2016 IL App (1st) 141953-U

No. 1-14-1953

FIFTH DIVISION
June 24, 2016

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

JOHN GOLDEN,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant and Cross-Appellee,	)	Cook County.
	)	
v.	)	No. 88 L 25088
	)	
SEAN PUCCINELLI	)	
	)	
Defendant	)	
	)	
(William Coughlin,	)	Honorable
	)	Alexander J. White,
Petitioner-Appellee and Cross-Appellant).	)	Judge Presiding.

JUSTICE LAMPKIN delivered the judgment of the court.
Presiding Justice Reyes and Justice Gordon concurred in the judgment.

O R D E R

¶ 1 *Held*: This appeal involves a dispute over legal fees between the plaintiff former client and the petitioner former attorney. We hold that the trial court did not err by (1) denying the plaintiff's motion to strike the former attorney's fee petition, which did not itemize in detail the time spent and the legal services rendered; (2) allowing into evidence the testimony of petitioner's undisclosed expert witness; and (3) awarding the petitioner attorney fees on a *quantum meruit*

basis. However, we hold that the trial court abused its discretion in granting petitioner an award of $147,000 in additional attorney fees, which were not supported by the rationale of the trial court's written order or the evidence.

¶ 2 In this appeal, plaintiff John Golden challenges the trial court's decisions that (1) denied his motion to strike the fee petition of his former attorney, petitioner William C. Coughlin, even though Coughlin failed to itemize the time increments and hourly rate for services he rendered to Golden under the terms of their one-third of recovery contingent fee agreement; (2) allowed Coughlin's undisclosed expert witness to testify at the evidentiary hearing; and (3) granted Coughlin additional attorney fees in the amount of $147,000.

¶ 3 In his cross-appeal, Coughlin challenges the trial court's decision that awarded him fees based on *quantum meruit* rather than one-third of all sums recovered from the underlying judgment.

¶ 4 For the reasons that follow, we affirm the trial court's decisions that (1) denied Golden's motion to strike Coughlin's fee petition; (2) allowed the testimony of Coughlin's undisclosed expert witness; and (3) awarded Coughlin attorney fees on a *quantum meruit* basis. However, we conclude that the trial court abused its discretion in awarding $147,000 in additional attorney fees to Coughlin because the rationale of the trial court's written order and the evidence do not establish the reasonableness of those fees. Accordingly, we reverse the trial court's judgment awarding Coughlin $147,000 in attorney fees and remand this cause for further proceedings.

¶ 5 I. BACKGROUND

¶ 6 In 1988, Golden signed a written agreement retaining attorney Coughlin to represent him in a personal injury action against defendant Sean Puccinelli. Golden alleged Puccinelli severely beat him, caused multiple contusions to various areas of his body, and fractured his leg and ankle,

which required surgery. The retainer agreement provided that Coughlin would be entitled to a one-third contingency fee "of all monies recovered before, during or after trial" and would "undertake the investigation and preparation of these claims and the prosecution of actions necessary to recover whatever damages may be found to be due as a result of such claims." Furthermore, if Golden discharged Coughlin, Golden agreed "to pay him a reasonable fee computed on a time basis in addition to the expense he has advanced." Golden's personal injury complaint against Puccinelli was filed in December 1988. After a jury trial, the trial court entered judgment in April 1993 on the jury's verdict in favor of Golden and against Puccinelli for $162,746.

¶ 7 In January 1994, Coughlin instituted wage deduction proceedings against Puccinelli's employer in order to obtain satisfaction of the 1993 judgment. The wage deduction proceedings remained in effect, and a 1999 wage deduction order remained in force until such time as the judgment was satisfied in full. Coughlin also defended Golden in the trial and appeal of a declaratory relief action, which litigated the issue of Puccinelli's insurance coverage for Golden's injuries and damages. In addition, Coughlin placed a lien on a parcel of real estate in which Puccinelli held an interest, conducted two citation to discover assets proceedings with Puccinelli, and revived the 1993 judgment in August 2005.

