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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re Marriage of TIMOTHY ARMOUR and NINA RITTER.	B218221 (Los Angeles County Super. Ct. No. BD 390510)
TIMOTHY ARMOUR, Respondent, v. NINA RITTER, Appellant, THE CAPITAL GROUP COMPANIES, INC., Intervener and Respondent.	

APPEAL from an order of the Superior Court of Los Angeles County, Louis M. Meisinger, Judge. Affirmed.

Law Offices of Vicki J. Greene and Vicki J. Greene for Appellant.

Greines, Martin, Stein & Richland, Robin Meadow, Edward L. Xanders; Jaffe and Clemens, Bruce A. Clemons and Todd A. Maron for Respondent.

Latham & Watkins, Pamela S. Palmer and Ernest J. Hahn for Intervener and Respondent.

Nina Ritter appeals from the trial court's order denying her recovery of her attorney fees from her ex-husband, Timothy Armour (Tim), and his employer, The Capital Group Companies, Inc., for fees she incurred involving sealing of the company's documents in her and Tim's marital dissolution. We affirm.

FACTS AND PROCEEDINGS[1]

Appellant Nina Ritter and respondent Tim Armour met in their teens and married in 1984 shortly after Tim graduated from college. Throughout their marriage, Tim worked for one of the largest money management companies in the country, respondent The Capital Group Companies, Inc. (CGC), a privately held Delaware corporation. Tim is one of about 350 employees who own virtually all of CGC's stock, and the lion's share of Tim and Nina's wealth is in that stock.

In 2003, Tim filed a petition for dissolution of his marriage to Nina. By that time, he sat in the upper echelons of company management. He was executive vice president of CGC's affiliate Capital Research & Management Company, and sat on the management committee and board of directors of CGC itself. He has since ascended to president of Capital Research & Management Company, and is among the company's most highly compensated employees.

In order to value the CGC stock that Tim and Nina owned, Nina subpoenaed documents from CGC involving its financial performance and compensation system. CGC produced the documents under a stipulated protective order in which Tim and Nina promised not to disclose the documents to anyone outside the dissolution proceedings. On the eve of Tim and Nina's bifurcated trial covering division of their marital property, CGC learned many of its documents were going to be used as trial exhibits. CGC thus applied to the court for an order removing from the court record and sealing from public view all of CGC's "confidential material" to be used at trial. In addition to sealing its

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[1] This fee appeal is not the parties' first appeal to us. For some of our factual and procedural recitation, we rely on our unpublished decisions in two of those previous appeals: *In re Marriage of Armour and Ritter* (Dec. 18, 2008, B191032) and *In re Marriage of Armour and Ritter* (May 26, 2010, B190301).

documents, CGC asked the court to seal all other evidence that revealed or discussed the documents, such as expert witness reports, deposition transcripts, and trial testimony. Additionally, CGC asked the court to exclude the public from the courtroom whenever trial proceedings, including witness testimony, involved CGC's confidential material. Nina opposed closing the courtroom, but did not resist sealing CGC's documents, telling the court, "If Your Honor wants to seal the documents, we're not taking a position on that." She did, however, ask for, and received, the court's consent to her reserving her right to move at some later time to unseal any documents placed under seal. The court granted CGC's application in full. Putting its order in place, the court barred the public from the entire 15-day trial and sealed all of CGC's exhibits, which were about one-third of the trial exhibits.

In January 2006, the court issued its tentative ruling proposing to divide Tim and Nina's CGC stock in kind equally between them, notwithstanding CGC's plan to redeem Nina's stock by forcing her to sell back to CGC at a below-fair-market price all the shares she received. The following month, Nina moved for reconsideration of the court's order sealing CGC's documents or, alternatively, for an order unsealing the documents. The court granted CGC's application to intervene as a nonparty witness for the limited purpose of opposing Nina's motion to unseal. Tim supported CGC's application, arguing unsealing would hurt him because public disclosure of CGC's inner workings would economically damage CGC and thus reduce its stock's value. In the meantime, while Nina's motion to unseal was pending, the court entered its property division judgment in March 2006, distributing Tim and Nina's CGC stock and other marital property in accord with the court's tentative decision.[2]

The week after it entered its property division judgment, the court denied Nina's motion for reconsideration and to unseal. Nina appealed from the court's sealing order.

