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IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION IV

FILED
COURT OF CIVIL APPEALS
STATE OF OKLAHOMA

SEP - 9 2026

SELDEN JONES
CLERK

CONNER L. HELMS & ASSOCIATES, P.C., d/b/a Helms Law Firm, an Oklahoma Corporation,

Plaintiff/Appellee,

vs.

KELLEY RIEBOLD, individually,

Defendant/Appellant.

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Case No. 123,496
(Consolidated with
Case No. 123,497)

APPEAL FROM THE DISTRICT COURT OF
OKLAHOMA COUNTY, OKLAHOMA

HONORABLE ANTHONY L. BONNER, DISTRICT JUDGE

VACATED AND REMANDED

Conner L. Helms
Carly E. McKenny
HELMS LAW FIRM
Oklahoma City, Oklahoma — For Plaintiff/Appellee

George H. Brown
Dane J. Flesch
Brittney M. Flesch
BROWN & FLESCH, PLLC
Oklahoma City, Oklahoma — For Defendant/Appellant

OPINION BY GREGORY C. BLACKWELL, PRESIDING JUDGE:

¶1 Kelley Riebold appeals from the court's grant of summary judgment in favor of Conner L. Helms & Associates, P.C. (the Helms Law Firm or Helms), on its breach of contract claim against Mr. Riebold, alleging that Mr. Riebold failed

to pay all invoices the firm issued. Indeed, from the record presented, it appears that Mr. Riebold has paid just $70,000 of the $285,000+ billed to him. However, upon careful review, we vacate the summary judgment entered, as Mr. Riebold contested the reasonableness of the totality of the fees charged, making summary judgment inappropriate. We remand for further proceedings consistent with this opinion.

I.

¶2 In May 2021, Mr. Riebold hired the Helms Law Firm to represent him in a custody dispute between himself and his ex-wife, including an appeal of the divorce decree. As a part of this representation, Mr. Riebold signed a contract which provided that the services of Mr. Helms would be billed at a rate of $600 per hour and that other attorneys would be billed at hourly rates ranging from $250 to $600 per hour. The contract also provided that interest would be charged on any unpaid amount after the first of each month at the rate of 18% per year. The firm billed Mr. Riebold monthly, and the contract stated that if he disagreed with any invoice, a written dispute must be made within thirty days from receipt of the invoice.

¶3 Mr. Riebold, in total, paid the Helms Law Firm more than $70,000, but fell behind on payments pursuant to the parties' contract. Per the petition, he eventually accrued an amount due of over $375,000, being some $275,000 in fees and $100,000 in interest. In January 2024, the Helms Law Firm filed a breach of contract action against Mr. Riebold seeking to recover this full amount. Mr.

Riebold filed an answer admitting the existence of the contract, but stating that he believed he had already paid a reasonable amount for the services rendered.

¶4 The firm filed a motion for summary judgment, with a supporting affidavit of Mr. Helms, alleging that the material facts in this case were undisputed and that it was entitled to a judgment as a matter of law. Helms sought a judgment of "$265,876.45 together with 18% interest ...." Mr. Riebold filed a short response, alleging that the number of hours charged was not reasonable under the circumstances of this case and that several individuals from the firm worked and billed on the case causing excessive billing to Mr. Riebold. A summary judgment hearing was held, but no transcript of the hearing is contained in the appellate record. The court issued an order granting summary judgment in favor of the Helms Law Firm for "$285,817.19, together with 18% interest ...." ROA, Tab 7, *Order Granting Plaintiff's Motion for Summary Judgement*, pg. 3.[1] The court made no finding as to whether the charges were reasonable under the circumstances and specifically found that Mr. Riebold's affidavit was not admissible because Mr. Riebold "is not a lawyer and is not qualified to testify on whether attorney

