

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
 COUNTY OF RICHLAND) CASE NO. 2014-CP-40-03041

DICK DYER & ASSOCIATES, INC.,)
)
 Plaintiff,)
)
 v.)
)
 MOORE'S CARS, LLC,)
)
 Defendant.)

**ORDER DENYING MOTION TO
 RECONSIDER AND GRANTING
 MOTION FOR ATTORNEY'S FEES
 AND COSTS**

2016 SEP 28 PM 12:37
 RICHLAND COUNTY
 FILED
 JENNIFER M. MCGRIDDIE
 C.C.P. & G.S.

This matter came before me on February 4, 2016, pursuant to a motion for attorney fees and costs filed by the Plaintiff on July 10, 2015, and a motion to reconsider subsequently filed by Defendant, Moore's Cars, LLC ("Moore's Cars"). Present for the hearing were J. Gregory Studemeyer, attorney for the Plaintiff, Charlie J. Blake, Jr., attorney for Moore's Cars, and Michael Dennis Moore. For the reasons set forth below, the motion to reconsider is denied and the motion for attorney's fees and costs is granted.

A bench trial in this matter came before me on January 30, 2015. On July 2, 2015, I issued a detailed order for judgment with findings of fact and conclusions of law supporting an award in favor of the Plaintiff against Moore's Cars under the Dealers Act, S.C. Code Ann. §56-15-10, et. seq.

Motion To Reconsider

A party may file a Rule 59(e) motion when it believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. Elam v. South Carolina Department of Transportation, 361 S.C. 9, 602 S.E.2d 772 (2004). The court has reviewed Moore's Cars' written motion and considered the argument of its counsel. Having reviewed the detailed order for judgment, the court is satisfied that it fully understood, considered, and ruled upon Moore's Cars' arguments at trial and therefore denies its motion to reconsider.

Motion For Attorney's Fees And Costs

An award under the Dealers Act mandates an award of attorney's fees. In addition to temporary or permanent injunctive relief as provided in §56-15-40(3)(c), any person who shall be injured in his business or property by reason of anything forbidden in this chapter may sue therefor in the court of common pleas and *shall* recover double the actual damages by him sustained, and the costs of suit, including a reasonable attorney's fee. S.C. Code Ann. §56-15-110(1). (emphasis added).

The specific amount of attorney's fees awarded pursuant to a statute authorizing reasonable attorney's fees is left to the discretion of the trial judge and will not be disturbed absent an abuse of discretion. South Carolina Dept. of Transp. v. Revels, 411 S.C. 1, 766 S.E.2d 700 (2014). When awarding attorney's fees, the trial court must consider the following six factors: (1) the nature, extent, and difficulty of the legal services rendered; (2) the time and labor necessarily devoted to the case; (3) the professional standing of counsel; (4) the contingency of compensation; (5) the fee customarily charged in the locality for similar legal services; and (6) the beneficial results obtained. Williamson v. Middleton, 374 S.C. 419, 640 S.E.2d 57 (Ct. App. 2007).

FINDINGS OF FACT

The Nature, Extent, and Difficulty of the Case.

1. As reflected in this court's previous order, Moore's Cars initially admitted, *inter alia*, that it had purchased the vehicle from the Plaintiff.
2. Subsequently, Moore's Cars denied that it had purchased the vehicle, requiring the Plaintiff to depose Michael Dennis Moore to establish the relationships among T.G. Moore, Michael Dennis Moore, and Moore's Cars.
3. This case involved the doctrine of apparent authority, the Dealers Act, and U.S. Customs laws and regulations.

4. Although the number of witnesses was limited and the length of the bench trial was relatively brief, I attribute this to the preparation of counsel for both parties.
5. Under all of the circumstances, I find that this case was difficult.

The Time Necessarily Devoted to the Case.

