

**COURT OF COMMON PLEAS  
FOR THE STATE OF DELAWARE  
KENT COUNTY COURTHOUSE  
DOVER, DELAWARE 19901  
PHONE: (302) 739-4618**

**CHARLES W. WELCH, III  
JUDGE**

January 10, 2012

Mr. Spencer E. Dunkley  
Ms. Denise M. Ashton-Dunkley  
P O Box 222  
Odessa, DE 19730

John C. Andrade, Esq.  
Parkowski, Guerke & Swayze  
116 West Water Street  
P O Box 598  
Dover, DE 19903

RE: Dunkley, et al v. Villas of West Shore Maintenance Corporation  
C.A.No.: CPU5-10-002344 (Kent County Court of Common Pleas)

Award of Attorney's Fees

Dear Mr. Dunkley, Ms. Dunkley and Mr. Andrade:

The Court is in receipt of Mr. Andrade's affidavit in support of attorney's fees. His affidavit is meant to establish the amount of reasonable attorney's fees to be awarded to the Villas of West Shore Maintenance Corporation (Villas) pursuant to the Court's order of November 23, 2011. After a full trial on the merits, the Court of Common Pleas found in favor of Villas and entered a judgment which included reasonable attorney's fees. Having reviewed the applicable law and Mr. Andrade's affidavit and supporting material, the Court finds it appropriate to grant Villas reasonable attorney's fees in the total amount of \$3,265.00.

Mr. Andrade's affidavit states that he has billed 10.70 hours work on this matter at an hourly rate of \$300.00. Therefore, a total fee of \$3,210.00 is due to him for his work. Further, Mr. Andrade's firm has charged an additional \$55.50 in costs that were

incurred by it in this case.<sup>1</sup> In total, Villas is seeking \$3,265.00, an amount which includes both Mr. Andrade's hourly fee and the costs to his firm. Mr. Andrade has included a detailed accounting of his billable hours in support of his request for attorney's fees.

The Delaware Lawyers Code of Professional Responsibility DR-1.5 enumerates the factors to be considered in determining the reasonableness of a claim for attorney's fees in a particular case as follows:

- (1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly.
- (2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer.
- (3) The fees customarily charged in the locality for similar legal services.
- (4) The amount involved and the results obtained.
- (5) The time limitations imposed by the client or by the circumstances.
- (6) The nature and length of the professional relationship with the client.
- (7) The experience, reputation, and ability of the lawyer or lawyers performing the services.
- (8) Whether the fee is fixed or contingent.

Delaware Courts apply these factors when awarding attorney's fees. *Gould v. Wien*, 2009 WL 2436594 at \*1-2 (Del. Com. Pl. 2009) (citing *Husband S. v. Wife S.*, 294 A.2d 89, 93 (Del. 1972); *General Motors Corp. v. Cox*, 304 A.2d 57 (Del. 1973)).

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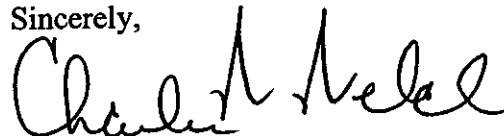
<sup>1</sup> Mr. Andrade also requests an award of \$40.00 for filing fees that were incurred by Villas prior to his involvement in the case. This sum would be included in the court costs that were awarded by the Court in its decision and order of November 23, 2011. Therefore, this request need not be addressed at this time.

After reviewing Mr. Andrade's affidavit in support of attorney's fees, the Court finds that the hourly rate of \$300.00 per hour for this type of matter is reasonable. *See Gould v. Wien*, 2009 WL 2436594 at \*1-2 (Del. Com. Pl. 2009) (upholding a \$ 250.00 hourly rate.) Mr. Andrade is an experienced lawyer who is entitled to compensation commensurate with his years of legal experience. Furthermore, 10.7 hours is not an unreasonable amount of time to spend on a case that goes through trial. Therefore, even though the amount of damages recovered by Villas was only \$ 280.00, the Court finds it proper to adequately reimburse Villas for the amounts due to its attorney for his time and costs. It is especially important that Villas obtain an award sufficient to cover its attorney's fees considering that, as a corporation, it was required to retain counsel to pursue or defend any legal action in the Court of Common Pleas. *Transpolymer Industries, Inc. v. Chapel Main Corp.*, 582 A.2d 936 (Del.1990) (ORDER). A denial of reasonable attorney's fees, commensurate with the work performed by the attorney, in this case would deny the plaintiff effective recovery and likely result in fewer such legitimate actions being pursued.

As a result of the Court's findings of fact and the above-referenced conclusions of law, the Court awards reasonable attorney's fees to the Villas and against the defendants in this matter in the amount of \$3,265.00.

**IT IS SO ORDERED.**

Sincerely,



Charles W. Welch, III

CWW:mek