



proceeding where a judgment for Plaintiffs could have cost the Defendant losses of approximately \$4.5 million.

While Plaintiff tries to characterize this case as involving a simple summary proceeding, it was in reality anything but simple or summary. In 11 years of presiding over FED actions in District Court, the Court has seen nothing approaching this level of complexity and degree of potential loss to the Defendant. Removal to the Business & Consumer Docket was completely appropriate. The Court would not have accepted the case for transfer if that were not the case.

There was credible evidence at trial that Plaintiffs attempted to use a hyper technical interpretation of the lease to try to evict Defendant because Plaintiffs did not like the terms of the lease they had assumed (derided as a “tenants” lease by Mr. Cohen) when they purchased the shopping center. Having almost immediately served a notice of termination and filed the FED action instead of reasonably trying to resolve the issue with Defendant, thereby placing Defendant in “Bet-the company” litigation, Plaintiffs lack credibility in now suggesting that Defendants should not have mounted the defense that proved successful, but, rather, should have put on a briefer “summary” defense.

Based on Attorney Crouter’s credible and persuasive affidavit, the Court subtracts \$5,564.50 in attorneys’ fees from the amount sought by Defendant. Otherwise the Court finds the hourly rates and the time and costs expended to be reasonable in considering the factors identified by the Law Court in *Mancini v. Scott*, 2000 ME 19, 744 A.2d 1057. Pursuant to Paragraph 38(m) of the Parties’ lease, the Court awards Defendant attorneys’ fees of \$206,076.00 and costs of \$10,575.06, for a total of \$216,651.06.

The ORDER shall be:

Plaintiff’s Motion for Additional Findings of Fact and to Amend Judgment is DENIED;

Defendant’s Application for Attorneys’ Fees and Costs is GRANTED. The Court awards Defendant, and grants judgment against Plaintiffs, for a total of \$216,651.06 in attorneys’ fees and costs, execution to issue.

Pursuant to M.R. Civ. P. 79(a), the clerk is hereby directed to incorporate this order by reference in the docket.

Dated September 20, 2018

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/s  
Richard Mulhern  
Judge, Business and Consumer Court