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CLERK OF THE CIRCUIT COURT

SARASOTA COUNTY, FLORIDA

CIVIL COURTS

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IN THE CIRCUIT COURT OF THE
TWELFTH JUDICIAL CIRCUIT
IN AND FOR SARASOTA COUNTY, FLORIDA

Case No.: 2018 CA 002189 SC

STANLEY A. GOLDSMITH,

Plaintiff,

v.

MARIAN WALCZAK AND
BOZENA WALCZAK,

Defendants.

**SUPPLEMENTAL FINAL JUDGMENT AWARDING
ATTORNEYS' FEES AND COSTS TO PLAINTIFF STANLEY A. GOLDSMITH**

THIS CAUSE came before the Court on December 20, 2019 for an evidentiary hearing to determine entitlement to and amount of attorneys' fees and costs due as a result of a Proposal for Settlement served by the Plaintiff, Stanley A. Goldsmith ("Plaintiff" or "Goldsmith"). The Court heard testimony of witnesses, including a fee expert for Goldsmith, received five (5) exhibits into evidence, heard arguments of counsel for Goldsmith, and of the *pro se* Defendants, Marian Walczak and Bozena Walczak (hereinafter, collectively, the "Walczaks"), and is otherwise advised in the premises. Based on the foregoing, the Court makes the following

FINDINGS OF FACT:

1. The Proposal for Settlement served by Goldsmith on the Walczaks is legally sufficient pursuant to Fla. Stat. section 768.79 and Fla. R. Civ. P. 1.442. The Proposal for Settlement was received into evidence as Exhibit "4".

2. The Walczaks responded to the Proposal for Settlement on or about August 21, 2018, rejecting same by filing a document titled as "Notice of Serving Defendants/Counter-Plaintiff's [sic] Answer to the Proposed Settlement", which was received into evidence as Exhibit "5". The Court finds that the Plaintiff's Proposal for

Settlement was reasonable, and was made in good faith, and was rejected by the Walczaks.

3. The Court further finds that the amount of the Judgement against the Walczaks exceeded the \$12,000 Proposal for Settlement amount by more than 25%, thereby triggering the entitlement to fees in favor of Goldsmith from the date of service of the Proposal for Settlement, August 6, 2018, through the date of the evidentiary hearing set forth above.

4. Notwithstanding the foregoing, and pursuant to the case of *Palm Beach Polo Holdings, Inc. v. Stewart Title Guaranty Company*, 132 So. 3d 858 (Fla. 4th DCA 2014), the Court finds that the time spent for determining the amount of the fee, as opposed to the entitlement to fees, is not compensable in connection with a rejected Proposal for Settlement.

5. The Retainer Agreement between Goldsmith and his attorneys, the Law Firm of James L. Essenson (the "Essenson Firm"), was entered into evidence as Exhibit "3", as were the invoice dated October 21, 2019 (Exhibit "1") and the invoice dated December 17, 2019 (Exhibit "2"). The necessity and reasonableness of the rates, and the time entries for the services rendered for the various personnel of the Essenson Firm was established by the testimony of Mr. Essenson, and a corroborating fee expert, Attorney Robert E. Turffs ("Turffs").¹ Turffs found that the fees were both reasonable and necessary, although he identified an inadvertent double entry for Attorney Kelly's time totaling 1.8 hours.

6. The Court finds that the following matrix of fees, costs, and expert witness

¹ At the hearing, Turffs testified that as a testifying expert he expected to be compensated for his time spent preparing for and providing testimony on the issue of Goldsmith's attorney's fees. Accordingly, Turffs is entitled to be paid for his time. *D'Alusio v. Gould & Lamb, LLC*, 36 So. 3d 842, 847 (Fla. 2d DCA 2010). Turffs testified that he spent 5.8 hours on the case and charged Goldsmith a rate of \$360.00 per hour, for a total of \$2,088.00.

fees are reasonable, necessary, and compensable and shall be assessed against the Walczaks, said fees, costs and expert witness fees covering the time from August 6, 2018 to December 20, 2019:

Lodestar Billing Summary for the Essenson Law Firm

Timekeeper	Total Hours	Rate	Total Fees
James L. Essenson, Esq.	53.30	\$ 400.00	\$ 21,320.00
Barbara J. Welch, Esq.	4.20	\$ 350.00	\$ 1,470.00
Matthew J. Kelly, Esq.	113.8 - 1.8 = 112	\$ 250.00	\$ 28,000.00
Darice A. Wallace, Paralegal	24.8	\$ 120.00	\$ 2,976.00
Megan Chapman, Paralegal	10.10	\$ 90.00	\$ 909.00
Tia D. McKibbin, Accounting Admin.	0.4	\$ 90.00	\$ 36.00
Britton P. Williams, Paralegal	0.3	\$ 90.00	\$ 27.00
Lisa A. Schweit, Admin. Assistant	<u>2.50</u>	\$ 50.00	\$ <u>125.00</u>
Total	207.60		\$ 54,863.00

Expert Fees

Timekeeper	Total Hours	Rate	Total Fees
Robert E. Turffs, Esq	<u>5.8</u>	\$ 360.00	\$ <u>2,088.00</u>
Total	5.8		\$ 2,088.00

Trial Preparation Fees

Timekeeper	Total Hours	Rate	Total Fees
James L. Essenson ²	1	\$ 400.00	\$ 400.00

Grand Total of All Fees **\$ 57,351.00**

Costs	Amount	Total Costs
10/21/19 Statement	\$ Covered in Final Judgment	
2/14/18 Statement	\$ <u>48.10</u>	
Total		\$ 48.10

Total Attorney Fees, Expert Fees and Costs **\$ 57,399.10**

Based on the foregoing, it is hereby

ORDERED and ADJUDGED as follows:

A. Supplemental Final Judgment is entered in favor of the Plaintiff, Stanley A.

² Although Attorney Matthew Kelly also participated in trial preparation and conducted direct examination of Attorney Essenson during the hearing, fees were not sought by Goldsmith for Attorney Kelly's time preparing for and participating in the December 20, 2019 hearing.

Goldsmith, 2937 Bee Ridge Road, Suite 9, Sarasota, FL 34239, and against Defendants Marian Walczak and Bozena Walczak, a/k/a Barbara Walczak, jointly and severally, in the amount of FIFTY SEVEN THOUSAND THREE HUNDRED NINETY-NINE DOLLARS AND TEN CENTS (\$57,399.10), plus post-judgment interest on the unpaid balance at the statutory rate of 6.83%, until paid in full, for which amount let execution issue.

B. It is further ordered and adjudged that the Walczaks shall complete under oath Florida Rule of Civil Procedure Form 1.977, which is the Fact Information Sheet ("Form 1.977"), including all required attachments, and serve it on counsel for Goldsmith, within 45 days from the date of this Supplemental Final Judgment, unless the Supplemental Final Judgment is satisfied or post-judgment discovery is stayed by court order.

C. Jurisdiction of this case is retained to enter further orders that are proper to compel the Walczaks to complete Form 1.977, including all required attachments, and serve it on counsel for the Goldsmith, and to enter such other or further orders regarding discovery and execution on the judgment as may be appropriate.

DONE AND ORDERED in Sarasota County, Florida this 7 day of JAN, 2020.



HONORABLE STEPHEN M. WALKER
Circuit Court Judge

cc: James L. Essenson, Esq., 2071 Main Street, Sarasota, FL 34237
Marian Walczak and Bozena Walczak, pro se, 135 Tina Island Drive, Osprey, FL 34229
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