

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY FLORIDA

BOCA VIEW CONDOMINIUM  
ASSOCIATION, INC.,

Plaintiff,

Case No.: 50-2017-CA-007482-XXXX-MB  
JUDGE: HON. DONALD W. HAFELE

v.

EILEEN BREITKREUTZ,

Defendant.

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**FINAL JUDGMENT OF PREVAILING PARTY ATTORNEYS' FEES AND COSTS**

THIS CAUSE came to be heard before the court on an Evidentiary Hearing on May 10, 2022, to Determine Amounts of Plaintiff, BOCA VIEW CONDOMINIUM ASSOCIATION, INC.'s, a Florida not-for-profit Corporation ("Plaintiff"), Attorneys' Fees against Defendant, EILEEN BREITKREUTZ. Having reviewed the court file, considered the testimony presented as well as arguments of counsel and *pro se* Defendant and being otherwise duly advised in the premises, the court makes the following findings of fact and conclusions of law:

**FACTUAL BACKGROUND**

1. After verbally ruling in favor of the Association at the trial held in this matter on December 20, 2018, the court entered Final Judgment on March 12, 2019.

2. Pursuant to the Final Judgment, "the Association is the prevailing party in this cause and entitled to recover its reasonable attorney's fees and costs pursuant to §718.1255(4)(l), Florida Statutes and the governing documents of the Boca View Condominium Association, Inc...." and "...[t]he court retains jurisdiction for the enforcement

of this Final Judgment and for the determination of the amount of reasonable attorney's fees to be awarded to the Plaintiff and the amount of costs."

3. At an evidentiary hearing held on May 10, 2022, Plaintiff presented the testimony of Aymelis Amaral ("Ms. Amaral"), the designated corporate representative of the law firm of Becker & Poliakoff, P.A. ("the Firm") which is Plaintiff's retained counsel/firm, without objection. Gerald F. Richman, Esq. ("Mr. Richman") testified as Plaintiff's expert witness.

4. The Firm's corporate representative, Ms. Amaral, offered into evidence the Firm's true and correct copy of the time entry records for each attorney who worked for the Plaintiff in the instant case. Said timesheets were properly authenticated, admitted into evidence without objection and marked as Exhibit "A".

5. Similarly, based on Ms. Amaral's testimony, the summary of the costs expended by Plaintiff in this matter was also properly authenticated, admitted into evidence without objection and marked as Exhibit "B".

6. Both Exhibits "A" and "B" were admitted into evidence under §§ 90.803(6) and 90.902(11), Florida Statutes.

7. Mr. Richman's resume was admitted into evidence as Exhibit "C" without objection. He testified that he was admitted to the Florida Bar since 1965, is also a member of the District of Columbia Bar and his practice of law focuses on a wide variety of cases such as complex commercial and litigation.

8. Mr. Richman testified that he reviewed the extensive arbitration, circuit court dockets and pleadings, including 57.105 motions, appellate filings and briefs, the time sheets

involved, billed costs, and that he further spoke with Plaintiff's attorney at length with respect to the background of the case.

9. Additionally, Mr. Richman testified he reviewed the biographical information for all the lawyers involved from the Firm, specifically the resumes of Firm attorneys Robert I. Rubin, Esq., JoAnn Nesta Burnett, Esq., Robert I. Rubinstein, Esq., Liliana Farinas-Sabogal, Esq., Allen M. Levine, Esq., Adam Cervera, Esq. and paralegal Sharon Ludovico.

10. Specifically Mr. Richman testified that he reviewed the hourly rates of \$175.00 for paralegals, Sharon Ludovico and Lisa Lambert; \$275.00 for Senior Attorney JoAnn Nesta Burnett, Esq.; and \$310.00 for shareholder Adam Cervera, Esq.; \$375.00 for shareholders Robert I. Rubin, Esq. and Liliana Farinas-Sabogal, Esq.; \$395.00 for shareholder Robert I. Rubinstein, Esq.; and, \$495.00 for shareholder Allen M. Levine, Esq. Mr. Richman also verified the years of experience, which ranged from twelve (12) years to forty-one (41) years, for each of the attorneys who worked on this case.

