

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

IN THE COURT OF COMMON
PLEAS FOR THE 2nd JUDICIAL
COURT

Heather Crespo,)
)
Plaintiff)

2022 CP 02 2323
2022 CP 02 2324

vs)

Rhett Riviere, Josee Riviere, Chase)
Enterprises, LLC, and R.C. Riviere)
Properties, LLC,)
)
Defendant.)

**Order Attorney's Fees & Litigation
Costs Pursuant to SC Unfair Trade
Practices Act**

RECEIVED
Apr 04 2025
SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

Gabriel Crespo,)
)
Plaintiff)

vs)

Rhett Riviere, Josee Riviere, Chase)
Enterprises, LLC, and R.C. Riviere)
Properties, LLC,)
)
Defendant.)

On January 21, 2025, this court heard arguments regarding the awarding of attorney's fees and litigation costs against defendants Rhett Riviere and Josee Riviere pursuant to the South Carolina Unfair Trade Practices Act, SC Code § 29-5-10, et seq. (1976, as amended). Each plaintiff was awarded \$11,000,000.00 against Rhett Riviere, \$1,000,000.00 against Chase Enterprises, LLC, and \$1,000,000.00 against R.C. Riviere

Properties, LLC. Additionally, The jury awarded plaintiffs \$500,000.00 against each defendant on the SCUTPA cause of action for a total of \$2,000,000.00. Following post trial motions, this verdict for the SCUTPA action was reduced by the court to \$7,575.00 for Gabriel Crespo and \$12,960.00 for Heather Crespo. There has been a finding of willfulness by the court which trebled the actual damages to those amounts. This order addresses the award of attorney's fees in accordance with the statute.¹

The court shall consider the following factors in determining an appropriate award of reasonable attorney's fees:

1. The nature, extent, and difficulty of the case;
2. The time devoted to the case;
3. The professional standing of counsel
4. The contingency of compensation;
5. The beneficial results obtained, and
6. The customary legal fees for similar services.

Taylor v. Medenica, 331 S.C. 575, 503 S.E.2d 458 (1998) (citing *Jackson v. Speed*, 326 S.C. 289, 486 S.E.2d 750 (1997) and *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 427 S.E.2d 659 (1993). It is not required that the attorney's fees be no more than the monetary judgment, and no one factor is controlling. *Id.* See also *Williamson v. Middleton*, 374 S.C. 419, 649 S.E.2d 57 (Ct. App. 2007), *aff'd in part, rev'd in part*, 383 S.C. 490, 681 S.E.2d 867 (2009) (Court upheld \$35,000.00 fee award for a \$906.62 judgment despite the lack of a formal attorney fee agreement. Dissenting opinion provides extensive history of attorney fee awards and analysis of each factor).

¹ In South Carolina, attorney's fee award can only be made pursuant to a valid contract or upon statutory authorization. UTPA authorizes such an award when the conduct has been found to be willful. That finding was made in a prior ruling in this litigation.

Each plaintiff filed a separate action that was later consolidated for trial purposes. Each plaintiff was represented by three attorneys. The court has reviewed the attorney fee agreement in camera and verified that each plaintiff executed an agreement for the three attorneys of independent firms to jointly represent them.

This case involved allegations of illicit videotaping of each plaintiff more than 20 years ago. The summons and complaint were filed on October 10, 2022. The trial was held in September 2024. Plaintiffs' cases were consolidated for purposes of trial by order filed September 12, 2024, which notes the cases were consolidated by the consent of all parties pursuant to a status conference held on August 28, 2024.

Each attorney provided an affidavit for the court and an itemized hourly billing. Plaintiffs' attorneys did not breakdown time or costs by cause of action as there is a common nexus of facts. During this pending litigation, the parties also filed an action for fraudulent conveyance of real property against Rhett Riviere and Cam-Ash Holdings, LLC. That action was filed on July 36, 2023. That litigation remains pending. (2023 CP 02 1664).