¶ 8 Since January 1994, Coughlin took his one-third contingency fee portion of the wage garnishment proceeds for about 13 1/2 years. On or about July 5, 2007, Golden retained new counsel and terminated Coughlin's services. Successor counsel was retained to take over the prosecution of the garnishment of Puccinelli's wages and pursue a foreclosure action on the real estate lien. In September 2008, Golden moved the court to amend the 1999 wage deduction order to require that (1) the garnishment payments be made to Golden and his successor attorney, and (2)

Coughlin reimburse the successor attorney for all fees Coughlin took after his termination.

¶ 9 On June 8, 2009, the trial court granted Golden's motion to amend the wage deduction order. The trial court also ruled that Coughlin was not entitled to a full one-third of all monies recovered on the judgment but rather was entitled to attorney fees on a *quantum meruit* basis from his date of hire until his termination on July 5, 2007. The trial court ordered all money collected after July 5, 2007 placed into escrow until the issue of Coughlin's fees was resolved. The trial court also ordered Coughlin to submit a petition for any reasonable fees and expenses. Coughlin moved the court to reconsider its order, and the court denied his motion. Thereafter, Coughlin filed an appeal, which was dismissed in February 2011 for lack of jurisdiction.

¶ 10 In June 2012, Coughlin filed his petition for attorney fees in the trial court. Golden moved to strike the petition as insufficient. Golden argued the petition merely reargued the trial court's June 8, 2009 decision and failed to include, as necessary elements of a *quantum meruit* petition, a detailed itemization of Coughlin's time expended and hourly rate for each service rendered to Golden. In December 2012, the trial court denied Golden's motion to strike; allowed Coughlin to append to his petition a previously filed document that contained some information regarding his hourly rate, the total fee he sought, and a list of some of the work he had done in this case; and granted Golden leave to conduct limited discovery to clarify Coughlin's amended fee petition prior to an evidentiary hearing.

¶ 11 The evidentiary hearing on Coughlin's fee petition was held in January 2013. When Coughlin called attorney Vincent O'Brien as an expert witness on attorney fees, Golden's counsel objected to Coughlin's nondisclosure of O'Brien. Specifically, Golden's counsel argued the fee petition contained the affidavit of Terrence Lavin and thereby implied that Lavin would be Coughlin's expert witness. Coughlin responded that he did not receive any discovery request from

Golden, and the trial court overruled Golden's objection.

¶ 12 O'Brien was qualified as an expert, testified concerning his knowledge of Coughlin's experience as an attorney, and opined that Coughlin was very competent and his integrity was beyond reproach. O'Brien also testified that in 1987, the customary and usual fee for a plaintiff personal injury attorney was a contingency fee of one-third of the recovery, one-third for taking the case to trial, and 40% to 50% if an appeal was taken.

¶ 13 Coughlin testified concerning his credentials and experience. He generally summarized the work he had done for Golden and identified several supporting documents concerning filing the personal injury action; conducting discovery; litigating the case before a jury for a week and obtaining an award; responding to posttrial motions; actions taken to discover Puccinelli's assets and garnish his wages; and defending Golden in the declaratory judgment action filed by Puccinelli's insurance carrier during the trial, appeal and remand phases. Coughlin testified that he did not maintain hourly time records because his contract with Golden provided that this case was a contingency fee arrangement; however, he estimated that he spent about 200 hours on the declaratory judgment action and about 100 hours on post-verdict collection activities, at his then hourly rate of $175. He did not calculate the amount of time he spent on the personal injury case and opined that the usual attorney fee for a personal injury case was one-third of the settlement or judgment at the trial level and 40% of the amount of the verdict or judgment at the appellate level.

