

Cite as 2018 Ark. 142
SUPREME COURT OF ARKANSAS
No. CV-17-514

APPRENTICE INFORMATION
SYSTEMS, INC., AND DAVID RANDALL
LAMP A/K/A RANDY LAMP

APPELLANTS

V.

DATASCOUT, LLC

APPELLEE

Opinion Delivered: April 26, 2018

APPEAL FROM THE BENTON
COUNTY CIRCUIT COURT
[NO. CIV-2013-1075-5]

HONORABLE XOLLIE DUNCAN,
JUDGE

REVERSED AND REMANDED.

COURTNEY HUDSON GOODSON, Associate Justice

This is a companion case to *Apprentice Information Systems, Inc. v. DataScout, LLC*, 2018 Ark. 284, and *Apprentice Information Systems, Inc. v. DataScout, LLC*, 2018 Ark. 287, which are being decided this same date. In those cases, we reversed the circuit court's judgment in favor of appellee DataScout on its claims that appellants Apprentice Information Systems, Inc., and David Randall Lamp violated the Arkansas Freedom of Information Act (FOIA) and the Arkansas Deceptive Trade Practices Act (ADTPA), and that appellants tortiously interfered with DataScout's business expectancy. Here, appellants appeal the circuit court's order granting attorney's fees to DataScout. For reversal, appellants argue that the circuit court abused its discretion in awarding attorney's fees pursuant to FOIA and the ADTPA because those claims should have been denied on the merits. We reverse and remand.

Attorney's fees may be awarded to a plaintiff who has "substantially prevailed" in a FOIA enforcement action. Ark. Code Ann. § 25-19-107(d)(1) (Repl. 2014). The ADTPA provides for the award of attorney's fees to a person who suffers "actual damage or injury." Ark. Code Ann. § 4-11-113(f) (Repl. 2011). A court may also award attorney's fees to a party who has applied for an order to compel discovery. Ark. R. Civ. P. 37 (2017). On April 6, 2017, the circuit court entered an amended order for attorney's fees as follows:

From the pleadings of the parties, the attachments and exhibits thereto as well as the Court's handling of the entire case, the Court Finds and Orders that Plaintiffs are entitled to the sum of Three Hundred Twenty-Six Thousand, Five Hundred Fifty Dollars (\$326,550) in attorney[s] fees. This amount is based upon the time and effort attributed to pursuing the action under the Arkansas Freedom of Information Act, and the Arkansas Deceptive Trade Practices Act, the time and energy expended on Motions to Compel the Defendants to provide discovery, and the time and energy expended on the Motion for Sanctions.

Appellants do not argue that the circuit court erred in its calculation of the amounts due, and they do not challenge the circuit court's order awarding attorney's fees for the motions to compel and for sanctions. The parties agree that if the appellants succeed in their appeal of the circuit court's rulings as to the merits of both the FOIA claim and the ADTPA claim, then this court should remand for a determination of the fee attributable to the motions to compel and for sanctions. Because we have reversed the circuit court on the merits of the FOIA and ADTPA claims, we also reverse the order granting attorney's fees to DataScout, and we remand to the circuit court for a determination of the fee attributable to the motions to compel and for sanctions.

Reversed and remanded.

Friday, Eldredge & Clark, LLP, by: *William A. Waddell, Jr.*, and *Robert S. Shafer*; and

Ryan Owsley, for appellants.

H. Clay Fulcher; The Lingle Law Firm, by: *James G. Lingle*; and *Brian G. Brooks, Attorney at Law, PLLC*, by: *Brian G. Brooks*, for appellee.