

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0862**

ProStar Exteriors, LLC,
Appellant,

vs.

Alan R. Walker, et al.,
Respondents,

Mortgage Registration Systems, Inc.,
Defendant.

**Filed April 5, 2021
Affirmed
Johnson, Judge**

Wright County District Court
File No. 86-CV-18-2645

Jeffrey C. O'Brien, Emeric J. Dwyer, Jennifer J. Crancer, Chestnut Cambrone P.A.,
Minneapolis, Minnesota (for appellant)

Mark R. Bradford, Maria P. Brekke, Bassford Remele, P.A., Minneapolis, Minnesota; and

Laura A. Hage, St. Paul, Minnesota (for respondents)

Considered and decided by Johnson, Presiding Judge; Hooten, Judge; and Slieter,
Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

A contractor commenced this action to enforce a mechanic's lien and recover an
unpaid debt of approximately \$4,000. After obtaining a judgment in its favor, the

contractor sought approximately \$40,000 in attorney fees. The district court awarded only \$5,000 in attorney fees. On the contractor's appeal, we conclude that the district court did not abuse its discretion by awarding \$5,000 and, therefore, affirm.

FACTS

On June 11, 2017, a hail storm damaged the roof of a Rockford home belonging to Alan R. Walker and Nina M. Walker. In July 2017, the Walkers hired ProStar Exteriors, L.L.C., to repair the damage. The Walkers made a down payment of \$8,214, which left a balance of \$4,417 to be paid after ProStar completed its work. ProStar performed repair work in August 2017. There was a dispute as to whether ProStar performed all of the work to which the parties had agreed. The Walkers did not make any further payments.

In December 2017, ProStar recorded a mechanic's lien in the amount of \$4,417. In May 2018, ProStar commenced this action and alleged claims against the Walkers for foreclosure of the mechanic's lien, breach of contract, unjust enrichment, conversion, and quantum meruit. The case was tried to the district court in August and September of 2019. The district court concluded that ProStar was not entitled to relief on its claim for foreclosure of the mechanic's lien because it had not properly served process on a co-defendant. The district court concluded that ProStar was entitled to relief on its breach-of-contract claim and awarded damages of \$4,417 plus interest. ProStar filed a post-trial motion for amended findings with respect to the foreclosure claim. The district court granted on the ground that joinder of the co-defendant was not required and, accordingly, granted relief to ProStar on its foreclosure claim.

ProStar's post-trial motion also included a request for an award of attorney fees in the amount of \$39,976. The district court granted the motion in the amount of \$5,000. ProStar appeals from the district court's ruling on its motion for attorney fees.

DECISION

ProStar argues that the district court erred by awarding attorney fees of only \$5,000 instead of a greater amount.

If the holder of a mechanic's lien is successful on a claim to foreclose on the lien, the lienholder is entitled to judgment and, in addition, "costs and disbursements to be fixed by the court." Minn. Stat. § 514.14 (2020). In this context, the term "costs and disbursements" includes attorney fees. *See Jadwin v. Kasal*, 318 N.W.2d 844, 848 (Minn. 1982). Upon a motion for attorney fees by a prevailing lienholder, a district court should consider the following nine factors: "[1] time and effort required, [2] novelty or difficulty of the issues, [3] skill and standing of the attorney, [4] value of the interest involved, [5] results secured at trial, [6] loss of opportunity for other employment, [7] taxed party's ability to pay, [8] customary charges for similar services, and [9] certainty of payment." *Id.* at 848. An award of attorney fees pursuant to section 514.14 "should be made with caution so that property owners are not discouraged from challenging defective workmanship on the part of lien holders by excessive awards." *Asp v. O'Brien*, 277 N.W.2d 382, 385 (Minn. 1979). Furthermore, the amount of a fee award under section 514.14 "should be in reasonable relation to the amount of the judgment secured." *Northwest Wholesale Lumber, Inc. v. Citadel Co.*, 457 N.W.2d 244, 251 (Minn. App. 1990) (citing *Asp*, 277 N.W.2d at 385). This court applies an abuse-of-discretion standard of

review to a district court's award of attorney fees under section 514.14. *See Jadwin*, 318 N.W.2d at 848; *Enviro-Fab, Inc. v. Blandin Paper Co.*, 349 N.W.2d 842, 848 (Minn. App. 1984), *review denied* (Minn. Sept. 12, 1984).

