2013 IL App (1st) 121609-U

FIRST DIVISION
October 21, 2013

No. 1-12-1609

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

PAMELA N. COOPER, Individually and as Special Representative of the Estate of CURTIS COLIN COOPER, Deceased, Plaintiff, v. URBAN PROPERTY ADVISORS, LLC., *et al.*, Defendants, _____ (Llwellyn Greene Thapedi, Andre M. Thapedi and Thapedi & Thapedi, Intervenors-Appellants-Cross-Appellees, v. Pamela N. Cooper, Individually and as Special Representative of the Estate of Curtis Colin Cooper, deceased, Plaintiff-Appellee-Cross-Appellant).	)	Appeal from the Circuit Court of Cook County. No. 08 L 7181 Honorable Susan Zwick, Judge Presiding.

JUSTICE DELORT delivered the judgment of the court.
Justice Hoffman and Justice Cunningham concurred in the judgment.

ORDER

¶ 1 ***Held:*** The trial court did not abuse its discretion in awarding $75,000 in attorney's fees and $3,846.36 in costs and expenses to the intervenor attorneys despite allegations that they represented the plaintiff unprofessionally.

¶ 2 This case involves a dispute about attorney fees owed to lawyers who originally represented the mother of a three year-old boy tragically killed in a premises accident at a Chicago Housing Authority (CHA) housing project.

¶ 3 The lawyers, intervenors Llwellyn Greene Thapedi, Andre M. Thapedi, and their firm, Thapedi & Thapedi ("the Thapedis") appeal from an order awarding them $78,864.36 in attorney's fees and costs under a *quantum meruit* theory in connection with the wrongful death of plaintiff Pamela Cooper's son. Dissatisfied with the amount of fees awarded, the Thapedis argue the trial court should have awarded the full amount they sought, and claim that the court abused its discretion by (1) allowing Cooper to file an unverified answer in response to a verified petition; (2) prohibiting them from conducting limited discovery in preparation for an evidentiary hearing; (3) imposing arbitrary ceilings for their compensable hours of work and slashing their costs and hourly rates; (4) misconstruing Illinois state and local rules and denying them due process by entering *ex parte* orders without any notice of the proceeding; (5) failing to properly scrutinize the contingency fee contract under Illinois law before distributing settlement funds; and (6) denying them a fair hearing and just disposition as a result of all of these defects in the trial court process.

¶ 4 Cooper, on the other hand, believes the Thapedis should receive nothing. Now represented

by her second set of attorneys, she cross-appeals from the trial court's decision. She argues the trial court erred by failing to consider whether the Thapedis' conduct should have resulted in a complete forfeiture of their *quantum meruit* compensation. In particular, Cooper asserts the trial court refused to bar the Thapedis' claim to *quantum meruit* compensation only because the improper conduct occurred after the law firm was discharged and not during the representation. Cooper contends that Illinois law does not distinguish between this type of pre and post-litigation conduct. Thus, they argue that the case should be remanded with instructions for the trial court to consider whether the Thapedis' conduct warrants forfeiture of their *quantum meruit* compensation. For the following reasons, we affirm the trial court.

¶ 5 BACKGROUND

¶ 6 The underlying case is a standard premises liability claim involving an wrought iron gate that fell and killed a three-year old at a CHA housing project. The child's mother, Pamela Cooper, who has significant literacy deficiencies, hired the mother-and-son law firm of Thapedi & Thapedi on a contingency fee basis. The Thapedis filed a lawsuit against the CHA and its management company, and the case eventually proceeded to mediation before a retired judge. During the mediation, the plaintiff requested $22,000,000, but the defendant only offered $800,000. The mother then fired the Thapedis and retained the Shapiro law firm, Donald A. Shapiro, Ltd. (Shapiro). Shapiro eventually settled the case for $2,000,000 and obtained a one-third contingency fee of $666,666.66 for its work.

¶ 7 After Cooper fired the Thapedis, Shapiro asked them for the case file. The Thapedis refused, claiming a lien on the file for unpaid fees. They claimed $597,068.75 in fees based on a rate of $450 per hour for Llewellyn Greene Thapedi, $350 per hour for Andre Thapedi, and $14,241.33 in costs,

which they later amended to $10,691.33. The Thapedis delayed for months before finally turning over the file, doing so only after extensive judicial intervention, motion practice, and a court order. Although the fee petition sought compensation for scores of interviews of witnesses, research, and the like, Shapiro discovered the file was virtually bereft of any notes of such interviews, research, or written work product.

¶ 8 The fee petition proceeded to a full evidentiary hearing. At the hearing, the only outside evidence the Thapedis offered to justify their own hourly rates was the affidavit of an attorney/ lobbyist (Andre Thapedi is a member of the Illinois General Assembly). The lobbyist's affidavit was not admitted at the evidentiary hearing not merely because it was an affidavit, but primarily because its tardy disclosure violated a discovery deadline. Shapiro, representing the interest of the mother and surviving minor sibling, presented the expert testimony of an experienced personal injury trial lawyer who opined that the Thapedis' work was worth only $100 per hour. He also believed the hours claimed were highly excessive for the type of work performed.

¶ 9 In particular, the expert witness noted that only one deposition had been taken by the time the Thapedis withdrew. He was surprised that the Thapedis billed huge amounts of money for legal research and drafting, characterizing the case as a simple premises liability case which would not have involved much drafting or legal research work for a competent personal injury lawyer. He also noted that many of the extra counts in the lawsuit were intended to merely intimidate various parties with only tangential involvement with the premises in question, and that they were doomed to failure from the start. In fact, the witness stated that the counts should never have been brought because even minimal research would have revealed they were meritless. For example, he noted the

Thapedis brought a count for willful and wanton conduct even though punitive damages are not available in a wrongful death case. They brought another count for nuisance based on a violation of the Chicago Municipal Code even though the code provides for no private cause of action. The Thapedis also brought a count for negligent infliction of emotional distress that was meritless because Cooper was not present or within the zone of danger when the iron fence fell and killed her three-year son. He also opined that the Thapedi's conduct after their withdrawal seemed to be aimed at sabotaging their own former client's interests. For example, the unsophisticated mother took out high-interest loans on her forthcoming damage award, and the witness believed that the Thapedi's unnecessary revelation of that fact meant that the plaintiff would low-ball settlement offers knowing that the mother would be anxious to take money quickly to stop the accrual of exorbitant interest on the loans.