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[1] The increase from the request in the summary judgment motion is not fully explained on this record but is likely accounted for by Helm's request of $3,549.56 for fees spent on the collections (see ROA, Tab 3, *Motion for Summary Judgment, Exhibit 1, Affidavit of Conner L. Helms*, pg. 2) and the request for interest of 18% per annum, as stated in the contract. This court notes that Helms's request for $100,000-plus in interest (made in their petition) had apparently been dropped, and the reference to interest in the judgment can only be postjudgment, as the failure to specify a sum-certain of prejudgment interest results in a nonfinal, unappealable order. *See May-Li Barki, M.D., Inc. v. Liberty Bank & Tr. Co.*, 1999 OK 87, ¶ 4, 20 P.3d 135, 142 (holding that an order failing to specify the amount of prejudgment interest "is not a judgment," and thus, cannot be appealed). Helms's postjudgment collection filings, which we have reviewed to protect our own jurisdiction, confirm this treatment. *See, e.g., Garnishment Affidavit*, Okla. Co. Case No. CJ-2024-115 (filed 7/30/2025) (calculating interest from July 3, 2025, the date of the filing of the order granting summary judgment).

fees are reasonable or excessive." ROA, Tab 6, *Order Granting Plaintiff's Motion for Summary Judgment*, pg. 3.

¶5 Mr. Riebold filed a timely motion for new trial, alleging that he was entitled to a new trial because the court's award was "excessive" and the grant of summary judgment was contrary to law because the trial court erred "in bypassing a reasonableness hearing." ROA, Tab 8, *Motion for New Trial*, pg. 2. In its response and at the hearing, Helms acknowledged that no evidentiary hearing regarding the reasonableness of the fees occurred but instead insisted that none was required. ROA, Tab 10, *Response to Motion for New Trial*, pg. 3; ROA, Tab 13, Transcript, pg. 16. The court denied Mr. Riebold's motion for new trial and Mr. Riebold appeals from both the summary judgment order and the denial of his motion for new trial.

II.

¶6 The appellate standard of review of summary judgment is *de novo*. *Boyle v. ASAP Energy, Inc.*, 2017 OK 82, ¶ 7, 408 P.3d 183, 187. On appeal, this court assumes plenary and non-deferential authority to reexamine a district court's legal rulings. *John v. St. Francis Hospital, Inc.*, 2017 OK 81, ¶ 8, 405 P.3d 681, 685. Summary judgment will be affirmed only if the court determines that there is no dispute as to any material fact and that the moving party is entitled to judgment as a matter of law. *Lowery v. Echostar Satellite Corp.*, 2007 OK 38, ¶ 11, 160 P.3d 959, 963-64. Additionally, while a motion for new trial is generally reviewed for an abuse of the trial court's discretion, when "our assessment of the trial court's exercise of discretion in denying defendants a new trial rests on the

propriety of the underlying grant of summary judgment, the abuse-of-discretion question is settled by our *de novo* review of the summary adjudication's correctness." *Reeds v. Walker*, 2006 OK 43, ¶ 9, 157 P.3d 100, 106–07.

III.

¶7 The issue to be determined in this appeal is whether the Helms Law Firm was entitled to summary judgment when Mr. Riebold contested the reasonableness of the fees sought to be collected via his own affidavit in response to the firm's motion. We hold that summary judgment is inappropriate in such an instance.

¶8 Regarding contracts between attorneys and their clients, the Oklahoma Supreme Court has held:

> An attorney, like any other individual, may contract with a client regarding compensation. Contracts between attorneys and their clients stand on the same footing as any other contract between persons competent to contract and are upheld unless contrary to law, oppressive, fraudulent, or the fee is obviously disproportionate to the services rendered. In enforcing an attorney fee contract, the contractual provision is interpreted based on general contract principles.

McQueen, Rains & Tresch, LLP v. Citgo Petroleum Corp., 2008 OK 66, ¶ 33, 195 P.3d 35, 46 (footnotes omitted) (emphasis removed). However, the Oklahoma Supreme Court has also stated that any attorney's fee in every case must be reasonable, "whether the fee is to be paid by the lawyer's client or by the losing litigant." *Morgan v. Galilean Health Enterprises, Inc.*, 1998 OK 130, ¶ 14, 977 P.2d 357, 364. Rule 1.5 of the Oklahoma Rules of Professional Conduct provides that attorneys have a professional responsibility not to make an agreement for, charge, or collect unreasonable fees or expenses. The rule lists eight factors to

be considered in determining the reasonableness of the contract, charge, or fee. Additionally, *State ex rel. Burk v. City of Oklahoma City*, 1979 OK 115, 598 P.2d 659, established a two-part test to determine a reasonable attorney fee: "1) a base fee calculated by multiplying hours worked by an hourly rate, and 2) a bonus or incentive fee calculated under the eight factors listed in Rule 1.5." *In re Adoption of Baby Boy A*, 2010 OK 39, ¶ 26, 236 P.3d 116, 124.

