

Thursday, July 30, 2020

TO REQUEST A HEARING ON ANY MATTER ON THIS CALENDAR, YOU MUST CALL THE COURT AT (209) 257-2692 BY 4:00 P.M. ON THE DAY PRECEDING THE HEARING. NOTICE OF THE INTENTION TO APPEAR MUST ALSO BE GIVEN TO ALL OTHER PARTIES.

IF THE CLERK IS NOT NOTIFIED OF A PARTY'S INTENTION TO APPEAR, THERE WILL BE NO HEARING AND THE TENTATIVE RULING WILL BECOME THE ORDER OF THE COURT. NO FURTHER NOTICE OF THE COURT'S RULING WILL BE PROVIDED.

19-CVC-11315

CAVANA, JOE

VS.

INGRAM, KAREN

CIVIL MISCELLANEOUS MOTION - DEFENDANTS

TENTATIVE RULING:

The following tentative ruling is issued by the Honorable Judge Robert Moody:

Defendant's motion for attorney's fees and costs is GRANTED, in part.

CCP § 425.16(c)(1) provides "...a prevailing defendant on a special motion to strike shall be entitled to recover his or her attorney's fees and costs".

The attorney bears the burden of proof as to reasonableness of any fee claim. This burden requires competent evidence as to the nature and value of the services rendered. (*Martino v. Denevi* (1986) 182 Cal.App.3d 553, 559.) "Testimony of an attorney as to the number of hours worked on a particular case is sufficient evidence to support an award of attorney fees, even in the absence of detailed time records." (*Id.* at 559.) Here, Defendant's attorney submitted a lodestar-based request for attorney fees, supported by declaration and attaching billing records. This satisfies the requirement of competent evidence as to the nature and value of the services rendered. (*Id.*)

Defendant's counsel billed at a rate of \$325 per hour. A prevailing attorney is entitled to be compensated at the hourly rate reflecting the reasonable market value for his services in the community. (*City of Oakland v. Oakland Raiders* (1988) 203 Cal.App.3d 78, 82.) The "reasonable value of attorney services" is defined as "the comparable salaries earned by private attorneys with similar experience and expertise in equivalent litigation" or the "hourly amount to which attorneys of like skill in the area would typically be entitled." (*Serrano IV, supra*, 32 Cal.3d at 640, fn. 31.)

Ultimately, the amount of the attorney fees to be awarded is a matter within the sound discretion of the trial court. The trial court is the best judge of the value of professional services rendered in its court, and while its judgment is subject to appellate review, that determination will not be disturbed on appeal unless the court is convinced it is clearly wrong. (*Akins* at 1134 (citing *Serrano v. Priest* (1977) 20 Cal.3d 25, 49).

The court finds the hourly rate of \$325 requested by Defendant's counsel to be reasonable and supportable, however, reduces the number of hours by 12.8, for a total of 34.6 hours.

The court awards Defendant their attorney's fees in the amount of \$ 11,830 and costs in the amount of \$645 for a total attorney's fees and costs of \$12,475.

Moving party to prepare an order consistent with this ruling.

Unless a hearing is requested, this ruling is effective immediately. Neither further notice of the ruling nor a formal order per CRC 3.1312 is required.