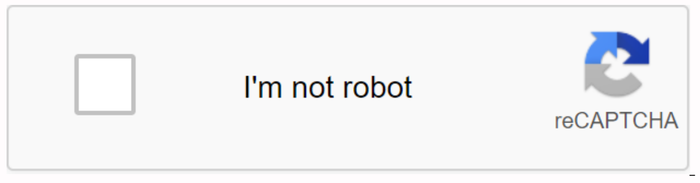

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Affidavit china doll

What is a China Doll Affidavit? And what's the point? 01/31/2007 | Category: Courts » Beans | State: Alabama | #1337 It is a statement filed based on Schweiger v. China Doll Restaurant, Inc., 138 Ariz. 183, 673 P.2d 927 (Ariz. App., 1969) where, in a request for reimbursement of attorney's fees, the burden is on advice to indicate what type of service, when it was done, who did it and how much it costs, rather than a broad request for $x.xx. For the best answers, search on is beauty in the eye of the viewer, as they say. Even in all Miss Universe or World competitions held every year, the one with the greatest looks or figure, does not get the title. Even the judges seem to have the wrong taste. Each country would have many cantik ones, even from Thailand (some Ah Kwa even better than straight women), Singapore, Colombia, African states, etc. The staff were very friendly and helpful. Better an average doll with great inner qualities that you can appreciate, if you're looking for a life partner. Extreme beauty can sometimes be disappointing or scary! If I were you, I would not make a distinction between each of the three dolls, and make a general and inaccurate statement by choosing one. It won't be fair to others. Just my idea. :-)) What is the name of your state? Arizona I have been sent a copy of a document by my ex-wife's attorney, which he filed in Superior Court. The document is called a Chinadoll Affidavit. This document outlines his qualifications for practicing law in the state of Arizona, his fees and an itomized list of what he charges for. What is the purpose of this declaration, and what do I need to do, if anything, to respond to this (I act as my own lawyer since I can not afford one). I just looked it up on the internet and I can't find it anywhere. I know you don't want to call the lawyer's office and make him think you don't know what you're doing, and then he can keep it to you. but maybe you can call another lawyer's office and ask the receptionist this question without giving your name. Maybe they could tell you. sorry I could not help. I just filed pro-se as well. good luck We do not those in Indiana, but my guess is that it is one of these two things: 1. The state requires the lawyer to submit that information in all cases where he enters an appearance. or 2. The lawyer sets things up to ask the court that you should be ordered to pay his attorney's fees for your spouse. Meyerson, judge. In this appeal, we set guidelines for filing declarations in support of requests for attorneys' fees in which the parties have agreed to the contract that the prevailing party shall have the right to recover reasonable fees. Although the court normally disposes of such cases in case of due to the increasing number of fee applications, this view is necessary to provide guidance to councils in submitting fee requests. See note, Statutory Attorneys' Fees in Arizona: An Analysis of A.R.S. Sections 12-341.01, 24 Ariz.L.Rev. 659, 680 (1982). I. BACKGROUND FROM THE LITIGATION appellants Seymour Schweiger and Jimmie Komatsu (Schweiger) initiated this trial in 1976 by filing a lawsuit against China Doll Restaurant, Inc. (China Doll) seeking to terminate a lease that exists between the parties and damages for violation of an alleged oral agreement to mutually cancel the lease. Schweiger rented property in Phoenix to China Doll for use as a restaurant. In China Doll Restaurant, Inc. V. Schweiger, 119 Ariz. 315, 580 P.2d 776 (Ct.App. 1978), we reversed a summary judgment entered into in Schweiger's favor regarding the termination of the lease based on China Doll's alleged violation. We upheld a summary judgment against China Doll on its counterclaim against Schweiger for lost profits for a Mexican restaurant that China Doll intended to operate on site. On remand, and after a trial, the judgment was entered into in favor of Schweiger finding that China Doll had violated an oral agreement to cancel the lease of the property. Schweiger recovered lost rents for the remaining period of the lease and was compensated for the expenses needed to restore the premises. The lawsuit denied Schweiger's request for attorney's fees, refused to change the sentence to include a price for pre-judgment interest and refused to provide punitive damages. China Doll appealed from the verdict that the award of Schweiger lost rents and damages, and Schweiger delivered a cross-appeal from the part of the judgment that denied attorneys' fees, pre-conviction interest and punitive damages. On November 15, 1982, we upheld the judgment in Schweiger's favor with respect to lost rents and damages, and in Schweiger's cross-examination we reversed the judge's ruling that denied attorneys' fees, but confirmed the parts of the order that denied pre-conviction interest and punitive damages. In our memorandum decision, we advised the parties that Schweiger could submit an application for legal fees for legal services rendered on appeal. II. THE FEE APPLICATION In accordance with our memorandum decision, Schweiger filed a statement on costs and attorneys' fees asking for $235 in costs and $10,331.75 in attorney's fees. China Doll filed an objection claiming that the declaration was inadequate because it failed to disclose work carried out in the overall trial, failed to specify the services offered, especially