

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

) C/A NO: 2018-CP-26-06346

Tammy Batten West,

) Plaintiff,

vs.

) [PROPOSED] ORDER DENYING
) PLAINTIFF'S MOTION TO AMEND,
) ALTER, OR RECONSIDER JUDGMENT

American Honda Motor Company, Inc.,

) Defendant.

RECEIVED

Feb 14 2022

SC Court of Appeals

This matter is before the Court pursuant to Plaintiff's Motion to Amend, Alter, or Reconsider Judgment Regarding Award of Attorney's Fees filed pursuant to Rules 52 and 59 of the South Carolina Rules of Civil Procedure concerning this Court's June 28, 2021 Order Granting in Part and Denying in Part Plaintiff's Motion for Attorney's Fees.

Material Reviewed

The Court has reviewed this Court's June 28, 2021 Order Granting in Part and Denying in Part Plaintiff's Motion for Attorney's Fees, the relevant Court record, Plaintiff's Motion for Fees, Brief in Support and supporting exhibits, Affidavits submitted by Plaintiff's counsel and counsel's itemized time statement, Defendant American Honda Motor Co., Inc.'s Opposition to Plaintiff's Motion for Fees, Defendant's Affidavit and supporting documents, Plaintiff's Reply to Defendant's Opposition to Plaintiff's Motion for Fees, Plaintiff's Motion to Amend, Alter or Reconsider Judgment, and Defendant's Opposition to Plaintiff's Motion to Amend.

Findings

When issuing an Order providing for the award of attorney's fees, this Court is required to set forth the basis allowing for the recovery of attorney's fees and an analysis of the six factors enumerated in the *Baron Data Systems* opinion for the appropriate amount of attorney's fees.

Baron Data Systems v. Loter, 297 S.C 382, 384-385, 377 S.E.2d 296, 297 (1989). This Court’s June 28, 2021 Order sets forth the basis of recovery and this Court’s analysis of the six *Baron* factors as they apply to the facts of this case. Moreover, the Court’s order complied with the requirements of Rule 52(a) by establishing the “the facts specially” and stating “separately its conclusions of law thereon.” *Id.*

Plaintiffs’ Motion arises from an automobile express written warranty action filed pursuant to the South Carolina Enforcement of Motor Vehicle Warranty Act, S.C. Code Ann. §56-28-10, *et. seq.* (“Express Warranty Act”). This statute provides for the permissive award of attorney’s fees to a prevailing party, which are determined by the discretion of the Court.

“(D) Any consumer who finally prevails in any action brought under this chapter, may be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of cost and expenses (including attorney's fees based on actual time expended) and other such costs which are directly attributable to the nonconformity of the motor vehicle determined by the court to have been reasonably incurred by the plaintiff for or in connection with the commencement and prosecution of such action, unless the court in its discretion determines that such an award of attorney's fees would be inappropriate.” S.C. Code Ann. § 56-28-50(D).

When a prevailing party can receive attorney’s fees pursuant to contract or statute, well settled South Carolina case law sets forth a six-factor test for the Court to calculate the appropriate amount of attorney’s fees awarded.

“(1) the nature, extent, and difficulty of the case; (2) the time necessarily devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) beneficial results obtained; and (6) customary legal fees for similar services.” *Baron Data Systems v. Loter*, 297 S.C 382, 377 S.E.2d 296 (1989).

The Court is also required to consider all these factors in establishing reasonable attorneys’ fees. *See Darden v. Witham*, 263 S.C. 183, 209 S.E.2d 42 (1974).

The Court’s June 28, 2021 Order included the applicable law and included an analysis of each of the six *Baron* factors as set forth in the evidentiary record.

Plaintiff's Motion to Amend, Alter, or Reconsider Judgment sets forth no evidence or applicable law that indicates a basis to disturb or alter this Court's well-reasoned judgment in determining the appropriate amount of attorney's fees in this matter.

Conclusion and Order

The Court concludes that the June 28, 2021 Order was supported by applicable South Carolina law and its analysis of the factual record. The Court concludes that its June 28, 2021 Order provides findings of fact and conclusions of law which support the grounds of its action. Based on this Court's analysis of applicable law and the evidentiary record, Plaintiff's counsel is entitled to an award of \$27,585 for attorney's fees reasonably incurred in this matter. Therefore, the Court finds no basis to amend, alter, or reconsider this Court's Order pursuant to Rules 52 and 59 of the South Carolina Rules of Civil Procedure.

IT IS THEREFORE ORDERED, that Plaintiff's Motion to Amend, Alter, or Reconsider Judgment Regarding Award of Attorney's Fees be DENIED in its entirety. Defendant shall have thirty (30) days from the entry of this Order to make payment of the award of \$27,585.00 for attorney's fees to Plaintiff.

The Honorable Paul M. Burch

_____, South Carolina

Dated: _____, 202_



Horry Common Pleas

Case Caption: Tammy Batten West VS American Honda Motor Company Inc

Case Number: 2018CP2606346

Type: Order/Other

So Ordered

s/Paul M. Burch, Judge #2048