

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Recycling Works, LLC v. Bradmor, LLC

No. 19-1080 (W. Va. May 20, 2021) · No. No. 19-1080 · Decided May 20, 2021

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed an order awarding Recycling Works, LLC \$5,908.46 in damages and \$8,995.00 in attorney's fees in a dispute arising from water damage to leased commercial premises. The court held that the circuit court properly evaluated the reasonableness of attorney's fees under the factors in *Aetna Casualty & Surety Co. v. Pitrolo* and did not abuse its discretion in limiting the award. The court rejected all six assignments of error, including challenges concerning prevailing rates, an undocumented initial fee, recusal-related work, and the adequacy of the circuit court's findings.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per curiam; Chief Justice Evan H. Jenkins; Justice Elizabeth D. Walker; Justice Tim Armstead; Justice John A. Hutchison; Justice William R. Wooton
JURISDICTION	West Virginia
DECIDED	May 20, 2021
DOCKET	No. 19-1080
DISPOSITION	affirmed
PROCEDURAL POSTURE	Recycling Works appealed the Circuit Court of Morgan County's order awarding it \$5,908.46 in liability damages and \$8,995.00 in attorney's fees, challenging the calculation and adequacy of the fee award.
STANDARD OF REVIEW	An award of court costs and attorney's fees is reviewed for abuse of discretion and will not be disturbed unless the appellate court clearly finds an abuse of discretion.
PRECEDENTIAL VALUE	Published memorandum decision; the opinion states that it is issued under West Virginia Rule of Appellate Procedure 21.
PARTIES	Recycling Works, LLC v. Bradmor, LLC

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commercial litigation

contracts

remedies

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QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion in determining the amount of reasonable attorney's fees.
2. Whether the circuit court improperly excluded evidence concerning prevailing attorney-fee rates.
3. Whether the circuit court properly excluded a \$2,500.00 initial transaction or fee-agreement charge that was unsupported by documentation.
4. Whether the circuit court improperly denied fees for time spent seeking recusal or reassignment of the judge.
5. Whether the attorney's-fee award was punitive or otherwise disproportionate.
6. Whether the circuit court made adequate findings of fact and conclusions of law.

HOLDINGS

1. A circuit court's determination of court costs and attorney's fees is reviewed for abuse of discretion and will not be disturbed unless a clear abuse of discretion appears.
2. When attorney's fees are sought against a third party, reasonableness is determined by broader factors beyond the attorney-client fee arrangement, including time and labor, novelty and difficulty, required skill, customary fee, fee structure, amount involved and results obtained, attorney experience, and awards in similar cases.
3. The circuit court did not abuse its discretion by awarding \$8,995.00 in attorney's fees and denying or excluding unsupported, unnecessary, or post-settlement fee requests.
4. The circuit court made adequate findings of fact and conclusions of law explaining its attorney's-fee award.

KEY QUOTATIONS

"Where attorney's fees are sought against a third party, the test of what should be considered a reasonable fee is determined not solely by the fee arrangement between the attorney and his client." (at 2)

"The resolution of this matter was readily accessible through the production of the requested cost assessment, which was not forthcoming from Recycling Works." (at 3)

FACTUAL BACKGROUND

Recycling Works leased commercial space from Bradmor for a secondhand bookstore. Pipe failures in an upstairs unit damaged Recycling Works' inventory and temporarily closed the business, after which Bradmor's insurer repeatedly requested a detailed estimate and proof of loss. Recycling Works did not provide the requested documentation for months, demanded damages and substantial attorney's fees, and ultimately agreed to resolve

the damages claim for \$5,908.46 while reserving attorney's fees for the circuit court. The circuit court awarded \$8,995.00 in fees after finding that the lease allowed reasonable fees but that Recycling Works had not documented its fee arrangement, claimed initial fee, or other requested amounts.

PROCEDURAL HISTORY

A pipe failure in commercial space leased by Recycling Works damaged its inventory, and the parties ultimately resolved the damages claim for \$5,908.46 while leaving attorney's fees for the circuit court. The Circuit Court of Morgan County awarded Recycling Works \$8,995.00 in attorney's fees and denied or excluded other requested amounts. Recycling Works appealed, and the Supreme Court of Appeals of West Virginia affirmed.

DISPOSITION

affirmed

CASES CITED

- Bond v. Bond, 144 W. Va. 478, 109 S.E.2d 16 (1959)
- Cummings v. Cummings, 170 W. Va. 712, 296 S.E.2d 542 (1982) (per curiam)
- Ball v. Wills, 190 W. Va. 517, 438 S.E.2d 860 (1993)
- Daily Gazette Co., Inc. v. West Virginia Development Office, 206 W. Va. 51, 521 S.E.2d 543 (1999)
- Hollen v. Hathaway Electric, Inc., 213 W. Va. 667, 584 S.E.2d 523 (2003) (per curiam)
- Shafer v. Kings Tire Serv., Inc., 215 W. Va. 169, 597 S.E.2d 302 (2004)
- Carper v. Watson, 226 W. Va. 50, 697 S.E.2d 86 (2010)
- W. Virginia Department of Transportation, Division of Highways v. Newton, 238 W. Va. 615, 797 S.E.2d 592 (2017)
- Aetna Casualty & Surety Co. v. Pitrolo, 176 W. Va. 190, 342 S.E.2d 156 (1986)

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