

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Southwest District, Torrance Courthouse, Department M

21STCV30604

WANDA M BROWN vs CITY OF INGLEWOOD, et al.

July 7, 2022

8:30 AM

Judge: Honorable Deirdre Hill
Judicial Assistant: M. Rivera
Courtroom Assistant: S. Gardner

CSR: Monica Castaneda CSR RPT
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Richard Pollard Kinnan (Telephonic)

For Defendant(s): Jennifer Mira Hashmall by Colin Rolfs (Telephonic)

NATURE OF PROCEEDINGS: Hearing on Motion for Attorney Fees; Case Management Conference; Status Conference re: any appeal

Matters are called for hearing.

The court issues a tentative ruling as follows:

Moving Parties: Defendants City of Inglewood, Mayor James T. Butts, Jr., Alex Padilla, George Dotson, Eloy Morales, and Ralph Franklin

Responding Party: Plaintiff Wanda M. Brown

Motion for Attorneys' Fees

The court considered the moving, opposition, and reply papers.

RULING

The motion is CONTINUED to _____ to allow defense counsel to file a supplemental declaration as to the actual rates and amounts charged and to provide unredacted invoices.

BACKGROUND

On August 18, 2021, plaintiff Wanda M. Brown filed a complaint against defendants City of Inglewood, Mayor James T. Butts, Jr., Alex Padilla, George Dotson, Eloy Morales, and Ralph Franklin for (1) violations Labor Code §§1102.5(b), (c), (2) IIED, and (3) defamation per se. On August 23, 2021, plaintiff filed a FAC. In the FAC, plaintiff alleges that she was and is a

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resident of City of Inglewood and has been employed by the City as the elected City Treasurer since 1987. In November 2020, she was elected to her 9th consecutive four-year terms as City Treasurer. FAC, ¶1. She has competently served as the City Treasurer for over 30 consecutive years. She has served under three different City Mayors and is currently serving under the latest mayor, defendant James T. Butts, Jr. Id., ¶15. Beginning in late 2019 and continuing into 2020, plaintiff reported to Butts and the City Council that she had discovered facts indicating that defendant Butts (and his Council) were mishandling the City’s finances, including an improper payment of nearly \$100,000 to a city contractor, Pinner Construction, which payment surprisingly had been signed-off by Mayor Butts himself (a highly unusual transaction). Id., ¶16. Plaintiff notified defendants that they had improperly failed to accurately report to the public the true financial health of the City. Plaintiff raised concerns with defendants regarding the City’s declining cash balance, its increasing deficit spending and growing negative unrestricted fund balance, the need to curb spending, and about the wasteful and expensive use of outside consultants. Id., ¶17.

Plaintiff alleges that plaintiff’s reported concerns were met not with understanding and appreciation but rather with “the craziest, most outrageous, intolerable, indecent, extreme, wicked, despicable retaliatory conduct conceivable: conduct absolutely intended by defendant Butts and his Council to punish Treasurer Brown and cause her severe mental and emotional distress.” Defendants proceeded to retaliate against plaintiff by: (1) issuing a Order that the Treasurer not be given access to the City’s financial records; (2) reducing her salary by 83% from \$8,355 per month to just over \$1,4043 per month; (3) taking away plaintiff’s seat at the City Council meetings; (4) stripping plaintiff of nearly all her long-held duties as City Treasurer, including effectively removing plaintiff from the City’s Investment Committee and reducing her once multi-million dollar investment authority to just over \$500,000; (5) locking plaintiff and her staff out of City Hall and their offices; and (6) deactivating plaintiff’s office computer. Id., ¶18.

Plaintiff further alleges that in a “pathetic, pretextual attempt to justify his retaliatory actions,” on September 15, 2020, defendant Butts publicly defamed plaintiff at a City Council meeting by falsely accusing her—“of all people with her undergraduate and graduate degrees in Accounting and her decades of City Treasurer experience”—of lacking the requisite qualifications to be City Treasurer because she does not know the procedure for handling bad debts. Defendant Butts knew this statement was false when he made it, and he knew it would necessarily harm plaintiff’s reputation and bring her shame and mortification. Id., ¶20. The fact that all bad debt identification and resolution responsibility rests solely with the Finance Department, not with the Treasurer, and the Treasurer’s qualifications are simply unassailable. Id., ¶40. “Not coincidentally, it comes as no surprise that without plaintiff to properly assist in the handling of the City’s finances, it was announced in early August 2021 that the City of Inglewood has issued

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a Declaration of Fiscal Emergency. Before plaintiff was wrongfully defamed and retaliated against, plaintiff reported that defendants' misdeeds would lead to a financial crisis in Inglewood." Id., ¶21.

On March 21, 2022, the court denied defendants' special motion to strike as to the 1st cause of action in its entirety and the 2nd cause of action to the extent that it incorporates allegations of retaliation. The motion was granted as to the 3rd cause of action in its entirety and the 2nd cause of action to the extent it incorporates Mayor Butts' statements. The demurrer was sustained with leave to amend as to the 1st and 2nd causes of action. The demurrer was moot as to the 3rd cause of action in light of the ruling on the special motion to strike.

