

STATE OF MICHIGAN
SIXTEENTH JUDICIAL CIRCUIT COURT

NAKKULA ENTERPRISES, LLC,

Plaintiff,

vs.

Case No. 2016-1152-CB

HOME REALTY GROUP, LLC and
VICTOR AND PEARLIE COOK,

Defendants.

OPINION AND ORDER

Defendant Victor Cook ("Defendant V. Cook") has filed a motion regarding his objections to Plaintiff's request for attorney fees. Plaintiff has filed a response and requests that the objections be denied and that it be awarded attorney fees.

I. Factual and Procedural History

This matter arises out of restoration and cleaning services Plaintiff provided at Defendants V. Cook and Pearlle Cook's (collectively, "Cook Defendants") home following a fire. An authorization to perform said services was executed by Defendant V. Cook. Plaintiff allegedly had not been paid for the services it provided. As a result, on April 7, 2016 Plaintiff filed its complaint in this matter ("Complaint") seeking to recover the amount allegedly owed under the parties' contract, as well as attorney fees and costs.

On January 4, 2017, Plaintiff filed its motion for summary disposition pursuant to MCR 2.116(C)(10). On January 20, 2017, the Cook Defendants filed their response. Plaintiff has since filed a reply brief in support of its motion. On March 3, 2017, the

Court entered its Opinion and Order in connection with motion. In its Opinion and Order, this Court, *inter alia*, granted Plaintiff's motion for summary disposition of its breach of contract claim against Defendant V. Cook with respect to liability and found that Defendant V. Cook was liable to Plaintiff for the reasonable attorney fees and costs of collection it incurred in this matter. In addition, this Court allowed Defendant V. Cook to file objections to amount of attorney fees and costs Plaintiff seeks to recover within fourteen (14) days of the date of the March 3, 2017 Opinion and Order.

On March 21, 2017, Defendant Victor Cook filed his objections to Plaintiff's request for attorney fees and costs. On March 24, 2017, Plaintiff filed its response to the objections. On April 10, 2017, the Court held a hearing in connection with the objections and took the matter under advisement.

II. Arguments and Analysis

While the parties have resolved a majority of their dispute regarding Plaintiff's request for attorney fees and costs, there are three outstanding objections. Defendant V. Cook first objects to Plaintiff's attempt to recover for a December 6, 2016 charge for "correspondence to [the Cook Defendants] district court attorney; conference with same re potential contempt motion" in the amount of \$150.00. (See Exhibit C to Plaintiff's motion for summary disposition.) However, Defendant V. Cook has failed to provide any evidence that the charge falls outside of the scope of paragraph 5 of the parties' contract, which is the basis for attorney fees in this case. As a result, the Court is convinced that Defendant V. Cook's objection must be denied.

Next, Defendant V. Cook objects to Plaintiff's request to recover fees it paid to the Macomb County Register of Deeds on November 21, 2016 and December 12, 2016

totaling \$30.00. (See Exhibit B to Plaintiff's motion for summary disposition. However, Defendant V. Cook has once again failed to provide any evidence in support of his objection. As a result, his objection must be denied.

Finally, Defendant V. Cook objects to Plaintiff's requested attorney fee rate of \$300.00/per hour. In support of its requested rate, Plaintiff's counsel relies on his own affidavit and the 2014 Economics of Law Practice Attorney Income and Billing Rate Summary Report ("Report"). (See Exhibits E and F to Plaintiff's motion for summary disposition.) Plaintiff's counsel testified that he has been practicing for over 34 years and has been working as a solo practitioner during the pendency of this case. (See Exhibit E to Plaintiff's motion for summary disposition, at ¶¶3-4.) According to the Report, the mean rate for an attorney working 31 to 35 years is \$276.00 per hour, with those in the 75th percentile charging \$300.00 per hour and those in the 95th percentile receiving \$515.00 per hour. (See Report, at 4.) The mean rate for attorneys practicing in Macomb County is \$262.00 per hour, with those in the 75th percentile receiving \$300.00 per hour and those in the 95th percentile receiving \$450.00 per hour. (Id. at 8.)

Plaintiff's counsel's requested rate falls in the 75th percentile for attorneys practicing for between 30 and 35 years and for attorneys practicing before the Macomb County Circuit Court. However, Plaintiff's counsel has experience as a former partner and/or shareholder in large firms in this area, and is a member of various legal organizations that have enhanced his legal knowledge. (See Exhibit E to Plaintiff's motion for summary disposition, at ¶¶2-3.) Based on Plaintiff's counsel diverse and extensive background, the Court is convinced that \$300.00 per hour is a reasonable rate for his services. As a result, Defendant V. Cook's objection will be denied.

With response to the number of hours expended in this case and the costs Plaintiff has incurred in this case, the parties have stipulated that those items are reasonable. Accordingly, having denied Defendant V. Cook's above-referenced objections, Plaintiff's request for attorney fees in the amount of \$11,415.00 and costs in the amount of \$597.77 will be granted.

Conclusion

Based on the foregoing, Defendant Victor Cook's objections to Plaintiff's request for attorney fees and costs are DENIED. Plaintiff is hereby awarded attorney fees in the amount of \$11,415.00 and costs in the amount of \$597.77 against Defendant Victor Cook. Pursuant to MCR 2.602(A)(3), the Court states this Opinion and Order neither resolves the last pending claim nor closes the case.

IT IS SO ORDERED.

Dated: **APR 12 2017**

Kathryn A. Viviano
Hon. Kathryn A. Viviano, Circuit Court Judge