STATE OF MICHIGAN

COURT OF APPEALS

LAKESIDE RETREATS LLC, Plaintiff-Appellee,	FOR PUBLICATION January 13, 2022 9:10 a.m.
v	No. 355779 Van Buren Circuit Court
CAMP NO COUNSELORS LLC and ADAM TICHAUER, Defendants-Appellants.	LC No. 2018-068732-CK

Before: RONAYNE KRAUSE, P.J., and CAMERON and RICK, JJ.

RONAYNE KRAUSE, P.J.

Defendants, Camp No Counselors LLC (CNC) and Adam Tichauer, appeal by right from the trial court's orders holding that plaintiff, Lakeside Retreats LLC (Lakeside) was entitled to reasonable attorney fees and costs from defendants and holding defendants jointly and severally liable in the amount of $42,116.01. The underlying dispute in this matter arose out of plaintiff's rental of a campground facility to defendant CNC, which then failed to pay for that rental. Tichauer is the founder, CEO, and "group authorized representative" of CNC; he negotiated the rental agreement with plaintiff. Following defendants' representation to the trial court and plaintiff that it was withdrawing its motion for summary disposition that it had filed in lieu of an answer, and defendants' failure to file a timely answer to the complaint, defendants were defaulted. Plaintiff sought to recover attorney fees and costs from defendants pursuant to the rental contract. The trial court concluded that, pursuant to the contract and to the default, defendants were jointly and severally liable for attorney fees. It held a hearing and took evidence before concluding that the attorney fee award was reasonable. We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff manages a summer camp property in Van Buren County, Michigan. Defendant CNC, represented by defendant Tichauer, sought to rent the camp property for a retreat. Plaintiff and CNC entered into a "Facility Use Agreement," pursuant to which CNC made use of the camp in September 2018. However, CNC never paid in full for its use of the camp, despite demands made by plaintiff, and according to the complaint, "[a]fter the event, Defendants ceased

communicating with the Plaintiff." Plaintiff commenced this action on November 29, 2018, alleging fraud, "alter ego," breach of contract, and quantum meruit. Defendants never seriously disputed that CNC breached the contract with plaintiff. Rather, defendants only challenged whether Tichauer had any personal liability for the breach and whether any fraud had occurred.

In lieu of an answer, defendants moved for summary disposition. The motion never addressed breach of contract or quantum meruit as to CNC, but it nevertheless requested dismissal of the entire action. Rather, the motion contended that, notwithstanding the fact that defendants' counsel had filed an unconditional appearance on behalf of both CNC and Tichauer, the court lacked personal jurisdiction over Tichauer. It also asserted that plaintiff had failed to allege a sufficient factual basis for its fraud claim, and its "alter ego" claim failed to set forth facts sufficient to warrant piercing CNC's corporate veil. Several administrative and professional errors ensued. Initially, plaintiff was not provided with notice of a scheduled hearing regarding the motion, following which defendants did not receive a copy of plaintiff's response to the motion. The parties stipulated to adjourn the hearing to June 3, 2019. In the meantime, the parties discussed a possible settlement, but according to plaintiff and not seriously challenged by defendants, defendants never provided any concrete offer until more than a year later. Rather, defendants apparently only inquired into the possibility of settlement and reacted poorly to plaintiff's insistence that plaintiff was "seeking the amount listed in the Complaint." Nevertheless, on May 30, 2019, defendants' counsel sent an email to the trial judge's clerk, copying plaintiff's attorney, stating: "We will not be moving forward on our Motion for Summary Disposition on Monday, June 3, 2019 and will be withdrawing the same." Plaintiff's counsel immediately emailed defendants' counsel requesting that defendants file a formal withdrawal of their motion, but defendants neither responded nor filed a formal withdrawal. Defendants' counsel subsequently maintained that she believed settlement negotiations were ongoing and that further discovery was necessary to address plaintiff's response to the motion.

On June 12, 2019, defendants' counsel emailed plaintiff's counsel to inquire into plaintiff's position regarding settlement, noting that she was moving to a new law firm and hoped to resolve the matter before her departure. Plaintiff's counsel responded that defendants had provided neither an offer that could be passed on nor any refutation of the allegations in the complaint. Plaintiff's counsel informed defendant's counsel that "To the extent your client is interested in resolution, please relay their offer and I will certainly discuss with our client." The next day, plaintiff filed affidavits in support of requests for defaults against defendants, averring that defendants had withdrawn their motion for summary disposition by email, and they had failed to file and serve an answer to the complaint more than six months after the case was commenced. The circuit court clerk entered defaults against CNC and Tichauer on the same date. Defendants' counsel had not yet informed plaintiff or the court of her new contact information, so she was served with the entries of defaults and supporting affidavits at address she had used since filing her appearance. Apparently, defendants' counsel's original firm failed to forward the documents. Almost a month later, defendants' counsel emailed plaintiff's counsel her new address. A month after that, defendants' counsel learned about the defaults by accident when she "checked the online docket . . . to ensure that it reflected [her] new firm and address." Defendants' counsel's change of address was actually filed with the trial court on August 19, 2019.