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[2] This in-kind division and CGC's looming redemption of Nina's shares in CGC lay at the heart of the appeal in *In re Marriage of Armour and Ritter*, *supra*, B190301. We found the trial court erred by dividing CGC's stock in kind between Tim and Nina and remanded for further proceedings.

In an unpublished decision in December 2008, we reversed the order because it did not comply with court rules and case law governing sealing of court records. We remanded the sealing matter to the trial court to permit CGC to reapply for a new sealing order that adhered to the law.

Following remand of the sealing order, Nina moved in the trial court for over $692,000 in attorney fees from CGC and Tim. She sought recovery of the fees she incurred from CGC's application to seal its documents in the bifurcated property division trial; her February 2006 motion for reconsideration of the trial court's sealing order and her motion to unseal; her appeal to us from the sealing order; and, the fees she expected to incur from CGC's anticipated renewed application for sealing following our remand of the sealing matter. Nina based her fee request on Family Code section 2030,[3] which authorizes fee awards in dissolution proceedings under certain circumstances. (We discuss those circumstances in greater detail below.)[4]

The court denied Nina's motion on multiple grounds. One ground the court found was that Nina did not lack for money and therefore did not need a fee award to ensure she could adequately litigate her interests in the dissolution proceedings. (Nina's net worth is well into eight figures.) The court held it did not matter that Tim was wealthier than Nina and that CGC had immense resources so long as Nina had sufficient funds to pursue and defend her interests. The court noted that sealing CGC's documents had not hampered Nina's ability to present evidence in the dissolution proceeding, reducing the sealing dispute to a sideshow in the main event of dividing marital property. The court found she had access in the dissolution proceeding to all the evidence she needed, and even "had she done nothing [regarding the sealing], her position on the [dissolution and property division] merits would not have been compromised one iota." This appeal followed.

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[3] All further statutory references are to the Family Code unless otherwise indicated.

[4] Nina also sought fees from Tim based on section 271 as a sanction for Tim's purportedly wrongful interference with Nina's attempts at settlement of her attorney fee dispute with CGC. The court found no basis for imposing sanctions against Tim under section 271, and Nina has not raised the issue on appeal.

STANDARD OF REVIEW

We review denial of attorney fees in a dissolution proceeding for abuse of discretion. (*In re Marriage of O'Connor* (1997) 59 Cal.App.4th 877, 881; *In re Marriage of Seaman & Menjou* (1991) 1 Cal.App.4th 1489, 1496 (*Seaman*).)

DISCUSSION

Under the so-called American rule, a party is ordinarily responsible for paying its own attorney fees. Accordingly, one party typically may not recover its attorney fees from another party unless a statute or contract expressly provides otherwise. (See Code Civ. Proc., § 1021 ["Except as attorney's fees are specifically provided for by statute, the measure and mode of compensation of attorneys and counselors at law is left to the agreement, express or implied, of the parties . . ."].) Nina contends Family Code section 2030 entitles her to recover her fees from Tim and CGC. Section 2030, subdivision (a)(1) states:

> "In a proceeding for dissolution of marriage, . . . the court shall ensure that each party has access to legal representation to preserve each party's rights by ordering . . . one party . . . to pay to the other party . . . whatever amount is reasonably necessary for attorney's fees and for the cost of maintaining or defending the proceeding during the pendency of the proceeding."

Nina contends the court erred by denying her fees. Nina is mistaken.

The court denied Nina's fee motion on several independent grounds.[5] One ground was that section 2030 requires Nina to have incurred her fees in a matter related to the

