



**COURT OF CHANCERY
OF THE
STATE OF DELAWARE**

DONALD F. PARSONS, JR.
VICE CHANCELLOR

New Castle County CourtHouse
500 N. King Street, Suite 11400
Wilmington, Delaware 19801-3734

Submitted: August 11, 2005
Decided: August 23, 2005

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Re: *All Pro Maids, Inc. v. Susan Layton, et al.*,
Civil Action No. 058-N

Dear Counsel:

Presently before the Court is All Pro Maids, Inc.'s Application for Costs and Reasonable Attorneys' Fees, filed August 5, 2005, which seeks fees and costs for various activities after this Court issued its Memorandum Opinion on the merits of this matter on August 9, 2004.

I. DISCUSSION

Plaintiff, All Pro Maids, Inc. ("APM"), seeks to recover its attorneys' fees and costs for services rendered from August 17, 2004 through July 22, 2005. During that period, APM pursued its application for fees and costs before this Court, sought discovery in aid of execution of the Final Judgment entered on January 11, 2005, and prosecuted the appeal of this action to a successful conclusion in the Delaware Supreme

Court. APM seeks a total of \$15,362.63 for the attorneys' fees and costs associated with those endeavors.

Defendants object to APM's application on the ground that the Court only awarded fees and costs against Defendant Layton pursuant to her Employment Agreement with APM. The Agreement provided that: "Employee will be responsible for all court costs and attorney's fees necessary to enforce this Agreement." According to Defendants, the following three activities for which APM seeks reimbursement were not necessary to enforce the Employment Agreement: (1) making an application to this Court for costs and attorneys' fees; (2) taking discovery in aid of execution of a judgment for damages arising from tortious interference with contractual relations; and (3) defending an appeal of a decision awarding damages for such interference.¹

Defendants' first objection is not persuasive because I explicitly ruled in my letter opinion of December 27, 2004 that the work performed by APM's counsel in pursuing its fee application represented efforts related to its enforcement of the Employment Agreement.² That decision has now been affirmed on appeal. Thus, Layton is

¹ Defendants' Response also states at various points that they do not have sufficient knowledge to admit or deny certain allegations of APM's application for fees and costs. Yet, Defendants have not sought any discovery or other form of relief based on that assertion.

² *All Pro Maids, Inc. v. Layton*, C.A. No. 058-N, letter op. at 15 (Del. Ch. Dec. 27, 2004).

responsible for reasonable attorneys' fees and costs incurred by APM in pursuing its fee application.

Defendants further object to APM's request to recover fees incurred in taking discovery in aid of execution of a judgment for damages arising from tortious interference with contractual relations. The Final Judgment in this matter, however, awarded damages against Layton for breach of contract and against Layton and MaMa's Maids, LLC, jointly and severally for tortious interference with contractual relations. There is no basis to conclude that APM's efforts to take discovery in aid of execution were not directed to collecting its damages for breach of contract. Thus, those efforts generally were necessary to enforce the Employment Agreement between APM and Layton, and APM may recover the fees and costs associated with them. I note, however, that between January 21 and March 3, 2005, APM's counsel spent approximately 7.0 hours working on a "motion to stay relief and supersedeas bond."³ Some of that time was necessary in view of Defendants' failure to post a supersedeas bond and the difficulties APM otherwise experienced in attempting to execute on the Judgment. Nevertheless, the procedures APM pursued unduly complicated the matter and took more court and attorney time than necessary. I therefore find that only 3.5 of the 7.0 hours claimed for

³ See *All Pro Maids, Inc.*, Application for Costs and Reasonable Attorneys' Fees, Ex. D at 2.

those activities were necessary and reasonable and will reduce the amount of fees awarded by \$787.50 on that basis.

Defendants' final objection to APM's supplemental application for fees and costs is that the amount claimed includes expenses incurred defending an appeal of a decision awarding damages for tortious interference with contractual relations. As noted above, I concluded after trial that Layton's breach of contract also justified the damages awarded. It is true that Layton's breach of the Employment Agreement, as opposed to her and Mama's Maids' tortious interference, provides the basis for the award of attorneys' fees and costs. The fact that the tortious interference claim was among the issues appealed, however, does not absolve Layton from her contractual obligation to reimburse APM for its court costs and attorneys' fees necessary to enforce the Employment Agreement. Those fees and costs would cover, at a minimum, activities related to the appeal of the Judgment against Layton for breach of contract, the amount of the resulting damages, including attorneys' fees and costs, and the extensive areas where the facts relating to the claimed tortious interference overlap with the breach of contract and damages proofs. Still, to the extent portions of the appeal were devoted entirely to the claim for tortious interference, I agree with Defendants that the amount of the fee award should be reduced accordingly.

Based on my review of the time records submitted by APM's counsel and familiarity with the issues involved, I find that a 30 percent reduction of the attorney time

devoted to the merits of the appeal is equitable and reasonable in this case. Beginning on September 8, 2004 and continuing until July 22, 2005, there appeared to be a number of discrete time entries pertaining to the preparation and prosecution of the appeal on the merits. The total hours in that category was 26.3 hours. I therefore hold that the amount of the attorneys' fees requested should be reduced by 30 percent of that number times the hourly rate of \$225, or \$1,775.25.⁴

II. CONCLUSION

For the reasons discussed, APM's application for attorneys' fees and costs is **GRANTED IN PART** and **DENIED IN PART**. APM is entitled to the entry of a Judgment in the amount of \$10,082.25 in attorneys' fees and \$2,717.63 in costs, for a total of \$12,799.88.

IT IS SO ORDERED.

Sincerely,

/s/Donald F. Parsons, Jr.

Vice Chancellor

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⁴ No reduction is warranted in the court costs APM seeks because all of the activities giving rise to those costs appear to have pertained, at least in part, to the breach of contract claim or issues related to it. Thus, all of those activities would have been necessary even if the appeal had not involved the tortious interference claim.