¶ 10 On March 26, 2012, following a lengthy evidentiary hearing, the trial court issued a written decision, essentially finding that large portions of the fee petition were falsified or exaggerated. The trial court did, however, award the Thapedis $75,000, computed on the basis of $250 per hour times 300 hours. In that same decision, the trial court contemporaneously considered Cooper's motion that the Thapedis were not entitled to any *quantum merit* compensation because they had engaged in various acts of unethical conduct. These acts included, for example, the Thapedis refusal to surrender the possession of Cooper's file, obstructing her ability to prosecute her case and their divulging privileged matters to defense counsel. After reviewing the applicable authority, the trial court concluded that the Thapedis could prosecute a *quantum merit* claim because the unethical conduct occurred after Cooper terminated the Thapedis' representation. Furthermore, the trial court

noted that attorney disciplinary proceedings are conducted by the Illinois Attorney Registration and Disciplinary Commission (ARDC) and are completely separate from the judicial proceedings in which the alleged attorney misconduct occurred. Thus, the trial court's denial of the Thapedis' attorney's fees as a sanction for unprofessional conduct would impermissibly infringe on the Illinois Supreme Court's plenary power, acting through the ARDC, to impose sanctions for unprofessional conduct.

¶ 11 On May 7, 2012, the trial court entered several related orders. The trial court denied the Thapedis' motion to reconsider the court's March 26, 2012 decision and granted Cooper's motion to amend the March 26, 2012 decision. The trial court also issued an order distributing the remaining settlement funds by designating how much the parties and attorneys would each receive. The settlement funds were distributed as follows: (1) Shapiro received $666,666.66 in attorney's fees and $26,954.26 in costs; (2) Swanson, Martin and Bell, as *guardian ad litem* for Clayton Wade, Jr., received $28,698.73 in attorney's fees; (3) the Thapedis received $75,000 in *quantum meruit* compensation and $3,864.36 in costs; (4) Smith and Thomas Funeral Home received $4,531 for burial costs for the decedent; (5) Cooper received $334,131.77; and (6) Clayton Wade, Jr. received $200,479.05.[1] The minor's share was used to purchase a structured settlement annuity. This appeal and cross-appeal followed.

¶ 12 ANALYSIS

[1] The May 7, 2012 order also lists $200,636.81 as the amount that will be distributed to Clayton Wade, Jr. Despite careful review of the record, we cannot reconcile the $157.76 difference between the two figures.

¶ 13 The Thapedis' Appeal

¶ 14 Still seeking to recover $607,760.08 in fees and costs for their work, the Thapedis present a number of highly technical arguments regarding the manner in which Cooper defended against the Thapedis' fee petition. We consider each in turn.

¶ 15 Verification of the Answer

¶ 16 The Thapedis argue that Cooper's answer to their verified petition for *quantum meruit* compensation was legally insufficient because Cooper did not verify it with a proper affidavit. *See* 735 ILCS 5/2-605(a). The Thapedis point out that Cooper produced three affidavits in support of her answer but these affidavits did not comport with the spirit of the law requiring the verifier to swear or certify that the statements in the actual pleadings are true or correct. The Thapedis complain that two of the affidavits produced by Cooper's attorneys, Donald Shapiro and Matthew Basinger, were defective because they did not contain language attesting to the truthfulness of the statements in the answer, and as non-parties to the litigation they could not swear to the knowledge of the pleaded facts. Thus, according to the Thapedis, the trial court should have ignored the evidence adduced at the lengthy hearing, and simply deemed the well-pleaded facts in their petition automatically admitted, because Cooper's answer was not a responsive pleading.

¶ 17 Our review of the record shows that, while Cooper's answer was not initially verified, she later corrected that technical omission. After the trial court granted Cooper leave to verify her answer, both Shapiro and Basinger filed verification affidavits. Each affidavit states that the affiant "hereby verif[ies] the Plaintiff's Answers ***" and the affiant "lack[s] knowledge sufficient to form a belief as to those allegations in the Petition to which plaintiff has answered that she has no

knowledge thereof sufficient to form a belief." Additionally, in her own affidavit, Cooper states she "verif[ies] [her answer] to the factual allegations of Thapedi & Thapedi's Verified Petition for Quantum Meruit Compensation." She further states she "lack[s] knowledge sufficient to form a belief as to those allegations in the Petition to which [she has] answered that [she has] no knowledge thereof sufficient to form a belief."

¶ 18 We find that these affidavits are sufficient and comply with section 2-605(a) of the Illinois Code of Civil Procedure regarding verification of pleadings because they expressly contain language attesting to the truth and correctness of the statements in Cooper's answer. *See* 735 ILCS 5/2-605(a) (West 2010). Additionally, each affiant expressly indicated that he or she lacked sufficient knowledge to form a belief as to those allegations in the Thapedis' petition to which he or she had no knowledge sufficient to form a belief. Furthermore, contrary to the Thapedis' assertion, Shapiro and Basinger are deemed to be Cooper's agents for the purposes of making admissions in all matters relating to the progress and trial of an action and may verify a pleading if they have knowledge of the facts. *Bank v. Coleman Air Transport*, 134 Ill. App. 3d 699, 703-04 (1985). Therefore, their verifications have the same effect as if Cooper signed the pleading herself.

¶ 19 Nor are we convinced, as the Thapedis argue, that the answer was not properly verified because the affidavits were not physically attached to any pleading or contained language incorporating them into any pleading. The affidavits were filed with the clerk of court and identify the pleading they verified. The Thapedis cite no authority to support their proposition that an affidavit must be physically attached to or incorporated into its respective pleading, and we find the point to be without merit.

¶ 20 We also reject the Thapedis' contention that Cooper could not properly verify her answer by filing an affidavit because she testified she is illiterate. The record establishes that Cooper's attorneys routinely read documents aloud to her in light of her illiteracy and, in the absence of any authority to the contrary, we cannot find she did not properly verify her answer.

¶ 21 Lastly, the Thapedis claim that the expert witness's testimony should be stricken because he testified in support of the allegations Cooper made in her purportedly improperly verified answer. Because we find Cooper's answer was properly verified by the filed affidavits, this argument necessarily fails.

