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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

HARRISON WOLF CONSULTING, INC.,	
Plaintiff and Appellant,	G044983
v.	(Super. Ct. No. 30-2010-00349995)
JOSHUA R. REYES,	O P I N I O N
Defendant and Respondent.	

Appeal from a judgment of the Superior Court of Orange County, Franz E. Miller, Judge. Affirmed.

The Law Offices of Michael V. Wright & Associates and Michael V. Wright for Plaintiff and Appellant.

Law Office of Thomas K. Bourke and Thomas K. Bourke for Defendant and Respondent.

* * *

INTRODUCTION

After granting a motion to dismiss pursuant to Code of Civil Procedure section 425.16, commonly referred to as the anti-SLAPP (strategic lawsuit against public participation) statute (the anti-SLAPP motion), the trial court granted the prevailing defendant's motion for an award of attorney fees. The prevailing defendant had requested in excess of $135,000 in fees; the trial court reduced that amount to less than $39,000, finding that a significant portion of the fees requested was not incurred in connection with the anti-SLAPP motion. Plaintiff appeals.

We affirm. The trial court acted well within its discretion in awarding attorney fees of $38,872.50.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

In February 2010, Bronwen R. Gulledge resigned from her employment with Harrison Wolf Consulting, Inc. (Harrison Wolf). Harrison Wolf sued Gulledge;[1] Harrison Wolf later obtained a temporary restraining order and a preliminary injunction against her. Joshua R. Reyes appeared as Gulledge's attorney at the hearings concerning injunctive relief in the case.

On April 13, Harrison Wolf filed a first amended complaint naming Reyes as an additional defendant to all causes of action, and adding a cause of action for conspiracy. Reyes filed the anti-SLAPP motion, which the trial court granted. (The order granting the anti-SLAPP motion is not at issue on this appeal.)

Reyes filed a motion for attorney fees; the motion sought a total award of $135,906.88. Following briefing and a hearing, the trial court awarded Reyes $38,872.50

[1] The claims against Gulledge were for breach of contract, fraud, breach of fiduciary duty, intentional interference with contractual relations and with prospective economic advantage, misappropriation of trade secrets, unjust enrichment, violation of Business and Professions Code section 17200 et seq., and for an accounting and injunctive relief.

in attorney fees. Judgment in favor of Reyes was entered, and Harrison Wolf timely appealed.

DISCUSSION

As a prevailing defendant on an anti-SLAPP motion, Reyes was entitled to recover his attorney fees incurred in bringing that motion. (Code Civ. Proc., § 425.16, subd. (c)(1).) We review the amount of fees awarded for an abuse of discretion. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1130; *Serrano v. Priest* (1977) 20 Cal.3d 25, 49; *Christian Research Institute v. Alnor* (2008) 165 Cal.App.4th 1315, 1322 (*Christian Research*).)

Harrison Wolf's principal argument on appeal is that the fees requested by Reyes in his motion for attorney fees were excessive and unreasonable. Harrison Wolf fails to raise any argument that the amount actually awarded by the trial court—which was almost $100,000 less than had been requested—is in any way excessive, unreasonable, or an abuse of the trial court's discretion. The trial court's order reflects that it reviewed the billing records submitted by Reyes, and culled out all entries attributable to the anti-SLAPP motion. The trial court added the fees incurred in bringing the motion for attorney fees to the fees incurred directly in connection with the anti-SLAPP motion.

Harrison Wolf relies primarily on *Christian Research*, *supra*, 165 Cal.App.4th 1315. We conclude that case favors affirmance of the trial court's order. In *Christian Research*, the defendant prevailing on an anti-SLAPP motion submitted a motion for attorney fees, seeking more than $250,000. (*Id.* at pp. 1319-1320.) The trial court concluded, "counsel leavened the fee request with noncompensable hours and vague, indecipherable billing statements, destroying the credibility of the submission and therefore justifying a severe reduction" (*id.* at pp. 1318-1319), and awarded the defendant $21,300 in attorney fees (*id.* at pp. 1319, 1320). The defendant appealed, and the

appellate court affirmed, concluding the trial court acted well within its discretion by reducing the fees sought by the defendant. (*Id.* at pp. 1323-1329.) The *Christian Research* court acknowledged that when a fee request is inflated or excessive, the trial court "'has broad discretion to adjust the fee downward or deny an unreasonable fee altogether.'" (*Id.* at p. 1322, quoting *Ketchum v. Moses*, *supra*, 24 Cal.4th at p. 1138.) Harrison Wolf suggests that the trial court in this case should have reduced the attorney fees award to zero. However, it is settled authority that a trial court is not required to deny an unreasonable fee request altogether; to the contrary, the law leaves the decision on whether and how much to reduce the requested fees squarely within the trial court's discretion. In the present case, the trial court quite properly exercised its discretion in significantly reducing the fees requested by Reyes.

Harrison Wolf also argues that it acted in good faith in naming Reyes as a defendant in the lawsuit, and that if Reyes had discussed with Harrison Wolf's counsel the merits (or lack thereof) of the causes of action against him, the anti-SLAPP motion might have been avoided. An award of attorney fees to the successful defendant on an anti-SLAPP motion is generally mandatory. (*Ketchum v. Moses*, *supra*, 24 Cal.4th at pp. 1131, 1137-1138; *Christian Research*, *supra*, 165 Cal.App.4th at p. 1321.) Harrison Wolf's good faith, or Reyes' failure to attempt to discuss the case before filing the anti-SLAPP motion, is irrelevant.

We conclude the trial court did not abuse its discretion in awarding a total of $38,872.50 in attorney fees to Reyes.

In his respondent's brief, Reyes suggests this court issue sanctions against Harrison Wolf for filing a frivolous appeal. Reyes did not, however, file the required motion for sanctions pursuant to California Rules of Court, rule 8.276(a)(1). We therefore deny Reyes's request for sanctions. This ruling does not affect either party's right to request attorney fees on appeal through a properly noticed motion in the trial court.

DISPOSITION

The judgment is affirmed. Respondent to recover costs on appeal.

FYBEL, J.

WE CONCUR:

O'LEARY, P. J.

MOORE, J.