

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RU HOGAN,

Plaintiff,

v.

CITY OF ROCKLIN, and DOES 1
THROUGH 100,

Defendants.

No. 2:24-cv-03566-JAM-SCR

**ORDER GRANTING DAVID
MOHLENBROK'S MOTION FOR
ATTORNEY'S FEES**

Before the Court is David Mohlenbrok's ("Mohlenbrok") motion for attorney's fees. See Mot., ECF No. 15. Ru Hogan ("Plaintiff") has failed to file a timely opposition to Mohlenbrok's motion. Pursuant to Local Rule 230(c), the Court construes Plaintiff's failure to oppose as a non-opposition to the motion. For the following reasons, the Court GRANTS Mohlenbrok's motion.

Mohlenbrok brought a motion to strike three causes of action under California's anti-SLAPP statute. See Mot. to Strike, ECF No. 5; Cal. Civ. Proc. Code 425.16. In response to the motion, and in accordance with Federal Rule of Civil Procedure 15(a)(1)(B), Plaintiff filed a First Amended Complaint ("FAC") that dismissed Mohlenbrok as a defendant in this action. See FAC at 2, ECF No. 9.

1 California's anti-SLAPP statute provides that "a prevailing
2 defendant on a special motion to strike shall be entitled to
3 recover that defendant's attorney's fees and costs." Cal. Code
4 Civ. Proc. § 425.16(c)(1). Even though Plaintiff has voluntarily
5 dismissed Mohlenbrok, the Court retains the authority to decide
6 the present motion on the merits. See Law Offices of Andrew L.
7 Ellis v. Yang, 178 Cal.App.4th 869, 879 (2009) ("[T]he anti-SLAPP
8 statute . . . anticipates circumstances in which parties dismiss
9 their cases while motions to strike are pending. In such
10 circumstances, the trial court is given the limited jurisdiction
11 to rule on the merits of the motion in order to decide if it
12 should award attorney fees and costs to the defendants."). Where
13 a plaintiff voluntarily dismisses a defendant, a "presumption"
14 arises that the dismissed defendant is a prevailing party for
15 purposes of attorney's fees. See Coltrain v. Shewalter, 66 Cal.
16 App. 4th 94, 107 (1998). This presumption can be rebutted by a
17 showing that plaintiff "realized its objectives in the
18 litigation," such as through a settlement or other means. Id.

19 Here, Plaintiff voluntarily dismissed Mohlenbrok, which
20 creates the presumption that Mohlenbrok is the prevailing party
21 from his motion to strike. As Mohlenbrok explains, there is no
22 evidence that Plaintiff "realized [her] objectives in the
23 litigation." See Mot. at 5-6; see id. There is no evidence that
24 Plaintiff settled or obtained another benefit from bringing her
25 prior motion that named Mohlenbrok as a defendant. As such, the
26 Court finds that Mohlenbrok is the prevailing party and entitled
27 to attorney's fees and costs.

28 ///

1 Though Mohlenbrok jointly brought the motion to strike with
2 Defendant City of Rocklin, he argues that Plaintiff should pay
3 all attorney's fees associated with the motion. See Mot. at 7.
4 The Court agrees. Mohlenbrok and Defendant are represented by
5 the same counsel. "[A]llocation among jointly represented
6 parties is not required when the liability of the parties is so
7 factually interrelated that it would have been impossible to
8 separate the activities . . . into compensable and noncompensable
9 time units." Brown Bark III, L.P. v. Haver, 219 Cal. App. 4th
10 809, 830 (2013) (cleaned up). Because Mohlenbrok's conduct is at
11 the center of this controversy, his and Defendant City of
12 Rocklin's "is so factually interrelated that it would have been
13 impossible" to allocate attorney's fees for just Mohlenbrok. See
14 id.; see FAC ¶¶ 6-12. Mohlenbrok is therefore entitled to
15 recover all fees associated with the motion the strike. Finally,
16 the Court finds Mohlenbrok's requested fees reasonable. See Mot.
17 at 8.

18 Accordingly, the Court GRANTS Mohlenbrok's motion for
19 attorney's fees. Plaintiff is hereby ORDERED to pay Mohlenbrok
20 \$15,268.50.

21 IT IS SO ORDERED.

22 Dated: March 4, 2025

23
24 
25 JOHN A. MENDEZ
26 SENIOR UNITED STATES DISTRICT JUDGE
27
28