

NOTICE
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2014 IL App (5th) 130115-U
NO. 5-13-0115
IN THE
APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

ED WOLFE CONSTRUCTION, INC.,)	Appeal from the
)	Circuit Court of
Plaintiff and Counterdefendant-Appellee,)	Marion County.
)	
v.)	No. 09-LM-134
)	
RICHARD KNIGHT and LUANN KNIGHT,)	Honorable
)	Michael D. McHaney,
Defendants and Counterplaintiffs-Appellants.)	Judge, presiding.

PRESIDING JUSTICE WELCH delivered the judgment of the court.
Justices Chapman and Spomer concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's judgment in favor of Wolfe Construction for the completion of restoration work and additional construction work performed on Richard and Luann Knights' residence was not against the manifest weight of the evidence where the evidence indicated that a written contract was entered into for the completion of this work and Wolfe Construction had substantially performed its obligations under the contract and any defects in the work preexisted the construction or were items that Wolfe Construction had agreed to fix, but the Knights had prohibited them from doing so. The court did not abuse its discretion in assessing attorney fees and contractual interest against Richard pursuant to the terms of the contract, but did abuse its discretion in assessing interest and attorney fees against Luann because she did not sign the written contract.

¶ 2 The defendants and counterplaintiffs, Richard and Luann Knight, appeal the order of the circuit court of Marion County entering judgment in favor of the plaintiff and

counterdefendant, Ed Wolfe Construction, Inc. (Wolfe Construction), for \$108,298.68. For the reasons which follow, we affirm the decision of the circuit court in part and reverse it in part.

¶ 3 The dispute involves a breach-of-contract action against the Knights for their failure to pay for labor and materials provided by Wolfe Construction in association with the restoration and renovation of their home. In February 2008, the Knights' residence sustained extensive fire damage. On March 7, 2008, Richard Knight executed an authorization to perform services and authorization to repair for Wolfe Construction to perform restoration work at their house following the fire. The Knights were insured by State Farm, and Wolfe Construction was a State Farm premier contractor. The authorization to perform indicated that it was a "fixed price contract." The authorization stated that the customer had agreed to the following: to be financially responsible for any expenses not covered by State Farm; that any check for payment of construction services performed by Wolfe Construction issued to them would immediately be signed over to Wolfe Construction; and to pay interest at 1.5% per month and reasonable attorney fees if the account was submitted for collection. The authorization to repair stated that the customer was financially responsible for any repairs or improvements made at the customer's direction and not covered under the homeowners' insurance policy.

¶ 4 From March 11, 2008, through January 2009, Wolfe Construction and its subcontractors performed services for the Knights pursuant to the authorizations. While construction was ongoing, the Knights requested that Wolfe Construction perform additional work, which was not covered under their insurance policy. They requested the

following: construction of larger office, front porch, and new gable roof covering front porch; upgraded and additional kitchen cabinets, countertops, crown molding, and kitchen island cabinet; and solid interior doors throughout the house.

¶ 5 On January 31, 2009, Richard terminated the services of Wolfe Construction before construction was completed. On September 11, 2009, Wolfe Construction filed a complaint against the Knights for their failure to fully pay for the restoration work and for the additional improvements and upgrades. The complaint alleged that the Knights had failed to sign over a State Farm check to Wolfe Construction for services rendered in the amount of \$25,430.24 as required under the authorization to perform and that the Knights had failed to fully pay for the additional work. On September 30, 2009, the Knights filed a counterclaim against Wolfe Construction. The counterclaim alleged that the parties had entered into an oral agreement with the following terms: Wolfe Construction would commence work immediately to repair the home with reasonable diligence in a workmanlike manner; Wolfe Construction would complete all work on or before June 30, 2008; and Wolfe Construction would be paid the reasonable value of its services and material provided subject to the homeowners' insurance policy. The counterclaim further alleged that Wolfe Construction had breached the oral agreement by failing to work on the home with reasonable diligence; failing to complete repairs on the home by June 30, 2008; abandoning the project without completing it; failing to perform the work in a workmanlike manner; and failing to correct defects and deficiencies in the work. The following evidence was adduced at the trial.