¶9 Helms's motion for summary judgment contained the parties' contract detailing the attorneys' and paralegals' hourly rates, the docket sheet from Mr. Riebold's divorce case and the appeal, the billing history for the case, several invoices detailing the work done, the hours worked, the attorney responsible for the work, and an affidavit of Conner Helms explaining all of the above-referenced documentation. Oklahoma courts have consistently held that the reasonableness of attorney fees and expenses is a question for the trier of fact, *Arkoma Gas Co. v. Otis Engineering Corp.*, 1993 OK 27, ¶ 8, 849 P.2d 392, 394, and the fees and expenses must be supported by evidence and reason. *Finnell v. Seismic*, 2003 OK 35, ¶ 18, 67 P.3d 339, 346–347. Pursuant to summary judgment procedure, because the Helms Law Firm presented evidence showing the fees charged were reasonable, the burden shifted to Mr. Riebold to dispute the reasonableness of the fee.[2] *See Dept. of Securities ex rel. Faught v. Wilcox*, 2011 OK 82, ¶ 18, 267 P.3d 106 (holding that when evidence is presented showing the

[2] We note that, Mr. Riebold, had he had evidence, could have disputed other material facts, such as whether the parties had a contract in the first instance. However, Mr. Riebold did not do so, limiting his response to disputing the question of the reasonableness of the fees charged. That is the only question that survives this appeal.

existence of uncontroverted material facts, the burden shifts to the opposing party to identify those material facts she alleges remain in dispute *and* provide supportive evidentiary materials justifying trial on the issue).

¶10 Upon review of Mr. Riebold's response to the motion for summary judgment and his motion for new trial, we find that he sufficiently disputed the reasonableness of the attorney fee charged. Although Mr. Riebold's response is brief, he specifically objected to the number of hours worked and stated the fees associated with the relevant invoices were excessive. ROA, Tab 5, *Response to Summary Judgment*, pg. 2. Mr. Riebold also attached an affidavit to his motion maintaining that in his opinion, the attorney fees charged in this case were excessive. Although there is no transcript in this record detailing what transpired at the summary judgment hearing, Mr. Riebold's motion for new trial reflects that he specifically asked the court for an evidentiary hearing to address the reasonableness of the fees. ROA, Tab 8, *Motion for New Trial*, pg. 2. Because the court apparently denied this request at the hearing, Mr. Riebold contends that he was entitled to a new trial because the court's decision was contrary to law pursuant to 12 O.S. § 651(6). In its response to the motion for new trial, the Helms Law Firm did not dispute that Mr. Riebold made such a request at the summary judgment hearing; rather, the law firm's position is that an evidentiary hearing on the reasonableness of attorneys' fees is not required when the court considers a motion for summary judgment for breach of contract. ROA, Tab 10, *Response to Motion for New Trial*, pg. 4.

¶11 We reiterate, however, that the attorney's fee in every case must be reasonable, "whether the fee is to be paid by the lawyer's client or by the losing litigant." *Morgan v. Galilean Health Enterprises, Inc.*, 1998 OK 130, ¶ 14, 977 P.2d 357, 364. And, "if the fee is challenged as excessive or exorbitant, the trial court *must* take evidence as to the reasonableness of the fee and fix an attorney fee that is reasonable and commensurate with the work performed by the attorney." *In re Adoption of Baby Boy A*, 2010 OK 39, ¶ 33, 236 P.3d 116, 126 (emphasis supplied). The court's order granting summary judgment in favor of the law firm did not address the reasonableness of the fee charged. Instead, the court found that Mr. Riebold's affidavit was not sufficient to defeat the firm's motion for summary judgment because Mr. Riebold is not a lawyer and is not qualified to testify about whether attorney fees are reasonable or excessive. ROA, Tab 7, *Order Granting Summary Judgment*, pg. 3. We hold that this was error.