¶ 22 Discovery

¶ 23 The Thapedis argue that the trial court erred when she "summarily prohibited" them from engaging in pre-hearing discovery related to their petition for *quantum meruit* compensation. In particular, they assert the trial judge misconstrued Illinois Supreme Court Rule 201(b) by finding that it gave her absolute authority to bar all discovery, which violated their rights to due process and resulted in an unfair hearing. See Ill. S. Ct. R. 201(b) (eff. Jan. 1, 2013). In particular, the Thapedis complain they were not permitted to (1) sufficiently prepare for the hearing; (2) prepare for the examination of Cooper and her expert witness; and (3) learn what testimony and other evidence would be required and proffered at the hearing. Thus, they assert they had no way of knowing which of the 893 entries from their 53-page fee petition would be challenged or the bases for each such challenge. According to the Thapedis, they were prejudiced by not being able to engage in proper discovery because they learned for the first time at the hearing that Goodman could not lay a foundation sufficient to establish the reliability of his opinions and Cooper herself had never seen

their fee petition even though she objected to it. Furthermore, they claim the trial court unreasonably struck their demand for a bill of particulars prior to the hearing even though the response thereto would have allowed them to narrow the issues for the hearing.

¶ 24 Discovery rulings are generally within the trial court's discretion and we will not disturb them absent an abuse of that discretion. *D.C. v. S.A.*, 178 Ill. 2d 551, 559 (1997). A court abuses its discretion where its decision is arbitrary or fanciful or one that no reasonable person would make. *People v. Manning*, 182 Ill. 2d 193, 219, 230 (1998). Moreover, the "trial court is in the best position to weigh fairly the competing needs and interests of parties affected by discovery." *Seattle Times Company v. Rhinehart*, 467 U.S. 20, 36 (1984).

¶ 25 We have reviewed the Thapedis' allegations regarding the trial court's errors in managing discovery and we conclude that it did not abuse its discretion. The trial court properly limited discovery to Illinois Supreme Court Rule 213(f) disclosures given the limited and narrow focus of issues at the evidentiary hearing. See Ill. S. Ct. R. 231(f) (eff. Jan. 1, 2007). The purpose of the hearing was to address the Thapedis' petition for *quantum meruit* compensation and the value of that work. Cooper identified the witnesses she intended to call as required by Rule 231(f) and also identified Goodman, a retained expert witness, as required by Rule 231(f)(3), and provided a detailed ten-page disclosure about Goodman's qualifications and his expected testimony. The Thapedis also filed Rule 213(f) disclosures identifying 42 separate witnesses. The Thapedis, however, only called themselves and Cooper to testify at the hearing. Both Cooper and the Thapedis were given an equal opportunity to provide Rule 213(f) disclosures in preparation of the evidentiary hearing. Thus, we cannot find that the trial court abused its discretion in narrowing discovery to written Rule 213(f)

disclosures only.

¶ 26 Furthermore, we find the trial court properly exercised its discretion to strike the Thapedis' demand for a bill of particulars. The purpose of a bill of particulars is to "supplement in detail an already sufficient charge to enable a defendant or respondent to better prepare a defense." *Madonia v. Houston*, 125 Ill. App. 3d 713, 718-19 (1984). Thus, "[t]he tribunal in which the proceeding is brought has great discretion in determining whether to grant a request for such a bill, and its denial is seldom, if ever, a denial of a constitutional right." *Id.* at 719. Where a party seeks detail which is mostly of an evidentiary nature, the refusal to allow a bill is appropriate. *Id.* Furthermore, section 2-607(a) of the Illinois Code of Civil Procedure provides in pertinent part:

> "Within the time a party is to respond to a pleading, that party may, if allegations are so wanting in details that the responding party should be entitled to a bill of particulars, file and serve a notice demanding it. The notice shall point out specifically the defects complained of or the details desired." 735 ILCS 5/2-607(a) (West 2010).

Here, Cooper's verified answer to the Thapedis' fee petition was sufficiently detailed, and it included two affirmative defenses of fraud and misconduct. The affirmative defenses themselves incorporated by reference a fifteen-page memorandum of law, which itself set forth Cooper's factual allegations against the Thapedis and provided supporting legal authorities that she relied on in arguing that the Thapedis had forfeited all right to *quantum meruit* compensation. Thus, Cooper's memorandum contained detail sufficient to put the Thapedis on notice of the nature of the issues for

the hearing. Accordingly, we find the trial court properly exercised its discretion in striking the Thapedis' demand for a bill of particulars. *See* 735 ILCS 5/2–607(a).

¶ 27 Methodology and Analysis for Determining *Quantum Meruit* Award

¶ 28 The Thapedis argue, in essence, that the trial court abused its discretion by applying faulty methodology and legal analysis in determining their *quantum merit* award. They claim the trial court erred by misapplying the law regarding the number of hours for which they should be compensated, what constitutes legal services, and the appropriate hourly fee rate. Regarding these allegations, the Thapedis complain the trial court did not explain how it determined that a ten-hour work day ceiling was appropriate and why they could not be compensated for work performed in excess of ten hours in a given day. The Thapedis also assert the trial court erroneously refused to allow them to be paid for those legal services they performed on behalf of Cooper because some of those activities did not constitute litigation work.

¶ 29 The Thapedis contend the trial court abused its discretion by reducing their compensable hours on a number of other improper bases. They first assert the trial court misunderstood the identity or the number of clients they represented, which were listed in their June 2008 contingency contract. The Thapedis argue they not only represented Cooper on an individual basis but they also represented Cooper as the legal representative of her son, Curtis's, estate. Because the trial court referred to the Thapedis as having only one client in its March 26, 2012 decision, they claim the trial court erred by not awarding compensation for work performed on behalf of both clients. The Thapedis further assert that the trial court did not recognize that Curtis's next of kin, including his mother and younger brother, Clayton Wade, Jr., were the true parties in interest. The Thapedis

believe the trial court mischaracterized Clayton Wade, Sr.'s status as merely being a live-in partner when he was the father and custodian of Clayton, Jr., signed the June 2008 contingency fee contract, and acted on Cooper's behalf by reading documents and speaking for her in conferences with the Thapedis.

¶ 30 The Thapedis further assert that they proffered sufficient evidence and testimony supporting their *quantum meruit* compensation. Their evidence as to the value and reasonableness of their legal services included their own testimony, a lobbyist's affidavit (which was barred due to its belated disclosure), the Laffey Matrix, and the admissions of Shapiro and Goodman. The Thapedis claim that the trial court did not consider Ms. Thapedi's work as a retired circuit court judge whose main judicial assignment was handling small-value personal injury jury and motion calls and civil litigator licensed for 35 years, and Mr. Thapedi's work as a state legislator and civil litigator licensed for 15 years when determining the hourly rate. They also complain the trial court did not explain the methodology used to arrive at the $250 hourly figure and how their claimed expenses and costs were reduced.

