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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

MOJGAN JADIDI

Plaintiff and Appellant,

v.

MICHAEL WAGNER,

Defendant and Respondent.

B331745

(Los Angeles County
Super. Ct. Nos. 21CHRO01463,
22VERO01937)

APPEAL from an order of the Superior Court of
Los Angeles County, Karen Moskowitz, Judge. Affirmed.

Mojgan Jadidi, in pro. per., for Plaintiff and Appellant.

Stone & Dean, Gregg S. Garfinkel and Leslie A. Blozan, for
Defendant and Respondent.

Petitioner Mojgan Jadidi appeals in propria persona from an order awarding respondent Michael Wagner attorney fees as the prevailing party in her civil harassment restraining order action.¹ Jadidi also filed two motions to strike portions of Wagner’s response brief. We deny the motions to strike and affirm the fee order.

BACKGROUND

On October 14, 2021, Jadidi filed an application for a civil harassment restraining order against Wagner, her neighbor; the matter was assigned case number 21CHRO01463 (the 1463 case). The trial court issued a temporary restraining order (TRO) partially granting the relief Jadidi requested and set the matter for hearing on November 10, 2021.

Both parties appeared at the November 10, 2021 hearing, at which Wagner requested and the court granted a continuance. In advance of the continued hearing, Wagner filed an answer in which he denied the alleged harassment and indicated that he would be seeking attorney fees.

The court subsequently continued the 1463 case several times at Wagner’s request, renewing the TRO each time.² On July 6, 2022, the court continued the 1463 case one final time and set the hearing for October 19, 2022.

¹ Jadidi raises numerous other issues in her opening brief but clarifies in her reply brief that the appeal “concerns a single, narrow issue: whether the trial court abused its discretion in awarding Respondent Michael Wagner . . . \$9,045 [*sic*] in attorney’s fees in . . . Case No. 21CHRO01463.”

² Many of the continuances were due to pending criminal investigations of Wagner, against whom Jadidi had filed several police reports.

On September 14, 2022, on its own motion, the court advanced the October 19, 2022 hearing to October 17, 2022. The court directed the clerk to give notice, and the record contains a “clerk’s certificate of mailing/notice of entry of order” dated September 16, 2022.

Wagner and his counsel appeared at the October 17, 2022 hearing. Jadidi did not. After waiting for approximately one hour for Jadidi to appear, the court dissolved the TRO and dismissed the 1463 case without prejudice. Jadidi did not appeal the dismissal of the 1463 case.

On April 7, 2023, Wagner filed a motion requesting \$13,607.55 in attorney fees and costs as the prevailing party, pursuant to Code of Civil Procedure sections 527.6, subdivision (s) and 1032.³

On May 10, 2023, Jadidi filed an opposition to the motion, arguing that she lacked the ability to pay, Wagner was not a prevailing party, and the fees sought were unreasonable. Jadidi filed a second opposition on May 11, 2023, and an amended opposition and additional supporting evidence on May 23, 2023.

On May 23, 2023, the parties appeared for a hearing before Judge Robert Sanchez DuFour, the judge who handled the proceedings and issued the order dismissing the 1463 case. No reporter was present when the matter was initially called. The minute order documenting the initial call stated that Judge Sanchez DuFour had read and considered the motion for attorney fees and Jadidi’s May 10, 2023 opposition thereto, but Jadidi’s subsequent filings were untimely and “will not be considered.” The minute order further stated, “[p]ursuant to Code of Civil

³ All further statutory references are to the Code of Civil Procedure unless otherwise indicated.

Procedure 527.6(s) and 1032 the Respondent is the prevailing party in this matter.”

Judge Sanchez DuFour recalled the matter later in the day; a reporter was present at that time. During that hearing, Judge Sanchez DuFour confirmed with the parties (1) that Jadidi filed a second petition for civil harassment restraining order against Wagner, case number 22VERO01937 (the 1937 case), after the 1463 case was dismissed, and (2) Wagner also requested attorney fees as the prevailing party in the 1937 case, which was being handled by Judge Karen Moskowitz. Over Wagner’s objection, Judge Sanchez DuFour concluded that it “makes sense for one judge to hear both of those requests for attorneys fees to make sure that one side is not under or overcompensated and also so you have the same judge making the same rationale so we don’t get conflicting orders.” Judge Sanchez DuFour accordingly continued the matter to May 26, 2023 to enable Judge Moskowitz to rule on the fee motion in the 1463 case as well as the 1937 case.

On May 26, 2023, the parties appeared before Judge Moskowitz for the continued hearing on the fee motion in the 1463 case. During the hearing, Judge Moskowitz took judicial notice of Judge Sanchez DuFour’s May 23, 2023 minute order and expressly stated, “he did find, pursuant to CCP 527.6(s) and 1032, the respondent is the prevailing party” in the 1463 case. Judge Moskowitz also stated that the “prevailing party has every right to bring a motion for attorney’s fees, which in a civil harassment context is discretionary with the court.” She heard oral arguments on the attorney fee motion from both sides, and confirmed that Jadidi was arguing that Wagner had been indemnified by their homeowner’s association; the billed fees

included repetitive charges and did not add up to the sum requested; the continuances in the 1463 case were unnecessary; counsel's hourly rate was unreasonable; and Jadidi could not afford to pay fees. Judge Moskowitz then took the matter under submission.