¶ 6 Steve McKnelly, the production manager for Wolfe Construction, explained that Wolfe Construction primarily performed water damage and fire restoration work on behalf of insurance companies. Wolfe Construction was one of several contractors on State Farm's premier contractor list. As part of being a premier contractor, Wolfe Construction was required to give the homeowner a five-year warranty as to labor and materials guaranteeing that the work was completed in a workmanlike manner. Bob Manville, the large loss claim adjustor for State Farm, initially contacted Wolfe Construction regarding the fire that occurred at the Knights' home. McKnelly, Ed Wolfe, and Jesse Lewis, another production manager, went to the Knights' home to assess the damage for the purpose of preparing an estimate.

¶ 7 On March 7, 2008, McKnelly and Ed Wolfe met with the Knights to give them the initial estimate for the restoration work. On this date, Richard signed an authorization to perform services. McKnelly explained the language "fixed price contract" was used in the authorization to prohibit a customer from picking and choosing the projects that he wanted Wolfe Construction to complete. The Knights never expressed any concern regarding the language used in the authorization. Attached to the authorization was the initial written estimate for the restoration work and an allowance sheet setting forth the amounts allowed for fixtures. The estimate for the restoration project was \$111,377.54. This estimate was attached to the authorization when Richard executed the document. The initial estimate was a "ballpark" figure and was based on a two- to four-hour inspection of the home. The estimate did not include any unexpected expenses that were discovered during construction. The authorization to perform services indicated that the

construction start date was March 11, 2008, and the estimated completion date was August 15, 2008. He explained that the start and anticipated completion dates were handwritten on the authorization by Wolfe Construction's secretary on either the day that it was signed or the following day. The completion date was estimated because there were too many variables to pinpoint an exact date. Richard also executed an authorization to repair, a State Farm document, on the same day.

¶ 8 After construction had started, the Knights requested that Wolfe Construction complete construction and remodeling on parts of the house not affected by the fire and upgrades with regard to the restoration work, which totaled a "little over \$30,000." McKnelly explained that any additional work and upgrades would not be covered under the insurance policy. Invoices were sent to the Knights reflecting those charges and requesting payment. The Knights failed to pay the entire amount billed for the additional work and upgrades.

¶ 9 On December 17, 2008, McKnelly, Ed Wolfe, Bob Manville, and Richard walked through the Knights' house to determine what needed to be completed. Richard had created a "punch list" prior to the meeting, which identified all of the issues and projects that he believed needed to be fixed or completed. At this point, approximately 95% of the work was completed. Richard indicated that he would allow Wolfe Construction to finish the job. Wolfe Construction worked through January 2009 on the remaining projects, but was not allowed to complete all the items on the "punch list" because Richard had called Wolfe Construction's office on January 31, 2009, and left a message that he was terminating their services. McKnelly opined that he had never handled an

insurance claim where he had experienced as many difficulties as he had with the Knights' claim. During construction, he had received from the Knights regular complaints regarding the work completed by Wolfe Construction and its subcontractors. He opined that the Knights were "[v]ery indecisive" and "[h]ard to please."

¶ 10 McKnelly explained that the work was not completed by the estimated completion date, but that some of the delay was caused by changes requested by the Knights. For example, he explained that the interior of the house was 75% to 80% painted when Luann requested that it be repainted because she did not like the colors. Luann had initially picked the colors. There was also delay with regard to the upgraded kitchen cabinets because the cabinets had to be moved from their original location. The cabinets were purchased from a company that Luann insisted on using and the company had provided the plan for the layout of the kitchen. The cabinets were placed in accordance with that plan, but Luann requested that the cabinets be moved because she did not like that the kitchen sink cabinet was not centered with the window. The Knights had also requested additional work be completed separate from the restoration project. One such project was the construction of a front porch and new gable roof covering the porch. Shortly before construction on the porch began, Richard indicated that he wanted the concrete for the front porch flat with the front doorsill and therefore did not want a step leading from the porch to the front door. After the concrete was poured, he changed his mind and decided that he did want a step. McKnelly had to contact the subcontractor and request that he redo the concrete to accommodate Richard's request.

¶ 11 In June 2009, the Knights received a check from State Farm made payable to them and Ed Wolfe Construction in the amount of \$25,430.24. This amount represented final payment for work performed by Wolfe Construction that was authorized by the insurance company. McKnelly testified that it was his understanding that the Knights were required to endorse the check and deliver it to Wolfe Construction pursuant to the terms of the authorization to perform services. The Knights did not sign the check over.

