely because it was filed more than 15 days after entry of judgment. (See Code Civ. Proc., § 659, subd. (b) [motion for new trial must be filed and served within 15 days of service of notice of entry of judgment].) In support of this

argument, Grossman cites cases in which prejudgment interest was not awarded in the initial judgment, and was not requested until after judgment was entered.

For example, Grossman cites *North Oakland, supra*, 65 Cal.App.4th 824, a breach of contract case in which a judgment was entered following a jury trial, but no interest was included in the judgment. (*Id*. at p. 827.) Almost three months after judgment was entered, the plaintiffs requested prejudgment interest for the first time. (*Id*. at p. 827-828.) The question on appeal was whether plaintiffs were entitled to seek prejudgment interest by simply inserting an interest award into an order on other post-trial motions. The Court of Appeal held that while there was no clear procedure as to how prejudgment interest may be sought, the manner in which the plaintiffs had requested it was inappropriate: "After the verdict in their favor, plaintiffs did not move for an award of interest before entry of judgment. Nor did they seek an award of prejudgment interest at any of the post judgment proceedings which followed. They never sought interest in their request for an award of costs. Rather, at virtually the last minute, plaintiffs inserted an interest award in the order awarding costs which they presented to the court, in clear violation of [the defendant's] due process right to notice and an opportunity for hearing." (*Id*. at p. 831.) The court continued, "[W]e may consider this egregious conduct together with the extreme lateness of plaintiffs' request for interest as warranting denial of prejudgment interest." (*Ibid*.)

Grossman also cites *Watson, supra*, 2 Cal.App.5th 279, in which the successful plaintiff, Watson, filed a motion for prejudgment interest after entry of a judgment that did not include an award of prejudgment interest. (*Id*. at p. 297 fn. 13.)

The trial court denied the motion as untimely. (*Id.* at p. 292.) The Court of Appeal considered whether Watson's motion fell under Code of Civil Procedure section 657, the motion for new trial statute, which allows a judgment to be modified. The court noted that a "request for prejudgment interest is not a request for a new trial (an opportunity to present evidence to a trier of fact), but a request to modify the decision to include an award of prejudgment interest." (*Id.* at p. 298 fn. 14.) The court found that Watson's motion was timely under the requirements in the new trial motion statutes, and the opposing party was provided notice and an opportunity to be heard, thus "the format of Watson's request for prejudgment interest was not defective." (*Id.* at p. 300.) The Court of Appeal remanded the case to the trial court to calculate and award prejudgment interest. (*Id.* at p. 303.)

Grossman cites these cases and asserts, "So while it appears proper for the parties to agree to the procedure of allowing a post-judgment motion for fees (which did not occur here), none of the cases hold that a motion for interest may permissibly be filed after the time allowed for a motion for new trial." But as noted above, the judgments in *North Oakland* and *Watson* did not award prejudgment interest at all. Here, where prejudgment interest had already been included in the original judgment and there was nothing more to do than calculate the statutorily mandated amount, a motion for new trial to substantively amend the judgment was not required.

Thus, we are not persuaded by Grossman's contention that the procedure by which SP requested an amended judgment to include the amount of prejudgment interest was an untimely motion for new trial. Granting SP's request to insert the

appropriate amount of prejudgment interest into the judgment was therefore not reversible error.

B. Attorney fees

Civil Code section 1717, subdivision (a), provides that when an action is based on a contract, and the contract provides that attorney fees shall be awarded to the prevailing party, "[r]easonable attorney's fees shall be fixed by the court." Although Grossman agrees that SP was entitled to attorney fees, he asserts that the attorney fees awarded were excessive.

"[T]he trial court has broad authority to determine the amount of a reasonable fee." (*PLCM Group v. Drexler* (2000) 22 Cal.4th 1084, 1095 (*PLCM Group*).) Thus, an order awarding attorney fees "'will not be overturned in the absence of a manifest abuse of discretion, a prejudicial error of law, or necessary findings not supported by substantial evidence.'" (*Blickman Turkus, LP v. MF Downtown Sunnyvale, LLC* (2008) 162 Cal.App.4th 858, 894.) "In exercising its discretion, the trial court may accordingly 'consider all of the facts and the entire procedural history of the case in setting the amount of a reasonable attorney's fee award.'" (*Pasadena Police Officers Assn. v. City of Pasadena* (2018) 22 Cal.App.5th 147, 167.)