Judge Moskowitz issued her ruling on the fee motion in the 1463 case on June 14, 2023. The ruling stated:

“Respondent’s Motion for Attorneys Fees is Granted.

“Attorney fees and costs to be awarded to Responding Party Michael Wagner (‘RP’) in the total sum of \$9,757.55.

“As the prevailing party, RP is entitled to reasonable attorney fees pursuant to CCP section 527.6(s). The Court finds that the hourly rates charged by the attorney and legal staff were reasonable but that the total amount requested should be discounted for duplicative billable hours charged for the substantially similar motion for attorney fees in the related case Jadidi v. Wagner 22VERO01937. The Court further finds that the case relied upon by Petitioner at oral argument, *Beyers [sic] v. Cathcart* (1997) 57 Cal.App.4th 805, is inapposite. *Beyers [sic]* holds that the antiharassment injunctive relief set forth in CCP section 527.6 is not intended to provide an expedited procedure for resolving real property disputes. *Beyers [sic]* does not hold, as Petitioner appeared to argue, that anytime *[sic]* a Request for a Civil Harassment Restraining Order implicates the use or misuse of an easement that there cannot be a prevailing party for purposes of awarding attorney fees and costs. Petitioner’s other arguments against an award of attorney fees are similarly unavailing.

“Attorneys for RP to submit a Proposed Order in accord with this ruling.”

Jadidi filed her notice of appeal on July 14, 2023. The case summary indicates that an order after hearing was entered October 13, 2023. That order is not in the appellate record. We treat the premature notice of appeal as properly filed. (See Cal. Rules of Court, Rule 8.104(d).)

DISCUSSION

I. Governing Law

Section 527.6, enacted to protect individuals' state constitutional rights to pursue safety, happiness, and privacy, permits petitioners to seek injunctive relief against statutorily defined types of civil harassment. (See § 527.6, subds. (a)-(b); *Brekke v. Wills* (2005) 125 Cal.App.4th 1400, 1412.) It further provides that “[t]he prevailing party in an action brought pursuant to this section may be awarded court costs and attorney’s fees, if any.” (§ 527.6, subd. (s).)

Section 527.6 does not define the term “prevailing party.” Courts accordingly look to the general definition of the term provided in section 1032 for guidance. (*Adler v. Vaicius* (1993) 21 Cal.App.4th 1770, 1777; but see *DeSaulles v. Community Hospital of Monterey Peninsula* (2016) 62 Cal.4th 1140, 1147 [“The definition of ‘prevailing party’ in section 1032 is particular to that statute and does not necessarily apply to attorney fee statutes or other statutes that use the prevailing party concept.”].) Section 1032 defines “prevailing party” to include “the party with a net monetary recovery, a defendant in whose favor dismissal is entered, a defendant where neither plaintiff nor defendant obtains any relief, and a defendant as against those plaintiffs who do not recover any relief against the defendant.” (§ 1032, subd. (a)(4).) At bottom, the question is “which party . . . prevailed on a practical level.” (*Heather Farms Homeowners*

Association v. Robinson (1994) 21 Cal.App.4th 1568, 1574 [discussing various fee-shifting provisions, including section 527.6].)

The decision whether to award attorney fees under section 527.6 “is a matter committed to the discretion of the trial court.” (*Krug v. Maschmeier* (2009) 172 Cal.App.4th 796, 802.) The same is true of the amount of any fees awarded. (*Wash v. Banda-Wash* (2025) 108 Cal.App.5th 561, 568.) We review the trial court’s decisions for abuse of discretion. (*Adler v. Vaicius, supra*, 21 Cal.App.4th at p. 1777.)

On appeal, we presume the trial court’s order is correct. As the appellant, Jadidi bears the burden of demonstrating, “on the basis of the record presented to the appellate court, that the trial court committed an error that justifies reversal of the judgment.” (*Jameson v. Desta* (2018) 5 Cal.5th 594, 609.) To do so, she must supply cogent argument supported by legal analysis and citation to the record. (*City of Santa Maria v. Adam* (2012) 211 Cal.App.4th 266, 287.) Her status as a self-represented litigant does not lessen her burden or relieve her of the obligation to comply with procedural rules and requirements. (See *County of Sacramento v. Rawat* (2021) 65 Cal.App.5th 858, 861 [propria persona litigant “is entitled to the same but no greater consideration than other litigants”].)

II. Analysis

Jadidi first argues that the trial court erred by “awarding fees following dismissal for non-appearance without proper notice.” She asserts that it was “legally erroneous and fundamentally unfair” for the trial court to dismiss the 1463 case “without verifying notice or acknowledging the surrounding circumstances,” and the award of fees “compounds the due

process violation.” She further suggests the court improperly corrected the October 17, 2022 minute order nunc pro tunc “to alter the record and reflect Respondent’s presence at the hearing,” although the reporter’s transcript of that hearing included in the appellate record indicates Wagner and his counsel were both present.