¶ 31 Lastly, the Thapedis argue the trial court's March 26, 2012 decision was factually incorrect because the trial court found that all of their witness statements were oral and had never been reduced to writing. In making this finding, the trial court noted that Ms. Thapedi testified she could not remember the subject of the oral statements. Here, Ms. Thapedi points out she could recall the subject of the oral statements and the witness statements were not recorded for the case file because the witnesses from the Cabrini-Green CHA project would not have been candid had they known they were being recorded. They also point out that they produced an affidavit of one witness, Eleanor

Watson. In sum, the Thapedis assert the trial court abused its discretion by reducing their 1,545.25 hours of work to only 300 compensable hours and reducing their hourly rate to only $250.

¶ 32 In response, Cooper notes that the trial court considered all of the evidence, including the Thapedis' conduct in prosecuting the case, and appropriately reduced their fees from $597,068.75 to $75,000. Cooper explains the trial court's substantial reduction was warranted because the Thapedis' fee petition included fabricated itemizations, misdated and grossly inflated entries, unreasonable amounts of time for telephone calls, meetings, conferences, witness investigation, document review, preparing pleadings, reviewing Cooper's file, and work not related to the case, such as loan and funeral services.

¶ 33 Cooper asserts that the trial court's methodology for calculating the Thapedis' $250 hourly rate was generous because the Thapedis presented little support for their claimed hourly fees. Cooper first points out that the Thapedis relied strongly on the "Laffey Matrix," a guideline used by the United States Attorney's office to avoid litigating hourly rates in federal civil rights cases. The trial judge, however, was neither required to consider this evidence nor obligated to give it greater weight than that of Goodman's and Barry's testimony, or of her own knowledge of prevailing attorney hourly rates. Next, the trial court was not required to consider the lobbyist's affidavit also strongly relied on by the Thapedis. It was never admitted into evidence because the Thapedis failed to disclose the affiant within the time permitted. The Thapedis also never called a single witness to establish their expertise in the field of personal injury law that would show they were entitled to their claimed hourly rate. Instead, they introduced testimony that Mr. Thapedi wrote a law review

comment that was published in a law school journal[2] and Ms. Thapedi belonged to a number of bar associations.

¶ 34 Cooper further explains that the trial court heard testimony from Goodman and Barry about hourly rates that were substantially lower than what the trial court awarded the Thapedis. In particular, Goodman testified at great length, and in excruciating detail, regarding a number of amateurish mistakes the Thapedis made throughout the litigation, all of which reflected their inexperience in handling personal injury cases, particularly wrongful death cases. Accordingly, Cooper asserts the trial court had ample justification and did not abuse its discretion in substantially reducing the Thapedis' claimed hours and hourly rates.

¶ 35 We review the trial court's award of fees under *quantum meruit* for an abuse of discretion. *Anderson v. Anchor Organization for Health Maintenance*, 274 Ill. App. 3d 1001, 1007 (1995). We have previously held that "[a]s in any appeal from a discretionary ruling, our function on review is not to determine if the trial court wisely exercised its discretion, but only to determine if that discretion was abused." *Id.* Thus, "[i]n matters relating to an award of attorney fees, the trial court is vested with broad discretionary powers and its decision will not be reversed on appeal absent an abuse of that discretion." *Id.*

¶ 36 "A discharged attorney is entitled to be paid on a *quantum meruit* basis a reasonable fee for services rendered before discharge." *Serpico v. Spinelli*, 2013 IL App (3d) 120898-U ¶ 14 (citation

[2] Mr. Thapedi wrote a law review student comment about a software product entitled "A.D.A.M. — The Computer Generated Cadaver: A New Development in Medical Malpractice and Personal Injury Litigation." The comment was published in The John Marshall Journal of Computer & Information Law in the Winter 1995 issue.

omitted). *Quantum meruit* compensation is an equitable remedy and "[w]hen an attorney claims fees based on *quantum meruit*, and the right to recovery is established, the court should literally award the attorney as much as [he or she] deserves." *Anderson*, 274 Ill. App. 3d at 1007. The burden of proof is on the attorney to establish the value of his or her services. *In re Estate of Callahan*, 144 Ill. 2d 32, 43 (1991) (citations omitted). To properly determine the reasonable value of an attorney's services, the following factors should be considered:

> "the skill and standing of the attorney employed, the nature of the case and the difficulty of the questions at issue, the amount and importance of the subject matter, the degree of responsibility involved in the management of the case, the time and labor required, the usual and customary fee in the community, and the benefit resulting to the client." *Id.* at 44 (citations omitted).

Since a *quantum meruit* evaluation rests with the trial court, it has broad discretion in its determination, particularly because of its "close observation of the attorney's work and [its] deeper understanding of the skill and time required in the case." *Serpico v. Spinelli*, 2013 IL App (1st) 120898 ¶ 16 (citation omitted). Moreover, the trial court "may also use the knowledge it has acquired in the discharge of professional duties to value legal services rendered" and rely on contents of the entire court file in determining whether a party is entitled to fees and whether the fees requested are reasonable. *Johns v. Klecan*, 198 Ill. App. 3d 1013, 1022 (1990). Furthermore, a reviewing court is not justified in disturbing an award only because it may have made a different award. *Merchandise National Bank of Chicago v. Scanlon*, 86 Ill. App. 3d 719, 729 (1980).

¶ 37 The Thapedis ask us to overturn the trial court's factual determinations as to the amount of

work performed and as to what constitutes a reasonable hourly rate. We decline to do so. The trial court heard evidence over the course of a two week period, hearing testimony spanning a transcript of no less than 1,688 pages. It had ample opportunity to judge the credibility of the witnesses and determine what weight to give their testimony. The trial court did not believe the Thapedis were entitled to $597,068.75 in *quantum meruit* compensation. In reaching this conclusion, the trial court made a number of factual findings which it thoroughly explained in its March 26, 2012 decision and which we view as being well-supported by the extensive testimony in this case.

¶ 38 For the reasons set forth herein, we find that the trial court did not abuse its discretion in awarding the Thapedis only $78,864.36 in fees and costs.[3] The trial court initially found that the number of hours expended by the Thapedis during the initial prosecution of this case could not "sustain scrutiny." In particular, it noted the fee petition had apparently been contemporaneously created and reflected daily entries for work that exceeded ten-hour workdays. For example, an entry for Saturday, June 28, 2008, indicated Ms. Thapedi worked 19.50 hours and Mr. Thapedi worked 19 hours that day. The following day, on Sunday, June 29, 2008, both Ms. Thapedi and Mr. Thapedi noted they worked 22 hours and 19.50 hours, respectively. The notation for June 28, 2008 denoted that research was done at the Daley Center totaling 4.25 hours. This research, however, pertained to work on cases where the CHA is a defendant in other cases and it is undisputed that the Daley Center was not open on that particular day.