"[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." (*PLCM Group, supra*, 22 Cal.4th at p. 1095.) "[T]he lodestar method vests the trial court with the discretion to decide which of the hours expended by the attorneys were 'reasonably spent' on the litigation." (*Meister v. Regents of University of California* (1998) 67 Cal.App.4th 437, 449.)

Grossman contends that SP "presented block billing and convoluted evidence inadequate to support the amount of fees it sought." "Block billing occurs when 'a block of time [is assigned] to multiple tasks rather than itemizing the time spent on each task.'" (*Mountjoy v. Bank of America, N.A.* (2016) 245 Cal.App.4th 266, 279.) Here, SP did not submit any billing statements in support of its motion. Instead, it submitted declarations setting out the hours worked on various parts of the litigation and the attorneys' hourly fees. It appears, therefore, that Grossman is characterizing the declarations as "block billing."

Detailed billing statements are not required. A party requesting attorney fees "can carry its burden of establishing its entitlement to attorney fees by submitting a declaration from counsel instead of billing records or invoices." (*Lunada Biomedical v. Nunez* (2014) 230 Cal.App.4th 459, 487-488.) Thus, SP's reliance on declarations rather than itemized invoices is not necessarily improper. Furthermore, even if the declarations could be considered "block billing," such a practice is "not objectionable per se," (*Christian Research Institute v. Alnor* (2008) 165 Cal.App.4th 1315, 1325), but the lack of specificity may "present[ ] a particular problem for a court seeking to allocate between reimbursable and unreimbursable fees." (*In re Marriage of Nassimi* (2016) 3 Cal.App.5th 667, 695.)

Here, the trial court found that the "moving party's proof suffices, and the opposing evidence does not prove that any amounts are unreasonable." It does not appear, therefore, that more detailed evidence was required. "[A]n experienced trial judge is in a much better position than an appellate court to assess the value of the legal services rendered in his or her

court." (*Children's Hosp. and Medical Center v. Bonta* (2002) 97 Cal.App.4th 740, 782.)

Grossman asserts that he "showed a reduction of fees is warranted and possible," and sets out a chart that contrasts SP's "claimed time" and rates with what Grossman asserts is the "appropriate time" and "appropriate rate" for each person who worked on the case. However, Grossman provides no basis for his assertion as to why his time estimates and rates are any more "appropriate" than SP's attorneys' stated times and rates.

Grossman also contends that he "offered substantial evidence to demonstrate that [SP's] fees were excessive," and asserts that the trial court erred in implicitly finding that Grossman's objections lacked evidence. "In challenging attorney fees as excessive because too many hours of work are claimed, it is the burden of the challenging party to point to the specific items challenged, with a sufficient argument and citations to the evidence. General arguments that fees claimed are excessive, duplicative, or unrelated do not suffice." (*Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n* (2008) 163 Cal.App.4th 550, 564.)

Grossman asserts that "Mr. Hanken's associate"—presumably, Stone—"may have conducted research and drafting, but presented very little by way of arguments at hearings or trial. This calls for a significant reduction, as pointed out by authority cited by the Superior Court . . . but which the Superior Court made no effort to evaluate." Grossman cites two cases, *Maughan v. Google Technology, Inc.* (2006) 143 Cal.App.4th 1242 (*Maughan*) and *Raining Data Corp. v. Barrenechea* (2009) 175 Cal.App.4th 1363 (*Raining Data*), but he does not include any discussion as to how these cases support his position. (See Cal.

Rules of Court, rule 8.204(a)(1)(B); *Cinema West, LLC v. Baker* (2017) 13 Cal.App.5th 194, 219 [appellate briefs should include a "reasoned discussion of the issues, including how any pertinent authorities apply to [the] case."].)

In *Maughan*, the plaintiffs sued Google, which then successfully moved to strike the complaint under Code of Civil Procedure section 425.16, the anti-SLAPP statute. (*Maughan*, *supra*, 143 Cal.App.4th at p. 1245.) The trial court awarded Google attorney fees, but in an amount less than Google requested. (*Id*. at pp. 1248-1249.) Google challenged the court's award in a cross-appeal. The Court of Appeal found no error in the trial court's conclusion that the amount of time Google attorneys said they spent on the anti-SLAPP motion—over 200 hours—was excessive, and affirmed the award. (*Id*. at p. 1251.)