¶ 14 Through his cross-examination of Coughlin, Golden's counsel established that Coughlin's practice was located in Worth, Illinois and his current hourly rate for a personal injury action was $225 an hour. Furthermore, Coughlin's fee petition included a list of 330 entries referencing items like letters, depositions, and court appearances to describe his work on Golden's case, but that list did not designate a time increment or dollar figure for any entry. In addition, because Coughlin's

petition claimed he had expended over 1,800 hours on this case at the rate of $175 per hour, his total fee based on 1,800 hours would be $315,000, which amounted to—on average—six hours of pay per entry, even though 212 of the 330 entries were just for letters. Coughlin collected $68,932 of the judgment award and had already taken 30.7% of that amount, or $21,195.99, in attorney fees.

¶ 15 At the conclusion of the hearing, the trial court ordered Coughlin to submit a supplemental memorandum listing his rates and hours spent representing Golden in (1) the personal injury action and obtaining the $167,746 jury verdict in 1993, (2) the declaratory judgment action, and (3) the supplemental post-verdict proceedings involving collection matters.

¶ 16 Thereafter, the parties filed post-hearing submissions. Coughlin argued the fairest formula to compensate him for all the services he rendered to Golden would be either (1) 50% of all monies recovered, past and future, as a result of the judgment entered, or (2) 50% of the judgment with accrued interest, or (3) a $175 hourly rate multiplied by the total estimated hours spent on the tort, declaratory relief, and supplemental proceedings, plus accrued interest. Under his proposed 50% of the judgment formula, Coughlin would receive a $220,520 fee, representing 50% of the verdict ($81,373) plus 9% annual statutory interest ($7,323) earned over the 19 years since the judgment was entered. Under his proposed hourly rate formula, Coughlin would receive an $807,975 fee, representing 1,500 hours in the tort action with $23,625 annual interest over 19 years, plus 200 hours in the declaratory relief action with $3,150 annual interest over 14 years, plus 100 hours in the supplementary proceedings without an interest component.

¶ 17 On May 22, 2014, the trial court granted Coughlin $147,000 in attorney fees, in addition to the $21,195.99 he had already received. The trial court found that Golden's 1993 judgment for $162,746, plus costs, was currently worth approximately $441,041.66, and Coughlin had

recovered a total of $68,932.14 of the judgment from Puccinelli or his employer. Furthermore, the amounts of $5,342.84 in litigation expenses, $14,343.21 in lien payments, and $21,195.99 in Coughlin's attorney fees had been deducted from that recovered amount, and Golden had received the $28,050.10 balance. The trial court found that Coughlin's services in obtaining the $162,746 jury verdict were fairly worth one-third of the $68,932.14 collected on that verdict, and his additional work in the declaratory relief, trial and appellate proceedings, and the collection services following entry of the judgment would be worth, conservatively, $50,000. The trial court concluded that Coughlin's services were substantial and the fees he sought were reasonable based on the evidence, applicable law, and the trial judge's 50 years of experience as a trial lawyer and judge.

¶ 18 Golden timely appealed the award of attorney fees and also the December 2012 order denying his motion to strike Coughlin's petition. Coughlin cross-appealed the denial of his motion to reconsider and the June 2009 order amending the wage deduction order.

¶ 19 II. ANALYSIS

¶ 20 A. Motion to Strike the Petition for Attorney Fees

¶ 21 Golden argues the trial court erred in denying his motion to strike Coughlin's attorney fee petition because it failed to provide the trial court or plaintiff with the minimal information necessary to evaluate the value of Coughlin's work on a *quantum meruit* basis. Golden argues Coughlin's voluminous fee petition primarily reargued his previously rejected assertion that he was entitled to compensation at the contractual rate of one-third of the judgment instead of on a *quantum meruit* basis. Furthermore, although Coughlin's petition included an affidavit from an attorney opining that Coughlin was entitled to his one-third contingency fee, which was customary in Cook County personal injury actions, that expert failed to utilize a *quantum meruit* analysis to

provide the court with any relevant support for Coughlin's fee petition. In addition, Golden argues Coughlin's list of services allegedly rendered to Golden fails to indicate Coughlin's hourly billing rate and the amount of time spent on each service.

