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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

EILEEN T. KANE, as Conservator, etc.,

Plaintiff and Appellant,

v.

MARY GLARDON,

Defendant and Respondent.

F046130

(Super. Ct. No. 18842)

OPINION

THE COURT*

APPEAL from an order of the Superior Court of Merced County. Ronald W. Hansen, Judge.

Cyril L. Lawrence and Sean P. McLeod for Plaintiff and Appellant.

Robert T. Haden for Defendant and Respondent.

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Appellant, Eileen Kane, challenges an attorney fee award that is substantially lower than what she requested in her capacity as the conservator of her sister, Kathleen Anne Glardon. According to appellant, the trial court abused its discretion in granting

* Before Dibiaso, Acting P.J.; Levy, J.; and Gomes, J.

only \$15,000 of the \$27,108 in fees that she incurred in prosecuting a motion to change the conservatee's residence from Merced, California to Arizona and in defending respondent, Mary Gardon's, petition to remove appellant as conservator.

The Probate Code allows compensation that the court "determines is reasonable" to be paid to the conservator's attorney. (Prob. Code¹, § 2640, subd. (c)(2).) Here, the trial court did not abuse its discretion when it determined that \$15,000 was a reasonable fee for the services provided. Accordingly, the judgment will be affirmed.

BACKGROUND

The conservatee, Kathleen Anne Gardon, lives with her mother in Merced. Appellant, the conservator, is Kathleen's sister and lives in Arizona.

Appellant petitioned to change Kathleen's residence from Merced to Arizona. Respondent, another sister, objected to appellant's petition and filed her own petition to remove appellant as conservator. After a one-day hearing, both petitions were dropped.

Both parties petitioned for court approval of attorney fees. Respondent's attorney requested \$9,000 and appellant's attorney requested \$27,108.

The trial court found that "there was some benefit rendered to the conservatorship by opposing the petition to remove" and "keeping the conservatee here in California close to family members." However, the court also found there was no benefit in bringing the petition to remove appellant as the conservator. Rather, "it may have fostered further animosity between all the parties." Accordingly, the court exercised its equitable adjusting powers and approved fees to respondent's counsel in the amount of \$4,000. Thereafter, the court approved fees to appellant's counsel in the amount of \$15,000.

¹ All further statutory references are to the Probate Code.

Appellant then moved for reconsideration of the order allowing compensation to her attorney. The court denied the motion and found that the fees awarded were reasonable as adjusted.

Appellant contends the trial court abused its discretion in reducing the fees requested by her attorney because there was no evidence or finding of unreasonableness.

DISCUSSION

Section 2640 provides that, upon the conservator's petition, the court shall allow compensation to an attorney for services rendered to the conservator that "the court determines is reasonable." (*Id.*, subd. (c)(2).) The allowance of attorney fees rests largely in the discretion of the trial court and will not be disturbed unless an abuse of discretion is plainly involved. (*Guardianship of Jacobson* (1947) 30 Cal.2d 312, 325.) Moreover, although the trial court must award a reasonable amount, that amount may not coincide with what the attorney views as reasonable. (*Estate of Miller* (1968) 259 Cal.App.2d 536, 543.)

Appellant takes the position that the fee request must be presumed reasonable because it was supported by an itemized description of the services performed and was unopposed. Accordingly, appellant argues, reducing that fee request constituted an abuse of discretion.

However, the fact that the attorney spent the number of hours billed and billed those hours at a competitive rate does not require the court to find the fee request reasonable. Rather, it is particularly within the power of the trial court, which has all the records before it, to fix and determine what fees are proper. (*Estate of Hardenberg* (1936) 18 Cal.App.2d 307, 310.)

Here, the trial court concluded that neither the petition to move the conservatee filed by appellant nor the petition to remove the conservator filed by respondent was of benefit to the conservatorship. Further, there was a significant disparity in the fees

requested by the two attorneys. Both attorneys filed a petition, opposed a petition, and appeared at a one-day hearing. For these services, respondent's attorney requested \$9,000 while appellant's attorney requested \$27,108. Under these circumstances, the \$15,000 award to appellant's attorney was not arbitrary or capricious. It was within the trial court's discretion to determine that \$15,000 was a reasonable fee for the services appellant's counsel provided to the conservatorship.

DISPOSITION

The order is affirmed. Costs on appeal are awarded to respondent.