The parties' attorneys exchanged emails regarding the defaults, in which defendants' counsel asked plaintiff's counsel to withdraw the defaults and indicated her belief that plaintiff's

counsel had acted improperly; and plaintiff's counsel refused and indicated his belief that defendants' counsel failed to act with diligence or competence. Plaintiff moved for default judgments against defendants, and those judgments were entered. Defendants' counsel asked plaintiff to set aside the default judgments, but plaintiff's counsel refused to "go back to our client and suggest that after all these thousands of dollars have been spent . . . to put the litigation back at the beginning due to the other side's poor litigation strategy and general failure to abide by the court rules." Defendants moved to set aside the defaults and default judgments, generally reiterating the substance of their motion for summary disposition, arguing that the "good cause" factors for setting aside a default judgment set forth in *Shawl v Spence Bros, Inc*, 280 Mich App 213, 238; 760 NW2d 674 (2008), weighed in defendants' favor, and asserting that the parties had been engaging in settlement discussions rather than litigation, and defendants expected to re-notice their motion for summary disposition after the completion of discovery. Defendants again presented no apparent challenge to the breach of contract claim as to CNC. Plaintiff responded that defendants had still not even attempted to offer a proposed answer, and the claim that the parties were engaging in serious settlement negotiations was belied by the parties' actual communications.

The trial court held a hearing and opined that defendants had represented to the court and to plaintiff that they were withdrawing their motion, and defendants never indicated any contrary intent until after the default requests had been filed. The trial court also concluded that even if defendants did believe settlement negotiations were ongoing, they were not excused from responding to the complaint. Furthermore, the court rules provided no grace period for filing an answer after withdrawing a motion for summary disposition that had been filed in lieu of an answer. The trial court recognized that defendants had not totally failed to appear and defend, but nevertheless they had not merely missed a deadline, but in fact failed to respond. The trial court therefore refused to set aside the defaults. However, the trial court concluded that because defendants had actually appeared in this matter, they were entitled to seven days' notice before entry of a default judgment pursuant to MCR 2.603(B)(1)(b). Because defendants had received fewer than seven days' notice, the trial court vacated the default judgments. Plaintiff promptly filed a renewed motion for default judgment, and after the parties twice stipulated to give defendants additional time to respond, defendants filed a response that largely reiterated their prior substantive arguments. However, defendants also challenged whether plaintiff's damages were actually a "sum certain," especially because plaintiff's claimed damages included a substantial amount of attorney fees.[1] The trial court held a hearing at which it refused to revisit its prior decision regarding liability, which necessarily resulted in Tichauer having personal liability, but it agreed to hold an evidentiary hearing regarding the amount of damages and attorney fees.

The parties subsequently stipulated to set aside the default for fraud, subject to both defendants remaining jointly and severally liable for damages under the contract and subject to that liability being non-dischargeable in bankruptcy. The trial court entered a stipulated order accordingly. The parties agreed that the trial court "would issue a ruling as to the legal interpretation of the contractual provision regarding legal fees at a future hearing." The trial court

[1] Plaintiff's entitlement to reasonable attorney fees was based on provisions of the Rental Use Agreement, which will be discussed in greater detail below.

entered an opinion and order holding that ¶ 11 of the Rental Use Agreement obligated CNC to pay plaintiff's costs for plaintiff's involvement in litigation against CNC, and the default judgment established that Tichauer was also personally liable for those costs. The parties apparently spent a considerable amount of effort attempting to negotiate a settlement regarding the amount of attorney fees, but they were unable to do so. According to plaintiff, defendant finally proposed a "settlement amount with a dollar amount attached" for the first time just prior to a hearing held on August 18, 2020. The parties eventually agreed to dismiss the remaining counts in the complaint, and the defaults regarding those counts, with prejudice, but leaving plaintiff's claim for attorney fees outstanding. No settlement ensued regarding the attorney fees, and the trial court held a hearing regarding the amount of attorney fees.