¶ 22 Section 2-615 of the Code of Civil Procedure provides, in part, that a pleading or portion thereof may be stricken because it is substantially insufficient in law. 735 ILCS 5/2-615(a) (West 2010). Because Golden's motion to strike Coughlin's fee petition raised an issue of law, we review the trial court's ruling denying that motion *de novo*. *Winters v. Wangler*, 386 Ill. App. 3d 788, 793 (2008).

¶ 23 A "party seeking to recover attorney fees from another party bears the burden of presenting sufficient evidence from which the trial court can render a decision as to their reasonableness." *Harris Trust and Savings Bank v. American National Bank & Trust Co. of Chicago*, 230 Ill. App. 3d 591, 595 (1992). A fee petition "must present the court with detailed records containing facts and computations upon which the charges are predicated specifying the services performed, by whom they were performed, the time expended and the hourly rate charged." *Id*. Once the trial court has this information, it "should consider a variety of other factors including the skill and standing of the attorneys employed, the nature of the case, the novelty and difficulty of the issues involved, the degree of responsibility required, the usual and customary charge for the same or similar services in the community, and whether there is a reasonable connection between the fees charged and the litigation." *Id*.

¶ 24 According to the record, Coughlin had been collecting his one-third attorney contingency fee from the garnishment of Puccinelli's wages for about 13 1/2 years, and the trial court ordered Coughlin to file a fee petition so the court could determine if he was entitled to any further compensation and, if so, how much. We agree with Golden that neither Coughlin's arguments

attempting to persuade the trial court to change its *quantum meruit* ruling nor the expert affidavit espousing contingent fee relief provided the trial court and plaintiff with relevant information to evaluate the value of Coughlin's work on a *quantum meruit* basis. However, Coughlin's petition included an eight-page, single-spaced list of items related to Golden's case and dated from December 30, 1988 to October 10, 2010 (even though Golden had discharged Coughlin in July 2007). The listed items consisted of a date corresponding to a brief description of a service or an event, such as "1/10/1992 Answer to Complaint for Declaration of Judgment filed," "12/17/1992 Court: cont.," or 7/20/2007 Ltr: John Golder [*sic*] Re: sending check for $ collected from Puccinellis [*sic*] employer $350." None of the items indicated an increment of the time expended rendering the service or Coughlin's hourly billing rate.

¶ 25 While Coughlin's petition is not a model of the factual detail and clarity that should be included in a *quantum meruit* claim, it is not so lacking in relevant factual allegations concerning the services provided to Golden to require that the petition be stricken. In *Johns v. Klecan*, 198 Ill. App. 3d 1013, 1019 (1990), this court held that trial courts can adequately guard against the possibility of excessive fees without requiring contingent fee attorneys to account for their time with the same specificity and exactitude of hourly fee attorneys. The time and labor required in a case is just one of the multiple factors the trial court must consider in determining reasonable attorney fees under the doctrine of *quantum meruit*; the record indicates other evidence was available to enable the trial court to assess Coughlin's skill and standing, the nature of the cause and novelty and difficulty of the subject matter, Coughlin's degree of responsibility in managing the cause, the usual and customary charge in the community, and the benefits resulting to Golden. At most, Coughlin's failure to account in exacting detail for the time spent on Golden's case "militates in favor of a reduced fee." See *id*. Accordingly, we conclude that the trial court did not

err in denying Golden's motion to strike Coughlin's fee petition.

¶ 26 B. Coughlin's Undisclosed Expert Witness

¶ 27 Golden argues the trial court erred in allowing Coughlin's undisclosed expert witness to testify at the evidentiary hearing on the issue of attorney fees. In his attorney fee petition, Coughlin included an affidavit from Terrence Lavin as his opinion witness on the nature and value of Coughlin's legal services. However, at the evidentiary hearing and without any prior indication or formal amendment of the petition, Coughlin substituted attorney Vincent O'Brien as his opinion witness. Golden's counsel was unfamiliar with O'Brien and objected to the substitution, but the trial court overruled the objection. Coughlin does not address the undisclosed expert witness issue in his appellate brief.

