

CALIFORNIA COURT OF APPEAL, FOURTH APPELLATE DISTRICT,
DIVISION ONE

Gogal v. Deng

Gogal · No. D084405 · Decided July 22, 2025

SUMMARY

The California Court of Appeal affirmed the denial of attorney’s fees sought by tenants who prevailed on a retaliatory eviction claim. The court held that a nonattorney spouse may potentially recover fees for services performed by an attorney-spouse if a bona fide attorney-client relationship existed, even when the spouses share joint interests and damages. However, the record did not establish that such a relationship existed between Hildy Baumgartner-Gogal and Michael Gogal.

CASE DETAILS

COURT	California Court of Appeal, Fourth Appellate District, Division One
WRITING FOR THE COURT	Justice Dato; Acting Presiding Justice Irion; Justice Buchanan
JURISDICTION	California Court of Appeal, Fourth Appellate District, Division One
DECIDED	July 22, 2025
DOCKET	D084405
DISPOSITION	affirmed
PROCEDURAL POSTURE	Tenants appealed the order denying their motion for statutory attorney's fees for work performed by Michael Gogal, an attorney-spouse who represented himself and his wife in a retaliatory-eviction action.
STANDARD OF REVIEW	Attorney-fee decisions are ordinarily reviewed for abuse of discretion, but de novo review applies when determining the legal basis or statutory criteria for an award. Whether an attorney-client relationship existed is a legal question, although disputed factual predicates must first be resolved.
PRECEDENTIAL VALUE	Published and certified for publication; precedential California Court of Appeal opinion.
PARTIES	Michael Gogal, Hildy Baumgartner-Gogal v. Xinhui Deng, Jianhua Wu

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether a nonattorney spouse may recover statutory prevailing-party attorney's fees for legal work performed by an attorney-spouse when the spouses assert a joint claim and have coincident damages.
2. Whether the evidence established a true attorney-client relationship between Hildy and Michael sufficient to support recovery of Michael's fees under Civil Code section 1942.5.
3. Whether the superior court applied the proper legal framework in denying the fee request.

HOLDINGS

1. They do not. Courts must examine the record to determine whether a true attorney-client relationship exists; they may not assume as a matter of law that no such relationship exists merely because the spouses assert a joint claim or have joint and indivisible interests.
2. The nonattorney spouse must establish that the attorney-spouse was consulted in a professional capacity for the purpose of obtaining legal advice or legal services and that the claimed legal work was performed on the spouse's behalf.
3. No. The evidence was insufficient to establish a bona fide attorney-client relationship between Hildy and Michael, so Michael's fees were not recoverable on Hildy's behalf.
4. Yes. Although the superior court was required to examine whether an attorney-client relationship existed rather than treat Gorman as an inflexible categorical rule, the record independently supported denial of the requested fees.

KEY QUOTATIONS

"We agree with Rickley that courts must examine the record to determine whether such a relationship exists between spouses. They cannot merely assume as a matter of law, irrespective of the evidence, that it does not." (at 2)

"While joint interests and coincident damages are relevant and often determinative considerations, they do not necessarily preclude an attorney-client relationship any more than separate interests and distinct damages define it." (at 12)

"Simply put, tenants did not introduce evidence sufficient to overcome the natural inferences that arise from an attorney-spouse pursuing an entirely joint claim with entirely coincident damages, evidence that is necessary to demonstrate a bona fide attorney-client relationship in this context." (at 14)

FACTUAL BACKGROUND

Michael and Hildy Baumgartner-Gogal jointly rented a Carlsbad residence from Xinhui Deng and Jianhua Wu. After a dispute over a proposed rent increase and other alleged landlord misconduct, the tenants sued for retaliatory eviction under Civil Code section 1942.5 and prevailed at a bench trial. Michael, a licensed attorney, represented the couple for most of the litigation; Hildy and Michael submitted declarations stating that Hildy had signed a retainer agreement with Michael's law firm, but they provided little evidence concerning Hildy's litigation role, the circumstances of her consultations with Michael, or whether she sought legal advice from him in his professional capacity.

PROCEDURAL HISTORY

The tenants prevailed at a bench trial on their retaliatory-eviction claim and obtained a judgment against the landlords. They then moved under Civil Code section 1942.5 for approximately \$152,000 in attorney's fees, including fees attributed to Michael's representation of Hildy. The superior court awarded fees for work by another attorney but denied fees for Michael's work, relying primarily on Gorman. The Court of Appeal affirmed, concluding that the record did not establish a true attorney-client relationship between Hildy and Michael.

DISPOSITION

affirmed

CASES CITED

- Trope v. Katz (1995) 11 Cal.4th 274, 278-280
- Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44, 95
- Rickley v. Goodfriend (2012) 207 Cal.App.4th 1528, 1537-1538
- Ketchum v. Moses (2001) 24 Cal.4th 1122, 1132
- Sandlin v. McLaughlin (2020) 50 Cal.App.5th 805, 828-829
- Carver v. Chevron U.S.A., Inc. (2002) 97 Cal.App.4th 132, 142
- Musaelian v. Adams (2009) 45 Cal.4th 512, 520
- Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717, 1733
- Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719, 732
- PCLM Group v. Drexler (2000) 22 Cal.4th 1084, 1092
- People v. Gionis (1995) 9 Cal.4th 1196, 1207, 1212
- Gulf Ins. Co. v. Berger, Kahn, Shafton, Moss, Figler, Simon & Gladstone (2000) 79 Cal.App.4th 114, 126
- Lolley v. Campbell (2002) 28 Cal.4th 367, 373
- Healdsburg Citizens for Sustainable Solutions v. City of Healdsburg (2012) 206 Cal.App.4th 988, 997-998
- American Continental Inc. Co. v. C & Z Timber Co. (1987) 195 Cal.App.3d 1271, 1281
- County of Orange v. Smith (2005) 132 Cal.App.4th 1434, 1444
- Lopez v. Lopez (2022) 81 Cal.App.5th 412
- Rickley v. County of Los Angeles (9th Cir. 2011) 654 F.3d 950

- J.P. v. Carlsbad Unified School Dist. (2014) 232 Cal.App.4th 323, 343
- Zenith Ins. Co. v. O'Connor (2007) 148 Cal.App.4th 998, 1010
- Farnham v. State Bar (1976) 17 Cal.3d 605, 612

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