

CALIFORNIA COURT OF APPEAL, FOURTH APPELLATE DISTRICT,
DIVISION THREE

Baer v. Tedder

No. G063642, G063784 (Cal. Ct. App. Nov. 10, 2025) · No. G063642; G063784 · Decided November 10, 2025

SUMMARY

The California Court of Appeal held that Code of Civil Procedure sections 2023.030(a) and 2031.320(b) authorize recovery of reasonable attorney’s fees incurred in successfully defending an appeal from a discovery-sanctions order. The court found the awarded amount largely reasonable but reduced it by \$11,727.50 and imposed joint and several liability on the sanctioned litigant and counsel. The order was affirmed as modified and remanded with directions.

CASE DETAILS

COURT	California Court of Appeal, Fourth Appellate District, Division Three
WRITING FOR THE COURT	Sanchez, Acting P. J.; Scott, J.; Bancroft, Pro Tem, J.
JURISDICTION	California Court of Appeal, Fourth Appellate District, Division Three
DECIDED	November 10, 2025
DOCKET	G063642; G063784
DISPOSITION	affirmed
PROCEDURAL POSTURE	Consolidated appeals from a postjudgment order awarding Baer attorney's fees incurred in successfully defending a prior appeal from a discovery-sanctions order.
STANDARD OF REVIEW	Entitlement to attorney's fees is reviewed de novo. The amount of an attorney's-fee award is reviewed for abuse of discretion; factual findings are reviewed for substantial evidence and legal conclusions de novo.
PRECEDENTIAL VALUE	Published and certified for publication; precedential California Court of Appeal decision.
PARTIES	Dan W. Baer, David H. Tedder v. David H. Tedder, Dan W. Baer, Robert K. Kent

TOPICS

- attorney fees
- sanctions
- discovery dispute
- appellate procedure
- statutory interpretation

PRACTICE AREAS

civil procedure

discovery

appellate procedure

attorney fees

sanctions

QUESTIONS PRESENTED

1. Whether Code of Civil Procedure sections 2023.030, subdivision (a), and 2031.320, subdivision (b), authorize recovery of attorney's fees incurred by a successful respondent in an appeal from a discovery-sanctions order.
2. Whether the amount of attorney's fees awarded by the trial court was reasonable.
3. Whether appellate attorney's fees should be imposed jointly and severally against both the sanctioned litigant and sanctioned counsel.
4. Whether the appeal was frivolous and warranted appellate sanctions.

HOLDINGS

1. Code of Civil Procedure sections 2023.030, subdivision (a), and 2031.320, subdivision (b), authorize a trial court to award a successful respondent attorney's fees incurred in successfully defending an appeal from an order imposing monetary discovery sanctions.
2. In deciding whether to award appellate attorney's fees under sections 2023.030(a) and 2031.320(b), the trial court evaluates substantial justification for the conduct that led to the initial discovery sanctions, not substantial justification for pursuing the appeal.
3. The fee award was reasonable with a reduction of \$11,727.50 because the time claimed for preparing the fee motion was excessive and the hourly rate used for that work was unreasonably high.
4. Because Tedder and Kent were independently liable for the jointly and severally imposed sanctions, Kent was not required to join Tedder's appeal; his voluntary participation in the appeal supported imposing Baer's appellate attorney's fees against Tedder and Kent jointly and severally.
5. No appellate sanctions were imposed because Tedder's appeal, although unsuccessful, was not totally and completely without merit.