Following a hearing, the trial court set forth a thorough analysis during which it concluded that a reasonable hourly rate was $275 an hour, well below the $435 an hour actually charged by plaintiff's attorney, but above the median hourly rate for attorneys in Van Buren County of $250 an hour. The trial court rejected defendants' objection to the use of "block billing" in plaintiff's attorney's invoices and concluded that plaintiff's attorney had requested a reasonable amount of time, but it ordered the deduction of certain seemingly-clerical work performed by paralegals. The trial court ultimately awarded plaintiff "reasonable attorney fees in the amount of $41,153.77 and costs in the amount of $962.24." This appeal followed.

II. STANDARDS OF REVIEW

A trial court's award of attorney fees is reviewed for an abuse of discretion, which "occurs when the trial court's decision is outside the range of reasonable and principled outcomes." *Smith v Khouri*, 481 Mich 519, 526; 751 NW2d 472 (2008). Any underlying factual findings are reviewed for clear error, which occurs if this Court is definitely and firmly convinced that the trial court made a mistake. *Speicher v Columbia Twp Bd of Election Comm'rs*, 299 Mich App 86, 94; 832 NW2d 392 (2012). The reasonableness of the fees awarded is also reviewed for an abuse of discretion, and any underlying questions of law are reviewed de novo. *Teran v Rittley*, 313 Mich App 197, 208; 882 NW2d 181 (2015). "[Q]uestions involving the proper interpretation of a contract or the legal effect of a contractual clause are also reviewed de novo." *Rory v Continental Ins Co*, 473 Mich 457, 464; 703 NW2d 23 (2005). "In ascertaining the meaning of a contract, we give the words used in the contract their plain and ordinary meaning that would be apparent to a reader of the instrument." *Id.*

III. TICHAUER'S PERSONAL LIABILITY

Defendants first argue that the trial court erred in awarding attorney fees against Tichauer personally. We disagree.

As an initial matter, we observe that the record reflects some loose use of terminology regarding the distinction between a "default" and a "default judgment." "It is an established principle of Michigan law that a default settles the question of liability as to well-pleaded allegations and precludes the defaulting party from litigating that issue." *Wood v DAIIE*, 413 Mich 573, 578; 321 NW2d 653 (1982). In contrast, a default judgment "reduces the default to a judgment for money damages." *Dollar Rent-A-Car Systems v Nodel Constr Co, Inc*, 172 Mich App 738; 743; 432 NW2d 423 (1988); citing *Wood*, 413 Mich at 583-585. A defaulted party

retains the right to challenge the amount of damages, but the defaulted party may no longer challenge liability. *Wood*, 413 Mich at 578; see also *Grinnell v Bebb*, 126 Mich 157, 159-161; 85 NW 467 (1901). Traditionally, therefore, a party is not entitled to notice in advance of taking a default, but is entitled to notice in advance of a default judgment for purposes of challenging the amount of damages. *White v Sadler*, 350 Mich 511, 517-519; 87 NW2d 192 (1957).

As discussed, the trial court entered a default against each defendant and subsequently refused to set aside those defaults. Although the parties did eventually stipulate to set aside the defaults, the default as to fraud was set aside conditioned upon defendants remaining jointly and severally liable for attorney fees under the parties' contract. The default as to the remaining claims was set aside only after the trial court had determined that both defendants were liable for the attorney fees, and their agreement expressly left alone the attorney fee award issue. Defendants argue that the trial court erred in relying on the default judgment to hold Tichauer personally responsible for the attorney fees. Technically, this is true: the trial court cited the "default judgment" as the basis for concluding that Tichauer shared CNC's liability, but the default judgment had actually been set aside. Substantively, however, it is clear that the trial court meant to refer to the defaults, which at all relevant times had conclusively established that CNC was an alter ego of Tichauer and Tichauer could be held personally liable for CNC's conduct. The trial court correctly relied on the defaults for the conclusion that Tichauer was personally responsible for CNC's conduct, including damages.

Attorney fees are typically not recoverable unless they are provided by, in relevant part, a contractual provision. *Wyandotte Electric Supply Co v Electrical Technology Sys, Inc*, 499 Mich 127, 150; 881 NW2d 95 (2016). Such contractual provisions are enforceable, but limited to only reasonable attorney fees. *Zeeland Farm Service, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195-196; 555 NW2d 733 (1996). Where attorney fees are provided by a contractual provision, recovery of such fees is considered an element of damages. *Fleet Business Credit v Kraphol Ford Lincoln Mercury Co*, 274 Mich App 584, 589; 735 NW2d 644 (2007). Pursuant to the default, Tichauer could be held personally liable for damages, and defendants were no longer able to challenge that liability. Therefore, to the extent the contract permitted any award of attorney fees, the trial court properly held that Tichauer was jointly and severally responsible along with CNC for paying them.