¶ 12 Luann Knight testified that the initial estimate for the restoration work was not attached to the authorizations executed by Richard in March 2008, and that they did not receive the allowance sheets or the estimate until April 2008. She was unhappy with the work completed by Wolfe Construction and its subcontractors for a number of reasons, one of which was the delay. She explained that McKnelly had indicated that the restoration work would likely be completed by June 10, 2008. She acknowledged that she had requested the kitchen cabinets be moved five to six inches, but explained that she had spoken with McKnelly about the placement of the cabinets before the cabinets were installed. She explained that the cabinet company used the measurements provided by Wolfe Construction when planning the layout of the kitchen. She further explained that the kitchen sink cabinet was a few inches off center from the window, and she had requested that Wolfe Construction fix it.

¶ 13 Luann identified the following issues with Wolfe Construction's work: the roof was "sagging"; there was mold in the bathroom ceilings; trim work was falling down; ductwork was not properly connected; siding was "gapping"; there were "things" that were not finished; and there were interior walls that were not straight. She had believed

that the charges incurred for the front porch were fully paid and explained that they had never received an invoice for the remaining balance on the restoration work or the front porch. She acknowledged that they owed Wolfe Construction money, but believed that Wolfe Construction owed them substantially more money due to the workmanship issues.

¶ 14 Richard Knight explained that there was a miscommunication with regard to the front porch, and he had agreed to pay one-half of the cost to fix the problem. The initial estimate and the allowance sheet were not attached to the authorizations signed by him in March. The amount of the initial estimate was \$107,219.05. He signed the agreement to complete the front-porch project in September 2008 and acknowledged that the attached estimate indicated that the project would cost \$15,522.88. However, he maintained that Wolfe Construction had agreed to complete the project for \$11,071.33. He acknowledged that he owed money to Wolfe Construction, but explained that he would not pay the money until the project was completed. He also acknowledged that he would not allow Wolfe Construction to complete the project because he was concerned about the quality of their work.

¶ 15 Richard testified that he was told that the projected completion date for the restoration project was either June 13 or June 15. From September until November, Wolfe Construction employees were not showing up to work on the house and there was little communication between the Knights and Wolfe Construction. By January 31, 2009, Wolfe Construction had not completed any of the "punch list" items. Richard acknowledged that State Farm was no longer their insurance carrier because their coverage was cancelled for having too many claims.

¶ 16 Ed Wolfe, the owner of Ed Wolfe Construction Company, testified that Luann was indecisive, explaining that there were several occasions where a project had already been completed or was in the process of being completed and Luann requested changes. He also described Richard as indecisive, explaining that Richard "would tell you one thing and change his mind." Ed opined that Richard did not want them to finish the house because he wanted them "right here where we're at today."

¶ 17 With regard to the workmanship issues, Ed noted that the issues were present before the fire, were not the result of the work completed by Wolfe Construction and its subcontractors, or were included on the "punch list," which Wolfe Construction was prevented from completing. Ed testified that the Knights still owed the following: \$25,430.24 for the restoration project (the State Farm check); \$15,111.67 for the upgrades not covered under the insurance policy; and \$2,701.55 for the additional work (the contract price was \$15,522.88 and they paid \$12,821.33).

¶ 18 Brian Wehmeier, a civil/structural engineer, testified that his job responsibilities required him to conduct on-site investigative work primarily for damage assessments regarding construction defects. He was initially retained by State Farm to assess the fire restoration work completed by Wolfe Construction and its subcontractors and determine whether the work was of workmanlike quality and whether there were any deficiencies that needed correction. The investigation was more than three years after Wolfe Construction had performed any work on the house and was limited to the restoration work. After inspecting the premises, he noticed the following issues: deficiencies with the vinyl siding, roof and roof decking sheets, insulation, and the brick veneer work on

the front of the house; issues with the exterior doors, windows, carpentry, framing, stud walls, attic insulation, venting to the attic and the exhaust fans, and drywall finishing in the basement; defects in the installation of the basement lighting; shingle damage on the roof; and defects with the interior doors, trim, flooring, cabinets, and cabinet trim.