between the services performed in connection with the cross-appeal, and more generally that the amount of fees was unreasonable. Schweiger delivered an additional statement in which he specified the lawyers' fees and fees accrued for the proposal of hearing: Through October 1981 - $9,572,25 September 1982 - 1,696.50 October 1982 - 769.25.25 September 1982 - 1,696.50 October 1982 - 769.25.25 September 1982 - 1,696.50 October 1982 - 769.25.25 September 1982 - 1,982 October 696.50 October 1982 - 769.50 December 50, 1982 - 977.50 _____ TOTAL $13,015.75 Schweiger promised that no time was included for work carried out in superior court. China Doll opposed the supplementary statement on costs generally re-stating arguments raised in its original objections. Of $235, $220 is claimed for costs for copying panties. China Doll claims that $220 is too high. Schweiger offers nothing to suggest that the amount was actually and necessarily spent. Rule 21(b), Arizona's Civil Appellate Procedure (Rule). Thus, he is entitled to the presumptive cost of $2 for each written page or $144. China Doll also objected to the statement of charges on the grounds that it was early filed. Our memorandum decision was filed November 23, 1982, and received by Schweiger the next day. The statement on charges was filed on Monday, December 6, 1982. Rule 21(a) states that the cost statement must be submitted within 10 days of the secretary having advised that a decision has been made. The last day for the submission of the cost statement was Friday 3 December 1982. The time limit for submitting the Statement of Costs is not jurisdictional. Tovrea v. Superior Court, 101 Ariz. 295, 419 P.2d 79 (1966). No previous decision has expressly maintained that notification pursuant to Rule 21 (a) means the submission of the decision. Because Schweiger's declaration of costs was only one day late, we will, in our sole discretion, allow early submission of the cost statement in this case. III. DETERMINING A REASONABLE FEE A. Introduction Like most courts, this court faces an ever-growing growth of fee applications in a myriad of cases. Increasingly, the court's time is busy determining reasonable fees in cases ranging from contract disputes to litigation arising under a number of statutes containing attorney's fees. The slow but steady shift from the historic Us rule, which provides that in the usual case, each party should bear its own fees, to the English rule, which gives that the prevailing party usually has the right to recover fees, changing the nature of litigation and the legal function in many cases. A list of at least 70 such statutes can be found in R. Corcoran J. Cates, The Award of Attorneys' Fees in Civil Cases (May 6, 1983) (available from the State Bar of Arizona). However, we do not mean to suggest that this development is necessarily bad. We acknowledge that in many cases important rights will only be vindicated because the prevailing party can recover fees. And this court has argued that awarding fees is a way to discourage the filing of frivolous or worthless claims. Price v. Price v. Price Ariz. 112, 654 P.2d 46 (Ct.App. 1982). Thus more time will necessarily be devoted to an assessment of requests for fees, and hopefully, through this opinion, we can establish guidelines for filing fee applications that will facilitate the work of councils as well as the work of this court. The basis for the fee request in this case is a contractual provision in the parties' lease which allows the tenant (Schweiger) to recover from the tenant (China Doll) reasonable legal fees in connection with any litigation in which the tenant shall prevail. Therefore, in this opinion, we do not seek to address specific concerns that may exist in fee applications based on statutes that limit or limit the amount of fees that can be awarded. We also do not address the special considerations that arise in cases where fees are charged to the customer on a different than an hourly basis for time spent. We are only concerned with determining reasonable attorneys' fees in commercial litigation. See generally 2 S. Speiser, Legal Fees § 15:1-49 (1973). For example, A.R.S. § 12-348.D.2. place a cap on the hourly rate that can be used to put fees in court proceedings with the state. Similarly, A.R.S. § 12-341.01. provides that a fee price is to reduce the cost of litigation. In certain types of cases, fees are not paid hourly. Thus, it has become necessary for the courts to establish formulas to construct a reasonable fee under the circumstances. The method that is currently the most popular is to calculate lodestar, or product of the hours spent by a reasonable hourly rate of compensation, and adjust this amount up or down depending on certain factors. See generally 3 H. Newberg, Newberg on class actions §§ 6900-7040 (1977); E. Larson, Federal Court Awards of Attorney's Fees 115-153 (1981). This method is unnecessary where the parties have agreed that payment for legal services should be made based on the lawyer's billing rate charged for time actually spent. B. Former Arizona Decision-Making In Leggett v. Wardenburg, 53 Ariz. 105, 85 P.2d 989 (1939), the court ruled that in connection with the predecessor statutes of A.R.S. § 14-3720 (ensuring reasonable attorney fees in certain probate cases) payment of an attorney's fee must be reasonable and bear a direct relationship with the amount involved, and the quality, kind and scope