

IN THE STATE COURT OF COBB COUNTY

10A7918-3

STATE OF GEORGIA

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PORTFOLIO RECOVERY)
ASSOCIATES, LLC,)
)
Plaintiff,)
)
v.)
)
SHEILA K. CARMICHAEL,)
)
Defendant.)

STATE COURT CLERK
STATE COURT CLERK

CIVIL ACTION FILE
NUMBER: 10A7918-3

ORDER ON DEFENDANT'S MOTION FOR ATTORNEY FEES

This matter was heard by this court on May 7, 2012, regarding Defendant's Motion for Attorney Fees. Lawrence A. Silverman, attorney for defendant, appeared. There was no appearance on behalf of the Plaintiff and no written response to the motion. After considering the motion, all matters of record, and all evidence before the court, the motion is GRANTED.

The court finds as follows:

On August 13, 2010, plaintiff filed this complaint against defendant to collect an amount allegedly owed plaintiff. The defendant proceeded pro se.

Plaintiff served the defendant with Interrogatories, Request for Production of Documents, Request for Admission of Facts and subsequently a Motion for Summary Judgment. Defendant

October 19, 2011 of a January 30, 2012 trial date, abandoned its claim only after the defendant retained counsel immediately prior to trial. The defendant's perceived need to hire an attorney arose because the plaintiff continued this prosecution of its claim more than three months after being notified of the trial date and only after defendant hired counsel. The court finds plaintiff's conduct to be an unnecessary expansion of the proceedings without explanation.

O.C.G.A. § 9-15-14(b) provides:

"The court may assess reasonable and necessary attorney's fees and expenses of litigation in any civil action in any court of record if, upon the motion of any party or the court itself, it finds that an attorney or party brought or defended an action, or any part thereof, that lacked substantial justification or that the action, or any part thereof, was interposed for delay or harassment, or if it finds that an attorney or party unnecessarily expanded the proceeding by other improper conduct..."

"The purpose of an award of attorney fees under O.C.G.A. § 9-15-14 is to deter litigation abuses as well as compensate the party put to additional expense." In re Estate of Holtzclaw, 293 Ga. App. 577, 579. It may be an abuse of discretion when a trial court declines to make an award under O.C.G.A. § 9-15-14(b) in light of the tactics employed to expand the proceedings. Harkleroad & Hermance, P.C. v. Stringer, et al, 220 Ga. App. 906, 909. This defendant is, therefore, entitled to recover her reasonable and necessary attorney fees for hiring her attorney

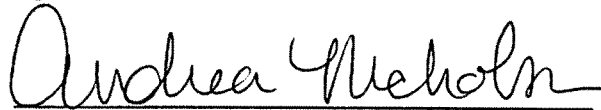
CERTIFICATE OF SERVICE

This is to certify that I have this date served counsel and other interested parties in the within and foregoing matter with a copy of the **ORDER**, dated the 12 day of JULY, 2012 by depositing a copy in the regular United States Mail in a properly addressed envelope with adequate postage thereon addressed as follows:

CLAYTON D. MOSELEY, ESQ.
1427 ROSWELL ROAD
MARIETTA, GA 30062

LAWRENCE A. SILVERMAN
3535 ROSWELL ROAD
SUITE 9
MARIETTA, GA 30062

This 12 day of JULY, 2012.



Andrea Nicholson
Judicial Administrative Specialist
to Irma B. Glover, JUDGE
State Court of Cobb County