

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
RICHARD A. SISCO and DEBORAH L.)
SISCO,)
)
Plaintiffs,)
)
v.)
)
IMPERIAL DOCKS BY DESIGN, INC.,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CONSOLIDATED CASE NO.: 2018-CP-
10-04724

**ORDER SUPPLEMENTING THE
COURT’S JUNE 15, 2022 ORDER**

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Aug 30 2022
SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Imperial Docks By Design, Inc. (License No.)
110182),)
)
Plaintiff,)
)
v.)
)
Richard A. Sisco and JPMORGAN CHASE)
BANK, N.A.,)
)
Defendants.)

Now before the Court is solely the question of whether to reconsider the amount of attorney’s fees and costs to award Defendant Imperial Docks By Design, Inc. On June 15, 2022, this Court issued an Order Denying Motion to Reconsider (“June 15 Order”), denying Plaintiffs Richard and Deborah Siscos’ Motion to Alter, Amend, or Reconsider filed on December 17, 2021 (the “Motion”). In addition to denying the reconsideration of this Court’s October 20, 2021 Order addressing the findings of fact and conclusions of law from the bench trial of this matter, the June 15 Order invited Defendant to submit an affidavit of attorney’s fees and costs for the

Court's review pursuant to the *Glasscock* factors. Defendant resubmitted the October 26, 2021 Affidavit of William Tinkler (In Support of Attorney's Fees and Costs) ("Tinkler Affidavit"). For the following reasons, the Court supplements its June 15 Order, reaffirming its award to Defendant of attorney's fees and costs in the amount of \$14,050.50.

In its October 20, 2021 Order, the Court found that Defendant was the "prevailing party" under the mechanic's lien statute. *See* S.C. Code Ann. § 29-5-10(b). The Tinkler Affidavit established attorney's fees amounting to \$25,800 (129 hours of time over three years at a \$200 an hour rate) and costs totaling \$3,077.56. In response to the Tinkler Affidavit, Plaintiffs challenged Defendant's request for attorney's fees and costs on the following grounds: (1) that their dock was not constructed upon real estate and therefore the mechanic's lien statute is inapplicable, (2) that the complexity of this case "was in the discovery and litigation of the issues alleged by [the Plaintiffs]" and not in the enforcement of the mechanic's lien, and (3) that Defendant failed to meet its burden of proof in distinguishing the time allocated between the mechanic's lien and breach of contract claim.

The Court found these arguments unavailing after considering the parties' arguments and submissions. In particular, Defendant pointed (1) to evidence in the trial record that the dock was in fact on Plaintiffs' real estate; (2) to the overlapping facts of the breach of contract and mechanic's lien claims requiring extensive overlapping work by the attorneys, including the drafting of pleadings, the exchange of written discovery and documents, and the preparation and attendance at depositions, mediation, and trial; and (3) to the requirement that this Court uses its discretion in considering the other non-mechanic's lien claims that do not provide for an award of attorney's fees and costs. The Court's December 7, 2021 Form 4 Order awarded attorney's fees in costs in the amount of \$14,050.50, the amount requested by Defendant, taking into

consideration the reasonable request—in light of the overlapping facts—to allocate half the time and costs to the mechanic’s lien claim (\$14,438.78) and cap the award at the amount of the lien (\$14,050.50). The Court found this was eminently reasonable.

In their Motion, Plaintiffs reasserted their earlier arguments in response to the Tinkler Affidavit and added the argument that the Court failed make adequate findings to support the award. Specifically, *Glasscock v. Glasscock* established six factors a Court considers in determining the reasonableness of an attorney’s fee award: (1) the nature, extent, and difficulty of the case; (2) the time necessarily devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) beneficial results obtained; and (6) customary legal fees for similar services. 304 S.C. 158, 403 S.E.2d 313 (1991). Ultimately, a fee award must be based upon reasonableness. Again, as the Court previously found, the time and costs submitted are eminently reasonable.

