IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT, IN AND FOR ORANGE COUNTY, FLORIDA

UNIFUND CCR PARTNERS,

Appellant,

v.

CASE NO.: CVA1 07-55 Lower Court Case No.: 2003-SC-10891-O

GEORGE CLEARY,

Appellee.

Appeal from the County Court, for Orange County, C. Jeffery Arnold, Judge.

Justin D. Jacobson, Esquire, for Appellant.

Steven Fahlgren, Esquire, and Diane H. Tutt, Esquire for Appellee.

Before T. SMITH, DAVIS, BLACKWELL, J.J.

PER CURIAM.

FINAL ORDER AND OPINION AFFIRMING TRIAL COURT

Appellant Unifund CCR Partners ("Unifund") appeals the trial court's Final Judgment,

entered on June 25, 2007, awarding Appellee George Cleary ("Cleary") attorney's fees and costs.

This Court has jurisdiction pursuant to Florida Rule of Appellate Procedure 9.030(c)(1)(A).

When reviewing a trial court's determination regarding entitlement to attorney's fees, the standard of review is abuse of discretion. <u>Musselwhite v. Charboneau</u>, 840 So. 2d 1158 (Fla. 5th DCA 2003). A trial court's determination regarding the amount of attorney's fees is also subject to an abuse of discretion standard of review. <u>Baker v. Falcon Power, Inc.</u>, 788 So. 2d 1104 (Fla.

5th DCA 2001).

The issue on appeal is whether the trial court abused its discretion when it granted Cleary's motion for entitlement to attorney's fees and ordered Unifund to pay Cleary \$21,953.11 in attorney's fees, interest, and court costs. We find that the trial court's award of attorney's fees based on Cleary's proposal for settlement was not an abuse of discretion. <u>See MX Inv., Inc. v.</u> <u>Crawford</u>, 700 So. 2d 640, 642 (Fla. 1997); <u>Nants v. Griffin</u>, 783 So. 2d 363, 365 (Fla. 5th DCA 2001); <u>Brooks v. South Seminole Comty. Hosp.</u>, 710 So. 2d 1048 (Fla. 5th DCA 1998). We further find that based upon the record before us, the trial court did not abuse its discretion in determining the amount of attorney's fees and expert witness fees to award to Cleary. <u>See</u> Wilson v. Griffiths, 811 So. 2d 709, 713 (Fla. 5th DCA 2002).

Based on the foregoing, it is hereby **ORDERED AND ADJUDGED** that the trial court's "Final Judgment Awarding Defendant George Cleary Attorney's Fees and Costs Against Unifund CCR Partners" entered on June 25, 2007, is **AFFIRMED**; Appellee's Motion for Attorney's Fees is **GRANTED**, the assessment of which is **REMANDED** to the trial court,; Appellant's Motion for Attorney's Fees is **DENIED**; and this case is **REMANDED** for further proceedings consistent with this opinion.

<u>/S/</u>

THOMAS B. SMITH Circuit Judge

<u>/</u>S/_

JENIFER M. DAVIS Circuit Judge <u>/S/</u> ALICE L. BLACKWELL Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been furnished via U.S. mail to: Justin D. Jacobson, Esquire, Post Office Box 19359, Plantation, Florida 33318-0359, Steven M. Fahlgren, Esquire, 552382 US Highway 1 North, Hilliard, Florida 32046, and Diane H. Tutt, Esquire, Post Office box 292436, Davie, Florida 33329-2436, on the <u>26</u> day of <u>OCTOBER</u>, 2009.

/<u>S/</u>_____ Judicial Assistant