



IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM DIVISION



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Shelby Cnty Judge of Probate, AL  
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AMERICAN PIPE & SUPPLY CO., INC., )  
Plaintiffs, )

V. )

Case No.: CV-2009-900098.00

J & L MECHANICAL, )  
J & L MECHANICAL, LLC, )  
BLOTTIN LEN, )  
RITCHIE JIM ET AL, )  
Defendants. )

JUDGMENT

This matter came before the undersigned for trial of all issues on July 6, 2010. Trial was on a non-jury basis, with the undersigned serving as the trier-of-fact. In that capacity, the undersigned had full opportunity to observe the witnesses as they testified and make credibility determinations based on personal observations. This order comes after careful consideration of the testimony and exhibits admitted into evidence.

Based on the evidence, the Court determines that the defendants are indebted to the plaintiff, jointly and severally, in the principal amount of \$17,621.49, plus \$1,625.00 in accrued pre-judgment interest and attorneys' fees in the amount of \$10,000.00.

The individual defendants cannot escape responsibility for this indebtedness because of the incorporation of their partnership, which occurred after the plaintiff opened their account. The weight of the evidence is that the plaintiff did not receive adequate notice of this change. Accordingly, and pursuant to the agreement that arose at this business relationship's inception, all defendants are jointly and severally liable for any debts.

The defendants raised the issue of the plaintiff's improper handling of certain credits referable to other jobs. The weight of the evidence, however, is that the net amount now claimed by the plaintiff is properly owing.

The plaintiff seeks to recover its attorneys' fees based on the contract between the parties. The Court is obliged to employ the factors set out in cases such as *Peebles v. Miley*, 439 So.2d 137 (Ala. 1983), which include whether the nature of the fee is fixed or contingent, the nature and length of professional relationship, the fee customarily charged for similar legal services, the likelihood that particular employment may preclude other employment, and time limitations imposed by client or circumstances.

Here, the matter is a collection action, but it has raised complex factual issues, and the defendants have strenuously opposed the plaintiff's efforts. Plaintiff's counsel has thus been required to expend more effort than may be expected in the usual collection action, and the recovery therefore is properly set at a higher level than might be the norm.

Accordingly, JUDGMENT in the amount of \$29,246.49, plus court costs, is hereby entered in favor of the plaintiff and against the defendants, who shall be jointly and severally liable therefor.

DONE this 30<sup>th</sup> day of July, 2010.

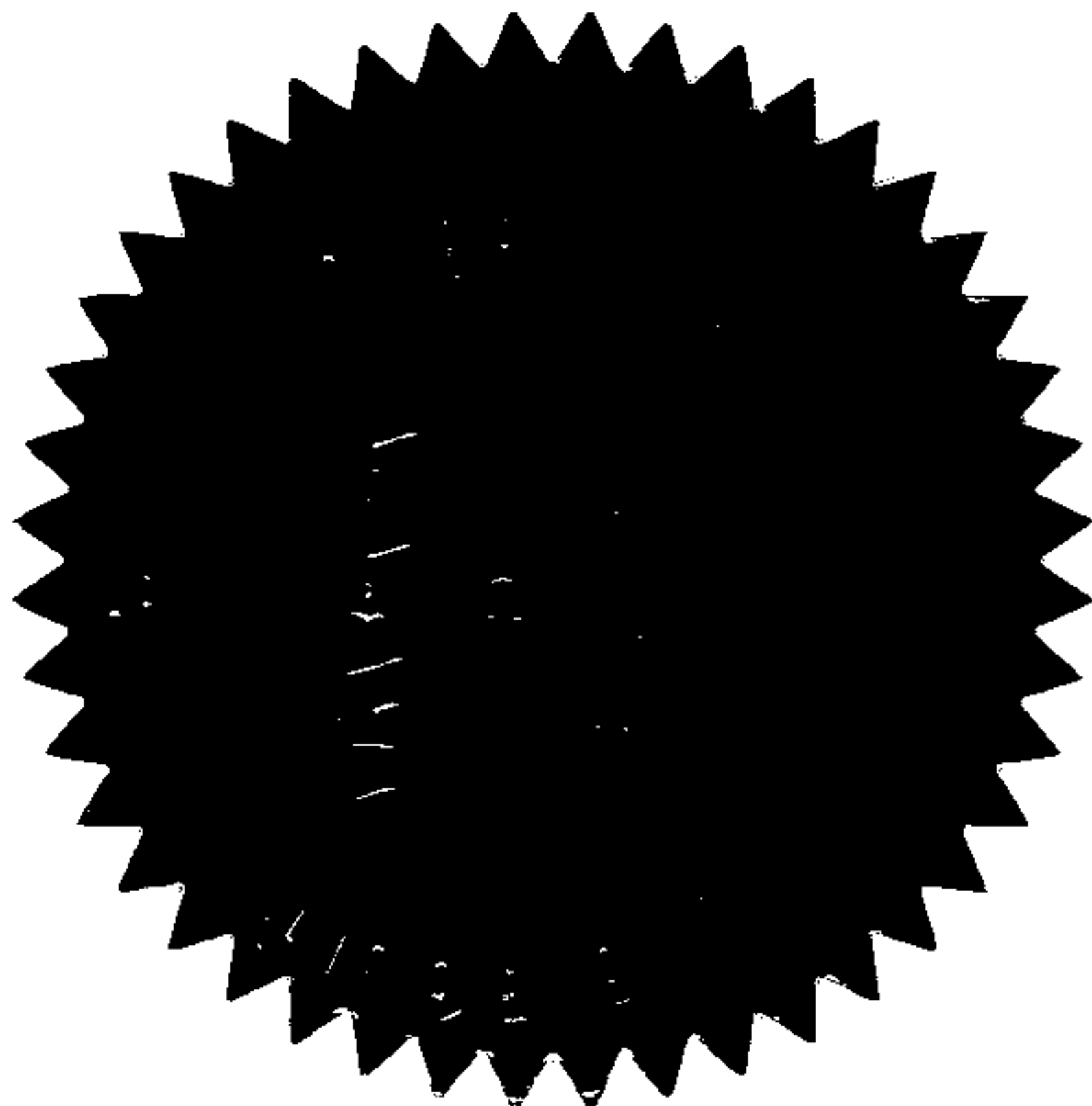
/s ROBERT S. VANCE  
CIRCUIT JUDGE



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Gene Adams, Clerk of the Circuit Court of  
Shelby County, do hereby certify that the  
going is a true, correct and full copy of  
instrument herewith ~~as~~ <sup>as</sup> appear  
and in said Court.

AUG 10 2010

*Gene Adams*

CLERK