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[5] One ground applicable only to recovery from CGC was the court's finding that CGC was not a party to the dissolution proceeding. According to Nina, subdivision (d) of section 2030 extends the statute's reach to nonspouse parties. Subdivision (d) states: "Any order requiring a party who is not the spouse of another party to the proceeding to pay attorney's fees or costs shall be limited to an amount reasonably necessary to maintain or defend the action on the issues relating to that party." (See *In re Marriage of Jovel* (1996) 49 Cal.App.4th 575, 582 [§ 2030, subd. (d) allows court to award attorney fees against a nonspouse party].) Nina contends the court construed section 2030 too narrowly in finding CGC was not a nonspouse party. Nina asserts CGC made itself a party to the dissolution proceeding by requesting the sealing of its documents, opposing her motion to unseal, and defending on appeal the court's sealing order. The trial court found otherwise, concluding CGC had no interest in the dissolution proceeding other than

dissolution proceeding. A matter is "related" to the dissolution if it promoted or protected Nina's interests in the dissolution. (*Seaman*, *supra*, 1 Cal.App.4th at p. 1496; accord *In re Marriage of Perry* (1998) 61 Cal.App.4th 295, 310 [§ 2030's purpose is to ensure spouses of unequal financial resources can adequately present their dissolution cases]; § 2032, subd. (a) [same].) As the court in *Seaman* explained in analyzing the predecessor statute to section 2030: "[T]he question whether a non-FLA [Family Law Act] proceeding is 'related' to one under the FLA such that attorney's fees may be granted must depend on whether an award of fees in the non-FLA proceeding would serve the purpose of section 4370 [the predecessor to section 2030]. [¶] The purpose of an award under section 4370 is 'to provide one of the parties, if necessary, with an amount adequate to properly litigate the controversy.'" (*Seaman*, at p. 1496.) Further exploring the relatedness of a proceeding to a dissolution, the *Seaman* court explained at page 1497:

> "[T]he most obvious function of the 'related' proceeding language is to allow a trial court to fully ensure both parties' ability to maintain or defend a FLA action. For example, by authorizing fees in cases related to FLA actions as well as in those directly under the FLA, section 4370 enables a trial court to ensure that an appropriate degree of financial parity between the parties is not lost by a party's litigation of matters which could have been part of the FLA action in an independent suit. [Citation.] Such suits might be 'related' in that they involve the same or similar subject matter to the FLA action or, even if unrelated in a factual sense, might fall within the purview of the statute because of their effect on the FLA action. Thus, the statute enables a trial court to prevent a spouse with greater financial resources from harassing or coercing the less advantaged spouse into submission in the FLA case by forcing him or her to defend other lawsuits; such independent suits are 'related' within the meaning of section 4370 because they are intended to produce some result in a FLA case. [¶] At the same time, not all actions which are in some way related by subject matter to a FLA action can

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preserving the confidentiality of its records. The court noted, "[W]hat CGC did here was doing what any other witness who had been subpoenaed and became involuntarily insinuated in the case would do if it believed it had a proprietary interest in connection with its confidential documents." Because we affirm the trial court's denial of attorney fees on separate grounds independent of whether CGC was a party, we need not address Nina's contention.

> properly be viewed as within the reach of section 4370. For example, during the pendency of a dissolution proceeding, the husband finds the wife with her lover, becomes involved in a physical altercation and is subsequently sued by the lover for assault. Although the assault case arises out of the dissolution in a general way, the husband's act is so independent of the dissolution that no purpose of section 4370 would be served by having the wife contribute toward his legal fees (assuming the wife to be the party with greater financial resources)."

We review for substantial evidence the trial court's finding that the sealing dispute was not related to the dissolution proceeding. (*In re Marriage of Green* (1992) 6 Cal.App.4th 584, 591.) Here, the court found Nina's efforts involving the sealing of CGC's records, and her successful appeal from the court's order refusing to unseal them, were unrelated to the dissolution proceeding between her and Tim. The court found sealing CGC's documents did not affect the property division "one iota." The sealing did not limit Nina's use of the documents at trial, only her ability to disclose them to the public. Indeed, Nina did not challenge the sealing until the court issued its tentative decision dividing marital property in a manner to which she objected. For the matters germane to dissolution -- property division and child and spousal support -- CGC's initial success in sealing the documents did not hurt Nina's interests, and her success on appeal challenging the sealing did not advance them. The court therefore did not err in denying a fee award to Nina as unrelated to the dissolution.

Nina identifies two interests she promoted in the sealing matter. They are her ability to use CGC's documents in (1) telling others about her experiences as a "CGC wife" and (2) writing a book about those experiences. The court found the interests Nina identified were too speculative or disconnected from the dissolution to be "related" as that requirement is properly understood under section 2030. Nina does not demonstrate on appeal that the court's findings were wrong.