6. According to the attorney's fee affidavit, counsel for the Plaintiff devoted a total of 112.30 hours prosecuting this case. In addition, he incurred costs and expenses of \$843.65.
7. As reflected in this court's previous order, Moore's Cars acknowledged receipt of one of the demand letters for payment of the principal amount of the charge backs which were the subject of this case.
8. This court's previous order also reflects that the Plaintiff served a written demand for arbitration upon Moore's Cars which likely would have resulted in a more streamlined disposition of the dispute.
9. Instead, it appears that Moore's Cars threw caution to the wind and simply took its chances with litigation, hoping to convince a court that T.G. Moore had absolutely no relationship whatsoever with Moore's Cars.
10. The attorney's fee affidavit also reflects that a creditor's claim was filed against the Estate of T.G. Moore, ostensibly which was never paid, notwithstanding the fact that its personal representative, Michael Dennis Moore, had adequate funds on hand to pay it.
11. Having carefully reviewed the slip listing attached to the attorney's fee affidavit, I find that the time spent was necessarily devoted to the case.

Professional Standing of Counsel

12. Counsel for the Plaintiff has been admitted to the Bar of the State of South Carolina for over 33 years and counsel for Moore's Cars does not question his professional standing. I find that counsel for the Plaintiff enjoys excellent professional standing.

Contingency of Compensation

13. No contingency arrangement was involved in this litigation. Counsel's fees were billed on an hourly basis.

Beneficial Results Obtained

14. Having obtained an award of double actual damages under the Dealers Act, I find that beneficial results were obtained.

Customary Legal Fees for Similar Services

15. The fees billed by counsel for the Plaintiff were based upon a rate of \$275 per hour. I find that this rate is reasonable and customary.


CONCLUSIONS OF LAW

I conclude that the Plaintiff is entitled to a reasonable award of attorney's fees.

I conclude that the sum of \$8,000 in attorney's fees including costs is a proper award under the circumstances.

IT IS THEREFORE ORDERED that judgement be entered in favor of the Plaintiff
against Defendant, Moore's Cars, LLC, for the further sum of \$8,000 in attorney's fees and costs.

AND IT IS SO ORDERED.


The Honorable L. Casey Manning
Presiding Circuit Court Judge
Fifth Judicial Circuit

Columbia, South Carolina

This 28 day of September, 2016

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
CASE NO. 2014-CP-40-03041

DICK DYER & ASSOCIATES, INC.,)
Plaintiff,)

v.)

MOORE'S CARS LLC,)
Defendants.)

**ORDER DENYING PLAINTIFF'S MOTION
TO ALTER OR AMEND THE JUDGMENT
RULE 59(e), SCRPC**

2016 NOV -2 PM 3:46
JEANETTE W. MORRIS
C.C.P. & G.S.
RICHLAND COUNTY
FILED

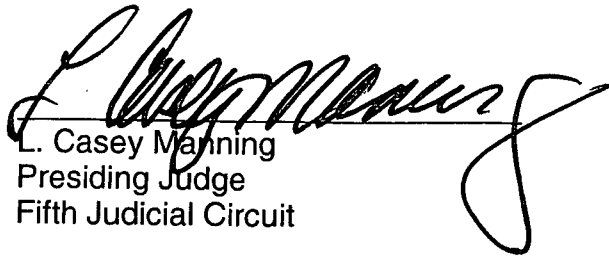
This matter is before the Court on Plaintiff's Motion to Alter or Amend the Judgment, Rule 59(e), SCRPC. In accordance with Rule 59(f), SCRPC, the Court finds that it is not necessary to hear oral arguments in this matter.

After considering Plaintiff's well-reasoned Motion containing his arguments, and upon careful re-examination of my grounds for denying Plaintiff's Motion to Reconsider and Granting Motion for Attorney's Fees and Costs, I find that Plaintiff's Motion to Alter or Amend should be, and is hereby, denied. Therefore, it is

ORDERED that Plaintiff's Motion to Alter or Amend the Judgment, Rule 59(e), SCRPC, is hereby denied.

AND IT IS SO ORDERED.

SCANNED


L. Casey Manning
Presiding Judge
Fifth Judicial Circuit

Columbia, South Carolina

October 27, 2016

SCANNED

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2014CP4003041

Dick Dyer And Associates Inc

Moores Cars LLC

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or 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 _____

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
		\$
		\$
		\$

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 _____ Judge Code 2061 Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 4 day of NOV, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Joseph Gregory Studemeyer

Charlie James Blake Jr.

Dunn Denson Hollingsworth

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court

Jeanette W. McBride



RICHLAND COUNTY
FILED
2016 NOV 22 PM 3:15
J. G. THORNTON
CLERK