In *Raining Data*, the trial court awarded attorney fees to plaintiff and cross-defendant Raining Data under Code of Civil Procedure section 425.16. On appeal, the cross-complainant, Barrenechea, argued that fees should not have been awarded because the attorney declarations submitted in support of the fee request were overly broad and did not detail the time spent on specific tasks. The Court of Appeal disagreed: "The law is clear . . . that an award of attorney fees may be based on counsel's declarations, without production of detailed time records." (*Raining Data, supra*, 175 Cal.App.4th at p. 1375.) Barrenechea also argued that although the trial court struck one attorney's time as unnecessary, the attorney fees award should have been further limited because the work was done by two different law firms. (*Id*. at p. 1375.) The Court of Appeal rejected this argument as well, because the attorney declarations "explained how the two different firms collaborated on the anti-SLAPP

motion, by allocating different legal issues between the firms and assigning different tasks to each." (*Id.* at pp. 1375-1376.)

Neither *Maughan* nor *Raining Data* supports Grossman's assertion that the requested fees should be reduced here. The trial court here did not make factual findings regarding the attorneys' work similar to those upheld in *Maughan*, and we will not make such findings in the first instance. In a string cite parenthetical, Grossman asserts that in *Raining Data*, the court struck "one duplicative attorney's time." However, this does not accurately reflect any holding in *Raining Data*, because although the trial court struck one attorney's time, the trial court granted the bulk of the attorney fee request and the Court of Appeal affirmed. In the same string cite, Grossman references *Avikian v. WTC Financial Corp*. (2002) 98 Cal.App.4th 1108, stating that there, "fees awarded were less than half of what was actually incurred." In *Avikian*, however, the trial court "granted defendants' motion for fees pursuant to Corporations Code section 800—awarding them the full $50,000 of appellants' bond—and for costs as prevailing parties." (*Id.* at p. 1114.) On appeal, the plaintiffs/appellants argued that the fee award was too high, and the Court of Appeal rejected that contention: "[A]ppellants' argument ignores the fact that the $50,000 in fees awarded against them . . . is less than half of the nearly $114,000 in fees actually incurred by defendants in this case. Thus, even assuming defendants' counsel did spend excessive amounts of time on certain issues, appellants would have to identify about $64,000 in such excess before they would have cause to complain. They have not even attempted to do so." (*Id.* at p. 1119.) This case does not support Grossman's contention that a reduction in fees was warranted here.

Grossman also asserts that SP was not entitled to all of its claimed fees because many of the issues in this case overlapped with issues in similar cases SP has filed against other parties. Grossman cites, for example, *SP Investment Fund I LLC v. Cattell* (2017) 18 Cal.App.5th 898, in which SP sued another defendant based on a purchase agreement. In that case, the defendant Cattell also owned a partnership interest in Morrisania, and SP contracted to purchase it. However, SP alleged that Cattell failed to secure the approvals necessary to complete the sale and transfer the partnership interest to SP, and failed to complete other required actions. (*Id*. at p. 902.) The trial court granted a judgment on the pleadings based on its own request that the parties brief the feasibility of SP's action "'given that plaintiff's entire case rest[s] upon plaintiff's belief that as buyer it could waive getting the approvals called for under the contract, whereas, in law and fact, plaintiff as buyer it appears could not do so, and that the obtaining of these approvals by plaintiff was a condition precedent to the seller having to go forward with the sale.'" (*Id*. at p. 903.) This court reversed the judgment, holding that the trial court erred in finding that this issue was fatal to SP's claims at the pleadings stage of the case. (*Id*. at pp. 906-907.)

Grossman also requested judicial notice of the opening brief in a pending appeal, *SP Investments v. Zell*, Case No. B278003, and we granted that request. This opening brief states that SP entered into a contract to purchase a share in a limited partnership (not Morrisania) from the defendants. The purchase was ultimately not completed, and SP sued. The trial court granted the defendants' motion for summary judgment because it "concluded that the case could be distilled down to a two part

legal question: 'is the [parties'] agreement subject to California law, and if so, is the [parties'] agreement enforceable under California law?'" On appeal, SP argues that the summary judgment should be reversed.