Defendants also argue that any attorney fees associated with the fraud claim should not have been awarded. This argument is neither properly presented nor supported. *Caldwell v Chapman*, 240 Mich App 124, 132; 610 NW2d 264 (2000); *Mitcham v City of Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959). In any event, it does not appear to be correct. The trial court's award of attorney fees was based on ¶ 11 of the Facility Use Agreement. That provision entitles plaintiff to "all costs, losses, damages, liabilities and expenses (including reasonable attorneys' fees), *arising out of or based upon* . . . the breach or default by [CNC] . . . under any provision of this Facility Use Agreement" (emphasis added). Plaintiff's fraud claim generally asserted, in part, that defendants, including Tichauer personally, never intended to pay for their use of plaintiff's facility. Although perhaps not itself a direct breach of the contract, a fair reading of the fraud claim is that it *arises out of or is based upon* defendants' breach of the contract. In the absence of any meaningful argument to the contrary, we are unable to conclude that it was improper for defendants to be jointly and severally responsible for all attorney fees incurred in this litigation.

IV. REASONABLENESS OF ATTORNEY FEES

Defendants next argue that the hourly rate of $275 set by the trial court was unreasonably high in light of the complexity of the case. Defendants do not actually suggest what they believe would be a more appropriate hourly rate. In any event, we disagree that the rate set by the trial court was unreasonable.

The party requesting attorney fees must establish the reasonableness of those fees, and trial courts must consider a non-exclusive list of factors when determining a reasonable attorney fee. *Smith*, 481 Mich at 528-530. Traditionally, the factors come from two sources and overlap somewhat:

> (1) the professional standing and experience of the attorney; (2) the skill, time and labor involved; (3) the amount in question and the results achieved; (4) the difficulty of the case; (5) the expenses incurred; and (6) the nature and length of the professional relationship with the client. [*Smith*, 481 Mich at 529, quoting *Wood*, 413 Mich at 588.]

and

> (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or by the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and (8) whether the fee is fixed or contingent. [*Smith*, 481 Mich at 530, quoting MRPC 1.5(a).]

However, the starting point is to determine "the fee customarily charged in the locality for similar legal services." *Smith*, 481 Mich at 531. The trial court properly considered the 2020 State Bar of Michigan Economics of Law Practice Survey. See *Vittiglio v Vittiglio*, 297 Mich App 391, 409-410; 824 NW2d 591 (2012).

The 2020 Economics of Law Practice Survey showed that in Van Buren County, the median hourly billing rate was $250 and the mean hourly billing rate was $246; statewide, the median hourly billing rate was $275 and the mean hourly billing rate was $305. A "median" is simply the number that falls in the center of a set of numbers, whereas a "mean" is essentially the average of all of the numbers in a set.[2] The mean billing rate in the field of civil litigation was $324, and the mean billing rate in the field of contracts was $302. The mean billing rate for associates was $250, whereas the mean billing rates for equity and non-equity partners was respectively $349 and $358. The mean billing rate for attorneys with 11 to 15 years of experience

[2] See < https://www.britannica.com/science/mean-median-and-mode >.

was $297, and for attorneys with 6 to 10 years of experience was $285. The 75th percentile billing rate in Van Buren County was $282. Notwithstanding defendants' contention that this case should have been simple and straightforward, the fraud claim would have generated some additional complexity, as would the matter of holding Tichauer, a California resident, personally liable. Defendants argue that the fraud claim was improper, but doing so is nothing more than an improper effort to relitigate a matter decided by default following defendants' mishandling of the case. That mishandling also generated additional complexity, and it is noteworthy that the evidence of the parties' communications shows that plaintiff was open to a settlement offer if defendants could provide a concrete amount and at least pay the outstanding balance on their undisputed breach of contract. The protracted nature of this litigation was mostly due to defendants' conduct, not plaintiff's conduct.

