FILED
JUN 29 1988
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

PAUL W. DECK,)
Plaintiff-Appellee,)
vs)
DONALD A. COULTER,)
Defendant-Appellant.)

Filed June 29, 1988

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7-605
87-627

Appeal from the Iowa District Court for Woodbury County (No. 95192-C), Tom Hamilton, Judge.

Defendant appeals a district court ruling in favor of plaintiff attorney. **AFFIRMED.**

Edward J., Keane, of Margolin, Gildemeister, Willia, Mugan & Keane, Sioux City, for the defendant-appellant.

Paul W. Deck, of Deck & Deck, Sioux City, for the plaintiff-appellee.

Heard by Oxberger, C.J., and Donielson and Schlegel, JJ.

SCHLEGEL, J.

Defendant client Coulter appeals a district court ruling in favor of plaintiff Deck, an attorney, awarding $1,150 in attorney fees. On appeal, defendant claims that: (1) the district court erred in concluding that the doctrine of "account stated" governs this case, and (2) the attorney cannot recover because there is no evidence permitting a determination of the reasonable value of services rendered. Our scope of review is for the correction of errors at law. Iowa R. App. P. 4. The district court's findings have the effect of a special verdict and are binding upon us if supported by substantial evidence. Iowa R. App. P. 14(f)(1). We affirm.

On October 28, 1985, Donald Coulter retained Paul Deck to represent him as plaintiff in a personal injury suit which occurred on October 6, 1985. There was no written attorney fee agreement between the parties, but an oral agreement for the case to be handled on a contingency fee basis. In June of 1986 Coulter became concerned with how his case was being handled and met with Deck. At the meeting, Deck and Coulter had a rather serious disagreement and Coulter decided to terminate the attorney-client relationship. At a subsequent office visit, Coulter demanded his file and Deck refused to release it until he had been paid for his services. Deck presented Coulter with a bill for $1,190, which was later reduced to $1,150. Coulter gave Deck a check in the full amount and received his file in return. On June 30, 1986, Coulter advised Deck by letter that he had stopped payment on the check after deciding that Deck had charged for more services than he had performed.

Deck subsequently filed a small claim action seeking to recover attorney fees in the amount of $1,150. A judicial magistrate ruled in Deck's favor, but awarded Deck only a portion of the amount sought ($610.00). Deck appealed the magistrate's decision to the district court and Coulter filed a cross-appeal.

A district judge awarded Deck the entire amount sought ($1,150) plus interest, relying on the principle of account stated. Coulter timely filed a Petition for Discretionary Review which was granted.

Appellant first contends that the doctrine of "account stated" does not apply to the facts of this case. In addressing appellant's argument, we adhere to the principles of this doctrine as set forth by the Iowa Supreme Court in Arthur Elevator Co. v. Grove:

> [A]n account stated is an agreement, express or implied, between parties who have had previous transactions with each other that a final adjustment of the respective demands of each upon the other is being made as to the whole account or certain items agreed upon; it is not founded upon the original items, but upon the balance ascertained by the mutual assent of the parties.

236 N.W.2d 383, 390 (Iowa 1975).

> 'An account stated may be shown by any instrument based on past transactions and admitting indebtedness in a certain sum thereon. Thus the requisite assent may be evidenced by the execution of promissory notes, checks, duebills, or acceptances.' 1 C.J.S. Account Stated § 36, pp. 714, 715.

Id. at 389. Additionally, in the case of In re Estates of Koch, 127 N.W.2d 571, 573 (Iowa 1964), the court stated:

> [An account stated] must show that there is a balance due, the amount of that balance, and from whom it is due. The doctrine of accounts stated now generally extends to all cases where the relation of debtor and creditor exists, * * * . (citations omitted).

The district court, in its ruling on appeal, conducted a de novo review on the record before the magistrate. Sunset Mobile Home Park v. Parsons, 324 N.W.2d 452, 454 (Iowa 1982) (citation omitted). The court found that an account stated had been established as evidenced by the execution of the check in full payment of the account. Our review convinces us that this decision is correct. In the instant case, Coulter admits in his brief that when Deck presented him with the client services bill which was originally $1,190, he agreed to reduce it to $1,150, and wrote a check for that amount. This tends to support the con-

clusion that Coulter recognized a past debt due. Moreover, the check itself indicates that it was tendered for "legal services" and was made out to Deck's law firm. From this alone, it is evident that the district court could have concluded there had been prior dealings between the parties. Additionally, it is clear that the attorney-client relationship had terminated; the parties had ceased any business transactions and the check represented the full amount due. See Arthur Elevator, 236 N.W.2d at 389.

In view of the foregoing, it is apparent that there is substantial support for the district court's finding of an account stated.

We consider appellant's next contention that since Deck relied entirely on the principle of account stated and did not introduce any evidence concerning the reasonable value of his services, the record is inadequate to support any determination of the value of his services. We disagree. When Coulter tendered his check for the full amount due, Deck's obligation to prove the fair and reasonable value of his services ceased; Coulter's tender was an implied acceptance of Deck's legal services sufficient to support the district court's ruling.

AFFIRMED.