¶ 19 Leroy Dawson, an architect and general contractor, testified that he was president of Arch Property Inspections, Inc., which requires him to examine structures that have been repaired or rebuilt after a casualty loss to determine whether there are any defects in the construction. Richard hired him to inspect the Knights' residence for workmanship issues with regard to the restoration work. Dawson identified several problems with the restoration work and additional improvements that he believed needed to be addressed. He estimated that it would cost \$83,350 to repair these issues. He had not seen the Knights' house before the fire and did not have any knowledge of the condition of the house at that time. He did not inspect the condition of the home until more than three years after the fire, and he did not speak with anyone from Wolfe Construction or any of their subcontractors.

¶ 20 Robert Manville testified that he was the claim adjustor on the Knights' claim. As part of his job responsibilities, he was required to review the estimates from Wolfe Construction to determine whether the scope of work identified comported with what he determined should be fixed. He had received an estimate from Wolfe Construction on the restoration project, which was dated March 6, 2008, that estimated the restoration project at \$107,219.05. He subsequently received several estimates on the project after

adjustments were made, one of which was \$111,377.54. He had told the Knights that McKnelly estimated that the restoration work would be completed in late June.

¶ 21 The Knights had complained about workmanship issues and projects not completed by Wolfe Construction. As a result of the Knights' complaints, State Farm retained a contractor, Joseph Paul of Genco Construction, to perform an independent evaluation. Paul prepared a report in November 2010, which indicated that repairs in the amount of \$15,138.20 should be completed. Consequently, State Farm issued a check payable to the Knights in the amount of \$15,138.20 and a check payable jointly to the Knights and Ed Wolfe Construction for approximately \$10,000, the remainder of the \$25,000 balance that was due. Manville subsequently learned that the Knights had hired Dawson to assess the workmanship issues in the house. In response, Manville retained Wehmeier to inspect the home in its entirety and to perform an independent evaluation. After he received Wehmeier's report, he requested that Genco Construction prepare an estimate for the repair of the issues identified by Wehmeier, which totaled \$38,000. As a result of this estimate, State Farm voided the \$10,000 joint payment and issued a \$10,000 check directly to the Knights. Manville acknowledged that a "good number of" the items identified in Genco Construction's report were items listed on the "punch list" that Wolfe Construction was unable to complete.

¶ 22 Joseph Paul testified that he was president of Genco Construction Company, a construction company that specialized in fire and water restoration projects. In November 2010, he received a request from Manville to inspect the Knights' residence for workmanship issues. As part of his investigation, he prepared a report addressing the

items that he believed were appropriate for repair under the premier contractor five-year warranty. He opined that the work was necessary to fix or complete the fire restoration project, and that the work could be completed within one week. In January 2012, Manville requested that he return to the Knights' residence because the Knights had hired Dawson to inspect the house. He was asked to evaluate the reports prepared by Dawson and Wehmeier and to estimate the cost to fix the workmanship issues identified in their reports. He was asked to estimate the cost to fix every item identified on Wehmeier's report. His investigation was limited to the restoration project, and he did not evaluate any issues with regard to the upgrades and additional work.

¶ 23 Paul testified that he did not give any credence to Dawson's report. He described the report as a "story" and explained that the report contained "emotions" and "inappropriate comments." He was "shocked that just the format, the emotions in it were very inappropriate *** for an engineer's report." He opined that the report was "trumped up" and exaggerated. He explained that Richard had a lot of complaints about the house and that some of the workmanship complaints "didn't jive with the paperwork," which indicated that Wolfe Construction had not completed the work complained about. He also opined that some of the identified issues had preexisted the work performed by Wolfe Construction.

¶ 24 Paul opined that the workmanship on the Knights' residence was good "with some minor disparities." Paul described Richard as meticulous with "[p]ossibly perfectionist tendencies." He also described Richard as hypersensitive when it came to matters

relating to his house. He explained that the only way that he would work for Richard was if it was "conditional" because he would be afraid of a lawsuit.