These arguments concern the dismissal of the 1463 case. Jadidi did not appeal from that dismissal, nor did she identify the dismissal order or judgment in her instant notice of appeal. “Our jurisdiction on appeal is limited in scope to the notice of appeal and the judgment or order appealed from.” (*Polster, Inc. v. Swing* (1985) 164 Cal.App.3d 427, 436.) We accordingly do not reach the merits of these or her other contentions concerning issues distinct from the fee award in the 1463 case.⁴

Jadidi next argues that the trial court improperly awarded attorney fees to Wagner “without any finding that he prevailed on the merits” in the 1463 case. She contends that “prevailing party status must be determined based on whether a party achieved its objectives through litigation, not merely because a case was dismissed for procedural reasons.” Jadidi asserts that the legislative purpose of section 527.6 “would be eviscerated if a petitioner who fails to appear at a single hearing is automatically exposed to thousands of dollars in attorney’s fees.” We reject these contentions.

Pursuant to section 1032, which trial courts properly may consider in this context, “a defendant in whose favor dismissal is entered” may be deemed a prevailing party. None of the authorities Jadidi cites in her opening brief—or attempts to cite,

⁴ We also reiterate that Jadidi similarly restricted the scope of this appeal in her reply brief.

as the citations in many instances do not align with the case names—holds otherwise. *Krug v. Maschmeier*, *supra*, 172 Cal.App.4th at pp. 800-803, which she names but provides an inaccurate citation for, held that a prevailing defendant in a section 527.6 matter may recover fees even if the plaintiff filed a nonfrivolous petition in good faith. *Iskenderian v. Iskenderian* (2006) 144 Cal.App.4th 1162, 1164, which Jadidi does not name but provides the citation for, considered whether a trademark was properly assigned to a trust and distributed to trust beneficiaries. *Schraer v. Berkeley Property Owners' Association* (1989) 207 Cal.App.3d 719, 733, which she correctly cites, held that a trial court must consider relevant oral testimony during a merits hearing on a section 527.6 petition, and “cannot issue an injunction unless it finds, by clear and convincing evidence, that unlawful harassment already exists in fact.” It did not consider attorney fees.

The authorities Jadidi cites in her reply brief are equally unavailing. The case “*Kravitz v. Milor*” does not appear to exist,⁵ and the citation provided therewith is to *In re Jesse* (2017) 12 Cal.App.5th 611, 613, an “unusual case” concerning the interpretation of Welfare and Institutions Code section 388.1. *Lucky v. United Properties Investment, Inc. v. Lee* (2010) 185 Cal.App.4th 125 concerned fees, but in the context of a special motion to strike under section 425.16—and expressly stated that the prevailing party was entitled to fees after an order of

⁵ We located zero cases involving a party named Milor. We did, however, locate an unpublished case, *Kravitz v. Milner* (May 28, 2002 B152058) [nonpub. opn.], which concerned terminating sanctions for discovery violations in a legal malpractice matter.

dismissal as a matter of law under that provision. (See *id.* at p. 137.)

Jadidi likewise has not shown that fees were “automatically” imposed here, or would be in any section 527.6 case dismissed for failure to prosecute. Section 527.6, subdivision (s) vests the trial court discretion whether to award fees, and the court did not exercise that discretion here until after receiving briefing and holding a hearing. Jadidi has not demonstrated the court abused its discretion during those proceedings.

She also has not shown that the trial court abused its discretion by awarding fees in the amount of \$9,757.55. She contends the court “summarily awarded fees without requiring detailed explanation or adjustment, reflecting a failure to conduct a reasonableness review as required by law.” We disagree. The record reflects that Wagner requested \$13,607.55 in attorney fees and costs. During the hearing, the trial court expressly acknowledged Jadidi’s arguments that certain charges were “repeated over and over” and the billing rates were unreasonable, and stated, “I’m going to take another look at the billing statement.” The court’s subsequent order indicates that it did just that: it found “that the hourly rates charged by the attorney and legal staff were reasonable but that the total amount requested should be discounted for duplicative billable hours charged for the substantially similar motion for attorney fees in the related case” and awarded Wagner approximately 30 percent less than he requested. The billing statements are included in the appellate record, but Jadidi has not cited to any of them or otherwise attempted to demonstrate why the amount awarded was outside the bounds of reason.

In her reply brief, Jadidi expressly abandons the remainder of the arguments made in her opening brief, which do not concern the 1463 case fee award. We do not consider arguments she raises for the first time in her reply brief. (See *Doe v. McLaughlin* (2022) 83 Cal.App.5th 640, 653.)

Jadidi's two motions to strike portions of Wagner's response brief and request that he be sanctioned are denied. (See Cal. Rules of Court, rule 8.204(e)(2).) As noted above, we have limited our consideration to matters concerning the fee award in the 1463 case.

DISPOSITION

The order is affirmed. Wagner is awarded costs on appeal.

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COLLINS, J.

We concur:

ZUKIN, P. J.

TAMZARIAN, J.