As plaintiff points out, the billing records submitted by plaintiff's counsel show five attorneys to have worked on the matter, one of whom was an associate who billed at a rate of $245 an hour, and that rate was not adjusted upward in light of the trial court's reasonableness determination. Two of the other attorneys were also associates, but they had, respectively, twelve and nine years of experience by 2019, the first year in which they billed anything in this matter. Thus, some upward departure for their billing rates would be appropriate. Another lawyer was the founding partner of the firm, which would also warrant some upward departure. The fifth attorney is a slightly closer question, because he became a partner in early 2020 and had only been licensed in Michigan in 2016. His rate for 2020 would clearly warrant some upward departure. We conclude that the evidence in the record, including a number of awards given to the final attorney and the fact that he made partner after only three years, suggests an above-average level of skill. Ultimately, given the statewide mean billing rate for civil litigation, the fault of defendants in dragging this matter out and adding to its complexity, and the above-average qualifications of the four attorneys whose billing rate was set at $275, we conclude that a rate of $275 an hour is, if anything, on the low side. It is undisputed that an hourly rate of $275 is comfortably below the 75th percentile in Van Buren County of $282. We find no error in a billing rate of $275 an hour for four of the attorneys.

V. BLOCK BILLING AND REASONABLE HOURS

Defendants finally contend that plaintiff's invoices failed to permit a proper calculation of the amount of hours expended in this matter, largely premised on plaintiff's use of "block billing" formatted invoices. We disagree.

" 'Block billing' refers to the time-keeping method by which each lawyer and legal assistant enters the total daily time spent working on a case, rather than itemizing the time expended on specific tasks." *Harolds Stores, Inc v Dillard Dep't Stores, Inc*, 82 F 3d 1533, 1554 n 15 (CA 10, 1996).[3] Some federal courts have held that block billing in which "vague and general entries such as, 'telephone conference,' 'office conference,' 'research,' and 'review article' make it impossible for the Court to evaluate the reasonableness of the hours expended on the litigation"

[3] Although decisions of lower federal courts are not binding on this Court, they may be considered persuasive or informative. See *Abela v General Motors Corp*, 469 Mich 603, 607; 677 NW2d 325 (2004).

warrant a general reduction of billed hours by 10% to 20%. See *Gatz v Bollinger*, 353 F Supp 2d 929, 939 (ED Mich, 2005). Nevertheless, it appears that the federal courts did not reduce attorneys' submitted billable hours based directly on their use of block billing, but rather because the specific block bills presented contained vague entries. *HJ Inc v Flygt Corp*, 925 F 2d 257, 260 (CA 8, 1991); *In re Pierce*, 190 F 3d 586, 593-594 (CA DC, 1999). By necessary implication, the fact that a block bill contains some entries that are vague is not considered fatal to the block bill itself. Rather than rejecting a block bill entirely, the federal courts will impose a percentage reduction for the use of "sloppy and imprecise time records." See *Jane L v Bangerter*, 61 F 3d 1505, 1510 (CA 10, 1995).

Defendants rely on *Augustine v Allstate Ins Co*, 292 Mich App 408; 807 NW2d 77 (2011). This Court in *Augustine* did not directly address block billing. In *Augustine*, this Court had previously remanded an appeal from an attorney fee award in favor of the plaintiff for the trial court to follow the procedure set forth by our Supreme Court in *Smith*, which at the time had just been decided. *Augustine*, 292 Mich App at 413-415. On remand, the defendant sought to discover the plaintiff's litigation file for the purpose of assessing the accuracy of the plaintiff's attorneys' bills, and the trial court refused the request. *Id*. at 415-416. This Court found that the trial court abused its discretion under the circumstances. *Id*. at 423. Critical to this Court's analysis was the fact that the "plaintiff's attorneys' law firm did not maintain a time-billing procedure," "lawyers of the firm did not make contemporaneous time entries," and "the summary billing statement presented in support of an attorney-fee award was a retrospective exercise based on memory and possibly some office notes or Excel spreadsheets." *Id*. at 421-422. The trial court also abused its discretion by failing to follow this Court's instructions on remand and by admitting some inadmissible evidence. *Id*. at 425-432. Finally, the trial court erred "by assessing the number of hours allowed for the attorney-fee calculation" because the plaintiff's attorneys' billing summary was simply not backed by any documentation or testimony whatsoever. *Id*. at 432-434. In other words, nowhere in *Augustine* did this Court condemn block billing, but rather condemned a total failure to document time spent on tasks related to litigation.

