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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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JR INDUSTRIES, LLC,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	No. 17 M1 711693
	)	
CORE MECHANICAL, INC.,	)	Honorable
	)	David A. Skryd,
Defendant-Appellee.	)	Judge, presiding.

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JUSTICE HYMAN delivered the judgment of the court.  
Presiding Justice Lavin and Justice Coghlan concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* The trial court did not err in awarding appellee's attorney's fees under a fee shifting provision of a lease.
- ¶ 2 JR Industries, LLC's sued to evict its commercial tenant, Core Mechanical, Inc., for failing to comply with terms of the parties' lease agreement. Core moved to dismiss the complaint arguing that a similar case was pending in a different court. The trial court granted the motion to dismiss and awarded Core attorney's fees and costs under a prevailing party provision in the lease. JR filed a motion to reconsider and, after an evidentiary hearing, sustained its fees and costs order.

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¶ 3 JR argues the trial court erred (i) by not holding an evidentiary hearing before initially granting Core’s fee petition, and (ii) by granting the fee petition despite Core’s failure to present sufficient evidence. We affirm. After granting JR’s motion to reconsider, the trial court held an evidentiary hearing, which remedied any error it may have committed in failing to initially do so. Further, the trial court did not abuse its discretion in awarding Core attorney’s fees and costs based on the affidavit and billing records Core submitted with its fee petition.

¶ 4 Background

¶ 5 JR and Core entered into a lease with an option to purchase commercial property in Chicago. The lease included a provision stating, in part, that if a suit is brought to terminate the lease or recover possession of the property, the “less prevailing party \*\*\* shall be liable to the more prevailing party for the more prevailing party’s costs and expenses, \*\*\* including, without limitation, court costs, [and] reasonable attorneys’ fees \*\*\* the amount of which shall be fixed by the court \*\*\*.”

¶ 6 About a year later, Core filed a complaint in the chancery division of Cook County Circuit Court seeking specific performance of the option to purchase. Six months later, JR filed a verified complaint in the municipal division seeking possession of the building, arguing Core violated the lease by refusing access to address a purported building code violation. Core moved to dismiss the eviction complaint under section 2-619(a) (3) of the Code of Civil Procedure (735 ILCS 5/2-619(a) (3) (West 2016) on the ground that the chancery division action involved “the same parties for the same cause.”

¶ 7 The trial court granted Core’s motion to dismiss and gave Core leave to move for fees and costs under the lease’s prevailing party provision. Core’s motion included an affidavit from Core’s president, Lisa Sheehy, stating that the company paid attorneys Richard Carbonara and

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Michael Roti \$12,700.59 in fees and costs to defend it in the eviction case. Core attached copies of the attorneys' time records, including descriptions of the work performed and the amount of time expended.

¶ 8 JR filed a motion asking for an evidentiary hearing on the fee petition. When JR presented its motion, it asked the court for a hearing date after the attorney handling the case returned from vacation. JR's attorney asserted he had an expert witness, who was not in court, to testify that Core's fees were excessive. But, the trial court decided to resolve the fees and costs issues that day, and granted the petition in its entirety.

¶ 9 JR filed a motion to reconsider, which it twice amended, arguing that the trial court should have held an evidentiary hearing on Core's fee petition because JR raised issues of fact that could not be resolved without further evidence. The trial court granted JR's motion to reconsider and scheduled an evidentiary hearing. At the hearing, JR's attorney argued that Core's fee petition was inadmissible because (i) it was not verified as Core contended, and (ii) Sheehy's affidavit and the billing records constituted hearsay that did not fall into the business records hearsay exception because Sheehy was not the custodian of those records. The trial court denied both arguments.

¶ 10 JR then called an expert witness, who testified that Core failed to satisfy its burden of proving the fees were reasonable and appropriate. Specifically, the expert testified that Carbonara billed for non-legal tasks and for tasks performed by Roti, who was not an attorney of record. He also asserted that the documents submitted in support of the fee petition were inadequately specific, failed to include an affidavit from the attorneys who worked on the case, and failed to comply with Rule 1.5 of the Illinois Rules of Professional Conduct (Ill. R. Prof'l

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Conduct R. 1.5(a) (eff. Jan. 1, 2010)) by indicating that the fees charged were usual and customary for similar services or were reasonable in light of the services rendered.

¶ 11 After the hearing, the trial court sustained its earlier decision, finding that JR's motion and the expert witness's testimony failed to support its contention that the hourly rate Core's attorneys charged and the amount of time they expended was unreasonable based on their years of experience and the nature of the case. The court also found the documents Core submitted to support its fee petition were sufficient. The trial court entered a written order denying JR's motion to reconsider and granting Core leave to file an updated petition for fees and costs.

¶ 12 JR initially appealed both the dismissal of the eviction case and the award of attorney's fees. JR then filed a substituted brief, withdrawing appeal of the dismissal of the eviction case and proceeding solely on the award of attorney's fees.

