STATE OF MICHIGAN

COURT OF APPEALS

DAVID HUNT, Personal Representative of the Estate of ALICE HUNT, Deceased, LAWRENCE FLEURY and MELISSA FLEURY, Next Friends of MELISSA HUNT, a Minor, and PEGGY HUNT,

Plaintiffs,

and

DAVID M. DOVE, Guardian of CHERI LIA HUNT,

Plaintiff-Appellee,

V

RICK A. HACKER and FALCON TRANSPORT,

Defendants,

and

ALBERT B. ADDIS, P.C.,

Appellant.

UNPUBLISHED
January 19, 2006

No. 255708
Genesee Circuit Court
LC No. 00-069318-NI

Before: Sawyer, P.J., and Wilder and H. Hood*, JJ.

PER CURIAM.

Albert B. Addis, P.C., appeals by leave granted from an order of the circuit court refusing to enforce an attorney lien under the doctrine of quantum meruit. The underlying case arose out of an automobile accident in which Cheri Hunt and her daughter Melissa were injured, and Cheri's daughter Alice was killed. David Hunt is Cheri's ex-husband and father of Melissa and Alice. We affirm.

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

Appellant filed a complaint alleging negligence and wrongful death on behalf of Cheri, as well as Alice's estate through Cheri's then-husband, David. Cheri and David divorced during the course of proceedings, and Cheri hired new counsel. Appellant continued to represent David and Alice's estate. Both claims ultimately settled for more than two million dollars each, and each counsel received a contingent share of the proceeds. Appellant then moved to enforce a lien on a portion of Cheri's settlement under the doctrine of quantum meruit, which the trial court denied. Appellant now argues that the trial court erred in denying to enforce its lien. We disagree. We review the decision whether to enforce such a lien for an abuse of discretion. *Reynolds v Polen*, 222 Mich App 20, 24, 27; 564 NW2d 467 (1997).

"Michigan recognizes a common-law attorney's charging lien on a judgment or fund resulting from an attorney's services." *Mahesh v Mills*, 237 Mich App 359, 361; 602 NW2d 618 (1999). Although a client may discharge his or her attorney at any time, the attorney remains entitled to payment for the attorney's services rendered before the discharge. *Reynolds, supra* at 23-24, 27. The attorney's lien only attaches "to funds or a money judgment recovered through the attorney's services." *George v Sandor M Gelman, PC*, 201 Mich App 474, 477; 506 NW2d 583 (1993).

"[A]n attorney on a contingent fee arrangement who is wrongfully discharged, or who rightfully withdraws, is entitled to compensation for the reasonable value of his services based upon *quantum meruit*, and not the contingent fee contract." *Ambrose v Detroit Edison Co*, 65 Mich App 484, 491; 237 NW2d 520 (1975). Quantum meruit ("as much as he has deserved") is an equitable principle of restitution based on the doctrine of unjust enrichment. See *In re McKim Estate*, 238 Mich App 453, 458; 606 NW2d 30 (1999); Farnsworth, Contracts (1990), § 2.20, pp 102-103.

Compensation on a theory of quantum meruit should "cover[] only such services as produced definite valuable results." *Rippey v Wilson*, 280 Mich 233, 246; 273 NW 552 (1937). Further, the benefit conferred must be measurable. Farnsworth, *supra* at § 2.20, p 109. We have observed that a court can consider the factors set forth in MRPC 1.5(a)[1] when determining the

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[1] MRPC 1.5(a) sets forth the following eight factors:

> (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
>
> (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
>
> (3) the fee customarily charged in the locality for similar legal services;
>
> (4) the amount involved and the results obtained;

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reasonableness of an attorney's fee. *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 198; 555 NW2d 733 (1996); *Morris v City of Detroit*, 189 Mich App 271, 278-279; 472 NW2d 43 (1991). However, the MRPC 1.5(a) factors are not an exhaustive list of the possible relevant factors. *Morris, supra* at 279.

The trial court declined to award attorney fees for two reasons. The first reason was that the contingency fee agreement with Cheri was "suspect" because it had not been signed by an attorney and made no mention of her mental disability. While the contingency arrangement "no longer operated to determine" appellant's potential fee, *Morris, supra* at 278, its existence is relevant to the "degree of risk undertaken" by appellant, *id.* at 279. It can also be considered to the extent that it bears on appellant's role as advisor to Cheri, MRPC 2.1, and on whether Cheri was adequately informed "to the extent reasonably necessary to permit [her] . . . to make informed decisions regarding the representation," MRPC 1.4(b). In other words, the contingency arrangement and the circumstances under which is was entered into are relevant to considering what appellant's "services were reasonably worth" under a theory of quantum meruit. *McCurdy v Dillon*, 135 Mich 678, 682; 98 NW 746 (1904).

The trial court's second reason for denying attorney fees was that, although appellant must have done "some work" for Cheri, appellant could not present "any evidence on which [the trial court] could base awarding a portion of the fees to him." Specifically, the court reasoned that although appellant performed services that benefited Cheri, he performed no services that did not also benefit his remaining clients. In other words, the trial court concluded that appellant was not entitled to compensation from Cheri's settlement because he performed no work specific only to the particular claim that culminated in that settlement.

We find no abuse of discretion in the trial court's finding that none of the work appellant performed for Cheri was exclusively for her benefit. The documentary evidence appellant submitted to the trial court in support of the claim for compensation either pertains entirely to different clients, focuses on the defendants, or combines work for Cheri with work for other clients. The logical import of this evidence is that all of the work that benefited Cheri was work that also benefited appellant's other clients, from whose recovery appellant was already compensated. Our Supreme Court has held that if multiple cases are "dependent . . . upon one hearing," it would be improper to bill each "as a separate suit fully argued." *Brackett v Sears*, 15

(…continued)

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

Mich 244, 248 (1867). Thus, the trial court could appropriately conclude that because appellant has already received compensation for work performed, more compensation for the same work is inappropriate.

Affirmed.

/s/ David H. Sawyer
/s/ Kurtis T. Wilder
/s/ Harold Hood