

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 41(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 \_\_\_\_\_

2013 MAY - 8 PM 4: 06  
 JULIE J. ARMSTRONG  
 CLERK OF COURT

FILED

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 : \_\_\_\_\_

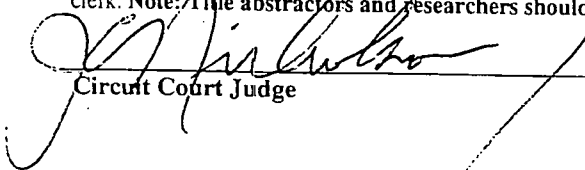
**INFORMATION FOR THE JUDGMENT INDEX**

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)
Robert W. Yearick	Leo Chiagkouris	\$33,501.35
		\$
		\$

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.

  
 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

BY \_\_\_\_\_

JULIE J. ARMSTRONG  
CLERK OF COURT

2013 MAY -8 PM 4:06

FILED

This case came before this Court for a bench trial on November 14, 2012. Present for the Plaintiff was William Scotty Sheriff, Esq., of the Charleston Bar. Counsel for Defendant was Robert C. Wilson, Jr., from Greenville, S.C. The Court had before it the file of all pleadings, Motions, and other file materials.

Essentially, this case arose from Defendant's claim for his services and materials provided for the redecoration of a restaurant and bar named Henry's. Henry's is located on a real estate parcel owned by Plaintiff. Plaintiff is an LLC whose sole member was, at all times pertinent to this matter, Leo Chiagkouris.

Defendant Yearick testified to the terms and conditions of his alleged contract with the Plaintiff. Yearick testified that the parties' contract provided for Yearick to provide interior design services for Henry's. Yearick further stated that he was to receive \$200.00 per hour for his services as an interior designer.

Additionally, Yearick testified that he was to be reimbursed for the cost of the various decorative items which he purchased for the redecoration of Henry's. Yearick stated that all the

items for which he claimed reimbursement in this action had been delivered to, and retained by Chiagkouris, for Plaintiff's benefit. Yearick presented a separate accounting for his services and a separate accounting for the costs of the decorative items. Yearick also introduced a summary of the total accounting for services and materials. The summary accounting had been attached to Yearick's Notice of Mechanic's Lien, filed against Plaintiff. Yearick seeks reimbursement of \$49,301.35.

Yearick introduced, as Defendant's Exhibits 3A, 3B, 3C, 3D, 3E, 3F, 3G, 3H, a series of e-mails which showed the history of the relationship between Yearick and Plaintiff during the period of redecoration and after the redecoration.

David LeBoutillier testified. LeBoutillier testified that he had been retained by Chiagkouris to supervise the redecoration of Henry's, to upgrade the menu of Henry's, and to supervise the marketing of the newly-renovated Henry's. LeBoutillier stated that he had been authorized by Chiagkouris to hire Yearick. LeBoutillier testified that he and Yearick had agreed that Yearick would be compensated at a rate of \$200.00 per hour for his services. LeBoutillier also testified that Yearick was to be reimbursed for all decorative items which were delivered to, and accepted by, Plaintiff. LeBoutillier corroborated Yearick's testimony in all material respects.

Mark Maresca, a notable Charleston architect who has also worked as a professional interior designer, appeared as a witness. Counsel established to the satisfaction of this Court that Maresca was an expert in interior design. Maresca confirmed, to a reasonable degree of professional certainty, that Yearick's charges for decorative items were reasonable. Maresca also testified that Yearick's rate of compensation was reasonable.

Yearick rested his case.

At the conclusion of Yearick's case, Counsel for Plaintiff moved for a directed verdict, seeking to dismiss Yearick's claims on the grounds that Yearick had brought his action against the wrong party. Counsel for Yearick, however, presented copies of Plaintiff's Reply to Yearick's claims. Plaintiff's Reply admitted that there had been an agreement between the Plaintiff and Yearick. Counsel for Yearick asserted the doctrine of judicial estoppel, arguing that Plaintiff could not argue against the written admission of a contract contained in Plaintiff's reply. Based on Plaintiff's admission of a contract in the Reply, this Court denied Plaintiff's Motion for a Directed Verdict.

Counsel for Yearick then argued that this Court grant leave for Yearick to Amend his pleadings to join Leo Chiagkouris personally and M L & A, LLC, as parties Plaintiff. Counsel presented a persuasive argument that Chiagkouris had disregarded corporate formalities. As a result, the Court allowed Yearick to join Leo Chiagkouris, individually, as a party Plaintiff, subject to Yearick's claims. This Court denied Yearick's Motion to Amend to join M L & A, LLC, as a party Plaintiff.

Leo Chiagkouris then took the witness stand. Chiagkouris denied that there had been any deal with Yearick. Chiagkouris testified that Yearick's work and the decorative items were of no use to Plaintiff. In short, Chiagkouris testified that he had paid for all decorative items and that he had not received any benefit from Yearick's work.

Based on the foregoing, the Court makes the following factual findings and conclusions of law:

1. There was an agreement between Yearick and Plaintiff.
2. Yearick was to receive \$200.00 per hour for his services; Yearick was to be

reimbursed for the costs of the decorative items purchased for use in Henry's.

3. The Reply of Plaintiff to Yearick's Counterclaim (which presented Yearick's claims) admitted the existence of an agreement.

4. Chiagkouris' oral testimony was directly contradicted by his own emails, (Defendant's Exhibits 3A-3H).

5. Chiagkouris' oral testimony was particularly contradicted by Defendant's Exhibit 3G: "it is a home run..."

6. Based on the Reply and based on the disparity between Chiagkouris' oral testimony and Chiagkouris' contemporaneous email record, Chiagkouris' oral testimony given in Court is incredible and this Court must reject his testimony altogether.

7. This Court finds and concludes that Yearick is entitled to the sum of \$17,601.35 for the decorative items delivered and kept by Plaintiff.

8. This Court finds and concludes that Yearick's claim for the number of hours expended on the redecoration project is unduly high. This Court, accordingly, reduces Yearick's compensation for his hours spent on the project to the sum of \$15,900.00.

Accordingly, it is

**ORDERED, ADJUDGED, AND DECREED** that Defendant Yearick have judgment against Plaintiff and against Leo Chiagkouris, individually, in the amount of \$33,501.35, <sup>242</sup> ~~together~~ with ~~costs~~. *JCN*

**AND IT IS SO ORDERED.**

Dated: 5/7/13

*J. C. Nicholson*  
Hon. J. C. Nicholson  
Judge, Charleston County Court  
of Common Pleas