

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 THE CALLAWASSIE ISLAND)
 MEMBERS CLUB, INC.,)
)
 Plaintiff,)
)
 v.)
)
 MICHAEL J. FREY and GRACE)
 I. FREY,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 FOR THE FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO. 2012-CP-07-03209
 2014 OCT 22 PM 2:08
 ROSENEAU
 BEAUFORT COUNTY, S.C.
 CLERK OF COURT
RECEIVED
 JAN 02 2015
SC Court of Appeals

ORDER DENYING DEFENDANTS' MOTION
 FOR RECONSIDERATION AND AFFIRMING
 SUMMARY JUDGMENT AGAINST
 DEFENDANT MICHAEL J. FREY

THIS MATTER came before the Court upon the motion of Defendants, Michael J. Frey and Grace I. Frey, for reconsideration of the order granting summary judgment as against Defendant Michael J. Frey filed July 7, 2014. Present before the Court on Monday, November 2, 2014, were Stephen P. Hughes, Esquire and Stacey S. Collins, Esquire, attorneys for the Plaintiff, The Callawassie Island Members Club, Inc. ("CIMC" or alternatively the "Club") and Ian S. Ford, Esquire and Neil D. Thomson, Esquire, attorneys for the Defendants.

Based on the motion, the memoranda filed by the respective parties, the arguments of counsel and a reading of the relevant governing documents, the Court makes the following findings of fact:

The governing documents, from the time the membership was initially acquired, clearly and unambiguously imposed a duty on members to remain in good standing until their membership reissued. As there is no question of fact regarding the interpretation,

legality or applicability of this obligation, the prior Order Granting Partial Summary Judgment in Favor of Plaintiff Against Michael J. Frey is hereby affirmed and all prior findings of fact set forth therein are incorporated herein by reference.

As for CIMC's authority to collect its attorneys' fees, which was raised for the first time at the hearing for reconsideration, Section 15.3.5 of the General Club Rules¹ states that "[i]f the Club commences any legal action to collect any amount owed, or to enforce the liability of a Member to the Club, the Member shall also be liable for all costs and expenses of the legal action, including without limitation, reasonable attorneys' fees required in connection with appellate proceedings." Similarly, Section 15.3.4 authorizes the collection of attorneys' fees "incurred by the Club incident to the collection of such Charges, or enforcement of such lien, whether or not legal proceedings are initiated (*emphasis added*)."² The Court notes that the Club's governing documents (from 1994 forward) consistently allowed the Board of Directors, to establish and determine the amount of "dues, fees and charges" under its By-laws.³ The Board also maintained the exclusive authority "to determine the interpretation or construction of these By-laws or any parts thereof, which may be in conflict or of doubtful meaning, and their decisions shall be final and conclusive."⁴ From the Complaint and Affidavits filed in this case, it is clear that the Club has consistently interpreted the term "Charges" to include attorneys' fees incurred in actions to collect for unpaid dues. Based on the foregoing, the award of attorneys' fees is likewise affirmed.

¹Dated January 1, 2014 and currently in force.

²Section 15.3.4, General Club Rules, January 1, 2014; see also Article 11, By-laws, January 1, 2014 and Article XIII), By-laws attached as Exhibit "B" to the 1994 Plan for the Offering of Memberships.

³Article VI(2)(f), By-laws attached as Exhibit "B" to the 1994 Plan for the Offering of Memberships and Article 6.2(e), By-laws dated January 1, 2014.

⁴Article 6.5, By-laws dated January 1, 2014; and also, Article VI, Section 5, By-laws attached as Exhibit "B" to the 1994 Plan for the Offering of Memberships.

CIMC has leave to renew its motion for summary judgment as to Defendant Grace I. Frey and if such motion be filed and adequate notice given, said motion may be heard before me at my next term of court in Beaufort County.

NOW, THEREFORE, it is hereby ordered, adjudged and decreed that the prior Order Granting Summary Judgment Against Michael J. Frey in the amount of Fifty Eight Thousand Seven Hundred Forty-Four and 23/100 (\$58,744.23) Dollars as of May 9, 2014; plus reasonable attorneys' fees and costs of Nine Thousand One Hundred Thirty-Two and 23/100 (\$9,132.23) Dollars, for a grand total of Sixty Seven Thousand Eight Hundred Seventy Six and 46/100 (\$67,876.46) Dollars⁵ is hereby re-affirmed and all findings of fact contained therein are likewise re-affirmed.

AND IT IS SO ORDERED.



J. ERNEST KINARD, JR.
Presiding Judge

Camden, South Carolina
~~November~~ 11, 2014.
~~December~~

⁵This judgment does not include any dues, fees, assessments or other charges levied by the Plaintiff after April 30, 2014, which must be the subject of a subsequent action.