11. Mr. Richman found that based on their resumes, the aforesaid hourly rates charged by the Firm's professionals in pursuit of this matter were reasonable and customary prevailing market rates for services in Palm Beach County for handling condominium cases by lawyers and paralegals with reasonably comparable skill sets as those within those resumes.

12. In forming his opinion about reasonableness of the Plaintiff's fees and costs, Mr. Richman considered all the factors outlined in *Florida Patient's Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985), including: the time labor that went into this matter; the difficulty of the issues presented to the court in this litigation; the skill required to perform the legal services properly in this litigation; an analysis as to the customary fees in similar condominium

litigation; the amount involved and results obtained in this litigation; the time requirement by the clients and any other unique circumstances involved in this litigation; the nature and length of the relationship of the Firm and the Plaintiff which dates back to 2006; the experience, reputation and the ability of the attorneys that were involved as shown in each of their resumes; and, the fact that the fee in the matter was a fixed fee, in the sense of hourly billing rate, as opposed to a contingency.

13. Mr. Richman also considered additional factors that were unique to this lawsuit, such as: numerous pleading battles and other issues that are still open, including 57.105 issues that have not yet been resolved; extensive amounts of legal research; significant amounts of time spent on pre-trial issues; lengthy depositions taken in the case; significant time spent in hearings in related battles and skirmishes between the parties in which the Plaintiff was the victor in the most significant issues. Mr. Richman also concluded that the work completed by Plaintiff's lawyers in order to obtain the result that was ultimately achieved was necessitated by the aggressive manner with which the defense was conducted in this case and the number of attorneys that were ultimately involved on the defense side.

14. Ms. Richman testified that the expenditure of 1,234.40 hours by the Firm in this matter was necessary and reasonable. Mr. Richman did so taking into account the various aspects of the case and the fact that overall the Association is the prevailing party in this matter.

15. Mr. Richman also opined that attorney's fees in the amount of \$380,393.00, which included fees up and through February 8, 2022 were reasonable. Mr. Richman also opined that costs in the amount of \$15,160.85, were reasonable, for a total of \$395,553.85. He testified he was not given any time entries subsequent to February 8, 2022.

16. Mr. Richman also estimated that he spent approximately twenty (20) hours for reviewing all of the pleadings, meeting with Plaintiff's counsel and going over all the records. Mr. Richman testified that his original retainer with the Association was \$7,500.00 and he expended approximately 20 hours in preparing for his testimony. While the court is aware the Mr. Richman's customary fee hourly fee typically well exceeds what he was paid in the initial retainer, the court finds that this sum to be reasonable for expert fees under the circumstances herein. Mr. Richman found the reasonable grand total of the Final Judgment to be **THREE-HUNDRED NINETY-FIVE THOUSAND FIVE HUNDRED FIFTY-THREE DOLLARS AND EIGHTY-FIVE CENTS ( \$395,553.85 )**.

17. The Defendant, appearing *pro se*, opted to not cross examine Ms. Amaral or Mr. Richman.

18. Defendant presented no witnesses, expert or otherwise and solicited no testimony. Defendant did not present any evidence in opposition to the Motion.

19. The court finds Ms. Amaral and Mr. Richman's testimony to be credible.

20. Furthermore, the court limits its analysis of this matter to the events which initiated with Defendant's filing of a Petition with the Arbitration Section at the Department of Business and Professional Regulation. There, the arbitrator erroneously ruled in favor of Defendant based on a case that held the opposite of what the Arbitrator asserted. At the trial *de novo*, the court respectfully reversed the arbitration decision. The trial took a significant amount of time to prepare for and involved extensive testimony from several witnesses, including several lawyers involved in the matter. A substantial amount of preparation was required for the arbitration proceeding, the trial *de novo*, the motion for rehearing after the trial and the

subsequent appeal that was taken and resulted in a *per curiam affirmance* by the Fourth District Court of Appeal. Based on Mr. Richman's testimony, the Association has sought no additional fees between February 8, 2022 and May 10, 2022, the date of the evidentiary hearing, which factors in favor of the Defendant.

