

L&M, LLC
 PLAINTIFF(S)

Yearick
 DEFENDANT(S)

Submitted by: _____	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> 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.
- 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.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 40(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other _____

FILED
 2013 MAY -9 AM 10:38
 JULIE J. ARMSTRONG
 CLERK OF COURT

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: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order 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.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		\$
		\$
		\$
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.

[Signature]
 Circuit Court Judge

2117
 Judge Code

5/7/13
 Date

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
2009-CP-10-5468

L & M, LLC,)
Plaintiff,)
vs.)
Robert W. Yearick,)
Defendant.)

ORDER

FILED
2013 MAY -9 AM 10:38
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

This case came before this Court on April 11, 2013, at 0930 hrs, for hearing on a award of Attorney's Fees and a Motion to Alter or Amend the damage award of Attorney's fees. At the conclusion of the trial of the case, in November, 2012, Plaintiff had served and filed a Motion to Alter or Amend, essentially asserting that Plaintiff's counsel should receive attorney's fees as the "prevailing party," in this action. Plaintiff relied on *EFCO v. Renaissance on Charleston Harbor*, 370 SC 612, 635 SE2nd 922, (Ct.App. 2006), in support of its Motion. Additionally, counsel for Plaintiff submitted Affidavits, in support of their claims for attorney's fees.

Present for the hearing for Plaintiff was Scotty Sheriff, Esq., of the Charleston Bar.

Present for the Defendant was Robert C. Wilson, Jr., Esq., from Greenville, S.C.

A review of the record of this case shows that this Court had ruled that Defendant should have judgment against Plaintiff in the amount of \$33,501.35

The record further shows that Defendant moved on March 28, 2010, to dismiss Plaintiff's action which sought to dissolve Defendant's Mechanic's Lien. Defendant's Mechanic's Lien had been filed on July 7, 2009. Defendant's Motion to Dismiss an action seeking to dissolve a lien whose time for foreclosure had long expired was well-founded. This Court, therefore, granted Defendant's Motion to Dismiss Plaintiff's action at the outset of the trial of this case, in

November, 2012.

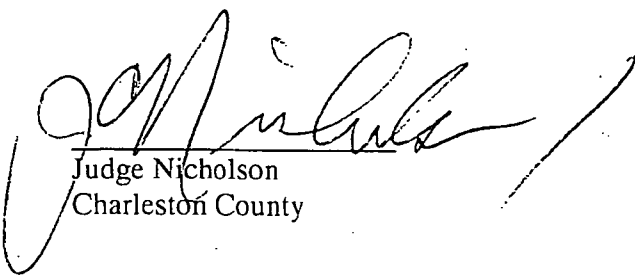
Counsel for Plaintiff, however, sought to alter or amend the order dismissing Plaintiff's case to include provision for an award of attorney's fees for their client, as the "prevailing party," based on *EFCO, supra*. A review of *EFCO, supra*, and the record in this case, shows that counsel for Plaintiff failed to comply with the criteria for an award of attorney's fees; counsel for Plaintiff did not provide detailed accounting of their activities for which they claim an award. Further, counsel for Defendant argued that Defendant was, in fact, the "prevailing party," because the judgment of this Court was closer to the amount sought by Defendant than to the amount sought by Plaintiff.

S.C. Code Ann. § 29-5-10(a) states "for materials furnished and actually used in the erection, alteration, or repair of a building..." The materials furnished by defendant were for decorative purposes only; therefore, attorney's fees under the statute are not proper.

A further review of *EFCO, supra*, shows that an award of attorney's fees is within the sound discretion of the trial court. Consistent with *EFCO, supra*, and with the record in this action, this Court finds as matter of law that neither counsel for Defendant, nor counsel for Plaintiff, shall receive attorney's fees in this action. Accordingly, Plaintiff's Motion to Alter or Amend is denied.

AND IT IS SO ORDERED.

Dated: 5/8/13


Judge Nicholson
Charleston County