On April 8, 2022, plaintiff filed a SAC.

LEGAL AUTHORITY

Under CCP §425.16(c), "In any action subject to subdivision (b), a prevailing defendant on a special motion to strike shall be entitled to recover his or her attorney's fees and costs."

"If section 425.16 were interpreted to prevent a trial court from awarding attorney fees to a prevailing defendant in an amount the court deems reasonable and simply requires the trial court to award the amount requested, the statute would mandate the court to make what might be an unreasonable award. We cannot ascribe such an intention to the Legislature. Further, if a trial court were bound by the amount of attorney fees sought by a prevailing defendant under section 425.16 and had no discretion to award a lesser amount, the potential for abuse would be extraordinary. The trial court cannot be placed in the position of having to acquiesce in any amount sought by a prevailing defendant, no matter how outrageous. The trial court's role is not merely to rubber stamp the defendant's request, but to ascertain whether the amount sought is reasonable." *Robertson v. Rodriguez* (1995) 36 Cal. App. 4th 347, 361.

"[B]y its terms, CCP section 425.16 permits the use of the so-called lodestar adjustment method." *Ketchum v. Moses* (2001) 24 Cal. 4th 1122, 1131. The lodestar figure is calculated by multiplying the amount of attorney time reasonable spent with the hourly prevailing rate for private attorneys in the local community conducting noncontingent litigation of the same type. Id. at 1122.

DISCUSSION

Defendants request attorney's fees and costs pursuant to CCP §425.16(c)(1) against plaintiff

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Wanda M. Brown in the amount of \$132,419.59 or, alternatively, \$70,532.84. Defendants contends that they incurred \$123,773.50 in attorney's fees and \$8,646.09 in costs in preparing and arguing the anti-SLAPP motion. In a rely declaration, defendants contend that they also incurred \$41,715.78 on the fee motion.

The court denied defendants' special motion to strike as to the 1st cause action in its entirety and the 2nd cause of action to the extent that it incorporates allegations of retaliation. The motion was granted as to the 3rd cause of action in its entirety and the 2nd cause of action to the extent it incorporates Mayor Butts' statements.

Defendants assert they are entitled to reasonable attorney's fees as they were the prevailing party on part of the motion. "[A] party who partially prevails on an anti-SLAPP motion must generally be considered a prevailing party" Mann v. Quality Old Time Serv., Inc. (2006) 139 Cal. App. 4th 328, 340. Defendants argue that they significantly narrowed the scope of the lawsuit by successfully eliminating half of plaintiff's claims—defamation—in the FAC.

Defendants argue that the nature of the litigation, the complexity of the issues, and the experience and expertise of counsel support the amount requested. Attorney Mira Hashmall states in her declaration that "[w]e were selected for this matter based on our skill and experience, including with anti-SLAPP motions and government litigation" and that she has "extensive experience with anti-SLAPP motions and legal disputes involving governments." Defendants also contend that the number of hours expended (135.9) was reasonable. Defendants assert that the "standard" hourly rates (partner Mira Hashmall - \$950/hr. - \$975/hr.; senior associate Colin Rolfs - \$795/hr. - \$840/hr.; paralegal Louise Goldwire - \$325/hr. - \$350/hr.) are reasonable. Defendants also acknowledge that Miller Barondess does not charge Inglewood regular hourly rates and, instead, it provides Inglewood with a discounted, blended hourly-rate structure that is lower than the rates sought in the motion.

The court notes that the rates and amounts stated on the Miller Barondess' invoices are redacted.

Defendants also argue that they should receive all of their fees because they successfully eliminated one of the three claims in the FAC in its entirety and another in significant part. To the extent a discount is applied to defendants' fees, the award should be no less than \$61,886.75 (1/2 of \$123,773.50).

In opposition, plaintiff argues that the fee request is unreasonable and excessive. Plaintiff asserts that defendants were "only minimally successful," the number of hours is "clearly and legally excessive," and the billing rate is well above the reasonable rates charged and allowed for an

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anti-SLAPP motion. Plaintiff contends that defendants' billing records indicate that only six hours were billed for work on the defamation claim and that defendants are improperly claiming fees for work done on their separate, unrelated demurrer. Further, plaintiff argues, defendants are seeking fees in excess of what they actually incurred given that the contract between City of Inglewood and the Miller Barondess law firm sets an hourly limit.

The hearing is CONTINUED to allow defendants to provide a supplemental declaration from defense counsel as to the rates and amounts charged.

Defendants are ordered to give notice of the ruling.

****END OF TENTATIVE RULING****

The motion is heard, argued and the court adopts the tentative ruling.

On the Court's own motion, the Hearing on Motion for Attorney Fees scheduled for 07/07/2022, Case Management Conference scheduled for 07/07/2022, and Status Conference re: any appeal scheduled for 07/07/2022 are continued to 09/13/22 at 08:30 AM in Department M at Torrance Courthouse.