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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 TWO

JEFF KATOFSKY, Plaintiff and Respondent, v. BARRY BEITLER et al., Defendants and Appellants.	B233743 (Los Angeles County Super. Ct. No. S086224)

APPEAL from a judgment and order of the Superior Court of Los Angeles County. Anthony J. Mohr, Judge. Affirmed.

Levy, Small & Lallas, Tom Lallas and Mark D. Hurwitz for Defendants and Appellants.

Costa Abrams & Coate, Joseph P. Costa and Lindsay T. Cinotto; Law Office of Lloyd K. Chapman and Lloyd Chapman for Plaintiff and Respondent.

Barry Beitler (Beitler) and FYJA, LLC (FYJA) (collectively "appellants") appeal from a judgment entered pursuant to Code of Civil Procedure section 664.6 (section 664.6) after the trial court granted respondent Jeff Katofsky's (Katofsky) motion to enforce a settlement agreement between the parties. Beitler also appeals from an order granting Katofsky's motion for attorney fees incurred in connection with his efforts to enforce the settlement agreement. We affirm the judgment and the attorney fee order.

CONTENTIONS

Appellants argue that the trial court lacked jurisdiction to enter the judgment because the dismissal order and settlement agreement reserved jurisdiction exclusively with a specific judge of the superior court. Further, appellants contend that the trial court erred in entering judgment on an obligation under the settlement agreement that is not yet due.

As to the fee award, Beitler argues that the settlement agreement did not authorize an award of attorney fees except in connection with a proceeding before the same specific superior court judge, and that Katofsky was not a prevailing party in any proceedings before that judge. Further, Beitler contends that the settlement agreement only authorizes attorney fees to be awarded in the event of an "action" brought in connection with the settlement agreement. Because this was not an action, Beitler asserts, attorney fees are unauthorized.

Finally, even if the trial court had the authority to enter an award for attorney fees, Beitler argues, Katofsky did not carry his burden of proving any reasonable sum of fees to which he may be entitled.

FACTUAL AND PROCEDURAL BACKGROUND

Beitler and Katofsky jointly owned several limited liability companies (LLCs), all of which owned income producing commercial properties around Los Angeles. When their partnership soured, several lawsuits were filed which were eventually consolidated into one action before Los Angeles Superior Court Judge Anthony Mohr. After litigating for over five years, appellants and Katofsky were ordered to a mandatory settlement conference just days before trial was to commence. Judge Joseph Biderman, then sitting

in Department K of the West District of the Los Angeles Superior Court, moderated the settlement conference. The parties reached a settlement on October 5, 2010, the day before trial was to begin.

The settlement agreement required Katofsky to relinquish his interests in all of the Katofsky/Beitler owned properties in exchange for, among other things, two payments: (1) a $2 million payment due by January 3, 2011, from Beitler; and (2) a $4.7 million payment due by October 5, 2012, from Beitler and FYJA. The parties agreed that the settlement would be enforceable. Specifically, the settlement agreement provides:

> "The Parties agree that this Agreement will be enforceable in Department K of the West District of the Los Angeles Superior Court before the Honorable Joseph Biderman, Los Angeles Superior Court Judge ('Judge Biderman'), whether under Code of Civil Procedure section 664.6 or otherwise. In connection with any proceeding before Judge Biderman to enforce or interpret this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs in such enforcement proceeding."

On October 29, 2010, the trial court entered an order regarding dismissal, reserved jurisdiction, bonds, fees and costs (dismissal order). The dismissal order was signed by Judge Mohr. The order stated:

> "The Beitler/Katofsky cases are hereby dismissed with prejudice; provided however that (i) pursuant to the Settlement Agreement of the Beitler Parties and the Katofsky Parties, jurisdiction is reserved by the Los Angeles County Superior Court ('Court') whether pursuant to Code of Civil Procedure Section 664.6, or otherwise, to enforce or resolve disputes under the Settlement Agreement ('Reserved Jurisdiction') and (ii) the Beitler/Katofsky cases are hereby transferred to the Honorable Joseph Biderman, in Department K of the West District of the Court, for the exercise of such Reserved Jurisdiction."

On or about November 18, 2010, Katofsky brought an ex parte application before Judge Biderman seeking an order requiring Beitler to comply with certain closing obligations. In an off-the-record conference between Judge Biderman and the parties'

attorneys, Judge Biderman refused to handle the matter. Katofsky's ex parte was taken off calendar.

