

ENTERED  
JUL 16 2020

IN THE CIRCUIT COURT IN THE STATE OF OREGON  
IN THE COUNTY OF CLACKAMAS

**MAX ZWEIZIG,**  
Plaintiff,

vs.

**TANYA ROTE, TIMOTHY ROTE,**  
**NORTHWEST HOLDING, LLC,**  
Defendants.

No. 19CV01547

ORDER RE: STATEMENT FOR  
ATTORNEY FEES, COSTS, AND  
DISBURSEMENTS FOR  
PLAINTIFF MAX ZWEIZIG

**TIMOTHY ROTE,**  
Third-Party Plaintiff,

vs.

**JOEL CHRISTIANSEN, SANDRA WARE,**  
**TARYN BASAURI, WILLIAMS**  
**KASTNER,**  
Third-Party Defendants

**TANYA ROTE,**  
Fourth-Party Plaintiff,

vs.

**JOEL CHRISTIANSEN, SANDRA WARE,**  
**TARYN BASAURI, WILLIAMS KASTNER,**  
Fourth-Party Defendants.

19CV01547  
OR  
Order  
12865194



This matter comes before the Court on Plaintiff Max Zweizig's Statement for Attorney Fees, Costs, and Disbursements ("Mr. Zweizig's Fee Statement").

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On April 3, 2020, this Court entered a Limited Judgment in Case No. 19CV01547. With this judgment, the Court dismissed all of Timothy Rote’s and Tanya Rote’s claims, counterclaims, third-party claims, and fourth-party claims against Max Zweizig, Joel Christiansen, Taryn Basauri, Sandra Ware, and Williams Kastner, entered judgment against Timothy and Tanya Rote (“the Rotes”), and entered judgment in favor of Max Zweizig, Sandra Ware, Joel Christiansen, Taryn Basauri, and Williams Kastner.

In this Court’s Order on Motions Heard January 21, 2020, we granted Plaintiff Max Zweizig’s Special Motion to Strike Defendant Timothy Rote’s Anti-SLAPP Counterclaim, dated April 30, 2019. We also granted Plaintiff Max Zweizig’s Special Motion to Strike Defendant Tanya Rote’s Anti-SLAPP Counterclaim, dated May 18, 2019 (collectively, the “Motions to Strike”). Mr. Zweizig now seeks attorney fees, costs, and disbursements, pursuant to ORS 31.152(3), ORS 20.075, and ORCP 68. The Court heard oral argument on Mr. Zweizig’s Fee Statement on July 13, 2020. We now consider Mr. Zweizig’s request on the merits.

Mr. Zweizig is entitled to attorney fees because we granted the Motions to Strike. ORS 31.152(3). The factors set forth in ORS 20.075(1) further support an award of fees and costs. The Rotes have acted willfully, maliciously, and in bad faith to harass and intimidate Mr. Zweizig because Mr. Zweizig is trying to collect on a judgment against the Rotes, to force him to incur large attorney fees, and to delay resolution of his claim that the Rotes have fraudulently concealed assets to avoid paying on the judgment. ORS.075(1)(a). The Rotes presented no credible evidence to support their claims against Mr. Zweizig, and their claims were unreasonable. ORS 20.075(1)(a)&(b). An award of attorney fees here would encourage parties situated similarly to Mr. Zweizig to bring good faith claims under Oregon’s Anti-SLAPP statute in the future. ORS 20.075(1)(c). It would dissuade parties situated similarly to the Rotes from raising meritless claims. ORS 20.075(1)(d). Counsel for Mr. Zweizig has behaved in an reasonable manner in this case. ORS 20.075(1)(e). Counsel limited their claims, conferred on pleadings and motions, and even stipulated to an extension of time for the Rotes to file their opposition to Mr. Zweizig’s request for fees and costs. ORS 20.075(1)(e). In contrast, Mr. Rote

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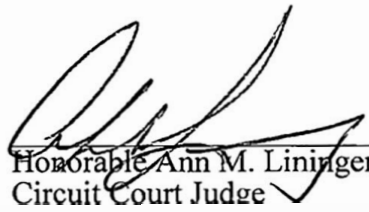
1 has engaged in concerning, improper conduct including the use of a subpoena issued by a  
2 Clackamas court clerk in a different case to create the false impression that the clerk issued it in  
3 this case. ORS 20.075(1)(e)&(f).

4 In determining the amount of fees and costs to award, we apply the factors in ORS  
5 20.075(2). Counsel for Mr. Zweizig had to navigate complex and difficult issues related to the  
6 Motions to Strike. ORS 20.075(2)(a). The Rotes' arguments have been numerous, wide-ranging,  
7 and in some instances difficult to understand. The Rotes presented no credible evidence to  
8 support their claims, which prevented a narrowing of the issues. This specific legal action arises  
9 from a long-running dispute between the parties that counsel had to analyze and understand to  
10 prevail on the Motions to Strike.

11 Counsel's request for fees covers work that was reasonable and necessary to their success  
12 on the Motions to Strike. Ward Greene's billing rate of \$550/hour, Taryn Basauri's rate of  
13 \$205/hour, and Cassie Bow's rate of \$240/hour are reasonable based on their skill and respective  
14 levels of experience; Mr. Greene has practiced law for over 40 years, Ms. Basauri for four years,  
15 and Ms. Bow for three years. These rates are also reasonable in light of the rates charged by  
16 Portland-area civil litigators. ORS 20.075(2)(c)&(g). Mr. Zweizig's legal team achieved  
17 complete victory on the Motions to Strike. ORS 20.075(2)(d). Mr. Zweizig's counsel has faced  
18 numerous, overlapping deadlines and constraints arising from the Rotes' many motions. ORS  
19 20.075(2)(e). Finally, counsel is representing Mr. Zweizig on a contingent fee basis on the  
20 underlying fraudulent transfer case. ORS 20.075(2)(h).

21 The Court GRANTS Plaintiff \$18,970 in legal fees and costs and \$2,000 for related post-  
22 judgment proceedings. Counsel for Plaintiff shall prepare a Judgment reflecting the Court's  
23 ruling.

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27 DATED: July 15, 2020

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Honorable Ann M. Lininger  
Circuit Court Judge