

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

ANDREW MILDER,

Plaintiff and Appellant,

v.

SHAWN HOLLEY et al.,

Defendants and Respondents.

B270385

(Los Angeles County
Super. Ct. No. BC581072)

Appeal from an order of the Superior Court of Los Angeles County, Michael P. Linfield, Judge. Reversed.

Andrew Milder, in pro. per., for Plaintiff and Appellant.

Nemecek & Cole, Jonathan B. Cole, Mark Schaeffer,
Marshall R. Cole for Defendants and Respondents.

Plaintiff and appellant Andrew Milder filed a complaint in the trial court asserting various causes of action against defendants and respondents attorney Shawn Holley and law firm Kinsella Weitzman Iser Kump & Aldisert concerning their representation of Milder in a criminal case. The trial court sustained without leave to amend defendants' demurrer to the complaint and entered judgment in defendants' favor.

Thereafter, relying on a provision in the parties' retainer agreement that awarded attorney fees to the prevailing party in any action arising out of or to enforce any provision of the retainer agreement as well as Code of Civil Procedure sections 1032 and 1033.5 and Civil Code section 1717, defendants moved for an award of their attorney fees. The trial court granted the motion and awarded defendants \$28,143.50 in attorney fees.

In this appeal, Milder appeals from the postjudgment order awarding attorney fees. In a separate appeal (Court of Appeal Case No. B267974) Milder appealed from the judgment entered after defendants' demurrer was sustained without leave to amend. Because we reversed the judgment in Case No. B267974, defendants are no longer prevailing parties entitled to attorney fees. Accordingly, we reverse the order awarding defendants attorney fees.

DISPOSITION

The order awarding defendants attorney fees is reversed.
Milder is awarded his costs on appeal.
NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

KUMAR, J.*

We concur:

KRIEGLER, Acting P. J.

BAKER, J.

*Judge of the Superior Court of the County of Los Angeles,
assigned by the Chief Justice pursuant to article VI, section 6 of
the California Constitution.