¶12 A party opposing a motion for summary judgment must provide "acceptable evidentiary material," which is evidence that appears to be convertible to admissible evidence at trial. Okla. Dist. Ct. R. 13(b); *Estate of Crowell v. Board of County Commissioners*, 2010 OK 5, ¶ 8 n.4, 237 P.3d 134. It is unclear to this court how Mr. Riebold's testimony that, in his lay opinion, the number of hours he was charged in his case was not reasonable under the circumstances would be inadmissible at trial. While it might be best practice to call an attorney to testify about the reasonableness or unreasonableness of any given fee due to a lawyer's more intimate knowledge of industry standards and fee arrangements

with clients,[3] we are aware of no Oklahoma authority prohibiting a lay person from testifying about the overall reasonableness of a fee charged to them. Whether a party believes they have been overbilled by an attorney is "within the realm of ordinary experience of mankind," and thus, can be the subject of lay opinion. *See Strubhart v. Perry Mem'l Hosp. Tr. Auth.*, 1995 OK 10, ¶ 33, 903 P.2d 263, 274.[4]

¶13 Indeed, the Oklahoma Supreme Cout has followed the vast majority of jurisdictions, including federal courts, in holding that expert testimony is not required to support a fee award. *See, e.g., Spencer v. Oklahoma Gas & Elec. Co.*, 2007 OK 76, ¶ 16 n.23, 171 P.3d 890, 896 ("Expert testimony need not be included in the hearing on attorney fees to uphold the award."). It follows that,

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[3] Certainly, practitioners or those more directly involved in the legal community may be better positioned to opine on the reasonableness of an attorney's hourly rate. However, in this matter, Mr. Riebold has not questioned any of the hourly rates listed in the parties' contract, so that question is not before this court.

[4] We are further unpersuaded by the view that Mr. Riebold's affidavit is inadmissible because it contains only conclusory, nonspecific, or self-serving assertions that fail to controvert the movant's evidentiary materials. We start with the fact that "[u]ndoubtedly, an affidavit is a statutorily approved mode of taking testimony." *Whittington v. Durant H.M.A., LLC*, 2022 OK 97, ¶ 11, 521 P.3d 1281, 1285. *See also* 12 O.S. § 421. Both parties here used affidavits, as required by our summary judgment procedure, to offer their opinion as to the reasonableness of the fees charged. Mr. Helms's affidavit specifically claims that "[a]ll the time charged to Defendant was reasonable and necessary under the circumstances of this case." ROA, Tab 3, *Motion for Summary Judgment*, Exhibit 2, pg. 2. Mr. Riebold's affidavit claims the contrary. ROA, Tab 5, *Response to Motion for Summary Judgment*, Exhibit 1, pg. 1. While both claims are conclusory, Mr. Riebold's is aimed to controvert Mr. Helms's, and the question of the reasonableness of the fees charged is clearly material, as discussed above. The self-serving nature of each affidavit's claim goes to the weight of the evidence, not its admissibility. *Whittington*, 2022 OK 91, ¶ 12 (quoting *Poafpybitty v. Skelly Oil Co.*, 1973 OK 110, ¶ 17, 517 P.2d 432, 438). The contrary rule would, in effect, require a client to hire an attorney as an expert and attach the expert's affidavit to their response to the motion for summary judgment. As detailed above, this is not the law in Oklahoma. Indeed, even if Mr. Riebold had filed *no affidavit whatsoever*, the reasonableness of the fees at issue must still be determined by the trial court before judgment can be entered. *Spirgis v. Circle K Stores, Inc.*, 1987 OK CIV APP 45, ¶ 10, 743 P.2d 682, 685.