Beitler did not make the $2 million payment on January 3, 2011, as required by the settlement agreement. Katofsky filed an ex parte application before Judge Mohr to enforce the settlement agreement. Judge Mohr denied the ex parte application without prejudice to Katofsky bringing a regularly noticed motion. Judge Mohr also scheduled a trial date.

On January 13, 2011, Katofsky brought a noticed motion pursuant to section 664.6 to enforce the settlement agreement. On the same date, Katofsky filed an ex parte application for an order appointing Charles Dunn Co. (Dunn) as a manager for the property owned by FYJA and other LLCs of which he had relinquished control as part of the settlement agreement. Katofsky alleged that because Beitler had full control of the properties pending trial, he would have the opportunity to encumber them, which would be prejudicial to Katofsky. Katofsky sought the appointment of Dunn as a property manager in order maintain the status quo pending trial. The court granted Katofsky's request to appoint Dunn in order to maintain the status quo.

On February 25, 2011, the trial court granted Katofsky's motion to enforce the settlement agreement. In its order, the trial court noted that "[t]he Settlement Agreement expressly reserved jurisdiction to the Los Angeles Superior Court for claims relating to the enforcement of the Settlement Agreement." As a result of Beitler's material breach of the settlement agreement, the court ordered Beitler "to pay the sum of $2 million to Jeff Katofsky forthwith and with interest." The order also required Dunn to turn over to Katofsky "[a]ll monies currently held by [Dunn] regarding the assets" of the various companies it managed, as well as all future assets, until such time as the $2 million plus interest was paid in full.

On February 28, 2011, Beitler filed an ex parte application seeking an order vacating or modifying the order appointing Dunn, among other things. Beitler argued that the settlement agreement reserved jurisdiction only for the purpose of enforcing the settlement agreement and resolving disputes with respect thereto, and did not authorize

new terms such as the appointment of Dunn. On March 23, 2011, the trial court issued an order in which it acknowledged that section 664.6 limits the court's jurisdiction to enforcing the terms of the settlement agreement, and that the court's order enforcing the settlement agreement exceeded its jurisdiction in certain respects. The court sought briefing from the parties on various issues, and noted that "a judgment will be entered, and Katofsky will obviously be able to enforce it."

A judgment pursuant to order was entered on April 11, 2011. The judgment was in favor of Jeff Katofsky in the total amount of $6,700,000. Two million dollars of the total judgment could be executed upon forthwith, including simple interest. The judgment provided that the additional sum of $4,700,000 shall be paid to Katofsky on or before October 5, 2012.

On May 4, 2011, the court vacated its previous order appointing Dunn to maintain the status quo.

A stipulation between Beitler and Katofsky filed on May 19, 2011, reflected that Beitler made the $2 million payment, with all interest due under the judgment, on May 18, 2011. Katofsky filed an acknowledgement of satisfaction of judgment on May 20, 2011, indicating that "[t]he payment obligation under Paragraph 1 only of the Judgment Pursuant to Order, is satisfied in full."

On May 3, 2011, Katofsky filed a motion for attorney fees. Katofsky sought fees in the approximate sum of $140,000. On May 12, 2011, Katofsky's counsel filed an additional declaration regarding inclusion of April 2011 fees, showing an additional amount of approximately $20,000 of fees incurred in enforcing the settlement agreement. On May 30, 2011, Katofsky filed his reply brief and asked for further fees incurred during the month of May 2011, for a total of approximately $200,000 in attorney fees. On June 6, 2011, Katofsky noticed a second motion for additional attorney fees not included with the original notice and motion. Katofsky sought additional attorney fees in the amount of $61,682.19.

On July 1, 2011, the trial court issued an order granting Katofsky's motions for attorney fees in part. The court acknowledged that Katofsky had to repeatedly apply to

the court to enforce the settlement agreement, but noted that Katofsky was not without fault in the matter. The court stated its belief that Katofsky's request for fees was too high. The court found that a large portion of Katofsky's claimed lodestar was unreasonable or unsupported by substantial evidence. However, the court also acknowledged that "Beitler did everything he could to avoid payment." The court concluded that most of the work done on the matter was necessary. In its discretion the court awarded Katofsky attorney fees in the total sum of $110,000.