As stated in the Tinkler Affidavit, the rate applied to the 129 hours recorded in this case was a \$200 an hour rate. Plaintiffs’ filed this case on October 2018, claiming damages that grew to over \$60,000 by trial; however, Defendant had already filed its mechanic’s lien in July 2018. Defendant filed its own action days after Plaintiffs to enforce its lien. The two actions were consolidated. The parties filed their pleadings, exchanged written discovery (enough to support a 316-page joint exhibit notebook at trial), took four depositions (one of which was taken over the course of two days), and participated in a mediation. Pretrial briefs were drafted and submitted to this Court, as well as a joint exhibit notebook that was negotiated and prepared by the parties. This case was ultimately tried over two days in July 2021—over three years after the mechanic’s lien was filed. Both parties submitted proposed orders that were each approximately 30 pages, addressing the various issues related to Plaintiffs’ breach of contract claim and

Defendant's mechanic's lien claim. The time submitted by Defendant includes 40 hours spent drafting and revising these documents (including the lengthy proposed order); 32 hours in depositions, hearings, and trial; 25.3 hours preparing for depositions, hearings, and trial, 10.5 hours reviewing documents and filings (the emails between the parties in the case were voluminous); and at least 3.8 hours communicating with opposing counsel. This time does not include Mr. Tinkler's work relating to Plaintiffs' motion for reconsideration—a nearly 30-page motion that was followed by an oral argument by Plaintiffs' counsel that exceeded 2 hours. I find this legal work—given the nature, extent, and difficulty of the case, and time necessarily devoted to the case—supports the 129 hours recorded by Mr. Tinkler.

According to the firm resume attached to the Tinkler Affidavit, Mr. Tinkler graduated law school in 2010, practiced for over 11 years, worked as a staff attorney for the South Carolina Court of Appeals, clerked for judge on the U.S. District Court for District of South Carolina, and gained experience with a wide range of complex cases, including commercial litigation and class actions. This Court observed Mr. Tinkler in several hearings in this case, including the two-day bench trial, where five witnesses were examined (four live and one by deposition). These observations, along with the credible attestations in the Tinkler Affidavit, are consistent and support the finding that Mr. Tinkler maintains the appropriate level of skill and standing to charge a \$200 an hour rate for his work on this case.

The Court ultimately found in favor of Defendant on the merits of the case. Mr. Tinkler successfully defended Plaintiffs' breach of contract claim and prosecuted his client's mechanic's lien claim. The \$25,800 billed by Mr. Tinkler is thus reasonable under *Glasscock* when compared to the amount in controversy, to the manner in which Plaintiffs vigorously pursued their claim and defense, and to the customary fees for similar professional legal services in

Charleston County, as Mr. Tinkler stated that he “surveyed numerous attorneys over the years and believe[d his] rate to be reasonable, if not lower than many of [his] peers in Charleston County.”

Finally, the \$3,077.56 in costs is reasonable and each expense is reasonably related to and necessary to enforce Defendant’s mechanic’s lien claim.

Accordingly, the Court further denies the Plaintiffs’ Motion, reaffirming the December 7, 2021 Form 4 Order awarding attorney’s fees and costs in the amount of \$14,050.50. For the reasons stated herein and argued in the Tinkler Affidavit and supporting briefing, Defendant’s award shall be capped at the lien amount as determined in this Court’s October 20, 2021 Order, recognizing that the overlapping factual issues and the fact that this award reasonably accounts for the fact that half of the attorney’s fees and costs should be credited to Defendant’s mechanic’s lien claim enforcement.

CONCLUSION

For the foregoing reasons, as well as upon the findings and conclusions of the Court’s Orders dated October 20, 2021, and June 15, 2022, incorporated herein, the Court declines to alter, amend, or reconsider its final judgment. The Court directs the Clerk to enter the final judgment in favor of Defendant Imperial Docks By Design, Inc. and against Plaintiffs Richard A. Sisco and Deborah L. Sisco in the amount of \$28,101.00, comprising the 14,050.50 mechanic’s lien and 14,050.50 attorney’s fee and costs award.

IT IS SO ORDERED.

(Signature follows.)



Charleston Common Pleas

Case Caption: Richard A Sisco , plaintiff, et al VS Imperial Docks By Design Inc ,
defendant, et al
Case Number: 2018CP1004724
Type: Order/Attorney Fees

So Ordered

s/Mikell R. Scarborough 3062