IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT, IN AND FOR ORANGE COUNTY, FLORIDA

CASE NO.: CVA1 08-75

ARDAMAN & ASSOCIATES, INC., Appellant,

v.

41-10 DEVELOPMENT CORP.,

Appellee.

Appeal from the County Court, for Orange County, Deb S. Blechman, Judge.

Doryk B. Graf, Jr., Esquire, for Appellant.

No appearance for Appellee.

Before POWELL, BLACKWELL, MACKINNON, J.J.

PER CURIAM.

FINAL ORDER PARTIALLY REVERSING TRIAL COURT'S AMENDED FINAL JUDGMENT

Appellant Ardaman & Associates, Inc. timely appeal the trial court's Amended Final Judgment, dated January 19, 2009, awarding fees and costs in favor of Appellant. This Court has jurisdiction pursuant to Florida Rule of Appellate Procedure 9.030(c)(1)(A). We dispense with oral argument pursuant to Florida Rule of Appellate Procedure 9.320. Appellee 41-10 Development Corporation did not favor this Court with an answer brief.

The record on appeal shows that this was a hotly contested, extensively litigated, and unreasonably defended action for breach of contract with a prevailing party attorney's fees provision. *See Baker v. Varela*, 416 So. 2d 1190, 1192 (Fla. 1st DCA 1982)(recognizing that a

1

case that is unreasonably defended could well justify extraordinary efforts). This Court finds that the trial court abused its discretion in reducing the amount of Appellant's attorney's fees from \$8,918.75 to \$3,060.00. It appears from the record that attorney's fees in the amount of \$8,918.75 are supported by unobjected to and unrebutted evidence. *See, e.g., Ernest v. Southeastern Fidelity Ins. Co.*, 422 So. 2d 1092 (Fla. 3d DCA 1982). We also find that the trial court erred by basing the reduction in attorney's fees on principles of proportionality and Appellant's declination of Appellee's pretrial non-rule settlement offer. *See Baker*, 416 So. 2d at 1192, n.1, 1192, n.3. We further note that the trial court failed to evaluate all of the relevant criteria and failed to set forth any findings or reasons for the reduction in the amended final judgment. *See Fla. Patient's Comp. Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985).

Based on the foregoing, it is hereby **ORDERED AND ADJUDGED** that the Amended Final Judgment, dated January 19, 2009, is **PARTIALLY REVERSED** and this case is **REMANDED** for further proceedings consistent with this opinion as to the amount of attorney's fees only. It is further **ORDERED AND ADJUDGED** that Appellant's Motion for Appellate Attorney's Fees and Costs is **GRANTED**, the assessment of which is **REMANDED** to the trial court.

	DONE AND ORDERED at Orlando, Florida this	_3	_day	_February
2010.				
_010.				
			/s/	
		RON	M W. POWI	ELL
		Seni	or Judge	
	/s/		/s/	
ALIC:	E L. BLACKWELL	CYN	NTHIA Z. M	ACKINNON
Circui	it Judge	Circ	uit Judge	

CERTIFICATE OF SERVICE

I HEREBY (CERTIFY that a t	true and correct cop	y of the foregoing	g order wa	s furnished				
via U.S. mail on this	<u>3</u> day of _	February	, 2010,	to the	following:				
Doryk B. Graf, Jr.,	Esquire, Post Off	fice Box 2828, Orla	ndo, Florida 3280)2 and D a	ın Dufault,				
41-10 Development Corporation, Post Office Box 1909, Marco Island, Florida 34146.									
			/s/						
Judicial Assistant									