of the service performed. Id. 107, 85 P.2d at 990. In a domestic relations case, the High Court stated that [l] awyers are entitled to a fair and reasonable compensation for their services. Courts should not hesitate to fix an amount of attorney's fees based on the evidence and that is consistent with the usual reasonable charges from members of the profession. Blaine courage. Blaine, 63 Ariz. 100, 108, 159 P.2d 786, 789 (1945). The court continued to set the fee with respect to of advice in this case, the time involved, proof of the value of the services, and the nature of the case. . . . Id. And in an action arising under a contract that contained a provision for payment of reasonable attorneys' fees, the Supreme Court, without putting forward the components of a reasonable fee, argued that it is wrong to assign fees absent evidence of what is reasonable. Crouch courage. Pixler, 83 Ariz. 310, 315, 320 P.2d 943, 946 (1958). The items to be considered to determine a reasonable attorney's fee were listed by the Supreme Court in Schwartz v. Schwerin, 85 Ariz. 242, 336 P.2d 144 (1959). In Schwartz, the amount of compensation had not been agreed by the parties, thus arguing that the lawyer's claim must be based on quantum reproduction in order to establish the reasonable value of services performed. Id. 245, 336 P.2d at 146. The court identified the factors to be considered to determine a reasonable fee as follows: (1) the lawyer's qualities: his ability, his training, education, experience, professional position and skill; (2) the nature of the work to be done: its difficulties, its difficulties, its importance, the time and skill required, the responsibility imposed and the prominent and the character of the parties in which they affect the meaning of the trial; (3) the work actually carried out by the lawyer: the skill, time and attention given to the work; (4) the result: whether the lawyer was successful and what benefits were diverted. Id. 245-46, 336 P.2d at 146. See Rule 29(a), Arizona Supreme Court Rules DR 2-106. The court noted that no element should dominate or be given undue weight. Thus, although Schwartz v. Schwerin is a useful starting point, it fails to provide specific guidance on how the listed factors should be used to calculate a reasonable fee. See General Goodman, Attorneys General in Arizona, Adopt a New Approach, 18 Ariz. B. J. 8 (April 1983). The factors listed in Schwartz v. Schwerin and DR 2-106 are similar to those described in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714 (5th Cir. 1974), a leading case that describes a method of setting fees somewhat differently than the lodestar approach discussed earlier. See supra note 5. C. Reasonable billing rate The starting point in a development of a reasonable fee is the determination of the actual billing rate charged by the lawyer in the case in question. This can be distinguished from the traditional measure used in public rights lawsuits that are generally called reasonable hourly rates prevailing in society for similar work. Copeland courage. In 1980, he was sentenced to a comm. Contrary to public rights lawsuits, and conditional fee lawsuits, for example in corporate and commercial litigation between fee-rewarded customers, there is no need to determine hourly rate prevailing in the community for similar work because the rate charged by the lawyer to the client is the best indication of what is reasonable under the circumstances of the case in question. The declaration submitted in connection with an application for fees must therefore indicate the agreed hourly billing rate between the lawyer and the client for the services carried out in connection with the appeal. The court, of course, is not bound by the agreement between the parties. While it is unlikely that the court will adjust the hourly rate upwards, the court can at the presentation of a conflicting declaration state reasons why the hourly billing rate is unreasonable, the court may use a smaller rate. See Elson Development Co. v. Arizona Savings Loan Association, 99 Ariz. 217, 222-23, 407 P.2d 930, 934 (1965) (contract provision that stipulates the fee amount to be paid is binding only to the extent reasonable); Guidelines for the replacement of lawyers appointed to represent indigent persons in criminal cases in the Court of Appeal and the Supreme Court ¶ 3 (Ariz.Sup.Ct. September 1, 1982) (Guidelines). D. Hours reasonably used The prevailing party on appeal is entitled to recover a reasonable attorney's fee for each service item that at that time was performed by a reasonable and prudent lawyer to promote or protect his client's interest in the pursuit of a successful appeal. Twin City Sportservice v. Charles O. Finley Co., 676 F.2d 1291, 1313 (9th Cir.), cert. denied, 459 U.S. 1009, 103 S.Ct. 364, 74 L.Ed.2d 400 (1982). Examples of the type of services that can be included in a fee application are: 1. Preparation of prayers and documents necessary to initiate the complaint. 2. Review the records of appeal pending the preparation of panties. 3. Research needed to prepare panties. 4. Prepare panties. 5. Preparation for oral argumentation and time of argument. 6. Phone calls and correspondence with other counsel directly related to the appeal. 7. Communication and correspondence with the client only if it is directly necessary and to advance the appeal. 8. Travel time where necessary. 