

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

APPELLATE DIVISION (CIVIL): AY
CASE NO.: 502013AP000100
L.T. No.: 502013SC009209

JOHN L. SANTORO,
Appellant,

v.

COUNTRY MANORS ASSOCIATION,
Appellee.

Opinion filed: NOV 13 2014

Appeal from the County Court in and for Palm Beach County,
Judge Reginald R. Corlew

For Appellant: John L. Santoro
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For Appellee: Mark G. Keegan, Esq.
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PER CURIAM.

Appellant, John Santoro, appealed the trial court's order granting the Defendant's, Country Manors Association ("Country Manors"), Motion to Dismiss and awarding attorney's fees and cost. The appeal is untimely as to the final judgment granting the motion to dismiss, but timely as to the final judgment for attorney's fees. Accordingly, this appeal is limited to the review of the award of attorney's fees.

Any homeowner's association tenant or member of a homeowner's association may bring an action against the association or a tenant or homeowner, and the prevailing party is entitled to reasonable attorney's fees and costs. § 720.305, Fla. Stat. (2013). Upon an award of attorney's fees

the trial court must “set forth specific findings concerning the hourly rate, the number of hours reasonably expended and the appropriateness of reduction or enhancement factors.” *Campbell v. Campbell*, 46 So. 3d 1221, 1222 (Fla. 4th DCA 2010) (citing *Hoffay v. Hoffay*, 555 So. 2d 1309, 1310 (Fla. 1st DCA 1990)). Trial courts should consider the following factors:

(1) the time and labor required, the novelty and difficulty of the issues, and the legal skill required; (2) the likelihood that the representation will preclude other employment by the lawyer; (3) the customary fee; (4) the result obtained; (5) the time limitations imposed by the client or circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation and ability of the lawyers; and (8) whether the fee is fixed or contingent.

Campbell, 46 So. 3d at 1222. A fee award based purely on the amount charged by the attorney without any specific findings and indications in the trial court’s order that it considered the above factors is improper and an abuse of discretion. *Id.*

The Court finds that Mr. Santoro brought an action against his homeowner’s association, Country Manors, and Country Manors prevailed in the action. Accordingly, because Country Manors prevailed in the action, the trial court did not abuse its discretion in its decision to award Country Manors attorney’s fees. The trial court, however, failed to state the specific findings that formed the basis for the award of attorney’s fees in the order. The trial court’s order simply indicates that it considered Country Manor’s motion for attorney’s fees and the expert affidavit of reasonable attorney’s fees. Specifically, the trial court failed to state the hourly rate of the award or the number of hours that were expended to justify the award; the order only stated that Country Manors is awarded “\$3,972.50 as attorney’s fees and the sum of \$88.39 as costs, for a total sum of \$4,060.89. . . .” Thus, on appellate review the Court is unable to determine from the trial court order the hourly rate of the award, the number of hours the attorney worked on the case, or whether the trial court considered the reasonableness of the hourly rate and number of hours worked on the case. *See Doukas v. Facilities Dev. Corp.*, 92 So. 3d 303, 304 (Fla. 4th DCA 2012) (reversing and remanding the fee judgment for attorney’s fees because although affidavits were submitted to indicate

reasonable attorney's fees, the trial court only stated that the court found the hourly rate and time spent on the case reasonable, yet failed to make specific findings as to the hourly rate and amount of time expended). Therefore, although Country Manors was entitled to attorney's fees, the trial court abused its discretion when it awarded attorney's fees without making specific findings as to the hourly rate of the award or the number of hours that were expended.

The Court also finds that Country Manors is entitled to appellate attorney's fees pursuant to Florida Statutes section 718.303. Section 718.303 indicates that any unit owner, tenant or homeowner's association must comply with the declaration and documents creating a homeowner's association and such parties may bring an action for damages, and the prevailing party is entitled to reasonable attorney's fees and costs. Country Manors is the prevailing party on appeal and thus, entitled to appellate attorney's fees. The lower court should determine the amount of appellate attorney's fees in a final order. *See Schmidt v. Fortner*, 629 So. 2d 1036, 1043 n.10 (Fla. 4th DCA 1993).

Therefore, the Court **AFFIRMS** the trial court's granting of Country Manors' Motion for Attorney's Fees, **REVERSES and REMANDS** as to the fee judgment for the trial court to determine the amount to be awarded and support such amount with specific findings of the hourly rate and the number hours expended, and **GRANTS** Country Manors' Motion for Appellate Attorney's fees and directs the trial court to make a determination as to the amount to award.

BLANC, SASSER, and SMALL, JJ., concur.