¶ 28 The decision whether or not to impose a sanction for a party's failure to comply with the rules or court orders regarding discovery lies within the sound discretion of the trial court, and the trial court's decision will not be reversed absent an abuse of discretion. *Sullivan v. Edward Hospital*, 209 Ill. 2d 100, 110 (2004). A trial court abuses its discretion if no reasonable person would take the view that the trial court adopted. *In re Marriage of Heroy*, 385 Ill. App. 3d 640, 651 (2008). Illinois Supreme Court Rule 213(f) (eff. Jan. 1, 2007), provides that "[u]pon written interrogatory, a party must furnish the identities and addresses of witnesses who will testify at trial." Furthermore, if the witness giving expert testimony is the party's retained expert, "the party must identify: (i) the subject matter on which the witness will testify; (ii) the conclusions and opinions of the witness and the bases therefor; (iii) the qualifications of the witness; and (iv) any reports prepared by the witness about the case." Ill. S. Ct. R. 213(f)(3) (eff. Jan. 1, 2007).

¶ 29 Golden does not state that he filed a written interrogatory on Coughlin requesting disclosure of any witnesses, and our review of the record does not indicate that Golden ever filed

such an interrogatory. Under these circumstances, we cannot conclude that the trial court erred in allowing O'Brien to testify over Golden's objection, notwithstanding Coughlin's failure to disclose O'Brien as an expert witness.

¶ 30 C. Attorney Fee Award

¶ 31 First, Coughlin argues the trial court erred in awarding him fees on a *quantum meruit* basis. He also argues that the trial court erred by failing to either enforce his perfected attorney lien rights, award him an equitable lien, or apply the common fund doctrine to all proceeds recovered from the verdict. We disagree.

¶ 32 Illinois law is clear that a client may discharge his attorney with or without cause at any time, even in a contingency fee based agreement. *Thompson v. Hiter*, 356 Ill. App. 3d 574, 580-81 (2005). When the attorney is discharged, the contingent fee contract no longer exists and the contingency term is no longer operative. *Id.* at 581. A discharged attorney, however, is entitled to payment for the services rendered prior to discharge on a *quantum meruit* basis. *Id*. at 580. Accordingly, we conclude that the trial court did not err in determining that Coughlin would be entitled to any additional compensation after his discharge on a *quantum meruit* basis only. Coughlin's remaining contentions concerning liens or the common fund doctrine need not be addressed by this court because they are subsumed by our conclusion that the trial court properly ruled he was entitled to his fees on a *quantum meruit* basis only.

¶ 33 Next, Golden argues that, although a fee award on a *quantum meruit* basis would be appropriate in this matter, the trial court abused its discretion by awarding Coughlin $147,000 in addition to the $21,195.99 fee he had already received because he failed to meet his burden to show those fees were reasonable. Specifically, Golden argues that Coughlin failed to provide any itemized billing; Coughlin and his witnesses failed to provide credible testimony regarding

Coughlin's time entries and billing rates; the trial court's $147,000 fee award was not based upon the hearing testimony; the fee award did not indicate whether it should come from past, present or future collections of the outstanding verdict; Coughlin's fee award was far superior to any fee he would have received under the contingency fee agreement; and Golden's attempts to retain successor counsel to pursue collection of the outstanding verdict would be thwarted because Coughlin's excessive compensation would prevent Golden from paying successor counsel a reasonable fee.

¶ 34 Coughlin responds that the trial court's $147,000 award of additional attorney fees was supported by evidence that the case was novel and difficult (the *Chicago Daily Law Bulletin* had published an article on the matter); his services were substantial (he had managed the entire case from filing of the complaint in 1988, to conducting the 1993 jury trial, the declaratory relief proceedings—both the appeal and remand, and the collection activities until his discharge in 2007); he was a skilled attorney and his fees were the usual and customary charges in the community for this type of work; and Coughlin's efforts in obtaining the verdict benefitted Golden, who could continue to pursue Puccinelli for the outstanding balance of the verdict plus accrued interest. Coughlin also contends that the trial court's award of $147,000 in additional attorney fees was within its discretion because even under a *quantum meruit* basis, Coughlin could ultimately receive a fee that was higher than the contingency fee he and Golden had originally agreed upon. See *Baker*, 112 Ill. App. 3d at 1099 (the use of a percentage figure to determine a reasonable *quantum meruit* fee may be an appropriate measure even though it could result in a higher fee). See also *Wegner v. Arnold*, 305 Ill. App. 3d 689, 693 (1999) (If an attorney performed much of the work on a case before he was discharged and a settlement immediately followed his discharge, the factors courts use to determine a reasonable fee could justify a finding that the

