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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

2503 HASTE STREET OWNER, LLC,

Plaintiff and Respondent,

v.

FANX, INC.,

Defendant and Appellant.

A170902

(Alameda County

Super. Ct. No. 23-CV-034357)

Defendant FanX, Inc. (FanX), a commercial tenant, appeals from the trial court's award of \$94,344 in attorney fees to the landlord, plaintiff and respondent 2503 Haste Street Owner, LLC (Owner), following an unlawful detainer judgment entered in favor of Owner. FanX argues that the court abused its discretion in awarding any attorney fees because Owner submitted redacted attorney billing records in support of its fee request without showing that the records contained privileged information justifying the redactions. We disagree and affirm.

I. BACKGROUND¹

Owner filed an action in unlawful detainer against FanX, its commercial tenant. Judgment was entered in favor of Owner after the trial

¹ We recite only those facts that are relevant to the issue of attorney fees presented in this appeal. In a separate opinion, we reject FanX's appeal

court granted Owner's motion for summary judgment. The court thereafter heard and denied FanX's motion to set aside the judgment and to vacate the judgment.

Owner then moved to recover \$142,842 in attorney fees pursuant to the fee provision in the parties' lease. In support, Owner included a declaration by Owner's attorney, Timothy McGinity, which detailed the history of the parties' litigation and the increased fees and costs caused by FanX's "tactics." The declaration summarized the work performed and hours spent on this matter by McGinity and his two associates, Grayson Marshall and Mikayla O'Neal. The motion also attached an "abstract," consisting of attorney billing records that were heavily redacted "to preserve attorney client privilege and work product." FanX opposed, requesting that all fees be denied.

On April 3, 2024, the trial court issued a tentative ruling denying Owner's motion without prejudice. The ruling first noted that Owner did not present declarations from Marshall or O'Neal regarding "the work that they performed and the appropriateness of their time entries." The ruling continued that the billing records submitted were "so heavily redacted that the [c]ourt cannot determine whether the work was reasonably necessary or whether the amount of time spent doing the work was reasonable." Two days later, Marshall and O'Neal submitted declarations detailing the work they performed and the hours they spent on various tasks.

At the hearing on April 8, 2024, Owner requested a brief continuance so that it could supplement its documents in support of its fee motion. Owner's attorney proposed providing "abstracts [of the billing records] with more details." The trial court responded, "[i]f the abstracts are detailed

from the trial court's grant of summary judgment and denial of FanX's motion to vacate or set aside the judgment.

enough that could be sufficient.” The court then vacated its tentative ruling and continued the hearing so Owner could file additional documents and so FanX could file a supplemental opposition.

Owner subsequently submitted a supplemental declaration by McGinity, which attached an amended and less redacted version of the abstract. The declaration explained that this amended “abstract” consisted of the attorney billing records with references to the content of internal and client communications as well as certain research topics removed from the description section. FanX opposed and argued that the abstract violated the secondary evidence rule.

At the continued hearing the following month, the trial court expressed concern that Owner’s motion improperly included attorney fees for work performed after judgment had been entered. In response, Owner agreed to limit its fee request to \$94,344 for work performed up until the entry of judgment. Based on this limitation, the court granted Owner’s motion, reasoning that it was adequately supported by “the unredacted abstract and counsel’s declarations.” It further noted that FanX’s “aggressive tactics in the defense of this case required [Owner’s] attorneys to perform more work than usual.” FanX timely appealed the court’s order awarding \$94,344 in fees to Owner. We consolidated this appeal with FanX’s appeal in case No. A170061 solely for purposes of oral argument.

II. DISCUSSION

A. Standard of Review

“A trial court’s exercise of discretion concerning an award of attorney fees will not be reversed unless there is a manifest abuse of discretion.” (*Nichols v. City of Taft* (2007) 155 Cal.App.4th 1233, 1239.) “Accordingly, there is no question our review must be highly deferential to the views of the

trial court.” (*Ibid.*) At the same time, a court’s discretion “may not be exercised whimsically, and reversal is required where there is no reasonable basis for the ruling or when the . . . court has applied the wrong test to determine if the statutory requirements were satisfied.” (*Flannery v. Cal. Highway Patrol* (1998) 61 Cal.App.4th 629, 634.)

