

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF BEAUFORT

) CASE NO.: 2021-CP-07-00482

MFM PROPERTIES, LLC and  
MFM RESIDENTIAL PROPERTIES,  
LLC,

Plaintiffs,

v.

ROTUNDA LAND &  
DEVELOPMENT GROUP, LLC, and  
CALLOWAY TITLE & ESCROW,  
LLC,

Defendants.

RECEIVED

Aug 05 2022

SC Court of Appeals

FINAL ORDER OF JUDGMENT  
INCLUDING AWARD OF  
ATTORNEY'S FEES, COSTS, AND  
PREJUDGMENT INTEREST

This matter came before the Court on Petition of the Plaintiffs, MFM Properties, LLC and MFM Residential Properties, LLC, for their Attorney's Fees and Costs as directed by the Court in its Order of May 23, 2022 granting Summary Judgment to the Plaintiffs.

Plaintiffs seek a total of \$39,661.25 in attorney's fees and \$433.94 in costs from defendants. For the reasons stated below, I GRANT the Petition for fees and costs and prejudgment interest in the amounts stated below.

**I. CONCLUSIONS OF LAW**

The law in South Carolina is well-settled with respect to establishing an appropriate award of attorney's fees in a lawsuit.

There are six factors to consider in determining an award of attorney's fees: 1) nature, extent, and difficulty of the legal services rendered; 2) time and labor devoted to the case; 3) professional standing of counsel; 4) contingency of compensation; 5) fee customarily charged in the locality for similar services; and 6) beneficial results obtained.

Blumberg v. Nealco, Inc., 310 S.C. 492, 494, 427 S.E.2d 659, 660 (1993) "When there is a contract, the award of attorney's fees is left to the discretion of the trial judge and will not be

disturbed unless an abuse of discretion is shown.” Id. “When an award of attorney's fees is requested and authorized by contract or statute, the court should make specific findings of fact on the record for each factor set forth.” Id.

## **II. FINDINGS OF FACT**

### **A. ATTORNEY’S FEES AND COSTS**

The Court has reviewed the Affidavit of Benjamin E. Nicholson, V, submitted in support of Plaintiff’s Petition, the pleadings and the law. The Court has determined that reasonable attorney’s fees are to be awarded to the plaintiffs as allowed by their contract with defendant.

The Court has the following findings of fact with respect to each of the factors enumerated in Blumberg v. Nealco, supra.

#### **1. Nature, extent, and difficulty of the legal services rendered.**

This matter involved a sophisticated commercial transaction for the potential purchase of real property for millions of dollars that failed. Analysis of a complex commercial real estate sales agreement was necessary. Sophisticated legal analysis was required to show that defendant’s defenses were all legally untenable. The defendant’s SCRCP Rule 30(b)(6) deponent was a difficult witness as questions had to be asked repeatedly to get a factual answer. Further, plaintiffs’ counsel made a tactical decision to not go through written discovery before taking the defendant’s deposition as a move to reduce potential fees and costs in this matter. This decision was proved correct when the Court granted the motion for summary judgment. The Court finds that the attorney’s fees awarded are reasonable in light of the nature, extent and difficulty of legal services rendered.

2. Time and labor devoted to the case.

As noted by the Affidavit of Benjamin E. Nicholson, V filed in support of this Petition, he worked 62.90 hours on this lawsuit and his law partner Cary Griffin worked 10.05 hours on defendant's default. Plaintiffs request full compensation for these hours worked. The Court finds that the attorney's fees awarded are reasonable in light of the time devoted by plaintiffs' legal counsel to the case.

3. Professional standing of counsel.

The extensive biographies of plaintiffs' counsel Benjamin E. Nicholson, V and Cary S. Griffin are attached Mr. Nicholson's Affidavit at Exhibit A. Mr. Nicholson has practiced litigation for over 30 years in South Carolina and Mr. Griffin has practiced real estate law for over 40 years in South Carolina. The Court finds that the attorney's fees awarded are reasonable in light of the professional standing of plaintiffs' legal counsel.

4. Contingency of compensation.

This was not a contingency case. Plaintiffs have been charged hourly rates and costs and have been paying the same. The Court finds that this factor does not apply.

5. Fee customarily charged in the locality for similar services.

Hourly rate charges to business clients over business disputes are the normal and customary methods of charging clients in this sort of dispute. The Court finds that the attorney's fees awarded are reasonable in light of the hourly rate charged, which is reasonable in Beaufort County, South Carolina.

