

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

SECURITY TECHNOLOGIES, INC, et al,

Plaintiffs,

v

BRMC EQUITIES, LLC, et al,

Defendants.

Case No. 2013-135199-CK
Hon. Wendy Potts

Consolidated with
Case No. 2013-134695-CK

OPINION AND ORDER RE: BRMC EQUITIES LLC'S REQUEST FOR ATTORNEY FEES

At a session of Court
Held in Pontiac, Michigan
On

~~NOV 10 2015~~

Defendant BRMC Equities moved the Court to reconsider its determination of damages, which the Court granted in part by allowing BRMC to present additional evidence of the reasonable attorney fees it incurred to collect on the BRMC loan. After review of BRMC's evidence and the supplemental briefing, the Court concludes that BRMC met its burden of demonstrating that it, in fact, incurred attorney fees as a part of its effort to collect on its loan. However, the Court agrees with Security Technologies, Inc. and Rudy Patros that BRMC's attorney fee claim is overstated. In particular, BRMC is asking this Court to award attorney fees it incurred outside this action, including fees BRMC incurred in another case assigned to a different judge. BRMC does not cite any authority supporting its position that this Court has jurisdiction to award BRMC attorney fees incurred for reasons other than the claims and defenses raised in this case. Thus, the Court's award will be limited to the reasonable attorney fees BRMC incurred for retaining the attorneys of record in this case, which are Cyril Hall and the law firm of Schafer and Weiner, PLLC.

Although Securatech and Patros assert that BRMC failed to demonstrate that its fees are reasonable, the Court disagrees. Although BRMC does not directly analyze the reasonableness of its fees, the Court concludes that BRMC presented sufficient evidence from which the Court can determine whether the claimed fees are reasonable. Thus, BRMC met its burden of producing evidence of the reasonableness of its attorney fees. *Zeeland Farm Servs v JBL Enters*, 219 Mich App 190, 196; 555 NW2d 733 (1996).

In deciding whether BRMC's claimed attorney fees are reasonable, the Court generally considers the factors of MRPC 1.5(a), *Zeeland, supra* at 191. Those factors are:

(1) the time and labor required, the novelty and difficulty of the questions 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.

Although the Court would normally begin its analysis by addressing factor 3 and considering the fee customarily charged in the locality for similar legal services, *Smith v Khouri*, 481 Mich 519, 530; 751 NW2d 472 (2008), BRMC's fees incurred for Mr. Hall and Schafer & Weiner do not fit the standard billable hour model. BRMC's principal Bassam Murad testified in an affidavit that he paid Shafer & Weiner an initial \$5,000 retainer and an additional \$15,000 negotiated payoff. Murad further states that he paid Mr. Hall a flat fee of \$25,000. Thus, determining the ordinary hourly fees charged by local attorneys would not be relevant to deciding whether the fees in this case were reasonable.

Instead, the Court must turn to the other factors to determine the reasonableness of BRMC's attorneys' fees. Regarding the first factor, the Court finds that this factor is relevant because the case involved a substantial expenditure of BRMC's attorneys' time and presented

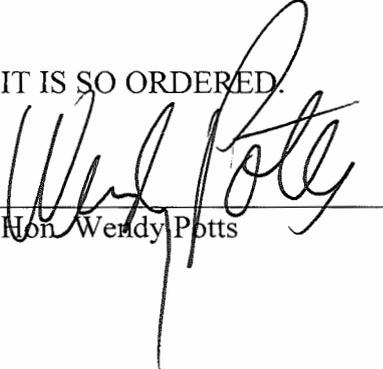
novel and difficult questions, including whether the interest rate on the loan was usurious and whether that precluded BRMC from collecting on the loan. The second factor does not appear to be relevant because there is no evidence that Mr. Hall or Schafer & Weiner were precluded from accepting other employment because of their representation of BRMC in this case. The fourth factor is applicable because BRMC was claiming a significant amount of unpaid loans and BRMC's attorneys successfully obtained a judgment. The fifth factor does not appear to apply because there is no evidence that BRMC or the circumstances imposed time limitations on the attorneys. The sixth factor also appears to be inapplicable because there is no evidence of the length of the relationship between BRMC and its attorneys. The seventh factor is relevant as Mr. Hall and the attorneys of Schafer & Weiner are experienced attorneys who enjoy an excellent reputation in the legal community. As for the eighth factor, the fees charged by all of the attorneys were fixed.

Considering all of these factors, the Court concludes that BRMC demonstrated that the attorney fees it incurred for Mr. Hall and Schafer & Weiner were reasonable and BRMC is entitled to those fees as additional damages against Securitech and Patros. Therefore, the Court will amend its judgment by adding an award of \$45,000 in attorney fees. Within 7 days, BRMC must efile a proposed judgment. Securitech and Patros will have 7 days after service of the proposed judgment to file any objections to the judgment. The Court will enter a judgment after review of the parties' submissions.

Dated:

NOV 10 2015

IT IS SO ORDERED.


Hon. Wendy Potts