

IN THE CIRCUIT COURT OF THE SEVENTH  
JUDICIAL CIRCUIT IN AND FOR FLAGLER  
COUNTY, FLORIDA

DENNIS K. MCDONALD,

CASE NO.: 2013-CA-000816

Plaintiff,

v.

CITY OF PALM COAST,

Defendant.

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**FINAL JUDGMENT AWARDING ATTORNEY'S FEES TO DEFENDANT**

THIS CAUSE came before the Court on January 12, 2015, on the Defendant, CITY OF PALM COAST'S, Motion for Reasonable Attorney's Fees. The Court has reviewed the Motion, the Court file, heard the testimony of witnesses, received documents in evidence, and heard the arguments of counsel. Being otherwise duly advised in the premises, the Court finds as follows:

1. By previous order of the Court dated August 25, 2014, Defendant became entitled to recover its reasonable attorney's fees in equal amounts from Plaintiff, DENNIS K. MCDONALD and Plaintiff's counsel, JOSHUA D. KNIGHT, ESQ., pursuant to Fla. Stat. §57.105(1).

2. At the hearing on January 12, 2015, Defendant presented sufficient evidence of its reasonable attorney's fees through billing statements of its attorneys, testimony of its litigation attorney, and an expert witness.

3. The Court finds the legal services provided by Defendant's attorneys in the defense of this case were reasonably necessary, except as set forth below.

4. Based upon the stipulation of Plaintiff's counsel, the testimony of Defendant's expert witness, and the factors set forth in Rule 4-1.5(b) of Florida Rules of Professional Conduct, the Court finds the hourly rate of \$150.00 for attorney time and \$75.00 for paralegal time is reasonable and

comparable to the hourly rate of other lawyers and paralegals in the community.

5. Regarding the amount of time spent by the attorneys and paralegals in the defense of this matter, the Court finds that certain of the hours sought to be taxed against the Plaintiff and his counsel are not reasonable. First, the Court finds that the attorney time entries of October 8-9, 2013, January 24, 2014, January 29, 2014, and May 5, 2014 are, based upon their descriptions in the billing, clerical in nature and thus not reasonable. Those entries total 1.6 attorney hours. Next, the Court finds that Defendant spent a total of 9.5 hours of attorney time analyzing, researching and strategizing on the issue of whether to move to recuse the predecessor Judge in this case, a course of action that Defendant ultimately did not pursue. The Court does not consider it appropriate to assess this time against the Plaintiff or his counsel, particularly where Defendant chose not to even seek recusal. Finally, there are time entries on October 3-4, 2013, totaling 2.7 hours, pertaining to a public records request made by Plaintiff. Defendant has failed to present evidence establishing why it is reasonable to charge Plaintiff for attorney's fees expended in analyzing or discussing his public records request, even if the documents requested pertain to the subject of the instant lawsuit (an issue on which there was no evidence).

6. Based upon the foregoing, the Court finds the following amount of time and fees to be reasonable:

Debra S. Babb-Nutcher: 86.5 hours at \$150 per hour, totaling \$12,975.00;

William E. Reischmann: 15.6 hours at \$150 per hour, totaling \$1,995.00;

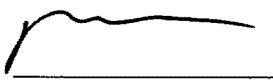
Catherine D. Reischmann: 3.2 hours at \$150.00 per hour, totaling \$480.00;

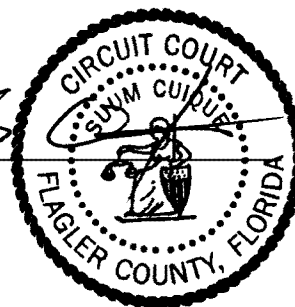
Sarah J. Jilao: 3.2 hours at \$75.00 per hour, totaling \$255.00.

**IT IS THEREFORE ORDERED AND ADJUDGED** that final judgment of attorney's fees in the amount of \$15,705.00 is entered in favor of Defendant, CITY OF PALM COAST, c/o City

Manager, 160 Cypress Point Parkway, Palm Coast, FL 32164 and against Plaintiff, DENNIS K. MCDONALD and his counsel, JOSHUA D. KNIGHT, ESQ., equally. Specifically, Defendant shall recover from Plaintiff, DENNIS K. MCDONALD, 5 Twisted Oak Place, Palm Coast, FL, DOB XX/XX/1950, the sum of \$7,852.50, together with pre-judgment interest from August 25, 2014 in the amount of \$161.16, making a total of \$8,013.66, FOR ALL OF WHICH LET EXECUTION ISSUE. Defendant shall also recover from JOSHUA D. KNIGHT, ESQ., 9 Florida Park Drive North, Palm Coast, FL 32137, the sum of \$7,852.50, together with pre-judgment interest from August 25, 2014 in the amount of \$161.16, making a total of \$8,013.66, FOR ALL OF WHICH LET EXECUTION ISSUE.

**DONE AND ORDERED** at Bunnell, Flagler County, Florida on this 30<sup>th</sup> day of January, 2015.

  
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Michael S. Orfinger  
Circuit Judge



Copies to:  
Debra S. Babb-Nutcher, Esquire  
Joshua Knight, Esquire