¶ 39 The trial court then found that the Thapedis had overstated many of their time entries. For

[3] The parties do not dispute that the trial court had already determined that the Thapedis were entitled to pursue their *quantum meruit* claim.

example, the Thapedis charged a total of 29 hours for drafting and editing a complaint and motion for protective order they filed on Cooper's behalf. Between July 9, 2008 and July 17, 2009, the Thapedis claimed 42.25 hours of time were expended on "issuing subpoenas and conferences about the same." However, after receiving the subpoenaed documents from the CHA and concluding that most documents were not relevant, the Thapedis claimed they expended 117.75 hours reviewing the documents during a nine-day period working an average of 13 hours per day.

¶ 40 In reviewing the fee petition, the trial court found that many of the time entries did not entail work for any tangible legal benefit on behalf of Cooper. For instance, the Thapedis "charge[d] 2.5 hours each for attending" Curtis's funeral, and "10.0 hours [were] charged" for "monetary issues and funeral arrangements alone." Between August 22, 2009 and August 23, 2009, the Thapedis charged 14.75 hours for conferences involving the media and media reports. They also charged 7.25 hours for Department of Family Services issues regarding Clayton, Jr. There were additional hours charged for conversations with Clayton, Sr. related to reviewing his criminal record and Cooper's criminal record, and for meetings with Cooper's godmother and family members concerning "molestation of Curtis." Furthermore, the Thapedis held conferences with Clayton, Sr. regarding the status of litigation, money issues and loan advances, but he had no legal interest in the outcome of the case.

¶ 41 In considering the evidence, the trial court concluded that "[a] disturbing circumstance center[ed] on the hours charged for interviewing witnesses" because while the Thapedis claimed they expended 187 hours [interviewing witnesses] over the course of 15 different days, they failed to produce any oral or written witness statements. The trial court first reviewed the Thapedi's failure

to produce witness statements in the context of their assertion of a lien on the case file, a matter which was the subject of numerous motions to compel and rules to show cause. During the course of the trial court's review of that dispute, the Thapedis filed two affidavits attesting that the documents had been turned over to the successor attorneys but that all witness statements had been only oral and had been never reduced to writing, nor recorded in any way. At the hearing, Ms. Thapedi reaffirmed that all witness statements were oral and explained she had not written down the subject matter of the statements because she did not "think it would have been helpful to our client." The trial court found that "[t]his testimony, coupled with the hours expended by [the] Thapedis on the file *** belie the claim that [the Thapedis] were experienced in this type of personal injury litigation, or that the efforts expended by these attorneys was solely to advance[] the litigation." Thus, the trial court concluded that the record established there were no notes, statements, or memorandum to document the investigation or witness interviews.

¶ 42 In the March 26, 2012 decision, the trial court also explained that the underlying action is a premises liability and wrongful death case and the Thapedis had "fully immersed" their time in the claim. The trial court initially explained that, after filing the complaint, the Thapedis sought a protective order to prevent the iron gate which fell on Curtis from being altered. Then, in November 2009, the Thapedis filed a request to admit facts and, in December 2009, amended the complaint to add the CHA as a defendant. The Thapedis also identified a number of respondents in discovery ("RID") and instituted discovery against them. Through July 2009, the Thapedis prosecuted a number of discovery motions and defended motions to dismiss. They filed two subsequent complaints, but the record and electronic docket failed to establish whether the Thapedis successfully

converted the RIDs to defendants prior to their firing. The individual RIDs were named in a third amended pleading, but the RIDs moved to dismiss themselves from the suit, and for sanctions, because they were members of a limited liability corporation and were therefore protected from suit under 805 ILCS 180/10-10 (West 2008) (immunizing members and managers from personal liability).

¶ 43 The trial court then noted that, in July 2009, the Thapedis requested and were granted a mediation hearing before former Cook County Chief Judge Donald O'Connell, now working as a mediator. The mediation was attended by Cooper and representatives of the CHA and Urban Property Associates, the property manager. The Thapedis, on behalf of Cooper, demanded $22,000,000, which they supported with case references and jury verdict reporter research. The defendants ultimately offered Cooper $800,000, but she rejected that offer. Shortly thereafter, Cooper fired the Thapedis.

¶ 44 The trial court further explained that the evidence showed the Thapedis actively litigated the case through the third amended pleading. The issue of missing HUD inspection reports was the subject of a number of motions and court appearances. The Thapedis, however, did not pursue oral discovery. It was further established that the menial tasks such as drafting, typing, copying and serving documents was done by the Thapedis, rather than by secretaries or office clerks, but billed at their attorney rates. The written interrogatories served on defendants and RIDs were not tailored to the issues in the litigation; they were medical malpractice interrogatories with some language stricken to adapt to the premises liability issue. Furthermore, after reviewing the file and witness testimony, the trial court concluded that the litigation issues were not unique and the mortal nature

of the injury did not make the liability issues especially difficult.

¶ 45 The trial court next considered the hourly rates requested by the Thapedis. They claimed $350 and $450 per hour rates were reasonable based on their years of experience. They proffered the Laffey Matrix, a table of approved hourly rates for certain types of civil rights litigation in federal court. The trial court evaluated Mr. Thapedis' background, noting he had 16 years of experience as an attorney, is a member of the Illinois state legislature, and was in private practice prior to starting his own law firm in 2007. The trial court noted that Ms. Thapedi had 35 years of experience as an attorney and returned to private practice in 2004 when she retired from the bench. The trial court determined the evidence showed that the Thapedis' legal practice was focused on real estate, land use, governmental relations law and "complex litigation." Their experience did not include personal injury litigation, and most crucially for attorneys taking on a wrongful death case, neither Thapedi had ever tried any jury case to verdict.[4]

¶ 46 The trial court then heard the testimony of Goodman, who opined that the Thapedis' work product did not support their claimed hourly rate because they were not experienced in personal injury work, which was evidenced by their slipshod prosecution of the case. Goodman provided the following examples of the poor quality of the Thapedis' work:

- they filed spurious pleadings that caused Cooper to be impeached and also resulted in her having to pay sanctions for frivolous pleadings;
- they also unduly complicated the case and raised her burden of proof;

[4] Ms. Thapedi testified she had tried personal injury cases to verdict before she became a judge in 1992 but could not recall even one case name.