6. Beneficial results obtained.

The Court granted summary judgment on plaintiffs' motion for summary judgement. Obviously, the Court finds that the attorney's fees awarded are reasonable in light of the Order.

As a result of the Court's analysis of these factors, the Court finds that a reasonable attorney's fee to be awarded to plaintiffs from defendant is \$39,661.25 and reasonable costs awarded to plaintiffs from defendant are \$433.94.

**B. PREJUDGMENT INTEREST**

The Court further directed Plaintiffs in its order to present the Court with a calculation of prejudgment interest from January 12, 2021 to the date of the Order granting Summary Judgment on May 23, 2022. Two Hundred Thousand (\$200,000.00) Dollars and no/cents at the South Carolina statutory rate of 8 3/4% at S.C. Code § 34-31-20(A) is \$17,500 per year, or \$47.95 per day. Since there are 496 days between January 12, 2021 and May 23, 2022, total prejudgment interest is Twenty-Three Thousand, Seven Hundred and Eighty (\$23,780.82) Dollars and 82/00 (\$47.95 x 496).

**III. FINAL ORDER**

Therefore, as the Court's Final Order and Judgment in this matter, the Court:

1. As stated in the Order granting Summary Judgment, the Court orders that Calloway Title & Escrow, LLC pay within ten (10) days of receipt of this filed Order the sum of One Hundred Thousand (\$100,000.00) Dollars and no/cents payable to the plaintiffs;
2. Judgment of an additional One Hundred Thousand (\$100,000.00) Dollars is granted to plaintiffs against defendant;
3. Prejudgment interest of \$23,780.82 is awarded to plaintiffs from defendant; and
4. Attorney's fees and costs of \$20,000 are awarded to plaintiffs from defendant. This is based on the factors addressed above as well as the general principles of equity. Specifically, the Plaintiff and Defendant engaged in conversations, outside of the presence of the attorneys, regarding the real estate contract in dispute. The Plaintiff and Defendant are sophisticated business

owners and entrepreneurs who are familiar with the way a real estate transaction takes place. Both individuals participated in complicating these real estate dealings and based on this the most equitable outcome is to award the Defendant reduced attorney's fees and costs.

**AND IT IS SO ORDERED!**

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2021 CP-07-00482

MFM Properties, LLC, et al.

Rotunda Land & Development Group,
LLC, et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Benjamin E. Nicholson, V

Attorney for : [X] Plaintiff [ ] Defendant
or
[ ] Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- [ ] JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
[X] DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. [ ] See Page 2 for additional information.
[ ] ACTION DISMISSED (CHECK REASON): [ ] Rule 12(b), SCRCP; [ ] Rule 41(a), SCRCP (Vol. Nonsuit); [ ] Rule 43(k), SCRCP (Settled); [ ] Other
[ ] ACTION STRICKEN (CHECK REASON): [ ] Rule 40(j), SCRCP; [ ] Bankruptcy; [ ] Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; [ ] Other
[ ] STAYED DUE TO BANKRUPTCY
[ ] DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX): [ ] Affirmed; [ ] Reversed; [ ] Remanded; [ ] Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: [X] See attached order (formal order to follow) [ ] Statement of Judgment by the Court:

ORDER INFORMATION

This order [X] ends [ ] does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Table with 3 columns: Judgment in Favor of (List name(s) below), Judgment Against (List name(s) below), Judgment Amount To be Enrolled (List amount(s) below). Rows include MFM Properties, LLC vs Rotunda Land & Development Group, LLC with amount \$163,876.01 and MFM Properties, LLC vs Calloway Title & Escrow, LLC with amount \$100,000.00.

		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.  
**Note: Title abstractors and researchers should refer to the official court order for judgment details.**  
**E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.**

\_\_\_\_\_  
Circuit Court Judge

\_\_\_\_\_  
Judge Code

\_\_\_\_\_  
Date

**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ATTORNEY(S) FOR THE DEFENDANT(S)**

\_\_\_\_\_  
**CLERK OF COURT**

**Court Reporter:**

**E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.**

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**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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Beaufort Common Pleas

**Case Caption:** Mfm Properties Llc , plaintiff, et al VS Rotunda Land & Development Group Llc , defendant, et al

**Case Number:** 2021CP0700482

**Type:** Order/Attorney Fees

So Ordered

s/ Robert Bonds, 2770