

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

DETROIT/WAYNE COUNTY STADIUM  
AUTHORITY,

UNPUBLISHED  
September 28, 1999

Plaintiff-Appellant,

v

No. 208679  
Wayne Circuit Court  
LC No. 97-711111 CC

NADIA AUBREY and KALLIL AUBREY,  
Deceased,

Defendants-Appellees.

---

Before: Collins, P.J., and Sawyer and Cavanagh, JJ.

PER CURIAM.

In this condemnation case filed by plaintiff pursuant to the Uniform Condemnation Procedures Act (UCPA), MCL 213.51 *et seq.*; MSA 8.265(1) *et seq.*, plaintiff appeals as of right from an order awarding defendant Nadia Aubrey (hereafter "defendant") attorney fees and expenses of \$21,517.66, after the trial court dismissed plaintiff's complaint for failure to conform to the requirements of the UCPA. The trial court also ordered plaintiff to pay interest on the attorney fee award if it was not paid within twenty-one days. We affirm.

Plaintiff first argues that the trial court's findings of fact were inadequate and do not justify the amount awarded. We disagree. Plaintiff's argument fails to account for the second supplemental affidavit filed by defendant's attorney in November 1997, wherein reimbursement was sought for 75.25 hours, which, when added to the additional five hours requested at the final hearing, results in a total of 80.25 hours. Although the trial court allowed the requested hours, it resolved plaintiff's challenge to the reasonableness of the hourly rate by awarding the lesser amount of \$250, rather than the requested amount of \$300, which results in a total attorney fee award of \$20,062.50. The actual order awarded only \$20,000, but the difference of \$62.50 favors plaintiff. In light of this record, plaintiff has not demonstrated any deficiency in the trial court's findings warranting relief. See *Michigan Nat'l Bank v Metro Institutional Food Service, Inc*, 198 Mich App 236, 241; 497 NW2d 225 (1993); *Howard v Canteen Corp*, 192 Mich App 427, 437-438; 481 NW2d 718 (1991).

Plaintiff's argument that defendant failed to account for nineteen hours likewise fails to consider the additional hours reflected in the second supplemental affidavit and, therefore, is without merit.

Plaintiff next claims that the trial court awarded attorney fees in excess of those allowed by statute by allowing attorney fees incurred in litigating the fee dispute. We find that plaintiff has effectively abandoned this because it has not cited any relevant legal authority in support of its position. *Schellenberg v Rochester, Michigan, Lodge No 2225*, 228 Mich App 20; 577 NW2d 163 (1998). The case relied on by plaintiff, *In re Condemnation of Private Property for Hwy Purposes (Dep't of Transportation v D & T Const Co)*, 209 Mich App 336, 341-342; 530 NW2d 183 (1995), is not relevant because it involved a different provision of the statute, MCL 213.66(3); MSA 8.265(16)(3), and is cited only for the general proposition that defendant had the burden of proof to show reasonableness.

In any event, we note that this Court has not construed the phrase "incurred in defending against the improper acquisition" in MCL 213.66(2); MSA 8.265(16)(2) as being limited to expenses directly incurred. *Escanaba & Lake Superior R Co v Keweenaw Land Ass'n, Ltd*, 156 Mich App 804, 819; 402 NW2d 505 (1986). It is sufficient that the attorney fees were incurred in continuing to defend a judgment (e.g., preserving benefits won). *Id.* at 819. Hence, an award for attorney fees incurred on appeal from an order awarding attorney fees and expenses has been upheld under MCL 213.66(2); MSA 8.265(2). *Id.* at 819. Accordingly, we hold that attorney fees incurred while litigating an attorney fee dispute are reimbursable if they meet the requirement of reasonableness. To hold otherwise would contravene the legislative intent that a property owner shall not be made to suffer from the condemnation proceedings on the taking of private property. *Id.* at 814-815.

Relying on *Detroit v J Cusmano & Son, Inc*, 184 Mich App 507; 459 NW2d 3 (1989), plaintiff next contends that the trial court erred by awarding interest on the attorney fees. We disagree. Plaintiff's reliance on *Detroit* is misplaced because MCL 213.65; MSA 8.265(15) does not govern interest on attorney fees awarded under MCL 213.66(2); MSA 8.265(16)(2), *Escanaba & Lake Superior R Co, supra* at 820, and the applicable interest statute, MCL 600.6013; MSA 27A.6013, as amended by 1993 PA 78, plainly authorizes interest on an award of attorney fees. See *Lansing v Edward Rose Realty, Inc*, 450 Mich 851; 538 NW2d 677 (1995); *Escanaba & Lake Superior R Co, supra*. See also *Schellenberg, supra* at 50.

Plaintiff next claims that the trial court's award of costs is not supported by the record. We again reject plaintiff's argument because it fails to consider the second supplemental affidavit filed by defendant's attorney. Examining plaintiff's argument in the context of this deficiency and the disputed issues presented to the trial court before it made its ruling, we conclude that plaintiff has not demonstrated that the trial court abused its discretion in awarding the requested expenses. *Howard, supra*.

Finally, pursuant to *Escanaba & Lake Superior R Co, supra*, we conclude that defendant is entitled to an award of reasonable appellate attorney fees and expenses under MCL 213.66(2); MSA

9.265(16)(2). Hence, we remand to the trial court for a determination of reasonable appellate attorney fees and expenses.

Affirmed. Remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Jeffrey G. Collins

/s/ David H. Sawyer

/s/ Mark J. Cavanagh