In this case, ProStar sought a fee award of \$39,976. In response, the Walkers argued, in part, that an award in that amount would be disproportionate to the value of ProStar's claim. The district court began its analysis by discussing each of the *Jadwin* factors. In doing so, the district court determined that the fifth factor favored ProStar's position; that the second, fourth, sixth, seventh, eighth, and ninth factors favored the Walkers' position; and that the first and third factors were neutral. The district court then reviewed monthly invoices submitted by ProStar and determined that the attorneys' work would justify a fee award of no more than \$15,540. The district court then concluded its analysis as follows:

While the court could in its discretion award up to \$15,540.00 in attorney's fees, the court must also consider all of the factors outlined above. Based on the factors supporting Defendants' position regarding attorney's fees as being overwhelming, the court in its discretion should reduce the attorney's fees further. As outlined in the factors, this case was overworked and overbilled by six attorneys, three law clerks, and three paralegals especially in light of the amount in controversy and complexity of the issues. Well-experienced attorneys, as Plaintiff's attorneys are, understand the prospect of litigation expenses. The court believes the attorney's fees acted as an impasse to settlement and as the fees increased while the case moved forward, this hindered any type of resolution. Due to the factors strongly favoring a reduction in attorney's fees, the court will reduce the fees to \$5,000.00. Even after this reduction, this amount remains as more than 100% of the underlying claim.

ProStar makes four arguments for reversal, which we consider in turn.

A.

ProStar’s primary argument is that the district court erred by making proportionality (*i.e.*, the relationship between the amount of the judgment and the amount of the fee award) the predominant factor, thereby unfairly limiting the fee award.

The concept of proportionality is reflected in the *Jadwin* factors. For example, the fourth factor is the “value of the interest involved,” and the fifth factor is the “results secured at trial.” *Jadwin*, 318 N.W.2d at 848. These factors are merely two of nine factors that must be considered. *See id.* Consistent with the caselaw, the district court addressed all nine factors. In connection with the eighth factor, the district court stated that ProStar’s fees and costs “are not in proportion to the amount in controversy.” Otherwise the district court did not expressly discuss proportionality in its analysis.

Although district courts generally must consider all nine *Jadwin* factors, some fee petitions are more likely than others to implicate the factors related to proportionality. In such a case, it is appropriate for a district court to consider this court’s admonition that the amount of a fee award under section 514.14 “should be in reasonable relation to the amount of the judgment secured.” *Northwest Wholesale Lumber*, 457 N.W.2d at 251. The district court quoted this excerpt from our *Northwest Wholesale Lumber* opinion. It was appropriate for the district court to do so because ProStar sought fees in an amount that was almost ten times the amount of ProStar’s recovery.

Furthermore, the caselaw reveals that, in analogous cases, the appellate courts have limited fee awards that otherwise would have been disproportionate. In *Northwest Wholesale Lumber*, for example, two contractors obtained recoveries totaling \$4,899 plus

interest, and they were awarded a total of \$5,970 in fees. *See* 457 N.W.2d at 251. On appeal, this court reduced the fees to a total of \$3,020 “[t]o bring the award into a reasonable relationship to the amount of judgment.” *Id.* The supreme court took a similar approach in *Asp*, in which the lienholder obtained a judgment of approximately \$4,927 and was awarded \$2,400 in fees. 277 N.W.2d at 383. On appeal, the supreme court reduced the fees to \$1,000, stating, “we are not inclined to allow the award of the full amount, particularly where the amount of the lien recovered is small in comparison to the attorney’s fees assessed.” *Id.* at 385. Likewise, in *Bloomington Elec. Co. v. Freeman’s, Inc.*, 394 N.W.2d 605 (Minn. App. 1986), *review denied* (Minn. Dec. 17, 1986), the lienholder obtained a judgment of approximately \$12,000 and a fee award of \$11,150. *Id.* at 608. On appeal, this court stated that the fee award was “excessive” and reduced it to \$5,000. *Id.* These opinions illustrate that it is appropriate for a court to ensure that a fee award is not substantially more than the judgment.

The supreme court recently considered the proportionality of attorney fees in a case arising under section 325F.665 of the Minnesota Statutes, the so-called “lemon law.” *Green v. BMW of N. Am., LLC*, 826 N.W.2d 530, 532 n.1 (Minn. 2013). The supreme court explained that a statutory award of attorney fees “should be ‘adequate to attract competent counsel,’ but should ‘not produce windfalls to attorneys.’” *Id.* at 538 (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 430 n.4, 103 S. Ct. 1933, 1938 n.4 (1983)). The supreme court explained further:

“In the private sector, ‘billing judgment’ is an important component in fee setting. It is no less important here. Hours that are not properly billed to one’s *client* are also not properly

billed to one's *adversary* pursuant to statutory authority." *Id.* at 434, 103 S. Ct. at 1933 (citation omitted) (internal quotation marks omitted). District courts, therefore, are directed to exclude from fee awards "hours that are excessive, redundant, or otherwise unnecessary, just as a lawyer in private practice ethically is obligated to exclude such hours from his fee submission." *Id.* Because billing judgment is necessarily related to the merits of the case and the amount at issue in a consumer protection case, divorcing an award of attorney fees entirely from the amount at stake in the litigation would relieve attorneys from the need to exercise such judgment.

