STATE OF MICHIGAN

COURT OF APPEALS

ALLYN CAROL RAVITZ and ALLYN CAROL RAVITZ, P.C.,	UNPUBLISHED November 18, 2008
Plaintiffs-Appellees,	
v	No. 279650 Oakland Circuit Court
CURTIS G. RUNDELL II and RUNDELL & NOLAN, L.L.P.,	LC No. 2003-049006-CK
Defendants.	
and	
DEBRA NOLAN,	
Defendant-Appellant.	

Before: Zahra, P.J., and Cavanagh and Meter, JJ.

PER CURIAM.

In this action for breach of an attorney referral-fee agreement, defendant Debra Nolan (hereinafter "defendant") appeals as of right from a judgment awarding plaintiffs $265,000[1] against all three defendants, following a jury trial. We affirm.

On appeal, defendant argues that there was insufficient evidence of a valid referral-fee agreement. When reviewing a claim of insufficient evidence in a civil case, an appellate court "must view the evidence in a light most favorable to the plaintiff and give the plaintiff the benefit of every reasonable inference." *Scott v Illinois Tool Works, Inc*, 217 Mich App 35, 41; 550 NW2d 809 (1996). If reasonable people could differ concerning the outcome, the question is properly left to the trier of fact. *Id*.

Evidence was presented that plaintiff Allyn Ravitz (hereinafter "plaintiff") referred a client to defendant, a member of Rundell & Nolan, L.L.P. It is undisputed that a written

[1] $215,000 from this amount represented damages awarded by the jury.

contingency-fee agreement was executed by plaintiff, defendant on behalf of Rundell and Nolan, L.L.P., and the client, whereby the client consented to plaintiff's and defendant's joint participation in representing her in the prosecution of a claim for sexual harassment and retaliation against her employer, and the client also agreed to pay a contingency fee in the amount of 1/3 of any recovery. Although the parties disagreed at trial with regard to how any fee was to be shared between plaintiff and defendant, including whether plaintiff was to receive a referral fee or be compensated for her actual work performed, evidence was presented that defendants sent plaintiff a check for $7,145.92, on which "referral fee" was written in the memo section, and that defendants also enclosed a letter with the check indicating that the amount of the check represented one-third of the fee that defendant had received in the underlying representation. Viewed in the light most favorable to plaintiff, this evidence supports an inference that plaintiff and defendants had an agreement for plaintiff to receive a referral fee in the amount of 1/3 of the fee that defendants received.

We disagree with defendant's argument that any fee agreement between defendants and plaintiff was not enforceable because the client's consent was not obtained, contrary to MRPC 1.5(e). A contract that violates the professional rules of conduct is contrary to public policy and, therefore, unenforceable. *Evans & Luptak, PLC v Lizza*, 251 Mich App 187, 196; 650 NW2d 634 (2002). MRPC 1.5(e) prohibits a division of fees between lawyers who are not in the same firm unless "the client is advised of and does not object to the participation of all the lawyers involved" and the total fee is reasonable. Here, the written contingency-fee agreement between plaintiff, defendant, and the client reflects the client's consent to plaintiff's and defendant's joint participation in handling the case. Although there was evidence that the client later expressed that she did not want plaintiff to share in any fee, the jury was instructed, without objection, that a client need only consent at the time the agreement is made, not prior to payment. Accordingly, we reject this claim of error.

Defendant next argues that the jury was not permitted to award damages of $215,000, because plaintiff's amended complaint only requested damages of $64,313.32. We disagree. Plaintiff's complaint was based on her understanding at the time, from information provided by defendants, that the entire fee received in the client's underlying case was $214,377.46. Plaintiff later obtained a copy of the settlement agreement for the underlying case, which contained references to higher fees, and the parties stipulated that defendants received an additional fee, of some nature, of $600,000. The parties' joint final pretrial order specified that, based on this new information, plaintiff was seeking damages of $227,439.06. Further, at trial, plaintiff requested, without objection, damages of $229,000. Plaintiff was not precluded from recovering damages consistent with the joint final pretrial order and the evidence presented at trial. See *Winiemko v Valentii*, 203 Mich App 411, 414, 513 NW2d 181 (1994).

Lastly, defendant argues that the trial court erred in denying her motion for remittitur. We disagree. A trial court's decision concerning remittitur is reviewed for an abuse of discretion. *Silberstein v Pro-Golf of America, Inc*, 278 Mich App 446, 462; 750 NW2d 615 (2008). When determining whether a jury award is excessive, the trial court must determine whether the evidence supports the award. *Id*. "If the award for economic damages falls reasonably within the range of the evidence and within the limits of what reasonable minds would deem just compensation, the jury award should not be disturbed." *Id*.

The parties disputed the amount of the attorney fee that was recovered in the underlying litigation. The settlement agreement referred to an attorney fee of $221,245.07, and the parties stipulated that defendants received an additional fee of $600,000, the nature of which was disputed. As explained previously, there was sufficient evidence to allow the jury to determine that plaintiff was entitled to 1/3 of defendants' recovery. Because the jury's verdict of $215,000 was within the range of the objective evidence presented at trial, the trial court did not abuse its discretion in denying defendant's motion for remittitur.

Affirmed.

/s/ Brian K. Zahra
/s/ Mark J. Cavanagh
/s/ Patrick M. Meter