attorney's entire contract fee was the reasonable value of the services he rendered); accord *DeLapaz v. SelectBuild Construction Co., Inc.*, 394 Ill. App. 3d 969, 973 (2009).

¶ 35 A trial court's award of attorney fees is reviewed under the abuse of discretion standard (*In re Marriage of Bussey,* 108 Ill. 2d 286, 299 (1985)), and a trial court abuses its discretion if "no reasonable person would take the view adopted by the trial court" (*In re Marriage of Heroy,* 385 Ill. App. 3d at 651)). The term "*quantum meruit* " literally means " 'as much as he deserves.' " *Much Shelist Freed Denenberg & Ament, P.C. v. Lison*, 297 Ill. App. 3d 375, 379 (1998), quoting *First National Bank of Springfield v. Malpractice Research, Inc.*, 179 Ill. 2d 353, 365 (1997). "*Quantum meruit* is based on the implied promise of the recipients of services to pay for those services or otherwise they would be unjustly enriched. *In re Estate of Callahan*, 144 Ill. 2d 32, 40 (1991). Several factors are considered in determining the *quantum meruit* amount for services rendered, including "the time and labor required, the attorney's skill and standing, the nature of the cause, the novelty and difficulty of the subject matter, the attorney's degree of responsibility in managing the case, the usual and customary charge for that type of work in the community, and the benefits resulting to the client." *Will v. Northwestern University*, 378 Ill. App. 3d 280, 304 (2007).

¶ 36 Under a *quantum meruit* theory of recovery, the attorney's inability to account with precision the time spent on each task performed for the client will not preclude recovery of the attorney's fee. *Id*. at 302. However, the attorney seeking to prove a *quantum meruit* request for compensation has the burden of presenting sufficient evidence to show that the compensation is reasonable. *Id*. at 300. The court, in arriving at its ultimate determination that a fee is or is not reasonable, is not limited to the evidence presented but may also rely on its knowledge of the cost and demanding nature of the professional services rendered. *Johns*, 198 Ill. App. 3d at 1022.

¶ 37 We find that the trial court abused its discretion in determining that Coughlin met his burden to prove he was entitled to $147,000 in attorney fees, in addition to the $21,195.99 in attorney fees he had already received. This total fee award of $168,195.99 (or 103% of the verdict) is not supported by the rationale of the trial court's May 2014 written order. Specifically, the trial court stated that Coughlin was entitled to one-third of the $68,932.14 amount that was recovered from the $162,746 jury verdict (or $22,954.40) plus $50,000 for his additional work in the declaratory relief trial and appellate proceedings and his collection services. According to this rationale, Coughlin's total attorney fee would be $72,954.40 (or about 45% of the verdict), and the $21,195.40 he had already received should have been deducted from that amount, resulting in a net additional attorney fee of $51,758.41.

¶ 38 Despite its written rationale indicating Coughlin was entitled to $51,758.41 in additional attorney fees, the trial court entered an order awarding him $147,000 in additional attorney fees. The trial court's written order does not mention an award of accrued interest, and this court cannot guess at the calculations the trial court may have employed to grow the $51,758.41 amount into $147,000. Nevertheless, even if the gap between the $51,758.41 and $147,000 amounts was due to some type of interest award, the trial court failed to deduct the $21,195.40 Coughlin had already received from that interest calculation. Accordingly, any award of interest based on the time between the dates of the 1993 verdict and Coughlin's July 2007 discharge failed to provide any credit to Golden for the many occasions the verdict award was reduced by the garnishment of Puccinelli's wages during the intervening years. Based on the huge discrepancy between the clearly stated rationale in the trial court's written order and the $147,000 additional attorney fees awarded to Coughlin, we conclude that the trial court abused its discretion and remand this cause to the trial court for further proceedings.

