

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

FILED - CLERK OF COURT CASE NO: 2010CP2309954

GREENVILLE CO. S.C.

PAUL B. WICKENSIMER

Charles Benjamin Ben Dickerson vs. TLC Laser Center Piedmont Inc

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SC Court of Appeals

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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), SCRC P;
  - Rule 41(a),
  - SCRC P (Vol. Nonsuit);  Rule 43(k), SCRC P (Settled);  Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**
  - Rule 40(j) SCRC P;
  - 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: \_\_\_\_\_

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;
- Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this .

Court Reporter:

PRESIDING JUDGE -

This judgment was entered on the 7th day of March, 2016, and a copy mailed first class this 7th day of March, 2016, to attorneys of record or to parties (when appearing pro se) as follows:

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ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court - Clerk of Court

STATE OF SOUTH CAROLINA GREENVILLE COUNTY IN THE COURT OF COMMON PLEAS  
PAUL B. WICKENSIMER

COUNTY OF GREENVILLE

2016 MAR 7 AM 10 18

Charles Benjamin "Ben" Dickerson and  
Gale M. Dickerson,

Plaintiffs,

vs.

TLC Corporate

TLC The Laser Center (Institute), Inc., f/k/a  
TLC The Laser Center (Piedmont), Inc.,

TLC Physicians

Jonathan Woolfson, M.D., Jeffery Machat, M.D.  
Derek P. Van Veen, O.D., Cynthia Wike  
Yeager, O.D., John Potter, M.D., and David  
Kohler, O.D.,

Defendants.

C.A. No. 2010-CP-23- 9954

ORDER DENYING MOTION  
TO ALTER OR AMEND ORDER  
FOR SANCTIONS AGAINST  
DEREK P. VAN VEEN AND  
IMPOSING ATTORNEYS' FEES

Michael "Chad" Luce,

Plaintiff,

vs.

TLC Corporate

TLC The Laser Center (Institute), Inc., f/k/a  
TLC The Laser Center (Piedmont), Inc.,

TLC Physicians

Jonathan Woolfson, M.D., Derek P. Van Veen,  
O.D., Cynthia Wike Yeager, O.D., and  
John Potter, M.D.,

Defendants.

C.A. No. 2010-CP-23-9956

This matter comes before the Court on Defendant Van Veen's Motions to Alter or Amend this Court's December 21, 2015 Order Granting Sanctions against said Defendant. As the record will reflect, this matter has been extensively argued and briefed by all parties and the Court has carefully considered the same.

Pursuant to the Court's instruction, the Plaintiffs submitted a Proposed Order on December 8, 2015. Defendant Van Veen was given additional time to object to the Proposed Order in addition to the extensive argument that was permitted prior to the Court ruling on the Motion for Sanctions. Defendant Van Veen submitted a detailed letter to the Court on December 14, 2015 detailing his objections and incorporating all previous arguments in opposition to the Order of Sanctions and this Court has considered the same.

On December 21, 2015, the Court notified the parties that Proposed Order was signed. Said Defendant then filed a Motion to Alter or Amend on December 31, 2015 incorporating the previous objections in the letter and additional arguments in opposition to the Order for Sanctions and the Court has considered the same.

On February 2, 2016, the Defendant filed an affidavit of Dr. Derek Van Veen in support of his previously filed Rule 59 Motion addressing the allegations in Plaintiff's Motion for Sanctions and subsequent Order and the Court has considered the same. Plaintiffs by way of correspondence objected to the Court's consideration of this new material and alleged the affidavit did not comply with Rule 6(d). The Court disagrees. Regardless, these issues were previously briefed and argued with ample documentation and deposition testimony of Dr. Van Veen already in the record.

Defendant Dr. Van Veen's Motion to Alter or Amend the Order of Sanctions is denied.

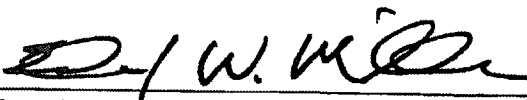
In the Court's original order, plaintiffs were directed to submit attorneys' fees and costs to the Court pursuant to its granting of fees and costs as a sanction. On February 9, 2016, Plaintiffs' counsel submitted affidavits in support of attorney's fees and costs both to the court and to opposing counsel. No objection to the submitted affidavits has been made by defendant Van Veen following submission of said fees.

Furthermore, the Court has considered the imposition of attorney's fees and reviewed the affidavits and supporting documentation submitted by each of Plaintiffs' counsel. I find that Defendant Derek Van Veen should be responsible for an equitable portion of attorneys' fees but decline the Plaintiffs' request for imposition of the entire \$499,577.73 in submitted fees. Although these fees are significant, I find the time and resources expended in exposing this discovery abuse are equally extensive. I further find the rates and times attested to by the Plaintiffs' attorneys are reasonable, customary and necessary under the circumstances. I find that Dr. Van Veen was one of three parties that engaged in the sanctionable conduct and should, therefore, only be subject to a proportional share of the fees which I find are supported by the record to date.

Upon due consideration, the Court disposes of the remaining pending issues as follows:

1. Defendant Van Veen's Motion to Alter or Amend Order Granting Sanctions, is **DENIED**;
2. Plaintiffs' Request for Attorneys' Fees is **Granted** subject to the equitable apportionment below;
3. Defendant Dr. Derek Van Veen is hereby ordered to pay One Hundred Sixty Six Thousand Five Hundred (\$166,500.00) Dollars in attorney's fees within in sixty (60) days.

It is **SO ORDERED**.

  
Edward W. Miller  
Circuit Judge

Dated at Greenville, South Carolina  
this ~~7~~ day of March, 2016.

*my*