B. Analysis

FanX contends that the trial court abused its discretion in awarding any attorney fees because Owner only submitted an abbreviated and redacted abstract of its billing records without demonstrating that its original billing records contained privileged information that justified their withholding. But Owner had no obligation to make such a showing because its abstract and declarations amply supported the court’s fee award.² We therefore reject FanX’s contention.

An attorney fee award is calculated using the lodestar method. Under that method, the trial court “ ‘first multipl[ies] the number of hours reasonably expended on the litigation by a reasonable hourly rate of compensation.’ ” (*Syers Properties III, Inc. v. Rankin* (2014) 226 Cal.App.4th 691, 697.) In calculating the number of hours reasonably expended, “[i]t is well established that ‘California courts do not require detailed time records.’ ” (*Id.* at p. 698.) Instead, “ ‘courts have discretion to award fees based on declarations of counsel describing the work they have done and the court’s own view of the number of hours reasonably spent.’ ” (*Ibid.*) Indeed, the

² We dismiss FanX’s reliance on *Los Angeles County Bd. of Supervisors v. Superior Court* (2016) 2 Cal.5th 282, 288, as the issue there was whether law firm invoices were “within the scope of the attorney-client privilege, and therefore exempt from disclosure under the California Public Records Act.” It has no bearing on the issue here of whether the amended abstract, coupled with the attorney declarations, was sufficient to support the attorney fee award.

court is in the best position to value the services rendered by the attorneys in its courtroom. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132 (*Ketchum*).)

In granting Owner's motion, the trial court relied on the amended abstract submitted by Owner's attorneys and three attorney declarations detailing the work that each attorney performed in this matter, the number of hours they spent on various categories of work, and their hourly rates. This was more than sufficient to support the court's fee award. (See *Concepcion v. Amscan Holdings, Inc.* (2014) 223 Cal.App.4th 1309, 1325 ["the burden of proving the reasonable number of hours [counsel] devoted to the litigation" can be met "through declarations or redacted or unredacted timesheets or billing records"].) Indeed, detailed billing records are not necessary "to support an award of attorney fees" as "[d]eclarations of counsel setting forth the reasonable hourly rate, the number of hours worked and the tasks performed are sufficient." (*Id.* at p. 1324.)

The trial court's award of \$94,344 in attorney fees (after excluding fees incurred after the entry of judgment) is further supported by the court's reliance on FanX's "aggressive tactics"—i.e., propounding a "substantial amount of discovery" and filing "several voluminous motions in support of [its] claim that the lease term never actually commenced." According to the court, those tactics forced Owner's three attorneys to expend more time than usual on the litigation. FanX does not dispute this. Thus, the court properly exercised its discretion when it awarded those fees, as it " " "is the best judge of the value of professional services rendered in [its] court." ' ' " (*Ketchum, supra*, 24 Cal.4th at p. 1132.)

Finally, we reject FanX's argument that the amended abstract should have been excluded under the secondary evidence rule. That rule does not apply because the abstract was printed out directly from the computerized

billing system of Owner’s attorneys. (Evid. Code, § 255 [accurate printout of data stored in a computer or similar device is an “ ‘original’ ”—and not “secondary evidence”].) And even if the rule did apply, the abstract should not have been excluded as secondary evidence because there is no genuine dispute regarding its contents. (See *id.*, § 1521, subd. (a)(1) [“secondary evidence of the content of writing” should only be excluded if “[a] genuine dispute exists concerning material terms of the writing”].) Although FanX disputes the merits of the underlying unlawful detainer and Owner’s entitlement to attorney fees altogether, it does not dispute the *accuracy* of the abstract itself. Finally, because the attorney declarations, by themselves, provided a sufficient basis for the attorney fee award, the trial court’s failure to exclude the redacted abstract, even if erroneous, does not warrant reversal.

Accordingly, the trial court did not abuse its discretion in awarding \$94,344 in attorney fees to Owner.

III. DISPOSITION

The order granting Owner’s motion for attorney fees is affirmed.

CHOU, J.

We concur.

SIMONS, Acting P. J.
BURNS, J.

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