where the question of reasonableness of a fee is put before the court, an expert is not needed to determine that a particular fee is not reasonable, either. Rather, "when a court is determining the reasonableness of attorneys' fees, the court, as a matter of law, is itself an 'expert on the question and may consider its own knowledge and experience concerning reasonable and proper fees and may form an independent judgment either with or without the aid of witnesses.'" *Laney v. BBB Logistics, Inc.*, 844 F. App'x 203, 210 (11th Cir. 2021) (unpublished) (quoting *Norman v. Hous. Auth. of Montgomery*, 836 F.2d 1292, 1303 (11th Cir. 1988)). *Cf. Poteete v. MFA Mut. Ins. Co.*, 1974 OK 110, ¶ 18, 527 P.2d 18, 21 ("An owner is competent to testify as to his opinion as to the value of his property which has been destroyed by fire, but his opinion is not conclusive. It is, as any other fact issue, subject to the jury's determination.").

¶14 Because Mr. Riebold specifically challenged the reasonableness of the fee, the law firm was not entitled to summary judgment. In such a case, permissible recovery of an attorney fee "must be set upon and supported by evidence presented in an adversary proceeding, in which the facts and computation upon which the trial court rests its determination are set forth in the record with a high degree of specificity." *Morgan v. Galilean Health Enterprises, Inc.*, 1998 OK 130, ¶ 15, 977 P.2d 357, 364.

¶15 Finally, we note that the law firm also alleged that Mr. Riebold did not follow a provision of the contract requiring him to timely dispute any invoices he disagreed with in writing and thus waived any argument that the fees billed were not reasonable. We hold that this argument fails in light of the plethora of au-

thority in Oklahoma that a lawyer's fee must always be reasonable. "The *Burk* criteria are the standard by which our courts test the reasonableness of attorney fee contracts as well as attorney fee awards." *In re Adoption of Baby Boy A*, 2010 OK 39, ¶ 27, 236 P.3d 116, 124. "[A]n attorney fee must be reasonable in every case whether the fee is paid by the client or by the losing litigant." *Id.* These legal constraints may not be avoided with creative contracting.

* * *

¶16 The trial court erred in granting summary judgment in favor of the Helms Law Firm on its breach of contract claim. Although the fees charged may be reasonable, the reasonableness of an attorney's fee, when contested, creates a question of fact that cannot be resolved via summary proceedings. As such, we vacate the summary judgment entered and remand for further proceedings consistent with this opinion.

¶17 **VACATED AND REMANDED.**

HUBER, J., concurs, and BARNES, J., concurs specially.

BARNES, J., concurring specially:

I concur in the Majority's Opinion and write separately to emphasize the district court's independent obligation on remand.

Mr. Riebold does not dispute that the parties had a contract or that the firm rendered legal services under it; as the Majority notes, the only question surviving this appeal is the reasonableness of the fees charged. The reasonableness of the fee is a question for the trier of fact, *Arkoma Gas Co. v. Otis Eng'g*

Corp., 1993 OK 27, ¶ 8, 849 P.2d 392, 394, and it may not be resolved by simply accepting either party's figures. In making that determination, the court must set forth the supporting facts and computation with specificity. *See Bjorkman v. Noble*, 2025 OK 62, ¶ 22, 579 P.3d 602, 610 ("The district court must, with specificity of facts and computations to support an award, include findings of fact regarding hours spent, reasonable hourly rates, and the value placed on additional factors in each case. We have clarified that a district court cannot just accept a party's figures as to the amount of attorney fees awarded." (citing *Fleig v. Landmark Constr. Grp.*, 2024 OK 25, 549 P.3d 1208)). The duty exists independent of the parties' submissions and would have attached in this case even if Mr. Riebold had filed no affidavit at all.[1]

I add only that the Majority correctly holds that the contract's thirty-day dispute provision cannot waive the reasonableness requirement; that said, Mr. Riebold's receipt of monthly statements without objection remains evidence bearing on reasonableness, which the trier of fact is free to weigh.

September 9, 2026

[1] The record illustrates why the rule matters. The court entered judgment for $285,817.19 on a motion seeking $265,876.45, and the roughly $20,000 difference is not explained in the order and not entirely clear from the record. Findings of the kind *Fleig* requires would prevent a reviewing court from having to reconstruct the award from the appellate record.