

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	CASE NO.: 2021-CP-10-03609
)	
Jason M. Aryeh,)	ORDER AWARDING ATTORNEY’S
)	FEES
Plaintiff,)	
)	
v.)	
)	
Olivia R. Aryeh,)	
)	
Defendant.)	
)	

The trial in this real estate litigation between divorced husband and wife was held on March 29, 2023. The Court entered its Final Decree on June 21, 2023, finding the Defendant’s actions were willful and had “Abused the Process” by the improper filing of the lis pendens. The Court further found Plaintiff’s claimed damages too speculative to award, but ordered the Plaintiff was entitled to an award of attorney’s fees and expenses incurred in presenting its successful claim.

Plaintiff has submitted detailed billings showing attorney’s fees in the sum of \$120,391.73 and expenses of \$6,678.00 for a total claim of \$127,069.73. Defendant entered her objection to this sum alleging that the fees and expenses incurred after the removal of the lis pendens were unnecessary and, further, that they are excessive in light of Defendant’s fees in an amount of less than \$60,000.

The Court notes that this is a case of first impression for it and was unable to find any authority on facts similar to this matter which arose in the context of Connecticut divorce litigation which, by all accounts, was both protracted and hotly contested. The lis pendens was filed on May 5, 2021 and withdrawn on April 12, 2022; however, no Summons and Complaint was ever filed by the Defendant following the filing of the lis pendens. This Court’s order of June 1, 2022 found the filing of the lis pendens to be invalid and, as the Plaintiff had moved to amend its complaint on May 16, 2022 to pursue a declaratory and abuse of process action, allowed the case to proceed on the merits.

While the Court did not find Plaintiff established an award of actual damages, both the declaratory judgment action and the successful abuse of process claim entitle Plaintiff to an award of attorney's fees and costs.

The Court reviews and awards attorney's fees under the factors authorized in *Baron Data Systems v. Loter*, 297 SC 382, 377 SE 2d 296 (1989). The Court's analysis follows:

1. Nature, Extent and Difficulty of Legal Services Rendered.

As indicated above, this was a case of first impression for this Court and entailed significant legal research into the novel issues presented to the Court. In addition, the substance of the matter was caught up in the mire of hotly contested divorce proceedings.

This factor mitigates in favor of the Plaintiff.

2. The Time and Labor Necessarily Devoted to the Case.

The affidavit of Plaintiff's attorney Stafford J. (Mac) McQuillin, III establishes he spent over 222 hours on this case and Associate attorney Elliot Condon over 98 hours during the 3 years of litigation over the improperly filed Lis Pendens. The time spent was reasonable in light of the nature of the litigation.

3. The Professional Standing of Counsel.

The Court is familiar with both Mr. McQuillin and Ms. Condon as well as the Haynesworth Sinkler Boyd law firm and finds they are all held in high regard by this Court and the bar.

4. The Contingency of Compensation.

This factor is not applicable due to the fees assessed at an hourly rate.

5. The Fee Customarily Charged in the Locality for Similar Legal Services.

Mr. McQuillin's affidavit states he charged hourly rates of \$350 in 2021, \$385 in 2022 and \$400 in 2023. Ms. Condon's hourly rate was set at \$250 per hour. The Court finds

these hourly rates to be appropriate and reasonable for the locality and certainly less than what the hourly fee would be had this issue been litigated in either Connecticut or California- the parties' other states of prior residence.

6. The Beneficial Results Obtained.

Plaintiff was clearly successful in his original goal of having the lis pendens removed of record so that he could seek to refinance and/or sell the property. While also successful in his claim for abuse of process and the declaratory judgment ruling, the Court notes its finding that Plaintiff did not establish its claim for substantial damages mitigated greatly in Defendant's favor as it saved her from a judgment in excess of a Million Dollars. Under the circumstances, the Court finds the claimed attorney's fees reasonable, but reduces the costs claimed of \$6,678.00 as these expenses were not substantiated by the billings.

CONCLUSION

Accordingly, the Court concludes that Plaintiff shall be awarded his attorney's fees and costs incurred in the total sum of \$120,391.73 and orders that Defendant should make arrangements to satisfy this award within 30 days of this order.

IT IS ORDERED!

SIGNATURE PAGE TO FOLLOW



Charleston Common Pleas

Case Caption: Jason M Aryeh VS Olivia R Aryeh

Case Number: 2021CP1003609

Type: Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062