STATE OF MICHIGAN

COURT OF APPEALS

RACHEL KAPELANSKI,

Plaintiff-Appellant,

v

WEST IRON COUNTY BOARD OF EDUCATION,

Defendant-Appellee,

and

BRIDGES AND BRIDGES,

Appellee.

UNPUBLISHED
August 24, 2001

No. 226906
Iron Circuit Court
LC No. 94-005172-CK

Before: Holbrook, Jr., P.J., and Cavanagh and Meter, JJ.

PER CURIAM.

Plaintiff appeals as of right from the circuit court's orders denying her motion for a continuance and granting appellee Bridges and Bridges' motion for a charging lien. We affirm.

Plaintiff first argues that the circuit court abused its discretion in denying her motion for adjournment. We disagree. This Court reviews a trial court's ruling on a motion for adjournment for an abuse of discretion. *Soumis* v *Soumis*, 218 Mich App 27, 32; 553 NW2d 619 (1996); *Cummings v Detroit*, 151 Mich App 347, 351; 390 NW2d 666 (1986). An adjournment may be granted because of the unavailability of evidence, but only if the court finds that the evidence is material and diligent efforts were made to produce the evidence. MCR 2.503(C)(1) and (C)(2). The motion must be made as soon as possible after ascertaining the facts. MCR 2.503(C)(1); *Soumis*, *supra* at 32.

Plaintiff argues that she was not given time to compile her own list of expenses, but fails to cite legal authority that would allow her to recover those expenses. Therefore, any time needed to compile that data is specious and the trial court properly denied the continuance based partially on this ground. Plaintiff also claims that she did not have sufficient time to research appellee's list of expenses or to conduct legal research. However, plaintiff was in Iron Mountain

for two days before the motion hearing and apparently failed to take advantage of the court's law library or any other library to conduct research on the cases cited in appellee's motion to determine lien. Further, plaintiff conducted some research at the Wayne State Law Library before arriving in Iron Mountain. Plaintiff knew of appellee's claim of lien for over one month, but chose not to retain counsel or to conduct research on her own. Plaintiff cites MCR 2.119(C)(1)(a) in support of her argument; however, that rule does not mandate that plaintiff be supplied with the list of expenses before the motion hearing. We conclude that plaintiff had sufficient time to review appellee's list of expenses to determine the legitimacy of the proposed expenses incurred; therefore, the trial court did not abuse its discretion in denying the motion for adjournment.

Plaintiff next argues that circuit court erred when it accepted appellee's costs at face value. We disagree. This Court reviews an award of attorney fees for an abuse of discretion. *B & B Investment Group v Gitler*, 229 Mich App 1, 15; 581 NW2d 17 (1998).

A review of the lower court record reveals that appellee filed its motion to determine lien, along with a copy of its expenses and the contingency fee agreement entered into by the parties. While considering various factors to determine a reasonable attorney fee, the circuit court noted that expenses of somewhat over $3,000 was not a great deal for a case that appellee handled for approximately four and one-half years. The circuit court did not give a cursory inspection of expenses, but came to its conclusion that the amount of expenses requested was fair and reasonable after weighing various factors. The court properly reviewed the expense list, considered the time spent on the case, and determined that the expenses were reasonable considering the length of time that the case had been on the docket and the outcome achieved. The circuit court did not abuse its discretion in granting the reasonable expenses.

Plaintiff next argues that the circuit court erred when it did not offset appellee's expenses in presenting the case with the expenses plaintiff incurred. We disagree.

Plaintiff may not merely announce her position that she is entitled to be reimbursed for her time and effort, along with fees paid to parties not related to this case, and leave it to this Court to discover and rationalize her claims. *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998). Nor may she give only cursory treatment with little or no citation of supporting authority. *People v Kelly*, 231 Mich App 627, 640-641; 588 NW2d 480 (1998); citing *Goolsby v Detroit*, 419 Mich 651, 655 n 1; 358 NW2d 856 (1984). We decline to review this issue because plaintiff failed to cite any legal authority – and we know of none – that would allow this Court to deduct from an attorney's reasonable expenses the expenses its client incurred pursuing the matter in propria persona, absent some duty on the attorney to prevent those expenses. No such duty has been shown here.

Plaintiff next argues that the circuit court erred when it granted appellee quantum meruit at ninety percent of the contingency fee. We disagree.

Michigan recognizes a common-law attorney lien on a judgment or fund resulting from the attorney's services. *Bennett v Weitz*, 220 Mich App 295, 297; 559 NW2d 354 (1996). The lien is an attorney's equitable right to receive the fees due for services secured from the judgment in a particular suit. *Id*. An attorney retained on a contingent fee arrangement who withdraws

from a case with good cause is entitled to compensation for the reasonable value of her services based on quantum meruit, and not the contingent fee contract. *Morris v Detroit*, 189 Mich App 271, 278; 472 NW2d 43 (1991); *Ecclestone v Ogne*, 177 Mich App 74, 76; 441 NW2d 7 (1989). There is no precise formula for assessing the reasonableness of attorney fees; however, several factors were set forth in *Crawley v Schick*, 48 Mich App 728; 211 NW2d 217 (1973), to assist the courts in determining a reasonable attorney fee. The nonexclusive factors include: "(1) the professional standing and experience of the attorney; (2) the skill, time and labor involved; (3) the amount in question and the results achieved; (4) the difficulty of the case; (5) the expenses incurred; and (6) the nature and length of the professional relationship with the client." *Morris*, *supra* at 278-279, quoting *Crawley*, *supra* at 737.

At a prior motion hearing, appellee was granted permission to withdraw as legal counsel in this wrongful termination/sexual discrimination case. It was clear to the circuit court that there had been a breakdown in the attorney-client relationship that rendered representation unreasonably difficult. Therefore, we work from the premise that withdrawal was with cause.

The attorney fees at issue were decided in an evidentiary hearing based on the motion to determine lien. At the hearing, after considering each of the *Crawley* factors, the court found that appellee performed ninety percent of the legal services necessary to obtain the settlement and determined that the reasonable fees amounted to $6,437.53. The court properly reviewed and discussed each *Crawley* factor in determining a reasonable attorney fee. The court subtracted total expenses from the $25,000 settlement and awarded appellee ninety percent of the one-third legal fee it would have been entitled to under the contingency fee agreement. The trial court reasoned that appellee performed substantially all the work necessary to bring about the $25,000 settlement. Indeed, just before appellee withdrew, defendant's settlement offer of $25,000 was communicated to plaintiff. Plaintiff refused the settlement offer, but shortly after appellee withdrew, plaintiff accepted the settlement offer. We agree that appellee was entitled to the "lions share of the contingency fee," and the circuit court did not abuse its discretion in granting the reasonable fee. See *Morris*, *supra* at 279.

Affirmed.

/s/ Donald E. Holbrook, Jr.
/s/ Mark J. Cavanagh
/s/ Patrick M. Meter