- they prepared overly broad discovery requests that allowed the defense to inundate Cooper with irrelevant documents;
- they failed to obtain the names and addresses of the witnesses and failed to record what those witnesses said;
- they failed to comply with written discovery to the point where discovery had not been complied with and only one deposition had been taken;
- they failed to join the CHA, the main defendant, until six months after the lawsuit was filed;
- they failed to initiate any oral discovery after almost 15 months of litigation;
- they disclosed confidential information about Cooper's high-interest loans to the defense, giving the defense lawyers "ammunition to attempt to try to lowball the case" because the defense would know of the urgency to settle the case to mitigate against the exorbitant interest rates;
- they breached the attorney-client privilege by disclosing to the defense that they had counseled Cooper on matters relating to domestic abuse and Department of Children and Family Services;
- they filed an "Affidavit of Completeness" in which Ms. Thapedi unnecessarily informed the defense about a "great deal" of negative information, which breached the attorney-client privilege and provided a "road map" for the defense; and
- as noted above, they improperly included numerous counts in the amended

pleadings that were improper.

¶ 47 Upon reviewing the court file, the Thapedis' file and identifying these errors, Goodman stated that the case should not have taken the Thapedis more than "sixty hours, probably a lot less." As for the quality of the work, he rated it as being commensurate with a first or second year associate's work or equivalent to a $100 hourly rate. Furthermore, Norman Barry, an attorney for the CHA, also testified that CHA's hourly rate for work done by partners at the large law firm of Baker & McKenzie was $190 to $250 per hour, with associates earning $150 to $190 per hour.

¶ 48 After considering the record, the trial court concluded the hours submitted as well as the documents in the court file undermined the Thapedis' claim of extensive personal injury litigation experience. The trial court determined a $250 hourly rate was appropriate and limited the number of compensable hours to actual legal work performed within a ten-hour workday. The trial court, allowing for case investigation to initiate the case, discovery and research necessary to defeat motions to dismiss, documentation needed for mediation, and the result of the mediation, concluded the Thapedis were entitled to 300 compensable hours. Furthermore, after reviewing the Thapedis' request for reimbursement of expenses and costs related to the litigation, the trial court determined they were entitled to only $3,864.36 because there was no documentation supporting their amended request totaling $10,691.33.[5]

¶ 49 Based on this strong evidence, the trial court did not abuse its discretion in awarding the Thapedis $75,000 in *quantum meruit* compensation. The trial court properly considered the

[5] In particular, the Thapedis sought reimbursement for $3,380 for the "O'Connell Mediation" but the testimony established that Cooper's new attorneys paid that bill, not the Thapedis.

reasonableness of the Thapedis' fee petition by evaluating the amount of time and labor expended, the difficulty of the issues, the fee customarily charged in the community, the results obtained, and the Thapedis' reputation, experience, and skill level. *In re Estate of Callahan*, 144 Ill. 2d at 44 (discussing factors used to determine the reasonable value of an attorney's services).

¶ 50 Although it did hear testimony from Shapiro and Barry regarding hourly rates, case law establishes that a trial court need not elicit any expert testimony on the issue of the value of hourly fees. The trial court itself is presumed to be an expert in determining the reasonable value of legal services. *Johns*, 198 Ill. App. 3d at 1019 ("a trial court is not limited to the evidence presented in arriving at a reasonable fee but may also use the knowledge it has acquired in the discharge of professional duties to value legal services rendered"). The trial judge, who has served in the Law Division for many years, duly considered the testimony of Goodman and Barry along with her own extensive experience in determining the value of the Thapedis' work and reasonably concluded a $250 hourly rate was appropriate. We therefore conclude, and there is no evidence to suggest otherwise, or that the trial court's analysis here constituted an abuse of discretion.

¶ 51 Motion to Reconsider

¶ 52 The Thapedis assert they were denied procedural due process when the trial court *sua sponte* entered *ex parte* orders on April 30, 2012 and May 7, 2012, denying their motion to reconsider the March 26, 2012 decision. The Thapedis contend that, while they filed their motion on April 24, 2012, they had not noticed the motion nor had the trial court set a date for hearing the motion. The Thapedis claim the trial court's orders deprived them of an opportunity to be orally heard, which they contend is guaranteed by applicable state and federal constitutional provisions.

¶ 53 Our review of the history related to the motion to reconsider establishes that the trial court properly denied the Thapedis' motion. On April 20, 2012, Cooper filed a number of motions, including (1) a motion to amend the March 26, 2012 decision *nunc pro tunc* to make it final and appealable, (2) an amended motion to distribute settlement funds, and (3) a motion for sanctions. These motions were noticed for an April 30, 2012 hearing.

¶ 54 On April 24, 2012, the Thapedis filed their motion to reconsider the March 26, 2012 decision. They did not properly notice the motion to Cooper and, as a result, no hearing was set by the trial court. On the morning of April 30, 2012, Mr. Thapedi served a courtesy copy of the motion to reconsider on the trial judge and informed her that he would not be appearing for the hearing that was scheduled for 12:15 p.m. that day. At the properly-scheduled hearing on Cooper's motion that day, the trial judge "called for hearing" on the Thapedis' motion and took all matters under advisement without hearing any oral argument on the motion to reconsider. Cooper also made an oral motion to modify finding of fact on page 10 of the March 26, 2012 decision regarding the timing of her termination of Thapedi & Thapedi.

¶ 55 On May 7, 2012, the trial court entered an order denying the Thapedis' motion to reconsider. In that order, the trial court expressly stated: "At hearing, [Cooper] waived her right to respond to [the Thapedis'] multiple motions and requested that the court rule on the pleadings uncontested. These matters were then taken under advisement until today's date." In that same order, the trial court granted Cooper's oral motion to modify a finding of fact on page 10 of the March 26, 2012 decision regarding the timing of her termination of Thapedi & Thapedi and amended motion to distribute settlement funds, but denied Cooper's motion for sanctions.

¶ 56 We cannot conclude the trial court's May 7, 2012 order denying the Thapedis' motion to reconsider was an improper *ex parte* order, because it was the Thapedis' own motion and they had an opportunity to fully present their position in their written motion. It is well-established that a court has discretion to decide when oral argument is necessary in any given matter. *Parkway Bank and Trust Company v. Meseljevic,* 406 Ill. App. 3d 435, 441 (2010) ("Oral argument in a civil proceeding tried, as here, by the court without a jury is a privilege, not a right, and is accorded to the parties by the court in its discretion.").

