

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Florida Recovery Solutions, Inc. v. Westport Recovery Corporation

No. 3D25-0356 · No. No. 3D25-0356 · Decided October 1, 2025

SUMMARY

The Florida Third District Court of Appeal affirmed a final judgment awarding attorney’s fees under section 57.105, Florida Statutes, to Westport Recovery Corporation. The court held that the trial court did not abuse its discretion in finding Westport entitled to fees and that competent substantial evidence supported the amount awarded.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	Gordo, J.; Lindsey, J.; Bokor, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	October 1, 2025
DOCKET	No. 3D25-0356
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a final judgment awarding attorney's fees under section 57.105, Florida Statutes.
STANDARD OF REVIEW	The entitlement determination under section 57.105(1), Florida Statutes, is reviewed for abuse of discretion, except that legal issues underlying a fee motion are reviewed de novo. The amount of an attorney's-fee award is upheld when supported by competent substantial evidence.
PRECEDENTIAL VALUE	published
PARTIES	Florida Recovery Solutions, Inc., Cheyenne Whitfield v. Westport Recovery Corporation

TOPICS

- attorney fees
- sanctions
- standard of review
- appellate procedure
- commercial litigation

PRACTICE AREAS

- civil procedure
- appellate procedure
- attorney fees
- sanctions
- commercial litigation

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion in determining that Westport was entitled to attorney's fees under section 57.105(1), Florida Statutes.
2. Whether competent substantial evidence supported the amount of attorney's fees awarded to Westport.

HOLDINGS

1. The trial court did not abuse its discretion in determining that Westport was entitled to attorney's fees under section 57.105(1).
2. Competent substantial evidence supported the amount of attorney's fees awarded to Westport.

KEY QUOTATIONS

“The purpose of sanctions is to deter frivolous pleadings.” (at 2)

“To support a fee award, there must be evidence detailing the services performed and expert testimony as to the reasonableness of the fee.” (at 3)

FACTUAL BACKGROUND

Westport Recovery Corporation, formerly known as First Union National Bank of Florida, obtained a final judgment awarding it attorney's fees against Florida Recovery Solutions, Inc. and Cheyenne Whitfield under section 57.105, Florida Statutes. The appellants disputed both whether Westport was entitled to fees and whether the evidentiary support established the reasonableness of the amount awarded. The appellate court concluded that the trial court's entitlement determination and fee amount were supported by the record.

PROCEDURAL HISTORY

The County Court for Miami-Dade County entered a final judgment awarding Westport Recovery Corporation attorney's fees against Florida Recovery Solutions, Inc. and Cheyenne Whitfield. The appellants challenged both Westport's entitlement to fees and the sufficiency of the evidence supporting the amount awarded. The Third District Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Paul v. Avrahami, 216 So. 3d 647, 649-650 (Fla. 4th DCA 2017)
- Preferred Gov't Ins. Tr. v. Aelion, 307 So. 3d 129, 130 (Fla. 3d DCA 2020)
- Effective Teleservices, Inc. v. Smith, 132 So. 3d 335, 341 (Fla. 4th DCA 2014)
- Nants v. Griffin, 783 So. 2d 363, 366 (Fla. 5th DCA 2001)
- Saussy v. Saussy, 560 So. 2d 1385, 1386 (Fla. 2d DCA 1990)

OPINION

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed October 1, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D25-0356 Lower Tribunal No. 91-13989-SP-23 _____ Florida Recovery Solutions, Inc., et al., Appellants, vs. Westport Recovery Corporation, et al., Appellees. An Appeal from the County Court for Miami-Dade County, Jennifer Azar, Judge.

Michael J. Farrar, P.A., and Michael J. Farrar, for appellants. Friedman & Greenberg, P.A., and Robert D. Friedman (Plantation), for appellees. Before LINDSEY, GORDO and BOKOR, JJ. GORDO, J. Florida Recovery Solutions, Inc. (“Recovery Solutions”) and Cheyenne Whitfield (“Whitfield”) appeal from a final judgment awarding attorney’s fees to First Union National Bank of Florida, now known as Westport Recovery Corporation (“Westport”).