Defendant Rhett Riviere claimed Fifth Amendment protections throughout the litigation as his warrants for voyeurism remain outstanding in Aiken County, South Carolina. Although he participated in mediation, he did not provide any testimonial evidence in the case by deposition, leaving plaintiffs' counsel searching for other witnesses and evidence for these civil claims.

Defendant Josee Riviere did not participate in all mediations but was active in the litigation. Her attorney vehemently defended her in pretrial motions and during the trial stage.

The corporations were represented by counsel for Rhett Riviere. There is no stated position or posture separate and apart from the individual defenses of Rhett Riviere except that at trial defense counsel argued lack of affirmative evidence as to the corporations. There was no attempt to produce an independent witness for corporate ownership, governance, records, or otherwise present evidence for the corporations.

The court has reviewed the attorney fee affidavits provided by counsel, the itemization of time spent in this litigation, the briefs of counsel, and the public records index regarding motions and hearings throughout the litigation. Attorney Deborah Barbier and her firm report more than 650 hours spent through the trial of these cases. Ms. Barbier asserts \$459,788.75 in attorneys' fees based upon her normal billing rates and the hours spent by her and others in her firm. She reports \$9,516.07 in expenses. Mr. Wesley Few asserts \$181,300.77 in fees based upon more than 350 hours and \$15,535.77 in expenses through the trial of the case. His detailed itemization appears to break this down to \$12,870 in post-trial fees, with \$152,845.00 being the fees through September 25, 2024. Mr. Ryan Beasley provided an affidavit and detailed account of his time of more than 340 hours through the trial in this litigation totaling \$243,600.00. This amount is not inclusive of post-trial through the attorney's fee hearing in this litigation. The combined requested attorney's fee based upon the attorney's customary hourly fee is \$793,934.52, exclusive of post-trial time, and \$25,051.84 in expenses.

Defendants point out that many of the discovery issues were handled through the criminal investigation of the plaintiffs, reducing potential expert costs, forensic retrieval costs, and investigative discovery expenses and time. Defendants also argued that the bulk of time reported in plaintiff's time statements involves emails and reviews of emails by all three plaintiff's attorneys. Although plaintiffs were able to avail themselves of the data extraction and other forensic tools provided by the criminal investigation, plaintiffs did need to conduct an independent inquiry for the purposes of the civil action.

Reviewing the billing and request for fees in light of the appropriate factors, the court finds that although much of the specialized investigative work and forensic work was done pursuant to the pending criminal matter, that did not reduce the entanglement of discovery and legal issues presented in the matter. The case involves a 20-year-old event. The delay of discovery kept the matter alive for litigation purposes but presented difficulty in determining potential witnesses and records discovery as to the individuals finances and the corporate finances. The discovery process was not aided by Mr. Riviere's election to avail himself of his constitutional right to remain silent. The court will not punish Mr. Riviere for availing himself of that right. Equally, it is not ignorant to the discovery issues his silence presented to the plaintiffs. The discovery problems were particularly acute in the UTPA cause of action as many records related to the corporations do not exist or could not be located. This added to the difficulty in presenting this case. As to defendant Josee Riviere, the legal position of the defendants presented a significant issue for the plaintiffs. Defendant Josee Riviere did not participate fully in mediation according to counsel but did present a vigorous defense throughout the litigation. At trial,

she altered her position in the matter from denying that Mr. Riviere, her ex-husband, took illicit videos of the couple and stored them on his devices and in various formats to acknowledging that the evidence showed that he did. Furthermore, defendants were involved in the operation of a home rental enterprise in which one or more of them moved properties between various corporations, involved an estate at one point in time, and for which plaintiffs had to determine and prove that both defendants had significant management of for the purposes of this action without meaningful deposition testimony from defendants or records.