**ANALYSIS**

21. The court finds that 1,234.4 hours expended in this case was necessary and reasonable. The court has twice reviewed the time entries and concludes that there is no valid reason to disturb the requested hours.

22. The court finds that the issues presented in this case required a thorough understanding of condominium litigation involving both the Florida Administrative Code and court litigation.

23. The court finds that a high level of requisite skill was necessary to perform the tasks related to this case.

24. The court finds that the respective hourly rates charged of \$125.00 for paralegals, \$275.00 for senior attorney, and \$310.00 - \$495.00 for shareholders are reasonable and in line with market rates for attorneys of comparable skill in the Palm Beach County community for cases of this nature.

25. The court finds that this was a fixed hourly billing fee case providing for a litigated hourly fee amount.

26. The court entered a Final Judgment in favor of the Plaintiff on March 12, 2019. Due to the nature of the suit and aggressive defensive posture, the prevailing party attorneys' fees expended were necessary and reasonable in light of the success obtained.

27. The court finds that Plaintiff's counsel had sufficient experience and ability to adequately handle the action.

28. The court finds that the proposed award of fees is reasonable in relation to similar cases.

29. The court finds that the Plaintiff is entitled to expert witness fees as a cost for the preparation and testimony of Plaintiff's expert, Gerald F. Richman, Esq. and, as previously noted, the expert's rate of \$7,500.00 to be reasonable for an expert of this caliber under the present circumstances. Said amount is included in the costs sought by the Association in the amount of \$15,160.85.


**ORDERED AND ADJUDGED:**

30. **Final Judgment** is hereby entered against Defendant, EILEEN BREITKREUTZ, in the amount of \$380,393.00, for reasonable attorneys' fees, and \$15,160.85 in taxable costs. The court is not awarding interest as the amount of fees and costs were not fixed until the time of this Final Judgment. This finding is without prejudice to the Plaintiff filing a separate motion if deemed necessary. Accordingly, inclusive of taxable costs, a grand total of \$395,553.85, is due to Plaintiff, BOCA VIEW CONDOMINIUM ASSOCIATION, INC., and the Plaintiff shall have and recover judgment for such amount from the Defendant, EILEEN BREITKREUTZ, for which sum let execution issue forthwith. The JUDGMENT HOLDER is **BOCA VIEW CONDOMINIUM ASSOCIATION, INC. C/O POINTE MANAGEMENT GROUP** with the address of: 3600 S. Congress Ave. SUITE C Boynton Beach, FL 33426.

31. The court reserves jurisdiction to enforce this Final Judgment and to enter such further Orders as may be appropriate, including further Orders relating to costs and attorneys' fees incurred by the Defendant in order to enforce this Final Judgment.

32. Defendant, Eileen Breitreutz's, address is 1000 Spanish River Rd., Unit 3S, Boca Raton, Florida 33432.

**DONE AND ORDERED** in West Palm Beach, Palm Beach County, Florida.

 THE  
502017CA007482XXXXMB 05/18/2022  
**13th JUDICIAL CIRCUIT**  
Donald Hafele, Circuit Judge  
ADMINISTRATIVE OFFICE OF THE COURT  
502017CA007482XXXXMB 05/18/2022  
Donald Hafele  
Circuit Judge

Copies furnished to:

**Adam Cervera, Esq.**  
**JoAnn Nesta Burnett, Esq.**  
Becker & Poliakoff, P.A.  
Attorneys for Plaintiff  
121 Alhambra Plaza, 10th Floor  
Coral Gables, FL 33134  
Telephone: (305) 262-4433  
Facsimile: (305) 442-2232  
ACervera@beckerlawyers.com  
JBurnett@beckerlawyers.com  
KManning@beckerlawyers.com  
MJimenez@beckerlawyers.com

**Eileen Breitreutz**  
*Pro se* Defendant  
1000 Spanish River Rd., Unit 3S  
Boca Raton, Florida 33432  
Telephone: (954) 234-3997  
leenycay@att.net