

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

Eagle Cove Homeowners )  
 Association, Inc., )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 Vincent Perry, M.D., )  
 )  
 Defendant. )


CIVIL ACTION NO.:  
 CV 2009-900577

**ORDER**

This cause came before the court for an evidentiary hearing on Plaintiff's Motion to Enforce Settlement and Defendant's objection thereto. Having considered the evidence presented, the court finds that Plaintiff is entitled to the relief as set forth hereinbelow. The court finds that the defendant had agreed to pay attorney's fees as set out in Plaintiff's Exhibit #1 which was part and parcel of the parties' agreement. Neither party, however, bothered to total the figures, and there was apparently a mutual mistake as to the *estimated* amount. When presented with the bill the defendant balked. He made some payments, though the plaintiff held the checks while the parties continued to dispute the settlement amount.

Defendant challenged the specific individual charges which revealed that three small charges totaling \$125.00 were inadvertently included in the Exhibit #1 tabulation. Giving Defendant credit for those charges and for the payments that he made, the court finds that Defendant is obligated to pay the amount of \$2,002.44 as the balance due on the original settlement agreement.

The court finds that the hourly rate charged by Plaintiff's attorney is actually below the current norm, and that the attorney fee charge is more than reasonable. The post settlement attorney fee charged to Defendant is the result of the parties' mutual mistake and failure to fully memorialize their agreement. The court is, therefore, disinclined to assess these charges to Defendant.

  
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 Shelby Cnty Judge of Probate, AL  
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Based on the foregoing, judgment is hereby entered in favor of Plaintiff and against Defendant in the total amount of \$2,002.44. As this judgment amount includes the court filing fee, the costs of court are taxed as paid.

**DONE and ORDERED** this 22nd day of September, 2011.

s/Hub Harrington  
Circuit Judge

Certified a true and correct copy  
Date: 12-09-11

Mary H. Harris rhs  
Mary M. Harris, Circuit Clerk  
Shelby County, Alabama



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