¶ 39 Furthermore, the factors courts consider in determining the *quantum meruit* amount for services rendered includes the benefits resulting to the client. *Will*, 378 Ill. App. 3d at 304. Here, the court found that the current worth of Golden's 1993 verdict was approximately $441,041.66, a figure apparently arrived at by multiplying the $162,746 verdict by 9% annual interest ($14,647.14) earned over 19 years since the judgment was entered. If the trial court used such a calculation, then the trial court's valuation of the current worth of the verdict seems excessive because the trial court failed to deduct the $68,932.14 already recovered. Furthermore, the trial court's ruling did not mention the fact that Golden had received only $28,050.10 after Coughlin's attorney fees, litigation expenses and lien payments were deducted from the recovered amount. Coughlin's collection efforts over about 13 1/2 years succeeded in obtaining only 42% of the verdict. Our review of the record indicates that, so far, the only successful method of collecting the outstanding verdict has been the garnishment of Puccinelli's wages; the evidence at the hearing did not indicate how much more funds could be collected based on Puccinelli's ownership interest in any other assets. Coughlin seems to concede that the current value of Golden's verdict is not $441,041.66 because his arguments before the trial court and this court fault Golden for rejecting a settlement offer from Puccinelli for $100,000. Under these circumstances, an attorney fee award based on a $441,041.66 valuation of the 1993 verdict fails to consider the benefits resulting to Golden.

¶ 40 D. Turnover of Escrow Funds

¶ 41 Coughlin moved this court, pursuant to Illinois Supreme Court Rule 361 (eff. January 1. 2015), to enter an order compelling Golden to turn over to Coughlin all funds held in Golden's court-ordered escrow account and all future monies received from or on behalf of Puccinelli. Coughlin argues that the enforcement of the trial court's May 2014 order awarding him $147,000

in additional fees was not stayed and Golden did not file an appeal bond or any other form of security as required under Illinois Supreme Court Rule 305(a) (eff. July 1, 2004).

¶ 42 According to the supporting record, after the trial court awarded Coughlin $147,000 in additional attorney fees, Golden filed an appeal on June 19, 2014, and Coughlin filed a cross-appeal on June 30, 2014. Then, on July 30, 2014, Coughlin moved the trial court to order Golden to turn over the funds held in escrow since June 2009, arguing those funds were his because Golden had failed to file a formal stay request in either the circuit or appellate court. On September 23, 2014, the trial court denied Coughlin's motion for a turnover order, stating the money might not be available if Golden prevailed on appeal and Golden did not have funds available to post a bond. Coughlin did not appeal this order in 30 days; instead he filed in this court on December 8, 2014 his motion for a turnover order.

¶ 43 We deny Coughlin's motion for a turnover order. The record establishes that an escrow had been in place since 2009, so no further escrow was required and the trial court's September 2014 order indicates the court exercised its discretion, pursuant to Illinois Supreme Court Rules 183 (eff. Feb. 16, 2011) and 305 (eff. July 1, 2004) to extend the time to hear what was essentially Golden's oral motion for a stay. Furthermore, the dispute over the ownership of the escrow funds remains pending based on our decision reversing the $147,000 fee award and remanding this cause.

¶ 44 III. CONCLUSION

¶ 45 We affirm the trial court's decisions denying Golden's motion to strike Coughlin's attorney fee petition, allowing into evidence the testimony of Coughlin's undisclosed expert witness, and awarding Coughlin attorney fees on a *quantum meruit* basis. However, we hold that

the trial court abused its discretion in awarding Coughlin $147,000 in additional attorney fees and remand this cause to the trial court for further proceedings.

¶ 46 Affirmed in part and reversed in part; cause remanded.