Beitler and FYJA filed their notice of appeal from the judgment on June 7, 2011. Beitler filed his notice of appeal from the fee order on August 30, 2011.[1]

DISCUSSION

I. The judgment

Appellants raise two issues concerning the judgment. First, appellants argue that Judge Mohr had no jurisdiction to grant any relief to Katofsky because the settlement agreement gave Judge Biderman exclusive jurisdiction to enforce or resolve disputes regarding the settlement agreement. Second, appellants argue that the trial court erred in entering judgment on an obligation that is not yet due. We discuss each of appellants' claims below, and conclude that no error occurred.

A. Jurisdiction

"'Lack of jurisdiction in its most fundamental or strict sense means an entire absence of power to hear or determine the case, an absence of authority over the subject matter or the parties.' [Citation.] When a court lacks jurisdiction in a fundamental sense, an ensuing judgment is void, and 'thus vulnerable to direct or collateral attack at any time.' [Citation.]" (*People v. American Contractors Indemnity Co.* (2004) 33 Cal.4th 653, 660.) Where the facts are undisputed, the question of whether the trial court's entry of judgment was void for lack of jurisdiction is a question of law. Therefore, our review

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[1] Katofsky filed a notice of cross-appeal from the fee order on September 6, 2011. However, Katofsky has argued on appeal that the fee order should be affirmed. Therefore we find that Katofsky has abandoned his cross-appeal from the fee order. (See, e.g., *Behr v. Redmond* (2011) 193 Cal.App.4th 517, 538.)

is de novo. (See *Vons Companies, Inc. v. Seabest Foods, Inc.* (1996) 14 Cal.4th 434, 449; see also *Guardianship of Ariana K.* (2004) 120 Cal.App.4th 690, 701 ["[w]here the evidence is not in dispute, a determination of subject matter jurisdiction is a legal question subject to de novo review"].)

Appellants' argument that the court lacked jurisdiction is based on the language of the settlement agreement, which, they contend, granted Judge Biderman exclusive jurisdiction to enforce the agreement. Appellants argue that, except for the limited reserved jurisdiction agreed upon in the settlement agreement, the superior court had no jurisdiction at all to proceed in the action. Citing *Harris v. Billings* (1993) 16 Cal.App.4th 1396, 1405, appellants argue that a voluntary dismissal of an entire action deprives the court of subject matter jurisdiction as well as personal jurisdiction of the parties. Nor can the court retain jurisdiction once it is lost. (*Viejo Bancorp, Inc. v. Wood* (1989) 217 Cal.App.3d 200, 207.) Because the reserved jurisdiction lay solely with Judge Biderman, appellants argue, Judge Mohr acted in excess of the reserved jurisdiction.

Katofsky gives the language of the settlement agreement a different interpretation. Rather than restricting jurisdiction to Judge Biderman, Katofsky argues, paragraph 6 was intended to permit the parties to file enforcement motions before Judge Biderman in addition to the assigned judge. In other words, Katofsky argues, the language was designed to extend jurisdiction to Judge Biderman, not restrict it solely to him.

In addressing the competing interpretations of the settlement agreement, we must apply the general rules of contract interpretation. (*Edwards v. Arthur Andersen LLP* (2008) 44 Cal.4th 937, 953 (*Edwards*).) "The goal of contractual interpretation is to determine and give effect to the mutual intention of the parties. [Citations.]" (*Safeco Ins. Co. v. Robert S.* (2001) 26 Cal.4th 758, 763.) Thus, "'a court's paramount consideration . . . is the parties' objective intent when they entered into [the contract].' [Citations.]" (*People ex rel. Lockyer v. R.J. Reynolds Tobacco Co.* (2003) 107 Cal.App.4th 516, 525 (*R.J. Reynolds*).) "A contract must be so interpreted as to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is

ascertainable and lawful." (Civ. Code, § 1636.) "'If a contract is capable of two constructions courts are bound to give such an interpretation as will make it lawful, operative, definite, reasonable, and capable of being carried into effect . . . .' [Citations.]" (*Edwards, supra*, at pp. 953-954.) In addition, "[a]n interpretation which gives effect is preferred to one which makes void." (Civ. Code, § 3541.)

In interpreting paragraph 6 of the settlement agreement, we must first address certain legal principles regarding jurisdiction. Jurisdiction lies in the court, not a particular judge. (*People v. Osslo* (1958) 50 Cal.2d 75, 103 (*Osslo*).) As the *Osslo* court noted: "An individual judge (as distinguished from a court) is not empowered to retain jurisdiction of a cause. The cause is before the court, not the individual judge of that court, and the jurisdiction which the judge exercises is the jurisdiction of the court, not of the judge." (*Id.* at p. 104.) Similarly, parties may not contract to limit jurisdiction to one particular judge of the superior court. Such a contractual provision cannot be enforced. (See, e.g., *In re Marriage of Matthews* (1980) 101 Cal.App.3d 811, 815-816 (*Matthews*) [judge's personal retention of authority was beyond his authority and an order to that effect was unenforceable].)