9. Preparation of proposals by decision. See Guidelines ¶ 5. The statement of attorney should indicate the type of legal services offered, the date the service was provided, the lawyer providing the service (if more than one lawyer was involved in the appeal), and the time spent providing the service. Change in Rule 21, Arizona Rules for Civil Appellate Procedure (effective September 1, 1983). It is not sufficient to give the court broad summaries of the work that has been done and the time incurred. [A] new lawyer who hopes to get an allowance from the court should keep accurate and current records of work done and time spent. I re Hudson Manhattan R.R. Co., 339 F.2d 114, 115 (2d Cir. 1964). In order to to make a decision that the hours required are eligible, the fee application must be in sufficient detail to enable the court to assess the reasonableness of the time incurred. Practitioners are advised to prepare their summaries based on concurrent time records indicating the work performed by each lawyer for whom fees are sought. If the lawyer expects that the fee application will be opposed on the grounds that the hours required are excessive, it may be useful to submit actual time records to support the fee request. Laje v. R.E. Thomason General Hospital, 665 F.2d 724, 730 (5th) Cir. 1982). Just as the agreed billing rate between the parties may be considered unreasonable, the number of hours required may also be unreasonable. If a particular task takes a lawyer an irreconcilable time, the losing party should not be required to pay for that time. See Guidelines ¶ 4. Furthermore, time spent on failed problems or claims may not be compensatory. See Apache East, Inc. v. 119 Ariz. 308, 313, 580 P.2d 769, 774 (Ct.App. 1978); Circle K. Corp. V. Rosenthal, 118 Ariz. 63, 69, 574 P.2d 856, 862 (Ct.App. 1977). We are now going to an investigation of this problematic question. Fortunately, an extended discussion on this subject is unnecessary because of the U.S. Supreme Court decision in Hensley v. Eckerhart, ___ U.S. ___, 103 S.Ct. 1933, 76 L.Ed.2d 40 (1983). Although the court was concerned with the meaning of the concept of prevailing party under Section 42 U.S.C.A. Section 1978, the court's reasoning is useful for other cases where a party prevails on some but not all cases. The Court acknowledged that in one case a plaintiff (or appellant) may present different claims for relief based on different facts and legal theories. Where claims could have been filed separately, fees should not be awarded for the failed separate and clear claims unrelated to the claim prevailed by the Plaintiff. See Epstein v. Frank, 125 Cal.App.3d 111, Cal.Rptr 177. 831 (1981). On the other hand, one claim for relief may involve related legal theories. Much of the lawyer's time will be devoted generally to the trial as a whole, making it difficult to share the hours spent on claims-by-claims basis. Hensley v. Eckerhart, ___ USA at ___, 103 S.Ct. on 1940. Thus, where a party has obtained the result sought in the trial, fees should be awarded for time spent even on failed legal theories. However, where a party has achieved only partial or limited success, it would be unreasonable to award compensation for all hours spent, including time spent on the failed issues or requirements. For example, when the Plaintiff sues on a note, and the defendant succeeds counterclaims, fees awarded to the plaintiff may be reduced to reflect Success. Pioneer Constructors v. Symes, 77 Ariz. 107, 112, 267 P.2d 740, 774 (1954). We agree with the court's statement in Eckerhart that there is no precise rule or formula for making these decisions. ___ USA at ___, 103 S.Ct. in 1941. It should be acknowledged that an appellate court is somewhat unsuitable for the fact-finding inquiry that is often necessary to properly determine reasonable fees for legal services performed. Thus, we urge advice to follow the hope expressed in Eckerhart that [in] deally, of course, litigation will determine the amount of a fee. ___ USA at ___, 103 S.Ct. on 1941. If the parties find the time limits in Rule 21 to be too limited for this purpose, the court will look positively at reasonable requests to extend the time period if it appears that a settlement of the fee amount will be likely. IV. CONCLUSION According to the standards prescribed above, the fee application submitted by Schweiger is clearly inadequate. The fee request does not specify the agreed hourly billing rate between Schweiger and his counsel. The application fails to identify the legal services performed, the lawyer who performed the legal services and the date on which the services were provided. In addition, the lawyer's declaration fails to allocate time between work carried out on China Doll's appeal and work carried out on Schweiger's cross-appeal. Although Schweiger is entitled to fees for all time reasonably used in connection with the appeal of China Doll, having prevailed altogether, because he achieved only limited success in his cross-appeal, he does not have the right to recover fees for time incurred on the failed questions of pre-judgment interest and punitive damages. The request for legal fees filed by Schweiger is denied without prejudice. Upon filing the statement in this matter, Schweiger shall have ten days to submit an amended statement on costs and China Doll shall have five days after the service of such a statement in which to submit further objections. HAIRE, P.J., and EUBANK, J., agree. Agree.