

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHESTER COUNTY

Court of Common Pleas

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JAN 03 2017

Brian M. Gibbons, Circuit Court Judge

SC Court of Appeals

Appellate Case No. 2015-002558

Chris N. Domnick Respondent,

v.

Frank Leroy Domnick, Jr. and Shelly L. Domnick Appellants.

RESPONDENT'S FINAL BRIEF

D. Alan Lazenby
LAZENBY LAW FIRM, LLC
PO Box 6099
Spartanburg, SC 29304
Phone: (864) 804-5050
Fax: (864) 804-5051

ATTORNEY FOR RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

- I. Was the Circuit Court presented with sufficient evidence to apply the required factors for an award of attorneys' fees?

STATEMENT OF THE CASE

Respondent is satisfied with Appellants' statement of the case.

ARGUMENTS

- I. **Appellant failed to preserve its argument for appellate review.**

There is no evidence in the Record that Appellants' counsel ever objected to the award of attorneys' fees because of insufficient evidence of "time necessarily devoted to the action." At trial Counsel's objection was to the reasonableness of the fees. And after receiving a copy of the Final Order, Appellants never raised the issue.

- II. **There is ample evidence in the record to support all of the required factors for awarding attorneys' fees, including the factor of "time necessarily devoted to the action."**

Even if this Court were to consider the argument for review, there is ample evidence in the record to support the award. Despite Appellants' assertion to the contrary, Plaintiff's Trial Exhibit No. 13 contains ample evidence of the time necessarily devoted to the case. (R. p. 215). This 19-page exhibit details the 127 hours spent on this case and over \$600 in expenses. This exhibit includes a statement of all work done by each attorney or paralegal, the time spent on that work, and the charge for that work. Furthermore, Respondent testified that he had received those charge; that he was obligated to pay all of those charges; and that he had already paid approximately \$13,000 in attorney's fees. (R. p. 108).

Significantly, Respondent sought \$22,479.00 in fees and expenses; however, the trial court reduced that amount to \$17,000 (R. p. 178-182). Therefore, the trial court did consider and disallow some of the claimed attorney's fees.

III. Affirmance for any ground included in the Record on Appeal.

Pursuant to Rule 220(c), SCRAP, Respondent also requests that this Court affirm the Final Order for any reason contained in the Record on Appeal.

CONCLUSION

For the reasons stated, this Court should affirm the judgment of the trial court. Additionally, Respondent agrees that Appellant Shelly L. Domnick should be removed from this Appeal since there was no judgment entered against her.


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December 29, 2016

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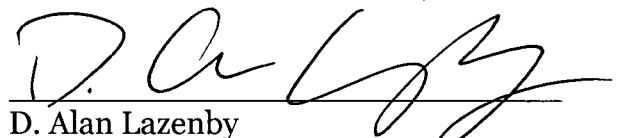
Chris N. Domnick Respondent,

v.

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CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Final Brief of Respondent contains all material proposed to be included by any of the parties.



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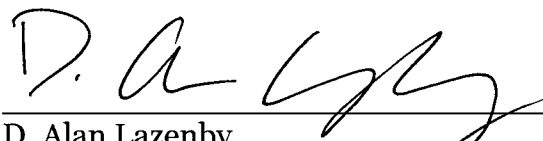
v.

Frank Leroy Domnick, Jr. and Shelly L. Domnick Appellants.

PROOF OF SERVICE

I, the undersigned, hereby certify the Final Brief of Respondent in the above referenced matter was mailed, postage prepaid, to Appellant's Attorney on December 29, 2016 as follows:

John Martin Foster, Esq.
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Rock Hill, SC 29731



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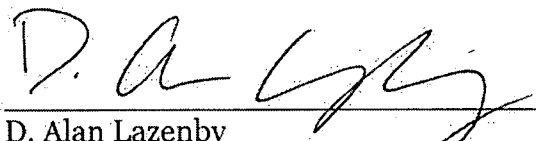
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December 29, 2016

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December 29, 2016

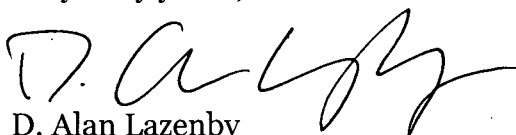
The Honorable Jenny Abbott Kitchings
SC Court of Appeals Clerk
PO Box 11629
Columbia, SC 29211

Re: *Chris N. Domnick v. Frank L. Domnick Jr. and Shelly Domnick*
Appellant C.A. No: 2015-002558

Dear Ms. Kitchings:

I enclose herewith an original and fifteen (15) copies of Respondent's Final Brief. I also enclose an original and one copy of a Proof of Service showing service of Respondent's Final Brief on Appellant's Counsel John Martin Foster, Esq.

Very truly yours,



D. Alan Lazenby
alan@lazenbylawfirm.com

DAL: je

Enclosures

cc: John Martin Foster, Esq.

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