Nina also contends the approximately 2-to-1 difference in net worth between Tim and her justifies, by itself, a fee award. She is mistaken.

> "It may be a little surprising to some, but the purpose of section 2030 is *not* the redistribution of money from the greater income party to the lesser income party. Its purpose is *parity*: a fair hearing with two sides equally represented. The idea is that both sides should have the opportunity to retain counsel, not just (as is

> usually the case) only the party with greater financial strength. [Citation.] [¶] That preference for parity is expressed in both subdivision (a)(1) of section 2030, with its statement of purpose that 'the court shall ensure that *each party* has access to legal representation to preserve each party's rights . . .' (italics added), and in a companion statute, section 2032, subdivision (b), which announces the goal of enabling '*each party*, to the extent practical, to have sufficient financial resources to present the party's case adequately.' (Italics added.)" (*Alan S. v. Superior Court* (2009) 172 Cal.App.4th 238, 251-252, fn. omitted.)

In support of her contention that a difference in wealth, by itself, supports a fee award, Nina cites *In re Marriage of Norton* (1988) 206 Cal.App.3d 53 and *In re Marriage of O'Connor*, *supra*, 59 Cal.App.4th 877, but they are distinguishable. *Norton* held that a court may take into account financial differences between ex-spouses when imposing a fee award as a *sanction* for unreasonable litigation. (*Norton*, at pp. 59-60.) *Norton* is distinguishable because the attorney fees at issue here were not sanctions. And in *O'Connor*, the wife owned $40 million in liquid assets compared to the husband's $500,000 in liquid assets out of his total net worth of $2 million. (*O'Conner*, at p. 880.) The wife resisted paying her husband $500,000 in fees arguing he had sufficient assets to pay the fees himself, and thus had not shown he "needed" her financial assistance. The *O'Connor* court rejected the wife's contention that a fee award is proper only if the other spouse *needs* the award in order to pay counsel. (*Id*. at p. 881.) It found a fee award could take into account the difference in economic means between spouses. Contrary to Nina's contention, however, *O'Connor* did not hold that a difference in economic means could, by itself, support a fee award. (*Id.* at pp. 883-884; see also *In re Marriage of Drake* (1997) 53 Cal.App.4th 1139, 1166-1168 [difference in parties' relative economic means is only one factor in fee award].)

Finally, Nina contends the court erred in denying her fees because her successful appeal from the sealing order vindicated important First Amendment rights involving public access to courts. She suggests the trial court punished her for having the audacity to challenge the protective order into which she had entered. She writes: "By faulting Nina and financially penalizing her for 'championing the First Amendment,' the trial court effectively sought to silence her . . . ." We discern no hostility from the trial court

to Nina's vindication of First Amendment rights in her successful appeal to us. To the contrary, the court spoke of her efforts as admirable. The court did not deny Nina fees because it thought her vindication of the First Amendment unimportant, but because it deemed that vindication collateral to the dissolution proceeding.

In any event, even if the court were being ironic by describing Nina's efforts as admirable, the question remained over who should bear the cost of her efforts. Under the American rule codified at Code of Civil Procedure section 1021, Nina ordinarily shoulders them. Nina cites *Los Angeles Police Protective League v. City of Los Angeles* (1986) 188 Cal.App.3d 1, for the proposition that a court should award fees to a litigant who vindicates an important public right. (*Id.* at p. 8.) In that case, the court awarded fees under the "private attorney general" doctrine in a case involving the defendant city's compliance with laws governing municipal employees and employment relation boards. (*Id.* at p. 12.) The private attorney general doctrine is grounded in its own statutory authority at Code of Civil Procedure section 1021.5. Nina cites no authority that the private attorney general statute has any bearing on Family Code section 2030, which is the statute under which she sought her fees here from CGC and Tim.

DISPOSITION

The order denying attorney fees to appellant Nina Ritter is affirmed. Respondents are to recover their costs on appeal.

FLIER, J.

We concur:

BIGELOW, P. J. GRIMES, J.