¶ 25 Following the evidence, the trial court entered a written order finding in favor of Wolfe Construction, concluding that the agreement to perform services executed by Richard was an enforceable contract. In support of this conclusion, the court looked at the language of the authorization and noted that it stated as follows:

"This is a fixed price contract. No individual line item prices can be taken from this estimate because the estimate is written in a generalized pricing fashion to give an 'overall scope' for the project. *** One line item prices may not reflect all costs and related burdens to Wolfe Construction for that item. Individual prices, therefore, must be confirmed by Wolfe Construction."

Based on this language, the court concluded that the contract price was not fixed and was instead subject to adjustments. The court determined that the Knights were aware that Wolfe Construction was being paid by State Farm to repair the residence and that they would be financially responsible for any unauthorized extras or upgrades. The Knights were also aware that if State Farm issued a check in their name for work performed by Wolfe Construction, they were required to endorse the check over to Wolfe Construction, and that if Wolfe Construction was required to submit the account for collection, they were responsible for paying interest, attorney fees, and collection costs. The court noted that Wolfe Construction had to prove the existence of a contract, performance by them, a breach by the Knights, and resulting damages, and it concluded that Wolfe Construction

had proven "those elements not merely by a preponderance, but beyond any reasonable doubt."

¶ 26 With regard to the workmanship issues, the court concluded that the evidence "overwhelmingly established that the Knights demanded both perfection and the impossible." The court noted that Dawson testified that it would cost in excess of \$70,000 to repair Wolfe Construction's work. However, the court found that this testimony "was not only incredible, it was laughable." The court found significant Dawson's testimony that "only God knows" how he will be paid if the court ruled in favor of Wolfe Construction. The court found Paul "completely credible" and a "remarkably persuasive" witness. The court noted that Paul opined that Dawson's report was "trumped up and exaggerated." The court stated as follows with regard to Paul's testimony: "What the appellate court can not tell from the cold record is that when Mr. Paul was asked these questions he was smiling and actually trying to suppress a chuckle." The court concluded that Dawson "was, at best, totally biased, and the only legitimate use for the report is at the bottom of a bird cage." The court stated that it had carefully observed the demeanor and weighed the credibility of the witnesses and parties. The court believed that Ed Wolfe was "completely credible." It described Richard's testimony as evasive and found Luann credible when she testified that she believed that they owed Wolfe Construction money. The court found that any deficiencies in the house were things that were present before the fire, were not authorized by State Farm, or were supposed to be fixed or completed pursuant to the "punch list," but Wolfe Construction was prevented from completing these items. The court noted that the most significant evidence was elicited

from Ed Wolfe when he testified as follows: "I don't believe Richard Knight wanted us to finish. I believe he wanted us right here."

¶ 27 Accordingly, the court found in favor of Wolfe Construction and against the Knights in the following amounts: \$25,430.24, representing the amount of the State Farm check; \$17,813.22 for the additional work for the front porch and upgrades; and \$26,117 for the contract interest through November 7, 2012. With regard to the Knights' counterclaim, the court entered judgment in favor of Wolfe Construction. Thereafter, the court awarded Wolfe Construction attorney fees in the amount of \$38,938.22. The Knights appeal.

¶ 28 The Knights first argue that the authorization to perform services was not an enforceable written contract because it did not contain essential terms, *i.e.*, start time, finish date, scope of the work to be completed, or the price. In support of this argument, they maintain that the initial estimate from Wolfe Construction concerning the restoration work was not attached to the authorization at the time that it was executed by Richard. Alternatively, they argue that if the authorization is considered an enforceable written contract, it was a fixed price contract and therefore the contract price was limited to the amount of the original estimate for the restoration work, which totaled \$107,219.05. In response, Wolfe Construction argues that the trial court's finding that the authorization was an enforceable contract was supported by the record. Wolfe Construction maintains that an estimate setting forth a "room by room" and "item by item" itemization of the work to be completed was attached to the authorization. Wolfe Construction further argues that it was made clear that the initial estimate was subject to adjustments.