The trial court recognized this reality in its dismissal order. The order provides: "pursuant to the Settlement Agreement of the Beitler Parties and the Katofsky Parties, jurisdiction is reserved by the Los Angeles County Superior Court ('Court') whether pursuant to Code of Civil Procedure Section 664.6, or otherwise, to enforce or resolve disputes under the Settlement Agreement ('Reserved Jurisdiction')." There is no indication in the record that either party objected to this characterization of the reserved jurisdiction. The court's order reflects the only legally sound interpretation of the settlement agreement. In keeping with the principles of contract interpretation stated above, we find that the agreement must be interpreted to permit the parties to present their disputes to Judge Biderman, but not to restrict jurisdiction to him alone.[2]

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[2] We invited the parties to submit letter briefs discussing the law set forth in *Osslo*, and its application to this matter. In their letter brief, appellants point out that the principles set forth in *Osslo* have never been applied to render unenforceable a provision

Even if paragraph 6 was intended to restrict jurisdiction solely to Judge Biderman, this invalid restriction would not render the settlement agreement entirely void. The settlement agreement provides that "[s]hould any part, term or provision of this Agreement be declared or determined by any court to be illegal or invalid, such part, term or provision shall be deemed not to be a part of this Agreement and the remainder of the Agreement shall remain valid and enforceable." Thus, to the extent that the parties attempted to make an invalid agreement to reserve jurisdiction to one specific judge, rather than to the superior court in general, that invalid term is not a part of the agreement. However, the remainder of the agreement is enforceable. Per the trial court's dismissal order, to which no objections were lodged, jurisdiction was reserved in the superior court to enforce or resolve disputes under the settlement agreement.

In sum, we find that pursuant to the settlement agreement and the dismissal order, Judge Mohr had jurisdiction to grant relief to Katofsky.

B. Obligation not yet due

Appellants argue that, because the settlement agreement does not require either Beitler or FYJA to make the $4.7 million payment until October 2012, the trial court had no basis to enter a judgment against FYJA. Further, appellants argue, the trial court could not enter judgment against Beitler, because nothing in the settlement agreement or the trial court's reserved jurisdiction authorized entry of a judgment before an obligation comes due. To the contrary, the settlement agreement provided that Katofsky would receive a trust deed to secure the $4.7 million payment. By entering judgment against Beitler and FYJA for the $4.7 million payment, appellants argue, the trial court improperly created terms of the settlement and acted in excess of its limited reserved jurisdiction.

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in a settlement agreement vesting exclusive dispute resolution jurisdiction in a specific judge of the superior court. However, we find that the principles of jurisdiction discussed in *Osslo* require a finding that any attempt to reserve superior court jurisdiction with a specific judge -- whether initiated by the judge or the parties -- is impermissible and unenforceable.

Appellants cite no authority suggesting that the trial court committed error. Appellants first draw our attention to a case involving breach of contract. (*Coughlin v. Blair* (1953) 41 Cal.2d 587, 598 (*Coughlin*).) Appellants cite *Coughlin* for the proposition that where a breach is partial only, the injured party may recover damages for nonperformance only to the time of trial and may not recover damages for anticipated future nonperformance. Preliminarily, as appellants acknowledge, *Coughlin* involved an action for breach of contract, not a motion for enforcement under section 664.6. Further, the case explains that "[t]he circumstances of each case determine whether the injured party may treat a breach of contract as total." (*Coughlin*, at p. 599.) Under the circumstances of *Coughlin*, the trial court held:

> "Despite repeated requests by plaintiffs, defendants had not installed the improvements called for by the contract. It was uncertain when if ever they would do so. Although defendants had not expressly repudiated the contract, their conduct clearly justified plaintiffs' belief that performance was either unlikely or would be forthcoming only when it suited defendants' convenience. Plaintiffs were not required to endure that uncertainty or to await that convenience and were therefore justified in treating defendants' nonperformance as a total breach of the contract. [Citations.]"

(*Coughlin*, *supra*, 41 Cal.2d at pp. 599-600.)