Although the instant case is based on sales of partnership shares similar to those in *Cattell* and *Zell*, the similarities end there. Here, no party has asserted that the sale was barred by certain conditions precedent or another state's laws. Neither judgment on the pleadings nor summary judgment is at issue. Moreover, Stone's declaration stated that substantial fees were incurred in addressing issues specific to Grossman, such as responding to the allegations in Grossman's cross-complaint, opposing Grossman's motions, and conducting case-specific discovery. Most of the fees—about 70 percent—were incurred in preparing for trial, which did not occur in either *Cattell* or *Zell*. In short, the record does not support Grossman's assertion that SP's counsel's work in this case was duplicative of work in other cases.

Grossman also asserts that some of the work performed by SP's counsel was frivolous, such as engaging in discovery tactics that required Grossman to move to compel a deposition, and SP attorneys taking up "page after expensive page of [deposition] transcript asserting frivolous positions and giving instructions not to respond on improper bases, such as relevancy." These arguments were made verbatim in Grossman's opposition to the motion for attorney fees, and we assume that the trial court considered them. The judge impliedly found that SP's counsel's work was not frivolous, and we see no abuse of discretion in that finding.

Grossman also contends that SP's attorneys' billing rates were excessive. He argues that SP's attorneys "bill at or above the higher end for counsel litigating breach of contract cases." He references the exhibits to Hanken's declaration showing attorney billing rates in Los Angeles and Orange Counties in 2016, and notes that Hanken's and Stone's rates are near the top end of the listed range. The trial court rejected this argument, finding that it "lack[ed] merit." "The reasonable hourly rate" for attorney work "is that prevailing in the community for similar work." (*PLCM Group, supra,* 22 Cal.4th at p. 1095.) As Grossman acknowledges that the attorneys' hourly fees were within the range demonstrated in the fee survey attached to Hanken's declaration, and Grossman did not suggest that this evidence was inaccurate or unreliable, Grossman has not established that the trial court abused its discretion in awarding the fees as requested based on the attorneys' hourly rates.

Grossman further asserts that the fee award was excessive because it "unreasonably exceeds the amount sought" in damages. There is no requirement that a fee award bear any particular relationship to the damages at issue in a case. "Although the court may consider the amount at issue in the litigation, as well as counsel's relative success in achieving the client's litigation objectives in adjusting the lodestar figure, the attorney fee award need not bear any specific relationship to the dollar amount of the recovery." (*Concepcion v. Amscan Holdings, Inc.* (2014) 223 Cal.App.4th 1309, 1321.) Thus, the trial court did not abuse its discretion by rejecting Grossman's argument that the attorney fees requested were excessive because they exceeded the amount of damages recovered.

Finally, Grossman asserts that the trial court erred by awarding SP attorney fees that were generated in preparing the reply to the request for attorney fees, because that amount was not included with the motion. However, in its motion SP stated that it anticipated its attorneys would spend an additional 25 hours preparing a reply and attending the hearing, and requested fees for that work. Grossman therefore did have notice that SP was seeking to recover those fees. In addition, Grossman admits that the additional amount was included in the tentative ruling provided to the parties, and at the hearing the court confirmed that the parties had seen the tentative ruling. Grossman did not object to the award of fees related to SP's reply, and therefore has forfeited this argument. (See, e.g., *Andrus v. Estrada* (1995) 39 Cal.App.4th 1030, 1043-1044; *Oiye v. Fox* (2012) 211 Cal.App.4th 1036, 1066.) Moreover, "an attorney fee award should ordinarily include compensation for *all* the hours *reasonably spent*, including those relating solely to the fee." (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1133 [emphasis in original].) Preparing a reply in support of an attorney fees motion is reasonable. Thus, the court did not abuse its discretion by awarding SP attorney fees incurred in preparing the reply and attending the hearing.[1]

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[1] In his briefs, Grossman also argued that the trial court erred in granting a request for additional costs included in SP's motion for attorney fees. SP's respondent's brief asserted that this award of costs was appropriate. In fact, the additional amount requested was not included in the judgment. At oral argument, the parties conceded that the additional costs were not awarded, and the issue need not be addressed on appeal.

DISPOSITION

The judgment is affirmed. SP is entitled to recover its costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

COLLINS, J.

We concur:

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MANELLA, P.J.

WILLHITE, J