



Alerts

California Court Awards Attorneys' Fees in Legal Malpractice Case Based on Rates that Exceeded the Actual Amounts Billed

July 17, 2014

Lawyers for the Profession® Alert

Syers Properties III, Inc. v. Rankin, ___ Cal.Rptr.3d ___, 2014 WL 2192362 (Cal.App. 1st Dist.)

Brief Summary

After the trial court granted the defendants' nonsuit motion, the court awarded the defendants' attorneys' fees. The court allowed the calculation of reasonable hourly rates to be based on the *Laffey* Matrix, which amounted to higher billable rates than defense counsel's actual billable rates. On appeal, the court upheld the trial court's award of attorneys' fees and rejected the plaintiff's argument that the actual rates billed by defense counsel represented the maximum reasonable hourly rate.

Complete Summary

Plaintiff sued defendants for legal malpractice and breach of fiduciary duty arising out of defendants' representation of plaintiff in a construction defect case over the course of seven years. After the court granted the defendants' nonsuit motion, defendants sought their attorneys' fees as the prevailing parties pursuant to the attorney-client fee agreement with plaintiff and California Civil Code section 1717. Defendants sought a total of \$843,245.27 for the combined 2,324.5 hours of attorney and paralegal time spent defending the case.

In determining the "reasonable rate of pay," the defense attorneys relied on the *Laffey* Matrix. The *Laffey* Matrix "is an official source of attorney rates based in the District of Columbia area, which can be adjusted to the San Francisco Bay Area by using the Locality Pay Tables." The *Laffey* Matrix provided a nine percent upward rate over rates in the District of Columbia. The lead defense attorney declared that the *Laffey* Matrix adjusted his rate to \$517.75. That rate represented "a reasonable rate for competent trial counsel of his education and experience, as well as the complexity and specialization of these particular proceedings and the claims alleged therein." He further declared that the *Laffey* Matrix adjusted the hourly rates to \$299.75 for three other defense attorneys and \$147.15 for the four paralegals working on the case. In granting the fee motion, the court noted that "the cost of sophisticated legal work is high" and awarded defendants the sum of \$843,245.27 based on the hours and rates requested by defendants.

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On appeal, plaintiff argued that the trial court abused its discretion in adopting "reasonable" rates that far exceeded the actual rates billed the insurance company footing the bill for the defense. In affirming the trial court's award of fees, the appellate court noted that there was no requirement that the reasonable market rate mirror the actual rates billed. The court cited to *Chacon v. Litke*, 181 Cal.App.4th 1234 (1st Dist. 2010) for the proposition that "the reasonable market value of the attorney's services is the measure of a reasonable hourly rate. This standard applies regardless of whether the attorneys claiming fees charge nothing for their services, charge at below-market or discounted rates, represent the client on a straight contingent fee basis, or are in-house counsel." Accordingly, defendants were awarded the sum of \$843,245.27 based on the hours and rates requested by defendants.

Significance of Opinion

This case is significant because the court granted attorneys' fees calculated at higher billable rates than those actually billed by defense counsel to the insurance carrier.

For more information, please contact [Terrence P. McAvoy](#) or [Katherine G. Schnake](#).

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