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IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

MITRA EFTEKHARI

Plaintiff and Respondent,

v.

HOURIEH FARD,

Defendant and Appellant.

B271555

(Los Angeles County
Super. Ct. No. PS017474
[Consolidated with case Nos.
PS017475, PS017510,
PS017511, & PS017536])

APPEAL from an order of the Superior Court of Los Angeles County, Lloyd C. Loomis, Judge. Affirmed.

Robert F. Smith, for Defendant and Appellant.
The Community Law Firm, Atyria S. Clark, for
Plaintiff and Respondent.

Defendant and appellant Hourieh N. Fard appeals from an order after judgment awarding attorney fees to plaintiff and respondent Mitra Eftekhari.¹ Fard contends that the court lacked authority to award attorney fees because Eftekhari's request for a civil harassment restraining order did not request attorney fees. We affirm.

Civil harassment claims

In the context of an ongoing dispute in the fall of 2015, Fard and Eftekhari filed competing requests for civil harassment restraining orders under Code of Civil Procedure, section 527.6.² The court conducted hearings over six different days between November 2015 and February 2016.

¹ Fard filed two separate notices of appeal. The first notice, filed on April 8, 2016, appealed the judgment only. The second notice, filed on April 19, 2016, appealed the order awarding attorney fees. Appellant's opening brief concedes that other litigation has rendered moot her appeal of the underlying judgment, and that the current appeal is focused on the attorney fee award.

² All further statutory references are to the Code of Civil Procedure unless otherwise stated.

On February 2, 2016, the court issued an order denying a restraining order to Fard and granting Eftekhari's request for a civil harassment restraining order.³ The court found Fard was a landlord using claims of civil harassment to avoid filing an unlawful detainer action against her tenants, including Eftekhari, and it rejected Fard's testimony as not credible. In granting Eftekhari's request for a restraining order, it found Eftekhari and other tenants to be credible witnesses whose testimony established that Fard had engaged in harassing conduct.

Attorney fee award

As part of its February 2, 2016 ruling, the trial court set a briefing schedule for Eftekhari and one other party (Marjan Vafa) to file a motion for attorney fees. Counsel for Eftekhari and Vafa sought \$8,125 in attorney fees. Fard's opposition argued, among other things, that fees could not be awarded if they were not part of the complaint or original petition, and that the fees requested were not reasonable.

³ The court's ruling consolidated a number of cases involving related claims and litigants. The cases consolidated under PS017474 (filed September 25, 2015, by Eftekhari) included PS017475 (filed September 25, 2015, by Marjan Vafa), PS017510 and PS017511 (both filed October 1, 2015, by Fard), and PS017536 (filed October 9, 2015, by Fard).

On April 8, 2016, the trial court granted Eftekhari's attorney fees request, noting that the amount was reasonable under the circumstances and finding the arguments presented in Fard's opposition meritless.⁴

The instant appeal

On April 8, 2016, Fard filed a notice of appeal from the trial court's February 11, 2016 order. On April 19, 2016, Fard filed an amended notice of appeal appealing the court's April 8, 2016 postjudgment award of attorney fees. After a number of default notices, at least one order dismissing the April 8, 2016 appeal, an order granting relief, and a later order to show cause, this court discharged the order to show cause why fees had not been paid and stated, "There is a single appeal albeit two notice[s] of appeal were filed." (*Fard v. Eftekhari* (Jan. 9, 2017, B271555) [nonpub. order].)

⁴ The Appellant's Appendix includes only the minute order which simply states, "The Court makes its ruling regarding attorney fees, which the order is attached to this minute order." Appellant's appendix does not include the attachment which contains the court's reasoning and grant of attorney fees.