Id. at 538-39. These principles apply to this case and support the district court's ruling.

Thus, the district court did not improperly consider the relationship between the amount of ProStar's recovery on its lien-foreclosure claim and the amount of the award of attorney fees.

B.

ProStar also argues that the district court erred by misanalyzing the *Jadwin* factors.

With respect to the first factor, ProStar contends that the district court erred by reasoning that ProStar served excessive discovery requests on the Walkers. The district court's reasoning is reasonable in light of the amount at stake; ProStar's service of 31 interrogatories, 6 document requests, and 21 requests for admission on each of the Walkers; and the Walkers' proposals that the parties engage in informal discovery. With respect to the second factor, ProStar concedes that its cause of action was not novel. With respect to the fourth factor, ProStar contends that the district court erred by reasoning that ProStar's claim for attorney fees impeded settlement discussions. The district court's reasoning is supported by affidavits executed by both of the Walkers, who stated that they tried to settle the case multiple times but were told by ProStar's attorneys that they would need to pay

attorney fees that were more than the amount of the alleged debt. ProStar does not challenge the district court's analysis of the sixth factor. With respect to the seventh factor, ProStar contends that the district court erred by reasoning that the Walkers might be unable to pay a \$40,000 fee award. The district court noted that the Walkers had a reduced earning capacity due to health issues. The district court's reasoning is supported by the Walkers' affidavits, in which they describe their respective health issues, loss of employment or reduction in earnings, and minimal assets. With respect to the eighth factor, ProStar contends that the district court erred by focusing on the total amount of fees incurred, not on the hourly rates of its attorneys and paralegals. But ProStar does not cite any legal authority for the proposition that the eighth factor is solely concerned with hourly rates and not concerned with the amount of fees incurred. With respect to the ninth factor, ProStar contends that the district court erred by reasoning that the Walkers' payment of a larger award of attorney fees would be uncertain and might result in the foreclosure of their home. The district court's reasoning is supported by the Walkers' affidavits, in which they say that, in light of their minimal assets and reduced income, they likely would lose the home to foreclosure.

Thus, the district court did not err in its analysis of the *Jadwin* factors.

C.

ProStar also argues that the district court erred by not awarding any fees for time spent in trial and in post-trial proceedings. The district court did not expressly state why it was limiting its award of fees to those incurred before trial. The district court likely did so based on its concerns that ProStar's claim for attorney fees "pushed the parties further apart

in negotiations” and that the parties did not engage “in any type of formal alternative dispute resolution.” Furthermore, the district court’s method of determining the amount of the fee award is consistent with the caselaw, which gives district courts flexibility to either “identify specific hours that should be eliminated or . . . simply reduce the award to account for the limited success.” *Milner v. Farmers Ins. Exch.*, 748 N.W.2d 608, 624 (Minn. 2008) (quotations omitted). Thus, given the circumstances of this case, the district court did not err by limiting ProStar’s fees to those that were incurred before trial.

D.

ProStar last argues that the district court erred at the final stage of its analysis by reducing its fees from \$15,540 to \$5,000. As stated above, the amount of a fee award under section 514.14 “should be in reasonable relation to the amount of the judgment secured.” *Northwest Wholesale Lumber*, 457 N.W.2d at 251. In *Northwest Wholesale Lumber*, we reduced a district court’s fee award of \$5,970, which was less than the amount of fees actually incurred but more than the amount recovered, “[t]o bring the award into a reasonable relationship to the amount of judgment.” *Id.* In *Asp*, the supreme court reduced a district court’s fee award of \$2,400 to \$1,000 because “the amount of the lien recovered [was] small in comparison to the attorney’s fees assessed.” 277 N.W.2d at 385. And in *Bloomington Electric*, this court reduced a district court’s fee award from \$11,150, which we considered “excessive,” to \$5,000. 394 N.W.2d at 608. The district court’s ultimate determination of the amount of ProStar’s fee award is consistent with these prior opinions. Thus, the district court did not abuse its discretion by reducing ProStar’s fees from \$15,540 to \$5,000.

In sum, the district court did not err by awarding ProStar attorney fees of \$5,000.

Affirmed.

A handwritten signature in cursive script, appearing to read "Matthew Johnson". The signature is written in dark ink on a white background.