In contrast, this Court has, albeit entirely in unpublished opinions,[4] consistently rejected the proposition that the use of block billing is *per se* improper or vague so long as the entries within the blocks are themselves adequately detailed. See *Bristol West Ins Co v Smith*, unpublished per curiam opinion of the Court of Appeals, issued February 6, 2007 (Docket No. 264693), unpub op at p 6; *TBCI, PC v State Farm Mut Auto Ins Co*, unpublished per curiam opinion of the Court of Appeals, issued December 23, 2008 (Docket Nos 279965, 279996), unpub op at pp 2-3, 5; *Bonacci v Ferris State Univ*, unpublished per curiam opinion of the Court of Appeals, issued January 13, 2015 (Docket Nos. 318136, 319101), unpub op at p 12; *Dubuc v Copeland Paving Inc*, unpublished per curiam opinion of the Court of Appeals, issued March 29, 2016 (Docket No. 325228), unpub op at p 9; *Schwartz v Oltarz-Schwartz*, unpublished per curiam opinion of the Court of Appeals, issued September 22, 2016 (Docket Nos. 324555, 330031, 330213), unpub op at p 16; *Rudnicki v Ateek*, unpublished per curiam opinion of the Court of Appeals, issued October 11, 2016 (Docket

[4] Unpublished cases are not binding, and reliance upon unpublished cases is disfavored, but under exceptional circumstances they may be considered persuasive. See *Glasker-Davis v Auvenshine*, 333 Mich App 222, 232 n 4; ___ NW2d ___ (2020).

No 328130), unpub op at p 4; *Vogel v Desaegher*, unpublished per curiam opinion of the Court of Appeals, issued February 7, 2019 (Docket No. 339763), unpub op at pp 5-7.

In the absence of any published authority in Michigan on point, the unanimity of this Court's unpublished opinions, and the federal courts' focus on whether particular entries are proper rather than rejecting block billing altogether, we regard our unpublished opinions as persuasive. *Glasker-Davis v Auvenshine*, 333 Mich App 222, 232 n 4; ___ NW2d ___ (2020). Furthermore, we agree with them: we are unable to find anything intrinsically vague about block billing; so long as the block billing entries are sufficiently detailed to permit an analysis of what tasks were performed, the relevance of those tasks to the litigation, and whether the amount of time expended on those tasks was reasonable. We therefore reject defendants' challenge to the use of block billing as *per se* precluding a determination of reasonable hours expended on a matter.

Defendants further argue that, even if block billing is permissible, the invoices submitted by plaintiff's attorneys were as deficient—and therefore as improper—as the invoices at issue in *Augustine*. This is clearly untrue. Plaintiff's attorneys' invoices were broken down by month and by the attorney or staff member who worked on the file. Each month's entry per person contains an enumeration of specific tasks undertaken on specific days. Defendants do not seriously allege that any particular such tasks are, themselves, so vague that it cannot be determined what really occurred or how the task was relevant to the litigation. Rather, defendants argue that the block billing is improper generally because it cannot be discerned how much time was spent on each discrete task. However, such "aggregation" is inherent in the nature of block billing, so this is essentially an argument that block billing is improper *per se*. We find no abuse of discretion in the trial court's determination that it was able to make "a very detailed assessment as to whether" the services described in plaintiff's invoices "were necessary and whether the amount of time spent on those were reasonable."

Defendants also argue that plaintiff's attorneys' billing records make it impossible to determine how much time was spent on "clerical" tasks. Defendants provide an enumeration of specific tasks that they contend "appear to be 'clerical.' " This list is identical to the list defendants submitted to the trial court, but it is not clear from the record how the trial court addressed that list.[5] In any event, to the extent defendants challenge the entries as vague, we do not believe that entries such as "assist with finalizing Complaint," "follow up with client re: status of filing and service," "review draft Response re: Motion and assist re: edits," "review correspondence from Atty Boughton," "draft Proof of Service," and so on are vague or would be any more

[5] We note that three separate orders reference a hearing allegedly held on November 25, 2020; however, the lower court register of actions does not reflect that any such hearing occurred. We have not been provided with any transcript for any such hearing, which would be in violation of MCR 7.210(A)(1) and MCR 7.210(B)(1)(a) if such a hearing did actually occur. We would have presumed defendant's list would be considered at such a hearing. Nevertheless, defendants' counsel has advised this Court that no hearing did in fact occur on that date.

comprehensible if they were itemized. It is also not immediately clear that those entries are indeed purely clerical. Under the circumstances, we are not persuaded that the trial court clearly erred in its factual assessment of the invoices.

Affirmed. Plaintiff, being the prevailing party, may tax costs. MCR 7.219(A).

/s/ Amy Ronayne Krause
/s/ Thomas C. Cameron
/s/ Michelle M. Rick