Appellants make no effort to compare the facts of *Coughlin* with the facts of this matter. Thus, appellants have not convinced us that a court could not justifiably find that appellants' "performance was either unlikely or would be forthcoming only when it suited [appellants'] convenience." (*Coughlin*, *supra*, 41 Cal.2d at p. 599.)

Appellants also cite *Osumi v. Sutton* (2007) 151 Cal.App.4th 1355, 1357 (*Osumi*), emphasizing that in *Osumi* the court entered orders on the respondent's motion to enforce a settlement agreement, rather than a judgment. Here, appellants' point seems to be that it was not necessary for the trial court to enter a final comprehensive judgment on Katofsky's motion. However, appellants have failed to cite any authority suggesting that the court's decision to enter a final, comprehensive judgment was impermissible.

"'A judgment or order of the lower court is *presumed correct*. All intendments and presumptions are indulged to support it on matters as to which the record is silent, and error must be affirmatively shown.'" (*Denham v. Superior Court of Los Angeles County* (1970) 2 Cal.3d 557, 564.) Appellants have failed to show any error in the trial court's judgment.[3]

II. Attorney fee award

Beitler challenges the attorney fee award. He raises two issues concerning the attorney fee award. First, he argues that the settlement agreement did not authorize an award for attorney fees before Judge Mohr. Second, he argues that Katofsky did not carry his burden of proving a reasonable amount of attorney fees to which he was entitled. As set forth below, we conclude that no error occurred and therefore affirm the attorney fee award in full.

A. Authorization for fee award

Attorney fee awards are generally reviewed for abuse of discretion. However, Beitler's first contention is that the trial court lacked the authority as a matter of law to award attorney fees in any amount. Our review of this question is de novo. (*Connerly v. State Personnel Bd.* (2006) 37 Cal.4th 1169, 1175.)

When no statute or law otherwise entitles a prevailing party to recover attorney fees, the party seeking fees must show a contractual right to recover such fees. (See Code Civ. Proc., §§ 1021, 1033.5, subdivision (a)(10); *EnPalm, LLC v. Teitler* (2008) 162 Cal.App.4th 770, 774 (*EnPalm*).) The settlement agreement contains two clauses authorizing attorney fees. The first is paragraph 6, which provides, in relevant part:

> "In connection with any proceeding before Judge Biderman to enforce or interpret this Agreement, the prevailing party shall be entitled to

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[3] As to appellants' argument that FYJA should not have been included in the judgment, we find that this argument has been forfeited by FYJA. Appellants have failed to cite to any objection to the inclusion of FYJA in the judgment made in the trial court. The failure to preserve this point constitutes a forfeiture. (*North Coast Business Park v. Nielsen Construction Co.* (1993) 17 Cal.App.4th 22, 28-29 [""The law casts upon the party the duty of looking after his legal rights and of calling the judge's attention to any infringement of them""].)

recover its reasonable attorneys' fees and costs in such enforcement proceeding."

The second is paragraph 29, which provides, in full:

"Attorneys' Fees. Should any action be brought in connection with the enforcement or interpretation of, by reason of any claim, default or breach of, or in any way relating to, this Agreement or the settlement contained herein, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs."

Beitler argues that neither paragraph authorized an award of attorney fees in connection with Katofsky's motion under section 664.6.

1. Paragraph 6

As to paragraph 6, Beitler argues, the parties agreed that attorney fees would only be recoverable in proceedings before Judge Biderman under the limited reserved jurisdiction. Therefore, Beitler argues, Katofsky did not have the right to file the enforcement motion before Judge Mohr and then claim attorney fees in connection with the motion.

As explained above, to the extent that the parties attempted to restrict jurisdiction solely to Judge Biderman, such a restriction is unenforceable and invalid. (See, e.g., *Matthews, supra*, 101 Cal.App.3d at pp. 815-816.) To the extent that the parties attempted to restrict the ability to award attorney fees solely to Judge Biderman, such a restriction is also invalid. We therefore reject Beitler's argument that Judge Biderman alone had the jurisdiction to award attorney fees under paragraph 6.

2. Paragraph 29

As to paragraph 29, Beitler argues that it does not authorize an attorney fee award to Katofsky because Katofsky did not bring an "action." Beitler contends that the action in the superior court was dismissed with prejudice on October 29, 2010, upon entry of the dismissal order. Instead of bringing a new action, as contemplated under paragraph 29, appellants argue, Katofsky brought a motion under section 664.6. Therefore, Beitler reasons, Katofsky is not entitled to attorney fees under paragraph 29 of the agreement.

