

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
GENERAL CIVIL DIVISION

EAGLES MASTER ASSOCIATION, INC.,  
Plaintiff,

CASE NO.: 06-CA-011801

v.

DIVISION: G

ARTHUR J. VIZZI, individually, and  
DOREE D. VIZZI, individually  
Defendants.

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**ORDER AWARDING ATTORNEY'S FEES AND COSTS**

On July 9, 2010, the Court held a hearing on Defendants' (the Vizzis') motion for attorney's fees and costs.<sup>1</sup> The Court considered the testimony of expert witnesses for the Plaintiff, Eagle Master Association, Inc. ("EMA"), the arguments of the attorneys, and all supplemental filings. The Court **FINDS AS FOLLOWS:**

1. Previously the Court found that the Vizzis, as prevailing parties in this case, were entitled to reasonable attorney's fees and costs incurred in defending this action brought by their homeowners' association, EMA. The hearing was to address the amount of costs and fees to be awarded.
2. In the *Florida Patient's Comp. Fund v. Rowe*,<sup>2</sup> the Florida Supreme Court discussed the policies underlying fee shifting statutes, stating that an award of reasonable attorney's fees is designed to both discourage meritless claims and to make the prevailing party whole. However, the Court may only approve fees that are reasonable. The Supreme Court in *Rowe* adopted the federal lodestar approach. *Id.* at 1151. Accordingly, this

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<sup>1</sup> As the issue of entitlement was previously decided in the defendants' favor, it is not the subject of this hearing. In the Court's order on entitlement to attorney's fees, the Court reserved jurisdiction to determine reasonableness of fees.

<sup>2</sup> 472 So. 2d 1145 (Fla. 1985).

Court must determine the number of hours reasonably expended by the attorney and the reasonable hourly rate for the services rendered.

3. In reaching that decision the Court should consider the following:<sup>3</sup>

“(1) The time and labor required, the novelty and difficulty of the question 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 will 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 the circumstances; (6) The nature and length of the professional relationship with the client; (7) The experience, reputation, and ability of the lawyer or lawyers performing the services; and (8) Whether the fee is fixed or contingent.” Qtd. in *Florida Patient’s Comp. Fund v. Rowe*.<sup>4</sup>

4. The Vizzis documented that they incurred \$169,347.25 in trial court level attorney’s fees and \$30,394.50 in appellate level work. In addition the Vizzis incurred trial costs of \$10,931.82 and appellate costs of \$480.93. The combined total of all fees and costs is \$211,154.50. According the invoices, the Vizzis paid all but approximately about \$8,000 of that bill. Defendants’ filed amended affidavits of attorneys Eric C. Pinkard and Daniel W. Anderson in support of the reasonableness of their fees and costs motion.
5. Based upon the testimony from both experts, the review of Vizzis’ invoices, and in light of the experience of Defendants’ attorneys, this Court finds that for the purposes of the lodestar calculation the attorneys’ hourly rate of \$278.75 (which is a blended hourly rate) is reasonable and the hourly rate of \$86.25 (which is reduced from \$100 per hour billed) for the paralegals is reasonable.
6. Plaintiff argues that hours billed in relation to the Defendants’ third party claim are not reasonable because that claim did not go forward. The Court does not agree with the

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<sup>3</sup> Florida Rule of Professional Conduct 4-1.5(b).

<sup>4</sup> *Id.*, at 1150.

EMA's assertion because the Defendants' counterclaim was inextricably part of its defense of the case in chief. It was voluntarily dismissed *only because* the Vizzis succeeded on their motion for summary judgment against EMA on the parking issue.

7. Plaintiff also contends that fees related to the Defendants' efforts with the media, for travel time, for time spent on litigation relating to the amount of reasonable fees, and for attorney time spent on appeal for travel to Lakeland and for viewing appellate progress in unrelated cases should not be awarded, since these efforts were not properly recoverable. The Court concurs and, based upon its review of the billing records, has determined the number of hours to be deducted from the lodestar calculation.
8. Lastly, EMA argues that Vizzis' counsel incurred an unreasonable number of hours in defending this case, both at trial and on appeal. EMA maintains that the issues were "not complex" and that many of the hours expended in the Vizzis' defense were unnecessary. However, the Court must consider the fact that the Vizzis were defendants who ultimately prevailed against EMA on the merits of the case in chief. During that case, both sides diligently advocated for their respective clients, and both sides incurred substantial time responding to the opposing litigation. The Court does not agree that the efforts of the Vizzis' counsel were unreasonable.
9. Based upon its review of billing logs and taking into consideration the findings above, this Court finds that reasonable hours for trial in this matter are 481.5 attorney hours and 149.4 paralegal hours (at the rates of \$278.75 and \$86.25 per hour respectively). The Court therefore awards **\$147,103.87** for the trial.

10. This Court finds that 94.8 attorney hours and 29 paralegal hours are reasonable for the appellate proceeding (same respective rates). The Court therefore awards **\$28,926.75** for the appellate proceedings.

11. Finally, the Court finds that total costs of **\$11,412.75** (\$10,931.82 for trial level and \$480.93 on appeal) are reasonable.

It is therefore **ORDERED AND ADJUDGED** that Defendants shall be awarded **\$176,030.62** in total attorney fees and **\$11,412.75** for costs.

**DONE AND ORDERED** in Chambers in Hillsborough County, Florida, this 23<sup>rd</sup> day of July, 2010.

ORIGINAL SIGNED

**JUL 3 2 2010**

MARTHA J. COOK  
CIRCUIT JUDGE

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Martha J. Cook  
Circuit Judge

Copies to all counsel of record