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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION THREE

2540 MAIN STREET PLAZA, LLC,

Plaintiff and Respondent,

v.

JIU-JITSU CORP. et al.,
Defendants and Appellants.

G065859

(Super. Ct. No.
30-2022-01259432))

O P I N I O N

Appeal from postjudgment orders of the Superior Court of Orange County, Sandy N. Leal, Judge. Affirmed.

Cadden & Fuller, Thomas H. Cadden, Ivan U. Cisneros, and William Carlsen for Plaintiff and Respondent.

Buchalter, Robert M. Dato, and Jason E. Goldstein for Defendants and Appellants.

This is an appeal from a postjudgment order of the trial court granting Main Street attorney fees. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND¹

This case arises from an underlying commercial lease dispute between appellants Jiu-Jitsu Corp. (JJC), Cedric Chamouille, and Roxana Chamouille and respondent Main Street Plaza (Main Street). After the trial court entered judgment in the underlying commercial lease dispute in Main Street's favor, Main Street brought a motion for attorney fees. Because the lease provided that a prevailing party in a litigation dispute shall be entitled to attorney fees, Main Street sought \$89,950 pursuant to Civil Code section 1717. JJC opposed the motion, arguing it was duplicative because the jury had already awarded Main Street attorney fees. The trial court granted Main Street's motion. JJC timely appealed.

DISCUSSION

First, JJC argues Main Street "*elected* to include attorney fees as damages as part of its case at trial." JJC recognizes, however, that there is no reference to attorney fees in the verdict form. Moreover, there is nothing in the jury instructions asking the jury to calculate or award attorney fees. Thus, JJC's argument that Main Street "asked the jury to award attorney fees as part of its claimed damages at trial" is unsupported by the record.

Second, JJC's argues Main Street's reference to attorney fees in its closing argument is proof the jury awarded attorney fees.² This argument

¹ We limit our recitation of the facts to those relevant to the issues on appeal.

² During its closing argument, Main Street mentioned it spent \$82,880 in attorney fees.

is unpersuasive because it is well settled that “[a]rgument of counsel is not evidence.” (See *Fuller v. Tucker* (2000) 84 Cal.App.4th 1163, 1173.) The other evidence JJC cites in support of this argument is the discrepancy between the amount Main Street requested in damages, \$131,789.16, and the amount the jury ultimately awarded, \$157,633.00. According to JJC, this discrepancy is “most likely” due to the fact that the jury “awarded a fraction of the requested attorney fees as part of the judgment.” According to JJC, “there is no other plausible explanation.” JJC’s conclusory argument on this ground fails because it is both undeveloped and unsupported by any legal authority. (See *Los Angeles Unified School Dist. v. Torres Construction Corp.* (2020) 57 Cal.App.5th 480, 498 [“We may and do “disregard conclusory arguments that are not supported by pertinent legal authority or fail to disclose the reasoning by which the appellant reached the conclusions he wants us to adopt””].)

Third, JJC argues the trial court’s reliance on *Monster, LLC v. Superior Court* (2017) 12 Cal.App.5th 1214, 1228 was misplaced. We disagree. As the trial court explained, the appellant in *Monster* sought attorney fees in his cross-complaint. (*Id.* at p. 1218.) The damages included the attorney’s fees and litigation costs the appellant had incurred because the cross-defendant had breached its contract by filing a complaint. (*Ibid.*) The *Monster* court determined the attorney’s fees were part of the cause of action, not incident to it. (*Id.* at p. 112.) Here, the attorney fees were not part of the cause of action. Rather, the fees were incident to the principal cause of action and were sought by Main Street pursuant to Civil Code section 1717 after the

trial court entered a judgment in its favor.³ In sum, the trial court did not misapply *Monster* to the case at hand.

DISPOSITION

The judgment is affirmed. Main Street shall recover its costs on appeal.

DELANEY, J.

WE CONCUR:

SANCHEZ, ACTING P. J.

GOODING, J

³ Main Street could not have sought attorney fees under Civil Code section 1717 before it obtained a judgment in its favor. (*Poseidon Development, Inc. v. Woodland Lane Estates, LLC* (2007) 152 Cal.App.4th 1106, 1120 [prevailing party determination in a Civil Code section 1717 motion “must await final resolution of [the] matter” when based on a breach of contract].)