

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

September 26, 2000

Cornelia G. Clark  
Clerk, Court of Appeals  
of Wisconsin

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**No. 00-0899-FT**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

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**REICH LAW FIRM, LLC.,**

**PLAINTIFF-APPELLANT,**

**V.**

**JAMEE K. PETERS,**

**DEFENDANT-RESPONDENT.**

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APPEAL from a judgment of the circuit court for Langlade County:  
JAMES P. JANSEN, Judge. *Affirmed.*

¶1 PETERSON, J.<sup>1</sup> Reich Law Firm, LLC (Reich) appeals a small claims judgment awarded it following a trial for its claim for unpaid attorney fees.

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f)(1997-98). All statutory references are to the 1997-98 version unless otherwise noted.

Because Reich has failed to show the circuit court erroneously exercised its discretion, the judgment is affirmed.

¶2 Reich represented Jamee Peters in a divorce action. Peters paid a retainer of \$1,000. Following completion of the case, Reich billed her for an additional \$4,825.75. Peters refused to pay and Reich commenced this small claims action. Reich claimed that Peters agreed to pay \$120 per hour and that the bill was based on this hourly rate.

¶3 Two attorneys testified for Peters. Melinda Olsen represented Peters' former husband in the divorce. Olsen had practiced law for twenty-eight years, including divorce cases. She characterized the case as typical and billed her client a total of \$1,500. Jerry McCormack had practiced law for thirty years, was a former family court commissioner, and practices divorce law. In his opinion, the divorce was routine and fees should not have exceeded \$2,000. He thought the hours Reich billed were excessive.

¶4 The circuit court found that the \$120 per hour rate was reasonable. However, it also found that the divorce case was relatively standard without any complicating factors except some determination of debts. It concluded that the hours billed were excessive and that fifteen hours was a reasonable amount of time. Based on that, it calculated a reasonable total fee of \$1,800. Subtracting the \$1,000 retainer, the court awarded Reich a judgment of \$800. Reich appeals.

¶5 Peters contends the standard of review is whether the court erroneously exercised its discretion. Reich does not address the appropriate standard and therefore concedes Peters' contention. *See Charolais Breeding Ranch v. FPC Secs. Corp.*, 90 Wis. 2d 97, 108-09, 279 N.W.2d 493 (Ct. App. 1979). In *Standard Theatres, Inc. v. DOT*, 118 Wis. 2d 730, 747, 349 N.W.2d

661 (1984), our supreme court recognized that the trial court is in an advantageous position to decide the reasonableness of requested attorney fees. It is the trial court that observes the quality of legal services rendered, it is aware of the costs incurred in operating a law practice, and it knows or can readily find out the going rate for legal services in the community. *See id.* Accordingly, we will give deference to the trial court's exercise of discretion. *See Village of Shorewood v. Steinberg*, 174 Wis. 2d 191, 204, 496 N.W.2d 57 (1993).

¶6 Reich first argues the court erred by failing to grant judgment based on the agreement to pay \$120 per hour. However, a court would be erroneously exercising its discretion by merely rubber stamping Reich's bill. In Wisconsin, "courts have the inherent power to determine the reasonableness of attorney's fees and to refuse to enforce any contract that calls for clearly excessive or unreasonable fees." *See Herro, McAndrews & Porter v. Gerhardt*, 62 Wis. 2d 179, 182, 214 N.W.2d 401 (1974).

¶7 Then Reich argues that the evidence and *Herro* support his claim. The problem with Reich's argument is that it is a trial argument, not an appellate argument. This court is not a trial court. The real question is whether the trial court erroneously exercised its discretion. *See Standard Theaters*, 118 Wis. 2d at 747.

¶8 *Herro* sets forth the following factors for determining the reasonableness of attorney fees:

The things to be taken into consideration in determining the compensation to be recovered by an attorney are the amount and character of the services rendered, the labor, the time, and trouble involved, the character and importance of the litigation, the amount of money or value of the property affected, the professional skill and

experience called for, and the standing of the attorney in his profession; to which may be added the general ability of the client to pay and the pecuniary benefit derived from the services.

*See id.* at 184 (citations omitted).

¶9 The trial court examined the evidence in this case and made findings on the factors relevant here. It concluded that Reich's time was excessive and the case was routine. The evidence supports these findings. That Reich has a different perspective on how the court should have weighed the evidence or judged credibility of witnesses is beside the point. That is the trial court's role, not this court's role. *See State v. Dunn*, 121 Wis. 2d 389, 400, 359 N.W.2d 151 (1984). The trial court properly exercised its discretion and we have no basis to overturn its judgment.

*By the Court.*—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.

