

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	Civil Action No.: 2017-CP-10-05493
)	
Shem Creek Development Group, LLC,)	
)	
Plaintiff,)	ORDER AWARDING PLAINTIFF
)	ATTORNEY FEES AND COSTS
vs.)	
)	
The Town of Mount Pleasant, South)	
Carolina,)	
)	
Defendant.)	

RECEIVED
May 12 2021
 SC Court of Appeals

This matter comes before the Court upon the submission of affidavits of counsel in support of Plaintiff Shem Creek Development Group, LLC’s (“SCDG”) requests for an award of attorneys’ fees and costs in this action. After careful consideration of the law and evidence presented in the above-mentioned affidavits, this Court hereby GRANTS SCDG’s request for attorneys’ fees and costs based on the following findings:

1. SCDG and the Town of Mount Pleasant were parties to the parking license agreement, which was the subject of this litigation. Section 6.01 of the parking license agreement provides that “the prevailing party in any dispute shall be entitled to an award of costs and attorney’s fees, including the costs of trial and any appeals.”

2. On July 13, 2020, this Court issued an order awarding judgment in favor of SCDG on its claim of breach of contract arising under the parking license agreement. In Paragraph 104 of the order, the Court ruled that SCDG, as the prevailing party in this action, was entitled to an award of all costs and attorneys’ fees associated with this dispute, including the cost of trial. Thus, SCDG was instructed to submit an affidavit of costs and attorneys’ fees it sought to be awarded in this action.

3. On August 11, 2020, SCDG's counsel, Brandon Gaskins, submitted an affidavit of attorneys' fees and costs, which was supplemented on September 17, 2020 by a supplemental affidavit of Mr. Gaskins and an affidavit of Hamlin O'Kelley of the law firm of Buist Byars & Taylor. Based on these affidavits, the total amount of fees and costs sought by SCDG equals Two Hundred Ninety-Eight Thousand Nine Hundred Sixty-Five and 22/100 Dollars (\$298,965.22).

4. Under *Baron Data Systems, Inc. v. Loter*, 297 SC 382, 377 S.E.2d 296 (1989), and *Blumberg v. Nealco*, 310 SC 482, 427 S.E.2d 659 (Ct. App. 1993), there are six factors to be considered in determining the reasonableness of a fee: (1) the nature, extent, and difficulty of the legal services rendered; (2) the time and labor devoted to the case; (3) the professional standing of counsel; (4) contingency of compensation; (5) the fee customarily charged in the location for similar services; and (6) the beneficial results obtained.

5. Upon the analysis of the fees and costs sought by SCDG in this case under the above factors and based on upon my knowledge of and experience with the case, the Court concludes that SCDG's requested costs and fees are reasonable for the following reasons: (1) the matter was highly disputed and involved complex issues of contract and municipal law, a significant amount in controversy, a large volume of documents produced during discovery, and multiple discovery disputes; (2) the matter was litigated through trial and post-trial motions for nearly three years; (3) SCDG's counsel are lawyers in good standing with the South Carolina Bar, have never been involved any disciplinary proceedings, and have good reputations among other lawyers in the area who practice commercial litigation and transactions; (4) the matter was not based on a contingency arrangement, but the amount billed is less than what would be payable under a typical contingency fee arrangement of 33.3% or 40% of the award; (5) the hourly rates of the relevant lawyers were within the range of hourly rates customarily charged by attorneys of

similar experience who practice in the Charleston area; and (6) SCDG obtained the beneficial result of a recovery in the full amount sought at trial.

IS THEREFORE ORDERED that SCDG is awarded attorneys' fees and costs in the amount of Two Hundred Ninety-Eight Thousand Nine Hundred Sixty-Five and 22/100 Dollars (\$298,965.22).

AND IT IS SO ORDERED.

The Honorable Maite Murphy

January _____, 2021

_____, South Carolina

May 12 2021

SC Court of Appeals

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2017-CP-10-05493

Shem Creek Development Group, LLC

The Town of Mount Pleasant, South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: E. Brandon Gaskins

Attorney for : [X] 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.
[X] 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. [X] See Page 2 for additional information.
[] ACTION DISMISSED (CHECK REASON): [] Rule 12(b), SCRCPP; [] Rule 41(a), SCRCPP (Vol. Nonsuit); [] Rule 43(k), SCRCPP (Settled); [] Other
[] ACTION STRICKEN (CHECK REASON): [] Rule 40(j), SCRCPP; [] Bankruptcy; [] Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; [] Other
[] STAYED DUE TO BANKRUPTCY
[] 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) [X] Statement of Judgment by the Court:

ORDER INFORMATION

This order [] ends [X] 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.

Table with 3 columns: Judgment in Favor of (List name(s) below), Judgment Against (List name(s) below), Judgment Amount To be Enrolled (List amount(s) below). Row 1: Shem Creek Development Group, LLC vs The Town of Mount Pleasant, South Carolina, \$298,965.22. Row 2: \$, Row 3: \$.

If applicable, describe the property, including tax map information and address, referenced in the order:

[Empty rectangular box]

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.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

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 _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

It is ordered that Plaintiff Shem Creek Development Group, LLC is awarded actual damages in the amount of \$2,604,316.00 and attorneys' fees and costs in the amount of \$298,965.22. Total judgment amount is \$2,903,281.22.

This judgment is effective as of July 13, 2020.

FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE
(Instructions for Information Only-Not to be filed with Form 4C)

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The “Information for the Judgment Index” section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the “Judgment in Favor of” column, enter the name of the party to whom the judgment is awarded. In the “Judgment Against” column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the “Judgment Amount” column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate “N/A” in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section “For the Clerk of Court Office Use Only” should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.

8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through “Circuit Court Judge” and indicate “Arbitrator” in the signature block.
9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title “Circuit Court Judge” below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the “Judgment Amount To Be Enrolled” box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.



Charleston Common Pleas

Case Caption: Shem Creek Development Group LLC VS Mount Pleasant South Carolina Town of The

Case Number: 2017CP1005493

Type: Order/Judgment and Form 4

So Ordered

s/ Maite Murphy 2166