

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LAURENS)
)
 Vidhyaben R. Patel, Individually and)
 as Co-Personal Representative of the)
 Estate of Rameshchanda Prabhudas)
 Patel, and Darshak Kumar Patel,)
 Individually and as Co-Personal)
 Representative of the Estate of)
 Rameshchandra Prabhudas Patel,)
)
 Plaintiffs)
 vs.)
)
 Hardik R. Patel, Anal H. Patel and)
 AAHARVID, LLC,)
 Defendants)

IN THE COURT OF COMMON PLEAS
 EIGHTH JUDICIAL CIRCUIT
 Case No. 2019-CP-30-0140

**ORDER DENYING MOTION FOR
 ATTORNEY'S FEES**



This matter came before the Court by motion of the Defendants, Hardik R. Patel, Anal H. Patel, and AAHARVID, LLC to seek an order awarding attorney's fees and costs incurred by Defendants and assessing judgment against Plaintiffs in accordance with the Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. § 15-36-10 *et seq.* ("FCPSA").

The motion to award attorney fees is denied based on the Court's finding that the Plaintiffs' claims were not frivolous under the FCPSA. The Court bases this decision on the facts that: the case contained highly contested facts presented at trial, the complexity of the legal issues, the complexity of the family dynamics, and the credibility and lack of credibility of both plaintiffs and defendants' testimony. The Court notes that factually the case was very close on weight, but that the defendants' testimony and evidence outweighed (but not substantially) the Plaintiffs' testimony and evidence.

In order to recover for attorney fees under the FCPSA, at §15-36-10(A)(4) a party must show or prove one of the following:

- (a) filing a frivolous pleading, motion or document if:
 - i. the person has not read the frivolous pleading, motion or document;
 - ii. a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;
 - iii. a reasonable attorney presented with the same circumstances would believe that a procurement, initiation, continuation, or defense of a civil cause was intended merely to harass or injury the other party; or
 - iv. a reasonable attorney presented with the same circumstances would believe the pleading, motion, or document is frivolous, interposed for merely for delay, or merely brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based;
- (b) making frivolous arguments a reasonable attorney would believe were not supported by the facts; or
- (c) making frivolous arguments that a reasonable attorney would believe were not warranted under the existing law or if there is no good faith argument that exists for the extension, modification, or reversal of existing law.

The Court finds that none of the definitions of a frivolous suit or action were present in the case at bar. The Court further finds that the attorneys for the Plaintiffs had reasonable beliefs that the claims alleged were valid under the laws of South

Carolina. The failure to meet one's burden of proof does not make the complaint filed by the parties frivolous.

Therefore, the Defendants' motion for attorney fees is respectfully denied.

IT IS SO ORDERED.

Eugene C. Griffith Jr.
Circuit Court Judge

January __, 2020



Laurens Common Pleas

Case Caption: Vidhyaben R. Patel, Co-Per. Rep. Est. Of Rameshchandra Patel ,
plaintiff, et al VS Hardik R Patel , defendant, et al
Case Number: 2019CP3000140
Type: Order/Other

It is so ordered

Eugene C. Griffith, Jr. 2154