¶ 13 Analysis

¶ 14 JR contends the trial court erred when it initially granted Core's fee petition because it refused to conduct an evidentiary hearing or require Core to present sufficient evidence to sustain its burden of proof. Core contends its fee petition, which included time records, billing rates, and expenses, verified by an affidavit from Core's president, were sufficient evidence to support the trial court's award of attorney's fees and costs. Core also argues JR did not raise any fact issues that would require an evidentiary hearing, and moreover, JR received an evidentiary hearing after the trial court granted its motion to reconsider.

¶ 15 The reasonableness of fees involves a matter of proof. When a party who must pay attorney's fees asks for an evidentiary hearing, he or she may be entitled to the hearing so as to conduct meaningful cross-examination. *Bank of America National Trust & Savings Ass'n v. Schulson*, 305 Ill. App. 3d 941, 952 (1999). But, trial courts need not conduct evidentiary

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hearings as a matter of course. Rather, a fee petition warrants an evidentiary hearing only when the response of the party to be charged with paying the award raises issues of fact that cannot be resolved without further evidence. See *Williams v. American Country Insurance Co.*, 359 Ill. App. 3d 128, 142 (2005).

¶ 16 JR raised issues of fact regarding Core's motion for fees and costs that warranted an evidentiary hearing. Any error by the trial court's error in failing to conduct that evidentiary hearing before awarding Core fees and costs was remedied when the court granted JR's motion to reconsider. The court held a hearing; JR presented evidence and witnesses to refute the reasonableness and sufficiency of Core's fee petition.

¶ 17 Thus, we turn to the primary issue: whether the trial court erred in granting Core's fee petition. The party seeking attorney's fees always bears the burden of presenting sufficient evidence so that the trial court can render a decision as to reasonableness. *LaHood v. Couri*, 236 Ill. App. 3d 641, 648 (1992). An appropriate fee consists of reasonable charges for reasonable service. To justify a fee, however, a petitioner must present more than a mere compilation of hours multiplied by a fixed hourly rate or bills issued to the client, as this type of data, without more, does not provide the court with sufficient information as to reasonableness. *Id.* Instead, the petition for fees must specify the services performed, who performed them, the time expended, and the hourly rate charged. *Id.* at 648-49. Because of the importance of these factors, the petitioner must present detailed records maintained during the course of the litigation containing facts and computations on which the charges are predicated. *Id.* Although the failure of counsel seeking fees to maintain contemporaneous time records hinders the court's ability to determine whether the claimed time spent is reasonable, estimates can properly be considered by the court." *In re Marriage of Malec*, 205 Ill. App. 3d 273, 291 (1990).

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¶ 18 Once presented with these facts, the trial court should consider a variety of additional factors: (i) the skill and standing of the attorney, (ii) the nature of the case, the novelty and difficulty of the issues and work involved, (iii) the importance of the matter, (iv) the degree of responsibility required, the usual and customary charges for comparable services, (v) the benefit to the client, and (vi) whether there is a reasonable connection between the fees and the amount involved in the litigation. *LaHood*, 236 Ill. App. 3d at 649. We will not reverse the trial court's decision absent an abuse of discretion. *Id.*

¶ 19 JR contends Core did not satisfy its burden of presenting sufficient evidence to support an award of attorney's fees and costs. Specifically, JR asserts Core's attorney Richard Carbonara (i) submitted billing statements that lacked specificity and included multiple tasks for each time entry; (ii) improperly billed for work performed by Core's in-house counsel, Michael Roti, who was not a member of Carbonara's firm or an attorney of record; and (iii) billed clerical work at attorney rates. JR also contends Core's attorneys failed to maintain their time records contemporaneously with the services performed.

¶ 20 We agree that Core's attorney's billing records could have better delineated the services performed rather than combining legal and non-legal services in one entry. But, after reviewing Sheehy's affidavit and Core's billing records and hearing testimony from JR's expert witness about proper billing practices, the trial court found that the billing statements were sufficiently detailed to support the award of attorney's fees. The court also considered the attorneys' skills and experience, the nature of the case, and the usual and customary charges for comparable services in finding that a fee of \$275 an hour was reasonable. We do not find that the trial court abused its discretion in reaching that conclusion.

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¶ 21 As to JR's contention that the trial court erred in awarding attorney's fees for work performed by Core's in-house counsel, nothing in the prevailing party provision of the lease prohibits Core from seeking reimbursement for work performed by an in-house attorney. The lease provides that the more prevailing party to recover "without limitation, court costs, [and] reasonable attorneys' fees." The trial court reviewed Roti billing records and found them to be reasonable. JR suggests that because Roti was in-house counsel Core was paying him a salary and could not seek reimbursement for his services. JR presents no evidence to support this assertion regarding how Core paid Roti or any caselaw to support a finding that Core could not seek reimbursement for his legal services.

¶ 22 Lastly, even if Core's attorneys did not maintain time records contemporaneously with the services performed, as JR suggests, that has been determined not to be a basis for reversing the award. *In re Marriage of Malec*, 205 Ill. App. 3d at 291.

¶ 23 Affirmed.