IN THE SUPREME COURT OF THE STATE OF NEVADA

CHAD M. GOLIGHTLY, ESQ.,
Appellant,
vs.
GORDON GASSNER; BRADLEY BOOKE, ESQ.; LINDA J. LINTON, ESQ.; AND UNITRIN DIRECT INSURANCE COMPANY,
Respondents.

No. 50212

FILED

FEB 26 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court judgment on an attorney's lien. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

Appellant attorney Chad M. Golightly entered into a written contingency fee agreement with respondent Gordon Gassner to represent Gassner, who allegedly suffered severe injuries in an automobile accident with an uninsured motorist.[1] The agreement provided that Golightly would charge 22 percent of the gross settlement amount of any recovery, judgment, or offers of settlement recovered before filing a complaint or instituting litigation. Golightly contends that for six months, he expended significant time on Gassner's case and that he negotiated with Gassner's insurance company, respondent Unitrin Direct Insurance Company, and

[1]Gassner purportedly died of causes unrelated to the accident and has not responded in this appeal.

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its attorney, respondent Linda J. Linton, to obtain a settlement offer of $44,500 for Gassner's uninsured motorist claim.

At the time of the settlement offer, Gassner's medical special damages totaled $30,786.78 and he rejected the offer as being too low. Despite Gassner's requests that Golightly continue to negotiate, Golightly refused. Consequently, Gassner terminated Golightly's services and retained new counsel, who subsequently referred the matter to respondent Bradley L. Booke for litigation. After filing and litigating a bad faith action in the district court, Booke obtained an $83,000 settlement for Gassner.

In the meantime, on January 23, 2006, Golightly filed and served on Booke an attorney's lien for $10,062.39, consisting of $9,790 in fees (22 percent of $44,500) and $272.39 in costs. Booke contacted Golightly on several occasions, requesting a statement of services rendered so that an appropriate fee based on quantum meruit could be paid to him and offering to submit the matter to the State Bar of Nevada for resolution. Golightly refused to provide any information as to the nature and extent of services rendered, claiming that he was under no obligation to do so by the fee agreement's terms.

Golightly then filed a district court petition to foreclose his attorney's lien, citing NRS 18.015 and SCR 155 (RPC 1.5, effective May 1, 2006), but failed to provide any evidentiary support for his claims that he had engaged in extensive work and vigorous negotiations on Gassner's behalf. Booke, Unitrin, and Linton opposed the petition. On August 16, 2007, the district court entered a written order denying Golightly's request for 22 percent of the settlement amount and instead awarding him fees of $1,000, based on quantum meruit.

Golightly timely appealed from the August 16 order and argues that quantum meruit principles do not apply as Gassner is bound by a valid fee agreement, which clearly and unambiguously entitles him to $10,062.39 for his contingency fee and costs. In response, respondents contend that the agreement terminated when Gassner discharged Golightly and that the district court properly awarded fees under quantum meruit.[2]

This court generally reviews an attorney fees award under an abuse of discretion standard but will review purely legal issues de novo. Settelmeyer & Sons v. Smith & Harmer, 124 Nev. ___, ___, 191 P.3d 1051, 1057 (2008). In the absence of a fee agreement, NRS 18.015(1) allows an attorney's lien to be "for a reasonable fee." When an express fee agreement exists, NRS 18.015 does not specify whether the district court must similarly examine an attorney fees award for reasonableness.

We have previously examined the reasonableness of a fee award under an agreement, Sarman v. Goldwater, Taber and Hill, 80 Nev. 536, 542, 396 P.2d 847, 850 (1964) (determining that the fee awarded to discharged attorneys under a retaining lien was not so excessive as to constitute an abuse of discretion), and have applied the principles of quantum meruit to award fees absent an agreement. Gordon v. Stewart,

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[2]Respondents also argue that the district court erred in awarding any fees to Golightly, who had refused to advance a quantum meruit claim or to provide evidence demonstrating the reasonable value of his services. Booke failed to file a cross-appeal, however, and thus, this argument will not be considered in this appeal.

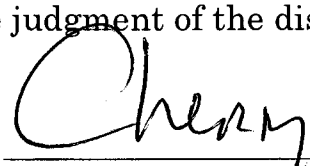
74 Nev. 115, 324 P.2d 234 (1958) (considering the amount of fees awarded by the district court to be reasonable, when the client admittedly breached the contingency fee agreement and the attorneys thus repudiated the contract and sought damages in quantum meruit); Cooke v. Gove, 61 Nev. 55, 114 P.2d 87 (1941) (awarding fees based on quantum meruit in the absence of a contingency fee agreement).

Notwithstanding the contingency fee agreement in this case, we conclude that the district court did not err in awarding attorney fees based on quantum meruit. As we have long recognized, a client has an unconditional right to discharge his attorney with or without cause. In re Kaufman, 93 Nev. 452, 456, 567 P.2d 957, 960 (1977) (citing Morse et al. v. District Court, 65 Nev. 275, 287, 195 P.2d 199, 204 (1948). Implicit in every attorney-client fee agreement is the client's right to terminate the contract, without committing a breach thereof, in order to exercise his unconditional right to discharge the attorney with or without cause. Crockett & Myers v. Napier, Fitzgerald & Kirby, 401 F. Supp. 2d 1120, 1124 (D.C. Nev. 2005); Fracasse v. Brent, 494 P.2d 9, 13 (Cal. 1972). When the attorney is discharged and the contract is terminated, the attorney may be compensated for the reasonable value of his services under quantum meruit principles. Gordon, 74 Nev. 115, 324 P.2d 234; Cooke, 61 Nev. 55, 114 P.2d 87; see RPC 1.5(a) (imposing upon attorneys an ethical obligation to "not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses").

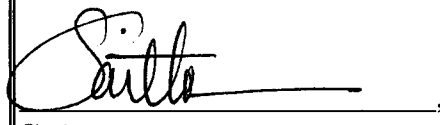
In this case, Golightly refused to provide itemized billing statements, an invoice of costs, an affidavit to show the hours worked or services performed, or any other evidence as to the reasonable value of his services to support his claim for $9,790 in fees and $272.39 in costs.

Nevertheless, Golightly's contingency fee agreement with Gassner entitled him to payment if a settlement was reached and he obviously did some work to obtain the first settlement offer for $44,500. Thus, the district court's quantum meruit award of $1,000 appears reasonable and was not an abuse of its discretion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.



_____, J.
Cherry



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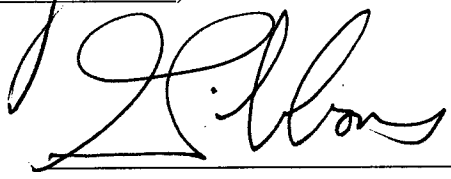

_____, J.
Gibbons

cc: Hon. David B. Barker, District Judge
Janet Trost, Settlement Judge
Bailey Kennedy
Linton & Associates, P.C.
Moriarty Badaruddin & Booke
Eighth District Court Clerk