¶ 57 The Thapedis also claim that the trial court's decision to grant the oral motion Cooper made at the April 30, 2012 hearing was improper because they did not have notice of the motion and were not present at the hearing. The Thapedis' contention is without merit. They voluntarily absented themselves from the hearing on Cooper's motion. The trial court's April 30, 2012 order expressly stated that Cooper's oral motion to modify the finding of fact on page 10 of the March 26, 2012 decision regarding the timing of her termination of Thapedi & Thapedi was taken under advisement with the court to rule on the motion on May 7, 2012 (in conjunction with the other motions presented on April 30, 2012). Therefore, the Thapedis' had ample notice and opportunity to provide the trial court with a response to the oral motion, if they had been inclined to do so.

¶ 58 Nor do we find persuasive the Thapedis' contention that the trial court's denial of their May 18, 2012 and May 22, 2012 emergency motions requesting a stay to the enforcement of the May 7, 2012 order was improper or constituted a procedural due process violation.

¶ 59 Methodology for Distributing Settlement Funds

¶ 60 The Thapedis further complain the trial court's method for distributing the settlement funds

was improper because Shapiro was awarded $666,666.66, which represents a full one-third of Cooper's two million dollar settlement and $26,954.26 in costs and expenses. The Thapedis assert that "[t]he general rule is that the trial court is to set aside the total amount of the contract fee, award the *quantum meruit* fees to the discharged attorney, and then distribute the balance to the successor attorney," but the trial court did not follow this rule. Thus, the Thapedis state there is no record that the trial court examined and considered the enforceability of the contingent fee contract or the appropriateness of the methodology used in awarding and distributing Cooper's funds.

¶ 61 However, *quantum meruit* awards are appropriately assessed against the client. *In re Estate of Callahan*, 144 Ill. 2d at 40-41. In *Callahan*, a law firm was employed on a contingent fee basis in a car accident by the wife and guardian of the accident victim. The law firm was terminated and its claim was assigned to a single member of the firm. Before the underlying litigation had concluded, a hearing was held on the fee claim and the trial court ordered the claim to be paid from the assets of the guardianship estate. *Id.* at 37. Our supreme court reasoned that, in Illinois, an attorney's action for a *quantum meruit* fee award accrues immediately after discharge. However, the supreme court compared this to some other jurisdictions, which hold that an attorney's cause of action for fees does not accrue until the recovery in the lawsuit (contingency stated in the fee agreement). The *Callahan* court stated "claimant's recovery here should not be linked to a contract contingency when his recovery is not based upon the contract, but upon *quantum meruit*." *Id.* at 40-41. The supreme court reasoned, that after discharging an attorney, "the former client will only be liable for the reasonable value of the services received during the attorney's period of employment." *Id.* at 41. Thus, when a client terminates an attorney working under a contingency fee contract, the

contract ceases to exist and the contingency term is no longer operative. Furthermore, the supreme court recognized that "Some clients, particularly those of limited means, may be less inclined to discharge their attorneys knowing they are subject to liability for an attorney's *quantum meruit* fee." *Id.* at 42.

¶ 62 The cases cited by the Thapedis in support of its propounded "general rule" that *quantum meruit* awards to discharged attorneys should be paid from the contingent fees to successor attorneys are distinguishable. For example, in *Rhoades v. Norfolk & Western Railway Company*, 78 Ill. 2d 217 (1979), which was decided before *Callahan*, held that an attorney discharged the day after being retained was entitled to a reasonable *quantum meruit* fee, as opposed to the full contingency fee contract amount. We recognized that the *Rhoades* court approved of the California Supreme Court's reasoning that "in cases in which an attorney who has done much work is fired immediately before a settlement is reached, the factors involved in determining a reasonable fee would justify a finding that the entire contract fee is the reasonable value of services rendered." *Id.* at 230 (citing *Fracasse v. Brent*, 6 Cal. 3d 784 (1972)). But that is not what happened here because the Thapedis' did not effectuate a settlement on behalf of Cooper or take the litigation to a successful completion. Furthermore, *Rhoades* did not address whether the discharged attorney's fees should be paid by the client or from the contingent fee paid to the successor attorney.

¶ 63 The Thapedis cite to *Tobias v. King*, 84 Ill. App. 3d 998 (1980), a case that was also decided before *Callahan* and which is based on outdated precedent. In *Tobias*, a personal injury plaintiff discharged her attorney and retained a new attorney. Both attorneys were employed on a contingent fee contract. The court withheld one-third of the settlement and heard evidence of the services

provided by each set of attorneys. The court then allocated the fee between the two "by reserving one-third of the settlement for fees in accordance with the contingency fee agreement considering the records submitted by the attorneys, determining the reasonable value of [the discharged attorney's] services and awarding the balance to [the successor attorney]." *Id.* at 1002. In other words, the trial court used what amounts to a "comparison/apportionment" method of fee distribution. However, we have explicitly rejected the "comparison/apportionment" method of distribution. *See e.g., Susan E. Loggans & Associates v. Estate of Magid*, 226 Ill. App. 3d 147, 165 (1992). Accordingly, the Thapedis' reliance on *Tobias* is misplaced.

¶ 64 The Thapedis also rely on *Wegner v. Arnold*, 305 Ill. App. 689 (1999), which involved an attorney discharged after representing a client for over eleven months. Shortly thereafter, the defendant formally offered the $100,000 policy limit to settle the case. The defense lawyer signed an affidavit attesting that the offer to settle was predicated on the state of the case at the time the initial attorney was terminated. *Id.* at 697 (noting "under *Rhoades* an attorney discharged immediately prior to settlement may be entitled to the contract fee as the reasonable value of his services"). Therefore, the court held that a reasonable fee for the initial attorney was the entire contract amount. Here, the Thapedis' reliance on *Wegner* is without merit as the factual situation presented in *Wegner* is not present here.

¶ 65 Because the cases the Thapedis rely on are inapposite, they have not persuaded us that the trial court's method for distributing settlement funds was erroneous. Therefore, we find the trial court's method of distribution proper under Illinois law because it appropriately ordered the *quantum meruit* fee awarded to the Thapedis be paid by Curtis's estate and not from Shapiro's contingency

contract award.[6]

¶ 66 Cross-Appeal

¶ 67 In the cross-appeal, Cooper claims that the Thapedis are not entitled to an award of *quantum meruit* compensation because they engaged in what she characterizes as unethical conduct both during the pendency of their representation and after she terminated their representation. Cooper asserts the Thapedis' conduct entailed unjustified violations of the canons of ethics and multiple breaches of fiduciary duty, which were all designed to punish her for firing the Thapedis. For example, the trial court heard evidence that the Thapedis' predicated their fee petition on a time record that was grossly inflated and fabricated, failed to turn over the file for ten months, and sabotaged the case by multiple breaches of the attorney-client privilege. Thus, Cooper argues the trial court erred by failing to consider whether the Thapedis' conduct warranted a complete forfeiture of *quantum meruit* compensation.

