



*Note: In the case title, an asterisk (\*) indicates an appellant and a double asterisk (\*\*) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

## **ENTRY ORDER**

MAY TERM, 2023

Alpine Haven Property Owners Association, Inc. v. Edward Deptula*	}	APPEALED FROM:
	}	
	}	Superior Court, Franklin Unit, Civil Division
	}	CASE NO. 21-CV-02220
		Trial Judge: Thomas Carlson

In the above-entitled cause, the Clerk will enter:

Defendant appeals from the trial court's summary judgment decision in plaintiff's favor and its award of attorney fees to plaintiff. We affirm.

This appeal involves plaintiff's longstanding attempts to collect annual homeowner association fees from defendant. The court cited the following undisputed facts in reaching its decision. Plaintiff sought three years of fees from defendant, from 2019 to 2021, less \$800 that defendant had paid. While defendant claimed some additional credit for work he allegedly performed, he did not file any counterclaims or allege any legal basis for such credit. The court found plaintiff's annual fee of \$1,678.10 reasonable as a matter of law. It explained that this same fee had been found reasonable in multiple prior cases, including three appeals to this Court. It found defendant's other alleged disputes of fact to be rehashes of facts and issues resolved long ago in prior lawsuits involving the reasonableness of the fee. The court found plaintiff was entitled to the fees it sought, plus prejudgment interest, for a total of approximately \$4590.

The court also granted plaintiff's request for attorney fees. It referenced its prior determination that plaintiff would be awarded attorney fees incurred in litigation that remained ongoing after August 2018 when the reasonableness of the annual fee had been clearly established, again, in Alpine Haven Property Owners' Association, Inc. v. Brewin, 2018 VT 88, ¶ 20, 208 Vt. 462. Given defendant's ongoing and persistent obstinacy and perseverance in pleadings in the tenth chapter of this same dispute, the court also awarded plaintiff fees incurred since filing its motion for summary judgment. It awarded plaintiff a total of \$9,169.53 in attorney fees and costs. In doing so, the court emphasized again that defendant's endless motion-to-motion fight over a long-resolved matter had no reasonable basis and could only be viewed as vexatious in the extreme. This appeal followed.

Defendant raises numerous arguments on appeal. Essentially, he appears to argue that the court violated his procedural due process rights in granting judgment to plaintiff; the court's reasoning was faulty; and its conclusions are not supported by the evidence. We have reviewed

the record and considered those arguments discernible in defendant's brief. We reject defendant's arguments on the merits for the reasons articulated in plaintiff's brief. Defendant fails to show any error in the trial court's decisions or in the conduct of the proceedings below. We therefore affirm the court's decision in plaintiff's favor.

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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Karen R. Carroll, Associate Justice

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William D. Cohen, Associate Justice