Beitler does not argue that paragraph 29 is ambiguous, or that the parties intended the word "action" to be given a special or unusual meaning. Therefore, in interpreting paragraph 29, we give the term "action" its plain and ordinary meaning. (See *R.J. Reynolds*, *supra*, 107 Cal.App.4th at p. 524.) As set forth in Code of Civil Procedure section 22:

> "An action is an ordinary proceeding in a court of justice by which one party prosecutes another for the declaration, enforcement, or protection of a right, the redress or prevention of a wrong, or the punishment of a public offense."

Katofsky's motion, and the proceedings that followed, fit within this definition. The statute makes no distinction between a lawsuit and a motion. By his motion, Katofsky prosecuted appellants for the enforcement of his right to payment under the settlement agreement. This was an action. Under paragraph 29 of the settlement agreement, Katofsky was entitled to an award of attorney fees.

B. Reasonableness of award

Finally, Beitler argues that even if the trial court had authority to enter a fee award in Katofsky's favor, Katofsky did not carry his burden of proving a reasonable sum of fees to which he may be entitled. Beitler contends that Katofsky's aggregate fee claim, which exceeded $200,000, was patently excessive for any motion on which Katofsky may legitimately be said to have prevailed. Ultimately, in its discretion, the court awarded Katofsky attorney fees in the total sum of $110,000.

"The trial court has broad discretion to determine the amount of a reasonable fee, and the award of such fees is governed by equitable principles. [Citation.]" (*EnPalm*, *supra*, 162 Cal.App.4th at p. 774.) The trial judge "'is the best judge of the value of professional services rendered in his court, and while his judgment is of course subject to review, it will not be disturbed unless the appellate court is convinced that it is clearly wrong.' [Citations.]" (*Serrano v. Priest* (1977) 20 Cal.3d 25, 49 (*Serrano*).)

Beitler argues that Katofsky ran up the costs of enforcing the settlement agreement with unnecessary proceedings. Katofsky could have simply filed a motion under section

664.6. Instead, Beitler argues, Katofsky racked up costs by filing, among other things: the initial ex parte which the trial court denied; the ex parte application to appoint Dunn as manager, which was eventually vacated; and an application for a contempt order against Dunn, which was denied. Beitler argues that he was the prevailing party -- or at least Katofsky was not the prevailing party -- with respect to these and other various orders sought by Katofsky. Further, Beitler argues, if any of Katofsky's fees might have been reasonable, it is impossible from the moving papers to ascertain the amount of those fees.

The trial court's order partially granting Katofsky's motion for fees reveals that the trial court considered the points that Beitler highlights on appeal. The court explained that "Katofsky is not without fault in this matter. He sought relief that was unavailable for various reasons." The court noted that, had Katofsky initially only sought to enforce the $2 million payment rather than the entire $6.7 million, Beitler's reaction most likely would have been different, and the proceedings less contentious. As the trial court later explained:

> "Beitler's reaction to relief appropriately sought may not have been as furious as his reaction to relief inappropriately sought, with the result that the follow-on time spent might have been less. The fact remains that much of Katofsky's work in enforcing the Settlement Agreement was due to his chosen litigation style."

For these reasons, the court stated its position that Katofsky's request for attorney fees was "too high." The court also noted that, while it did not take issue with the hourly rates of Katofsky's attorneys, it found "the records in support of those hours somewhat vague as to the work actually performed." Taking into consideration both of these issues, the court found "a large part of Katofsky's claimed lodestar unreasonable or unsupported by substantial evidence."

On the other hand, the court felt that "Beitler did everything he could to avoid payment of even the $2 million portion that he all but conceded was due." The court then concluded that "most of the work on this matter would have been, and was, necessary."

We find that the court appropriately weighed the issues before it in determining the appropriate amount of attorney fees. The court was aware of Katofsky's excessive litigation strategies, and took that factor into account. The court was troubled by the vague nature of some of the time entries submitted by Katofsky's attorneys. Still, the court found that much of the work was necessary, as Beitler did everything he could to avoid making the $2 million payment. We find no clear error in the trial court's reasoning, therefore we shall not disturb its ruling. (*Serrano*, *supra*, 20 Cal.3d at p. 49.)

DISPOSITION

The judgment and the fee order are affirmed in full. Respondent is awarded his costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, J.
CHAVEZ

We concur:

_____, P. J.
BOREN

_____, J
ASHMANN-GERST