

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)
)

Belinda Davis-Branch and)
Ziporrah Sumpter,)
Plaintiffs,)
vs.)
)

Elizabeth Jackson, Melvin)
Jackson individually and as parents)
of M , M , and M)
Jackson,)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Case No.: 2014-CP-38-1603

RECEIVED
OCT 11 2016
SC Court of Appeals

ATTEST: TRUE COPY
ORDER
Winnys B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SOUTH CAROLINA

ORANGEBURG COUNTY, SOUTH CAROLINA
CLERK OF COURT
OCT 11 2016 9:41:53 AM

This non-jury breach of contract action for the collection of attorneys' fees was set for trial before the Court on April 14, 2016. Present before the Court were Thomas Simms, Esquire, on behalf of the Plaintiffs and Paul Owen, Esquire, on behalf of the Defendants. The Court found that Defendants failed to file an Answer, at which time counsel for Defendants moved to amend the pleadings. Defendants' oral motion was denied, and the parties proceeded on the hearing for damages.

FINDINGS OF FACT

This action is one for the payment of attorneys' fees and costs associated with Plaintiffs' legal representation Defendants. Plaintiffs and Defendants entered into a contract for Plaintiffs' representation of Defendants in an action involving lead based paint. The retainer agreement executed by both Plaintiffs and Defendants provided for both a contingency fee, in which Plaintiffs would receive one third of the amount recovered in the lawsuit, and in the event the suit was unsuccessful, for the payment of hourly fees. The agreement also provided for the payment of costs and expenses associated with the representation. Plaintiff Belinda Davis-Branch, the only witness to testify on behalf of either party, testified that the retainer agreement was executed in 2006, but that she had been working on the case since 2005. Ms. Davis-Branch

testified that she disclosed the hourly rate to Defendants, which was \$200.00 per hour until January 4, 2006 and thereafter at \$300.00 per hour. The action named numerous Defendants, and Plaintiffs were required to file pleadings in state court, federal court, and bankruptcy court. Plaintiffs presented no testimony as to the facts of the lead based paint suit, other than some of the Defendants in the lead based paint action had been granted summary judgment. Plaintiffs' representation of Defendants was terminated by agreement in 2010, and Defendants sought other legal counsel. The lead based paint suit was subsequently settled for Five Thousand Dollars and 0/100 (\$5,000.00).

Plaintiffs entered into evidence three separate invoices, one for state court, one for federal court, and one for bankruptcy court, for time and services rendered. At the time of the hearing, the total amount of fees that Plaintiffs contended they were entitled to totaled 2.2 Million Dollars and 0/100. Plaintiffs later submitted amended invoices to the Court, which totaled \$213,200.00. Ms. Davis-Branch testified that she had been a licensed attorney in South Carolina since 1995, and licensed in Pennsylvania since 1988. She also testified that she spent a little over 7,400 hours of work on the Defendants' case.

CONCLUSIONS OF LAW

Attorneys' fees are may not be recovered unless mandated by contract or statute. There are six factors the Court must consider in determining a reasonable award of attorneys' fees. Those six factors are: the nature, extent, and difficulty of the legal services rendered, the time and labor counsel devoted to the case, the professional standing of counsel, the contingency of compensation, the fee customarily charged in the locality for similar services, and the beneficial results obtained. Blumberg v. Nealco, 310 S.C. 492, 494, 427 S.E.2d 659, 660 (1993). The Court must consider all of the circumstances surrounding the attorney-client relationship to determine a

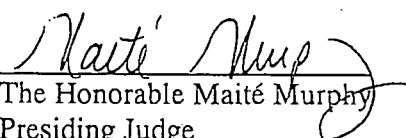
reasonable fee. Weatherford v. Price, 340 S.C. 572, 532 S.E.2d 310 (2000). Rule 1.5 of the Professional Rules of Conduct also provides guidance in determining reasonable fees for legal services.

Ms. Davis-Branch testified that she spent over 7,400 hours preparing Defendants' case, which included filing in state, federal, and bankruptcy courts. She also testified that she has been a licensed attorney in South Carolina since 1995. However, the Court finds that Plaintiffs failed to present evidence as to the professional standing of counsel, the nature of the case, whether or not the fee is customary in the area for similar services. Additionally, no evidence was presented on behalf of Ms. Sumpter as to any of the factors.

Based upon the reasons set forth above, the Court finds that Plaintiffs are entitled to one third of the settlement received by Defendants, as well as costs and expenses incurred.

THEREFORE, IT IS HEREBY ordered that Defendants shall pay Plaintiffs the sum of One Thousand Six Hundred and Sixty Six Dollars and 67/100 (\$1,666.67) and costs in the amount of Four Thousand Two Hundred and Ninety Dollars and 00/100 (\$4,290.00)

AND IT IS SO ORDERED!


The Honorable Maité Murphy
Presiding Judge

St. George, South Carolina
Aug. 3, 2016

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October 6, 2016

V. Claire Allen
South Carolina Court of Appeals
Deputy Clerk
Post Office Box 11620
1220 Senate Street
Columbia, South Carolina 29201

RE: Belinda Branch v. Elizabeth Jackson
Appellate Case No.: 2016-002019


Dear Ms. Allen:

Please find enclosed Judge Maite Murphy's order regarding the above referenced case. This Order was inadvertently omitted when the Notice of Appeal was filed with your office on September 23, 2016. The filing fee of \$100.00 is also attached together with the Proof of Service of the Notice of Appeal on Mr. Paul Winford Owen, Counsel for Respondent in this matter.

Please contact me should you have any questions.

With kindest regards.

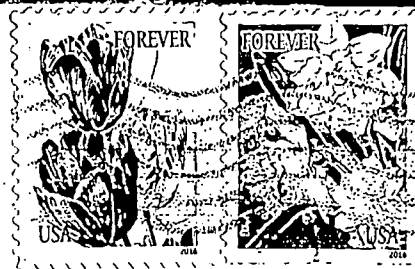
Sincerely,


Thomas Ray Sims, Sr., Esquire
TS/bdb.

cc: Paul Owen

Thomas Ray Sims
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