¶ 29 The standard of review applied when a challenge is made to the trial court's ruling following a bench trial is whether the trial court's decision was against the manifest weight of the evidence. *Brody v. Finch University of Health Sciences/The Chicago Medical School*, 298 Ill. App. 3d 146, 153 (1998). A judgment is against the manifest weight of the evidence where the opposite conclusion is apparent or where the findings appear to be unreasonable, arbitrary, or not based on the evidence. *Id.* "The trial court's finding must be given great deference because the trial court, as the trier of fact, is in an optimum position to observe the demeanor of witnesses while testifying, to judge their credibility, and to determine the weight their testimony should receive." *Id.*

¶ 30 Here, the trial court concluded that the parties had entered into a valid, enforceable written contract when Richard executed the authorization to perform services. Although the Knights testified at trial that the initial estimate was not attached to the authorization at the time that it was signed by Richard, McKnelly testified that the estimate was attached to the authorization at this time. As stated above, the trial court must be given great deference because it had the opportunity to observe and evaluate the witnesses' testimony. In its written order, the court noted that it did not find Richard a credible witness and characterized his testimony as "evasive." From our review of the record, we do not find that the trial court's finding that the authorization to perform services was a valid, enforceable written contract was against the manifest weight of the evidence.

¶ 31 Additionally, with regard to the Knights' argument concerning the authorization being a "fixed term contract," we find that the trial court's conclusion that the contract price was not limited to the initial estimate and that it was subject to adjustments was not

against the manifest weight of the evidence. We note that the language in the authorization to perform services indicates that no individual line item prices can be taken from the estimate because it was written in a "generalized pricing fashion," that line item prices might not reflect all costs and related burdens to Wolfe Construction, and that individual prices needed to be confirmed. Also, the Knights requested additional improvements and upgrades throughout the construction process that were not covered by the insurance policy, which resulted in multiple adjustments to the cost of the entire construction project. They also requested several changes after work had already started or was completed, which also resulted in additional costs. Therefore, we conclude that the trial court's conclusion that the contract price was not limited to the price of the initial estimate was not against the manifest weight of the evidence.

¶ 32 The Knights next argue that Wolfe Construction had failed to substantially perform its obligations under the authorization to perform services by failing to timely complete the construction project and failing to perform the work in a reasonable, workmanlike manner.

¶ 33 A contractor is not required to perform work under a contract perfectly, but rather is held only to the duty of substantial performance in a workmanlike manner. *Folk v. Central National Bank & Trust Co. of Rockford*, 210 Ill. App. 3d 43, 46 (1990). For substantial performance, a contractor must establish that there was an honest and faithful performance of the contract in its material and substantial parts, with no willful departure from, or omission of, the essential elements of the contract. *Id.* "What constitutes

substantial performance is difficult to define, and whether substantial performance has been given will depend upon the relevant facts of each case." *Id.* at 46-47.

¶ 34 Here, the record indicates that the completion date was an estimate of when the project would be finished and that throughout the course of construction, the Knights requested changes, upgrades, and additional improvements, which consequently affected the anticipated finish date. The trial court determined that the Knights demanded both "perfection and the impossible" with regard to Wolfe Construction's work. The court noted that the Knights hired Dawson to support their claim that Wolfe Construction had failed to substantially perform the work in a workmanlike manner. However, the court did not find this evidence credible. In fact, the court concluded that Dawson's testimony was "not only incredible, it was laughable." The court found significant Paul's testimony that Dawson's report was "trumped up and exaggerated." The court concluded that any defects in Wolfe Construction's work were either issues that were present before the fire, were not authorized by State Farm, or were items contained on the "punch list." As previously stated, the trial court must be given great deference because it had an opportunity to observe and evaluate the witnesses' testimony. Accordingly, we conclude that the court's decision that Wolfe Construction substantially performed its obligations under the contract in a workmanlike manner was not against the manifest weight of the evidence. Further, we conclude that the court's decision to enter judgment in favor of Wolfe Construction with respect to the Knights' counterclaim was also not against the manifest weight of the evidence for the same reasons.

¶ 35 The Knights further argue that the trial court erred in awarding attorney fees and interest to Wolfe Construction because the authorization to perform services was not a valid, enforceable contract. Alternatively, the Knights argue that recovery of attorney fees and interest should be limited to the work performed under the written contract, *i.e.*, the restoration work.