KEY QUOTATIONS

"We hold that sections 2023.030(a) and 2031.320(b) in this situation serve as fee shifting statutes and authorize a trial court to award a successful respondent attorney's fees incurred on appeal." (2-3)

"The purpose and effect of sections 2023.030(a) and 2031.320(b) is not to punish but to compensate a litigant for costs that litigant incurred as the result of another litigant's misuse of the discovery process." (9-10)

"A litigant cannot be forced to file an appeal." (30)

"As modified the order is affirmed. The matter is remanded to the trial court with directions to enter an order reflecting these modifications." (32)

FACTUAL BACKGROUND

Baer moved to compel Tedder to provide further responses to an inspection demand after Tedder and Kent engaged in evasive and nonresponsive discovery conduct. The trial court granted the motion and imposed \$10,475 in monetary sanctions jointly and severally against Tedder and Kent, finding no substantial justification for their opposition. After the Court of Appeal affirmed the sanctions order, Baer sought recovery of the attorney's fees incurred in that appeal. The trial court awarded \$113,532.50 against Tedder alone, using a lodestar calculation.

PROCEDURAL HISTORY

Baer obtained an order compelling Tedder to provide further discovery responses and imposing \$10,475 in monetary sanctions jointly and severally against Tedder and his counsel, Kent. Tedder and Kent appealed, and the Court of Appeal affirmed the sanctions order. Baer then moved for attorney's fees incurred in that appeal. The trial court awarded Baer \$113,532.50 against Tedder alone. Tedder challenged the statutory authority and amount of the award, while Baer challenged the failure to impose liability jointly and severally against Tedder and Kent.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The trial court must enter an order reducing the attorney's-fee award to \$101,805 and imposing liability for the full amount jointly and severally against Tedder and Kent.

CASES CITED

- Baer v. Tedder, No. G059832 (Cal. Ct. App. July 25, 2022) (nonpublished)
- Connerly v. State Personnel Bd., 37 Cal.4th 1169, 1175 (2006)
- Garcia v. Santana, 174 Cal.App.4th 464, 468 (2009)
- Apex LLC v. Korusfood.com, 222 Cal.App.4th 1010, 1017 (2013)
- Stratton v. Beck, 30 Cal.App.5th 901, 910 (2018)
- Morcos v. Board of Retirement, 51 Cal.3d 924, 927-928 (1990)
- City of Rocklin v. Legacy Family Adventures-Rocklin, LLC, 86 Cal.App.5th 713, 737 (2022)
- Roe v. Halbig, 29 Cal.App.5th 286, 313 (2018)
- Evans v. Unkow, 38 Cal.App.4th 1490, 1499 (1995)
- Serrano v. Unruh, 32 Cal.3d 621, 635, 637 (1982)
- City of Los Angeles v. PricewaterhouseCoopers, LLP, 17 Cal.5th 46, 53 (2024)
- Kwan Software Engineering, Inc. v. Hennings, 58 Cal.App.5th 57, 74 (2020)
- Doppes v. Bentley Motors, Inc., 174 Cal.App.4th 967, 992 (2009)
- Deck v. Developers Investment Co., Inc., 89 Cal.App.5th 808, 833 (2023)
- Ketchum v. Moses, 24 Cal.4th 1122, 1132 (2001)

- *PLCM Group, Inc. v. Drexler*, 22 Cal.4th 1084, 1095-1096 (2000)
- *Mountain Air Enterprises, LLC v. Sundowner Towers, LLC*, 3 Cal.5th 744, 751 (2017)
- *Cornerstone Realty Advisors, LLC v. Summit Healthcare REIT, Inc.*, 56 Cal.App.5th 771, 789 (2020)
- *Pasternak v. McCullough*, 65 Cal.App.5th 1050, 1055, 1058-1059 (2021)
- *Chacon v. Litke*, 181 Cal.App.4th 1234, 1260 (2010)
- *Children's Hospital & Medical Center v. Bontá*, 97 Cal.App.4th 740, 783 (2002)
- *American Motorcycle Assn. v. Superior Court*, 20 Cal.3d 578, 582-583 (1978)
- *Imuta v. Nakano*, 233 Cal.App.3d 1570, 1585-1586 (1991)
- *K.J. v. Los Angeles Unified School Dist.*, 8 Cal.5th 875, 878, 880, 889 (2020)
- *Singh v. Lipworth*, 227 Cal.App.4th 813, 826 (2014)

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