

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

Robert Surles and	:	
Tracy Surles,	:	
	:	C.A. No. 06-12-323
Plaintiffs/Appellants,	:	
	:	
v.	:	
	:	
1401 Condominium Association,	:	
	:	
Defendant/Appellee.	:	
	:	

Upon Defendant’s Motion for Attorney’s Fees

Submitted: January 25, 2008

Decided: January 25, 2008

Defendant’s Motion is granted.

Robert Surles, Esquire and Tracy Surles, Esquire, 26 Vining Lane, Wilmington, Delaware 19807, *Pro Se* Plaintiffs.

Richard E. Franta, Esquire, 1301 North Harrison Street, Suite 102, Wilmington, Delaware 19806, Attorney for Defendant.

Trader, J.

In this civil action between the plaintiffs, Robert Surles and Tracy Surles (Surles) and 1401 Condominium Association (Association) after a decision by the Court entering judgment for the defendant, the Association requests an award of reasonable attorney's fees.

Trial was held in this case on December 19, 2007, and the Court, in a written opinion (*See Surles v. 1401 Condominium Association*, C.A. No. 2006-12-323, Trader, J. (Del. Com. Pl. Ct. Jan. 3, 2008), entered judgment for the Association, plus costs of the proceedings and reasonable attorney's fees. The Association's attorney has now filed his affidavit requesting an award of attorney's fees to the Association.

The award of reasonable attorney's fees involves the exercise of judicial discretion, after consideration of the following factors: (1) time and labor required, the novelty and difficulty of 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 would preclude other employment by the lawyer; (3) the fee 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 circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation and the ability of the lawyers or lawyers performing the services; (8) whether the fee is fixed or contingent; (9) the losing party's ability to pay the attorney's fees; and (10) whether counsel has received or expects to receive compensation from any other source. *General Motors Corp. v. Cox*, 304 A.2d 55, 57 (Del. 1973).

Following a hearing on the Association's application, I will consider the following in connection with each factor: (1) the Association's attorney expended a total of 9.8 hours billed at \$260.00 per hour and 15.3 hours billed at \$275.00 per hour and costs advanced in the amount of \$37.66 in connection with this case. The facts of this case were not unduly complicated, but the case was one of first impression and presented unique legal issues. (2) The employment of counsel for the Association precluded counsel from representing other clients. (3) The fees charged by the Association's attorney are within the range of fees customarily charged by attorneys in New Castle County. (4) When Surles commenced litigation to recover the assessment collected from them, the Association's economic interests were defended with success both in the Justice of the Peace Court and in this Court. (5) The plaintiffs' civil action in the Justice of the Peace Court and their appeal to this Court required the Association's attorney to promptly respond to such litigation. (6) The defense attorney has served as counsel to the Association since 2004. (7) The Association's attorney has been a member of the Bar since 1971, is currently serving as counsel to ten condominium units, has been an instructor at the last two continuing legal educational seminars on Delaware condominium law, and serves on the Delaware State Bar Association Real and Personal Property Section. Based on this recitation, I conclude that the experience, reputation and ability of the Association's attorney is excellent. (8) The fee was not contingent. (9) I conclude that the plaintiffs' have the ability to pay an award of reasonable attorney's fees. (10) The Association's attorney has not received nor does he expect to receive compensation from his client.

After reviewing all of the above factors, I grant the defendant's request for attorney's fees in the amount of \$6,755.50, plus costs in the amount of \$37.66.

IT IS SO ORDERED.

Merrill C. Trader
Judge