

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2009*

**EFFECTIVE TELESERVICES, INC.**, a Florida corporation, and **DILIP BAROT**, individually, and **CREATIVE INFOCITY, INC.**, as General Partner of **CREATIVE INFOCITY, LTD.**, a Florida Limited Partnership,  
Appellants,

v.

**ALLERD CHARLES SMITH**,  
Appellee.

No. 4D08-1329

[August 19, 2009]

SHAHOOD, GEORGE A., Senior Judge.

Appellants challenge a partial final judgment on sanctions awarding attorney's fees to appellee predicated on discovery abuses by appellant. We affirm in part and reverse in part.

Appellee and his lead counsel agreed that counsel's hourly rate would be \$300.00 per hour. Throughout the course of the proceedings, the attorney billed appellee \$300.00 per hour.

The trial court found the attorney reasonably expended 219.9 hours on the matter. The trial court awarded \$365.00 an hour for counsel's time, resulting in an award of \$80,263.50 to the attorney. This, however, was error, as the court awarded \$14,293.50 more than the attorney actually billed. *See Spagnolo v. Nicoletti*, 755 So. 2d 671 (Fla. 4th DCA 1999) (holding it was error for the trial court to award attorney's fees in an amount greater than what was charged to the client).

We find all other issues raised by appellant to be without merit and affirm without discussion.

We reverse and remand for the trial court to correct the error.

*Affirmed in Part; Reversed in Part and Remanded.*

WARNER and HAZOURI, JJ., concur.

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Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Thomas H. Barkdull, III, Judge; L.T. Case No. 502005CA006080XXXXMBAO.

Kevin F. Richardson of Clyatt & Richardson, P.A., West Palm Beach, for appellants.

Glenn M. Rissman and Anya M. Kudzus of Hodgson Russ LLP, and Peter M. Feaman of Rothstein Rosenfeldt Adler, Boca Raton, for appellee.

***Not final until disposition of timely filed motion for rehearing.***