¶ 68 Cooper asserts that the trial court's error in evaluating the egregious nature of the Thapedis'

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[6] In their response brief, the Thapedis cite *DeLapaz v. Selectbuild Construction, Inc.*, 394 Ill. App. 3d 969 (2009), asserting, in essence, that they are entitled to the full contingency contract fee. In *DeLapaz*, a discharged law firm had represented the plaintiffs in a personal injury case on a contingency fee basis. *Id.* at 970-71. The attorney at that law firm was discharged, took the clients with him to a successor firm he formed, and then settled the case in less than two months (from the time the attorney formed the new law firm). *Id.* at 971. The discharged law firm then filed a motion to adjudicate attorneys' liens and escrow funds. This court held that the discharged firm was entitled to its original contract fee of one-third of the settlement, less an amount awarded to the successor firm on a *quantum meruit* basis. *Id.* at 976.

DeLapaz, however, is distinguishable from the instant case. Here much of the work performed by the Thapedis did not benefit Cooper and they did not effectuate settlement in this case. It was not until Shapiro began his representation of Cooper that the case settled. That was almost 21 months after the Thapedis' termination.

behavior stems from its misinterpretation of our opinion in *Lustig v. Horn*, 315 Ill. App. 3d 319 (2000). She explains the trial court misread *Lustig* as holding that an attorney's unethical conduct must occur "*during representation*" (emphasis in the trial court's original opinion), for a court to consider whether the attorney's conduct should result in a forfeiture of attorney fees. Here, Cooper points out that neither *Lustig* nor any other Illinois case imposes a limitation that the unethical conduct must occur during the representation. Cooper asks that we reverse the decision of the trial court and remand with instructions to consider whether the Thapedis' unethical conduct warrants a complete forfeiture of any compensation. Alternatively, Cooper requests that we determine on our own that the conduct rose to a sufficient level of incompetence to disqualify the Thapedis from receiving any fees and simply enter an order reversing the trial court's compensation award in full.

¶ 69 The Thapedis, however, claim that the trial court appropriately considered whether their purportedly unethical conduct would bar their claim for attorney's fees. Here, the Thapedis explain the trial court specifically referenced many of the allegations made by Cooper regarding their purported misconduct and ethical breaches in her March 26, 2012 decision. The Thapedis deny Cooper's allegations. They also assert that Cooper filed specific affirmative defenses of fraud and misconduct in response to their fee petition and proffered expert testimony regarding their ethical conduct at the evidentiary hearing. According to the Thapedis, the trial court appropriately awarded them compensation because, after reviewing the facts regarding their supposedly unethical conduct, the court determined they did not engage in any such conduct.

¶ 70 As stated, we review a trial court's award of attorney's fees under *quantum meruit* for an abuse of discretion. *Anderson*, 274 Ill. App. 3d at 1007. A reviewing court may not disturb an

award only because it may have made a different award. *Merchandise National Bank of Chicago*, 866 Ill. App. 3d at 729.

¶ 71 As noted above, our review of the March 26, 2012 decision establishes that the trial court did not abuse its discretion in awarding the Thapedis $78,864.36 in attorney's fees and costs under a *quantum meruit* theory. The trial court's decision entails a comprehensive evaluation of the merits of the Thapedis' fee petition, including an analysis of the relevant factors used to determine the reasonable value of the Thapedis' services. *In re Estate of Callahan*, 144 Ill. 2d at 44 (discussing factors used to determine the reasonable value of an attorney's services). The trial court applied the appropriate criteria and concluded that: (1) the number of hours the Thapedis expended on the case was grossly overstated; (2) the work performed by the Thapedis did not always entail tangible legal work for the benefit of Cooper; (3) the number of hours charged for witness interviews was grossly exaggerated because there were no written witness statements (with the exception of one affidavit) or evidence that any witnesses had been interviewed; (4) the liability issues in the case were not unique; and (5) the Thapedis' work did not support their claimed hourly rate because they were not experienced in personal injury work. Thus, the trial court implicitly factored into its analysis the nature of the Thapedis' conduct and concluded their representation of Cooper was reasonably valued at $75,000, instead of the $597,068.75 in fees they requested.

¶ 72 Cooper asks us to reverse the trial court's award of attorney's fees based on the holding in a number of our cases that unethical attorney conduct can result in the complete forfeiture of *quantum meruit* compensation. However, the cases Cooper relies on, *Leoris v. Dicks*, 150 Ill. App. 3d 350 (1986) and *Licciardi v. Collins*, 180 Ill. App. 3d 1051 (1989), are distinguishable and were

also considered by the trial judge in her thorough written decision. In *Leoris* and *Licciardi*, the attorneys sought to enforce contingency fee contracts, which violated ethical provisions and public policy. In each case, both the trial and appellate courts refused to enforce the respective contracts and, after finding the contracts violated ethical provisions and public policy, denied the attorneys any *quantum meruit* compensation. We find that these cases are distinguishable from the instant case because the conduct complained of in *Leoris* and *Licciardi* cases involved actual violations of ethics rules and public policy, but the conduct in the case before us involves allegations of incompetence, sloppiness, and a general misunderstanding of how to prosecute a personal injury case. Thus, we do not view the Thapedis' conduct as constituting "unethical" conduct within the scope of the cases relied on by Cooper. While the evidence clearly supports the trial court's finding that the Thapedis' conduct was rife with gross incompetence and lack of professionalism, their attorney-client relationship was not itself so grounded in an unethical contract that they should forfeit all rights to compensation.

¶ 73 In the absence of binding authority from our supreme court that an attorney can be completely disqualified from *quantum meruit* compensation due to: (1) some level of incompetence, even gross incompetence, during the attorney-client relationship; or (2) unethical conduct which occurred after the relationship terminated, we decline to establish such a rule ourselves. Accordingly, we affirm the trial court's decision on the cross-appeal.

¶ 74 CONCLUSION

¶ 75 Accordingly, we affirm the judgment of the trial court of Cook County.

¶ 76 Affirmed.