

VERMONT SUPERIOR COURT

Windsor Unit
12 The Green
Woodstock VT 05091
802-457-2121
www.vermontjudiciary.org



CIVIL DIVISION
Case No. 516-12-19 Wrcv

Lyman Hall, Inc. vs. Marshall et al

ENTRY ORDER

In the Decision of April 18, 2023, the court determined that Plaintiff was entitled to attorneys' fees based on Defendants' default and the terms of the Site Agreement. Decision, page 6. Plaintiff has submitted time and billing records seeking fees of \$19,843.23. While Defendants have filed numerous documents, they have not articulated specific challenges to the amount of fees.

"In calculating the award of attorney's fees, the court looks to the 'most useful starting point,' the 'lodestar figure,' by determining the number of hours reasonably expended on the case multiplied by a reasonable hourly rate, and then adjusting that fee upward or downward based on various factors. These factors include, among others, the novelty of the legal issue, the experience of the attorney, and the results obtained in the litigation." *L'Esperance v. Benware*, 2003 VT 43, ¶ 22 (citations omitted).

There has been no objection to the hourly rate of the attorney and others in the attorney's office, and the court finds that the rates are reasonable for experienced counsel and staff. While the amount of time spent may appear excessive in relation to the nature of the subject matter, it is noted that Defendants' frequent filings caused Plaintiff's counsel to have to review an unusual number of filings. Plaintiff's counsel was reasonable in limiting the amount of time spent responding to many non-meritorious motions. Specifically, Defendants filed numerous motions to extend deadlines, motions to amend pleadings, and motions to dismiss. While they filed a counterclaim and amendments to their counterclaim, they failed to appear for the trial to pursue their counterclaim. Thus the majority of the fees were reasonably incurred.

Nonetheless, the factor of 'results obtained' supports a reduction in the total fees claimed for one reason. Plaintiff's attorney prepared and filed a Motion for Summary Judgment on November 2, 2021 which was denied on November 23, 2022 as not justified. See Decision on Motion for Summary Judgment issued that day. The court has calculated from the time and billing records that the fees attributable to the work on that motion from October 13, 2022 to August 16, 2022 total \$3,700.00.

Therefore, Plaintiffs are entitled to $\$19,843.23 - \$3,700.00 = \$16,143.23$ and \$295.00 in costs. Plaintiff's counsel shall submit an amended form of judgment with these amounts.

Electronically signed June 2, 2023 pursuant to V.R.E.F. 9 (d).

A handwritten signature in black ink that reads "Mary Miles Teachout".

Vermont Superior Court
Filed 06/05/23
Windsor Unit

Mary Miles Teachout
Superior Judge (Ret.), Specially Assigned
Order
516-12-19 Wrcv Lyman Hall, Inc. vs. Marshall et al