¶ 36 A party is generally responsible for his own attorney fees. *J.B. Esker & Sons, Inc. v. Cle-Pa's Partnership*, 325 Ill. App. 3d 276, 281 (2001). However, an exception exists where attorney fees are specifically authorized by a contract entered between the parties. *Id.* The standard of review applicable to a trial court's award of attorney fees is abuse of discretion. *In re Marriage of Vancura*, 356 Ill. App. 3d 200, 207 (2005). Similarly, it is a general rule in Illinois that interest is not recoverable unless contracted for or authorized by statute. *In re Liquidation of Pine Top Insurance Co.*, 322 Ill. App. 3d 693, 699 (2001). Here, the authorization to perform services, which we have found to be a valid, enforceable written contract, specifically provided for attorney fees and interest. Specifically, it provided as follows: "If Wolfe Construction submits this account for collection. Customer agrees to pay interest at 1.5% per month or at the highest rate allowed by law, court costs, reasonable attorney fees and all costs of collection." Further, the authorization to repair provided that the customer would be financially responsible for any additional improvements or upgrades not covered by the homeowners' insurance policy, contemplating that additional charges would be incurred throughout the construction process. Ed Wolfe testified that the Knights owed the following amounts on their account: \$25,430.24 for the restoration work and \$17,813.22 for the additional

work. Therefore, the trial court did not abuse its discretion by awarding Wolfe Construction contractual interest and attorney fees pursuant to the written contract and not limiting the recovery of interest and attorney fees to the restoration work.

¶ 37 However, the Knights argue that it was reversible error for the trial court to assess contractual interest and attorney fees against Luann because she did not sign the authorization to perform services. We agree. The Knights first raised this argument in their posttrial motion, which was denied by the trial court. As previously explained, attorney fees and contractual interest are generally not recoverable unless authorized by a contract entered into between the parties. *J.B. Esker & Sons, Inc.*, 325 Ill. App. 3d at 281; *In re Liquidation of Pine Top Insurance Co.*, 322 Ill. App. 3d at 699. Because Luann did not sign the written contract, which allowed for interest and attorney fees, the court abused its discretion in assessing interest and attorney fees against her. Therefore, we find that the trial court erred in denying the Knights' posttrial motion with respect to this issue. Accordingly, we affirm the court's assessment of contractual interest and attorney fees with regard to Richard Knight, but reverse the court's decision with respect to Luann being obligated to pay the awarded contractual interest and attorney fees.

¶ 38 Last, the Knights argue that the trial court erred in awarding Wolfe Construction \$17,813.22 for the additional work and upgrades. The Knights argue that although there was a written contract for the front-porch project, there was no written contract with regard to the extra work totaling \$15,522.88. Further, they argue that the agreed price for the front-porch project was \$11,071.33, an amount that was fully paid. The Knights note that they paid \$7,500 for a down payment on the project and subsequently tendered a

check in the amount of \$5,321.31 for the remaining balance. They argue that the \$5,321.31 check was marked "final porch payment" and that it was accepted, endorsed, and cashed by Wolfe Construction. They argue that Wolfe Construction's knowing acceptance of the check tendered in full payment of the disputed balance constituted an accord and satisfaction and discharged the debt in full. Ed Wolfe testified that the Knights owed \$15,111.67 for the extra work that was not covered by their homeowners' insurance policy. The authorization to repair specifically stated that the customer would be financially responsible for any repairs or improvements made by their direction and not covered under the insurance policy. Additionally, Richard acknowledged that he had signed the agreement for Wolfe Construction to complete the front-porch project and attached to the agreement was an estimate indicating that the project would cost \$15,522.88. However, he testified that the agreed price for the front-porch project was \$11,071.33. As already stated, the trial court's credibility determinations must be given great deference because it was in the position to observe the witnesses testify regarding the amount owed and was able to judge their credibility. Therefore, we conclude that the trial court's finding that the Knights owed Wolfe Construction additional sums for the front-porch project and the extra work was not against the manifest weight of the evidence.

¶ 39 In summary, we affirm the trial court's judgment in favor of Wolfe Construction against the Knights for \$25,430.24, representing the State Farm check, and \$17,813.22, representing the front porch and various upgrades. We affirm the court's award of contractual interest (\$26,117) and attorney fees (\$38,938.22) in favor of Wolfe

Construction and against Richard Knight. We reverse the court's award of contractual interest and attorney fees against Luann Knight.

¶ 40 For the foregoing reasons the judgment of the circuit court of Marion County is hereby affirmed in part and reversed in part.

¶ 41 Affirmed in part and reversed in part.