

STATE OF MICHIGAN
COURT OF APPEALS

ENVIRONMENTAL SCIENCE AND
ENGINEERING, INC.,

UNPUBLISHED
March 10, 1998

Plaintiff-Appellee,

v

No. 194835
Wexford Circuit Court
LC No. 95-011468 CE

PITSCH WRECKING CO., PITSCH AIR
SERVICE, INC., PITSCH CONTRACTORS, INC.,
PITSCH LEASING COMPANY, PITSCH LAND
DEVELOPMENT, INC., PITSCH RECYCLING &
DISPOSAL, INC., PITSCH SALVAGE, INC.,
PITSCH SANITARY LANDFILL, INC., GARY
PITSCH, and PITSCH HOLDING COMPANY,

Defendants-Appellants.

Before: Neff, P.J., and Sawyer and Murphy, JJ.

MEMORANDUM.

The instant case is an action to recover moneys due and unpaid on a contract for environmental consulting services entered into between plaintiff and defendants. The sole issue in this appeal as of right is whether the trial court correctly determined that the contract entered into by the parties allowed plaintiff to recover attorney fees incurred in collecting the moneys due under the contract as an element of damages. We conclude that it did and, therefore, affirm.

Defendants concede that contractual provisions for the payment of reasonable attorney fees as an element of damages are judicially enforceable. See *Central Transport, Inc v Fruehauf Corp*, 139 Mich App 536, 548; 362 NW2d 823 (1984). Defendants assert, however, that attorney fees may not be awarded as damages pursuant to a contract unless the contract contains the magic words “attorney fees” in the provision that defines the damages to be awarded. Defendants are mistaken. The phrase “attorney fees” need not appear in the contract in order for a trial court to award the fees as contract damages. Instead, the contract need only contain language that evinces the parties’ intent that attorney fees are to be awarded as an element of

contractual damages. See, e.g., *In re Howarth Estate*, 108 Mich App 8, 11-12; 310 NW2d 255 (1981) (the phrase “costs of collection” found in a promissory note must be construed as authorizing an award of reasonable attorney fees as a component of damages).

In the instant case, by entering into the contract, defendants agreed to pay the “costs of [collection] procedures.” The costs of collecting moneys owed but unpaid are commonly understood to include attorney fees. *In re Howarth Estate, supra*; Black’s Law Dictionary (5th ed), p 312. Accordingly, the plain and ordinary meaning of the language employed in the contract evinces an intent of the parties that attorney fees incurred during collection procedures be awarded to plaintiff as an element of damages. *Pakideh v Franklin Commercial Mortgage Group, Inc*, 213 Mich App 636, 640; 540 NW2d 777 (1995).

Affirmed.

/s/ Janet T. Neff
/s/ David H. Sawyer
/s/ William B. Murphy