Clearly, the plaintiffs' attorneys took this task seriously and devoted a substantial amount of time to this case. Two of the attorneys are sole practitioners who associated. Taking on a case of this nature prevented them from seeking other cases. All of the attorneys are in good standing professionally, have several accolades and accomplishments in their professional careers, and are known in their profession. All defense counsel noted throughout the trial that the plaintiffs had hired well known and excellent attorneys who performed their jobs in a superb manner. The court has no reason to question that description. Given the difficulties of the case as stated above, the court finds that the amount of time spent by counsel on this matter over the course of two years of litigation is reasonable. Defense counsel noted that a majority of the billings are for email correspondence which is billed at 0.1 per email. The one-tenth percentage is a standard billing for legal matters and the least amount of time billed. Given today's propensity to email profusely in this profession and many others, the court does not find that the emails were excessive. The issue may be because the plaintiff team emailed,

rather than a phone call or in person visit, to discuss matters in litigation. There is no true way to know if an in-person counsel meeting or phone call would have resulted in more or less time. Email is an acceptable communication and way of sharing information. Counsel clearly divided issues between them and broke down the trial preparation and presentation between them. This would necessitate a great deal of conversation and coordination.

The courts have looked at the ability of parties to pay awards in addressing the contingency of compensation factor. This usually arises in the family court arena. Plaintiffs have been awarded several million dollars by the jury in this matter. If defendant pays the judgment, they could clearly pay the attorney's fee. Likewise, defendant Rhett Riviere is a man with access to several properties, boats, and individual, trust or corporate accounts. He would have the ability to pay the attorney's fees and costs.

Plaintiffs' attorneys provided a beneficial result for their clients on this claim and the other five causes of action presented in this case. All attorneys in this matter were professionally competent and zealous advocates for their respective clients. The UTPA award was reduced for conformity with the statutorily allowed damages but the result was beneficial to plaintiffs. It is the only cause of action upon which the jury found against Josee Riviere.

The plaintiffs' attorneys charge hourly rates at a higher end but also are attorneys of high caliber in their profession. There is no evidence that their rates are outside the normal rates for attorneys of their experience and stature.

The only pause the court has is that the fees and costs claimed are not broken down by causes of action and the extreme disparity between the award granted on this cause of action and the fees claimed. It is approximately 62 times the award to Heather Crespo and almost 100 times the award to Gabriel Crespo for the UTPA violations. Because the plaintiffs were not able to break down the fees and costs by causes of action and all causes are based on the same nexus of fact, the court attributes \$132,322.42, or 1/6th of the requested fees, to this cause of action. Similarly, the expense request is prorated across all causes and is reduced by 1/6 to \$4,175.31. The court finds that these amounts, although still much greater than the reduced judgment, make the fees and costs for this cause of action reasonable and fair, especially when considering the total award. As plaintiffs agreed to joint representation, the court award Gabriel Crespo one-half of the attorney fees and expenses which is \$68,248.86 and Heather Crespo an award of \$68,248.87.

For the SC Unfair Trade Practices Act cause of action, Heather Crespo has a total judgment against all four defendants, Rhett Riviere, Josee Riviere, Chase Enterprises, LLC, and R.C. Riviere Properties, LLC, for \$81,208.87.

For the SC Unfair Trade Practices Act cause of action, Gabriel Crespo has a total judgment against all four defendants, Rhett Riviere, Josee Riviere, Chase Enterprises, LLC, and R.C. Riviere Properties, LLC, for \$75,823.86.

The judgments for all other causes of action remain the same.

AMENDED FORM 4 AS to ACTUAL DAMAGES
STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022 CP-02-02324 & 2323

Gabriel Crespo

Rhett Riviere, Josee Riviere

Heather Crespo
 PLAINTIFF(S)

Chase Enterprises, LLC., R.C. Riviere Properties, LLC.
 DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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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. 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: 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 : Post trial motions for Attorneys Fees and Amended Verdict

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)
Gabriel Crespo	Rhett Riviere	\$10,078,223.90
Gabriel Crespo	Chase Enterprises, LLC	\$575,832.86
Gabriel Crespo	R.C. Riviere Properties, LLC	\$575,832.86
Gabriel Crespo	Josee Riviere	\$75,823.86



Aiken Common Pleas

Case Caption: Gabriel Crespo VS Rhett Riviere , defendant, et al

Case Number: 2022CP0202324

Type: Order/Form 4

IT IS SO ORDERED.

/s/ Hon. Martha M. Rivers (2788)