

STATE OF MAINE
CUMBERLAND, ss.

BUSINESS & CONSUMER COURT
CIVIL ACTION
DOCKET NO. BCD-CV-18-02

CHARLES R. MAPLES, and)
KATHY S. BROWN,)
)
Plaintiffs,)
)
v.)
)
EVAN CONTORAKES, CHERI)
CONTORAKES, COMPASS)
HARBOR VILLAGE, LLC, and)
COMPASS HARBOR VILLAGE)
CONDOMINIUM ASSOCIATION,)
)
Defendants.)

**ORDER AWARDING ATTORNEY
FEES FOLLOWING BENCH TRIAL
AND APPEAL**

Plaintiffs have substantially prevailed in this complicated, hard-fought, novel, multi-year case about the longstanding and pervasive mismanagement and misconduct of the Compass Harbor Village, LLC (the “LLC”) and Compass Harbor Village Condominium Association (the “Association”). Plaintiffs now seek an award of attorney fees in connection with their successful claims for breach of fiduciary duty and for inspection and demand. Defendants acknowledge Plaintiffs have prevailed, at least in part, and are entitled to some fees (although for unknown reasons Defendants have not yet paid even the fees they do not dispute), but seek an approximately fifty percent deduction in the fees requested. For the reasons discussed below, and with one minor adjustment, the Court finds Plaintiffs’ request for fees thoroughly reasonable and justified, and orders Defendants to pay Plaintiffs \$243,170.38 in attorney fees within ten (10) calendar days of the date this Order is docketed.

In determining what constitutes a “reasonable” attorney fees award, the trial court considers many factors. *Homeward Residential, Inc. v. Gregor*, 2017 ME 128, ¶ 15, 165 A.3d 357. In this

case, counsel for Plaintiffs has already removed from the attorney fees request time devoted to claims that do not support an award of attorney fees, or the Unfair Trade Practices Act claim which was reversed on appeal. As to the remaining time, it is fair and reasonable to note that Plaintiffs claim for breach of fiduciary duty lay at the heart of their case, and extended into nearly every corner of the litigation. It is unnecessary and unjustified to ask Plaintiffs to further attempt to segregate the time spent on the various issues in this case.

After careful review of the fee affidavit, and the opposition,¹ the Court finds the time and labor expended were required. The issues presented were novel and difficult, and Defendants gave no quarter. In order to prevail, counsel for Plaintiffs demonstrated top tier skill in performing the legal services. The scope of this case periodically prevented counsel from spending significant time on other matters. The hourly fees for Plaintiffs' counsel reflect customary hourly rates in the community. Plaintiffs obtained a high degree of success in a constantly uphill battle against intransigent opponents. Plaintiffs' counsel has significant experience and abilities, and enjoys an excellent reputation. The case must have appeared undesirable at the outset, given all the challenges involved. The damages awards obtained exceed similar cases. For all of these reasons and more, with the one exception discussed below, the Court finds the Plaintiffs' attorney fees request to be very reasonable.

The one exception is as follows. It is appropriate to deduct an additional 7.6% from the fees incurred in the appeal, since Plaintiffs did not prevail on the UTPA claim. The percentage reflects the amount of page space given to the issue in the appeal briefs. Plaintiffs' counsel

¹ The Court has considered, and rejected, Defendants various objections to what they refer to as block billing; alleged double billing; and the manner in which Plaintiffs have allocated time. None of the Defendants arguments are persuasive.

incurred \$26,144 in fees for the appeal. Accordingly, the Court deducts and additional \$1,986.94 from the amount Plaintiffs already deducted.

Plaintiffs seek an overall attorney fees award of \$245,157.32. Subtracting \$1,986.94 from this amount, the Court awards **\$243,170.38**.

CONCLUSION

For the reasons discussed above, Defendants must pay to Plaintiffs the amount of \$243,170.38 in attorney fees within ten (10) calendar days of the date this Order is docketed.²

The Clerk is instructed to incorporate this Order by reference on the docket for this case.

So Ordered.

Dated: August 5, 2020

_____/s_____
Michael A. Duddy
Judge, Business and Consumer Court

² The ten days may seem a short amount of time, but the better practice would have been for Defendants to have promptly paid Plaintiffs long ago the more than \$100,000 in fees that were not disputed.