We have jurisdiction. Fla. R. App. P. 9.030(b)(1)(A). We affirm. Recovery Solutions and Whitfield contest the trial court’s determination of Westport’s entitlement to attorney’s fees under section 57.105, Florida Statutes, and further challenge the sufficiency of the evidence supporting the amount awarded as reasonable. 1 Upon review of the record, we find the trial court did not abuse its discretion in determining Westport’s entitlement to attorney’s fees under section 57.105.

See *Paul v. Avrahami*, 216 So. 3d 647, 650 (Fla. 4th DCA 2017) (“[S]ection 57.105(1) requires that the trial court ‘shall’ award attorney’s fees (including prejudgment interest) against a party and the party’s attorney if either knew or should have known that a claim or defense 1 “We review the trial court’s [order on] attorney’s fees under section 57.105(1), Florida Statutes, for an abuse of discretion.” *Paul v. Avrahami*, 216 So.

3d 647, 649 (Fla. 4th DCA 2017). “To the extent the trial court’s determination on a motion for attorney’s fees is based on an issue of law, our standard of review is *de novo*.” *Id.* “We will uphold a trial court’s award of attorneys’ fees so long as it is supported by substantial, competent evidence.” *Effective Teleservices, Inc. v. Smith*, 132 So. 3d 335, 341 (Fla.

4th DCA 2014). 2 when initially presented (a) [w]as not supported by the material facts necessary to establish the claim or defense; or (b) [w]ould not be supported by the application of then-existing law to those material facts.

The purpose of sanctions is to deter frivolous pleadings.”) (quotation marks and citations omitted); *Preferred Gov’t Ins. Tr. v. Aelion*, 307 So. 3d 129, 130 (Fla. 3d DCA 2020) (“Under [section 57.105(1)], a court may impose sanctions on an attorney for a frivolous filing where, for example, the claim was not supported by the material facts necessary to establish the claim or would not be supported by the application of then-existing law.

In this context, we have defined ‘frivolous’ as a claim that presents no justiciable question and is so devoid of merit on the face of the record that there is little prospect it will ever succeed.... [T]he trial court must find that the action was frivolous or so devoid of merit both on the facts and the law as to be completely untenable. Additionally, the trial court’s findings must be based on substantial competent evidence that is either contained in the record or is otherwise before the court[.]”) (quotation marks and citations omitted).

We also find competent substantial evidence to support the amount of attorney’s fees award to Westport. See *Nants v. Griffin*, 783 So. 2d 363, 366 (Fla. 5th DCA 2001) (“To support a fee award, there must be evidence detailing the services performed and expert testimony as to the reasonableness of the fee.

The applicant should present records detailing the amount of work performed and the time to perform each task.... Expert testimony is required to determine both the reasonableness of the hours and a reasonable hourly rate.

However, the attorney performing the work is not required to testify when there is competent evidence filed in support of the motion or introduced at the hearing detailing the services performed.”); cf. *Saussy v. Saussy*, 560 So. 2d 1385, 1386 (Fla. 2d DCA 1990) (“To support a fee award, there must be the following: (1) evidence detailing the services performed and (2) expert testimony as to the reasonableness of the fee....

In this case, there was competent evidence either filed in support of the motion or introduced at the hearing detailing the services performed by the wife’s attorneys, which included an affidavit by a partner of the law firm with attached summaries of legal services provided by the firm, time slips, testimony of an associate with the firm as to his own work in the case, and testimony from an expert witness that the firm’s fee and the work performed were reasonable.

We find this evidence sufficient to support the award of fees for the time reasonably and necessarily spent by all attorneys who worked on the matter.”). Affirmed. 4