DISCUSSION

Jurisdiction

Respondent's brief asserts that jurisdiction is lacking based on the absence of a civil case information statement for the April 19, 2016 notice of appeal.⁵

The general rule is that “[a]n appellate court has no jurisdiction to review an award of attorney fees made after entry of the judgment, unless the order is separately appealed.” [Citation.]” (*Colony Hill v. Ghamaty* (2006) 143 Cal.App.4th 1156, 1171.) “A postjudgment order which awards or denies costs or attorney’s fees is separately appealable. [Citations.] . . . [I]f no appeal is taken from such an order, the appellate court has no jurisdiction to review it. [Citation.]” (*Norman I. Krug Real Estate Investments, Inc. v. Praszker* (1990) 220 Cal.App.3d 35, 46.)

Because Fard filed two separate notices of appeal, and this court’s January 9, 2017 order establishes there is a single appeal with two notices of appeal, we conclude that the April 19, 2016 notice of appeal supports this court’s

⁵ Eftekhari makes this point in her statement of the case section, rather than in the argument section of her brief. This approach violates the requirement that arguments be placed “under a separate heading or subheading summarizing the point.” (Cal. Rules of Court, rule 8.204(a)(1)(B); *Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 542.) We nevertheless address the substance of the argument.

jurisdiction to review the court's April 8, 2016 postjudgment order.

Standard of review

“On review of an award of attorney fees after trial, the normal standard of review is abuse of discretion. However, de novo review of such a trial court order is warranted where the determination of whether the criteria for an award of attorney fees and costs in this context have been satisfied amounts to statutory construction and a question of law.” (*Carver v. Chevron U.S.A., Inc.* (2002) 97 Cal.App.4th 132, 142.)

Attorney fee award

Fard contends that because none of the parties' petitions for civil harassment restraining orders contained a request for attorney fees, the court lacked authority to award attorney fees to Eftekhari. All of the case law Fard cites arises in the context of a default judgment. (See, e.g., *Becker v. S.P.V. Construction Co.* (1980) 27 Cal.3d 489, 494–495 [default judgment, including an award of attorney fees, was in excess of court's jurisdiction to the extent amount judgment exceeded damages prayed for in complaint]; *Wiley v. Rhodes* (1990) 223 Cal.App.3d 1470, 1473–1475 [reversing default judgment's award of punitive damages and attorney fees where neither were identified in complaint].) Section

580, subdivision (a), limits a trial court's jurisdiction to grant relief on a default judgment to the amount stated in the complaint. (*Greenup v. Rodman* (1986) 42 Cal.3d 822, 826–827; *Rodriguez v. Cho* (2015) 236 Cal.App.4th 742, 752.)

Fard offers no authority, and we are aware of none, applying the limitation of section 580 in the context of a contested case where the prevailing party has successfully filed a motion for attorney fees. (See *Singleton v. Perry* (1955) 45 Cal.2d 489, 498–499 [plaintiff in a contested case may secure relief greater than that demanded in the complaint]; 4 Witkin, Cal. Procedure (5th ed. 2008) Pleading, § 495, p. 633 [a missing prayer may be cured by amendment and recovery is permissible without a specific prayer].) Section 527.6, subdivision (s), gives the court authority to award court costs and attorney fees to the prevailing party in a civil harassment proceeding. Because Eftekhari prevailed on her request for a restraining order under section 527.6, the trial court had authority to award attorney fees.

Fard also makes a number of policy arguments about why the lower court should not have awarded fees in such a large amount for a civil harassment proceeding. She argues such fee awards would deter future parties from using the courts, and this deterrent effect would apply disproportionately to poor litigants. Parties might instead turn to self-help remedies. She also argues large fee awards foster additional litigation between the parties, pointing out that the current parties have been involved in multiple

additional lawsuits. Finally, she argues that scholarly articles point out that large fee awards can give the impression that the law is not impartial, because the losing party is forced to bear the burden of an attorney fee award. Whatever merit these arguments may have in certain situations, none persuade us that the trial court abused its discretion in awarding attorney fees to Eftekhari after a six-day civil harassment trial.

DISPOSITION

The order awarding attorney fees is affirmed. Costs on appeal are awarded to respondent Mitra Eftekhari.

KRIEGLER, Acting P.J.

We concur:

BAKER, J.

KUMAR, J.*

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