

**STATE OF MICHIGAN**  
**IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE**  
**BUSINESS COURT**

**REALTY GROUP ECORSE ONE LLC,  
REALTY GROUP ECORSE THREE LLC,  
REALTY GROUP ECORSE FOUR LLC,  
And REALTY GROUP ECORSE FIVE LLC,**

**Plaintiffs,**

**Case No. 23-014783-CB**

**-v-**

**Hon. Annette J. Berry**

**DIHORT HOLDING LLC,**

**Defendant,**

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**OPINION AND ORDER**

At a session of said Court held in the Coleman A.  
Young Municipal Center, Detroit, Wayne County,  
Michigan,  
on this: 9/12/2025

**PRESENT:** Honorable Annette J. Berry  
Circuit Judge

This matter is before the Court on a determination to award reasonable attorney fees and costs, and exemplary damages. Realty Group Ecorse One LLC, Realty Group Ecorse Three, LLC, Realty Group Ecorse Four, LLC, and Realty Group Ecorse Five, LLC, (hereinafter Plaintiffs) requests the amount of \$62,060.01 for attorney fees and costs. Plaintiffs are seeking \$307,600 in exemplary damages. Dihort Holding LLC, (hereinafter Defendant) made various arguments purportedly disclaiming the reasonableness of the request.

## **I. DISCUSSION**

### **A. Calculating Attorney Fees**

Generally, “[c]osts will be allowed to the prevailing party in an action, unless prohibited by statute or by these rules or unless the court directs otherwise, for reasons stated in writing and filed in the action. Rule 2.625(A)(1). In addition, under MCL 600.2907a(1)(a), a person who encumbers property through the recording of a document without lawful cause is liable for costs and actual attorney fees.

Of importance is the determination of reasonable attorney fees are the factors enumerated in *Wood v Detroit Automobile Inter-Ins Exch*, 413 Mich 573, 588; 321 NW2d 653 (1982) and the method of calculating a reasonable attorney fee as explained in *Smith, supra* at 530-533.

In *Wood, supra*, the Court listed the six factors a trial court should consider in determining an award of reasonable attorney fees: (1) the professional standing and experience of the attorney, (2) the skill, time, and labor involved, (3) the amount in question and the results achieved, (4) the difficulty of the case, (5) the expenses incurred, and (6) the nature of the professional relationship with the client. MRPC 1.5(a) lists the following factors to be considered in determining the reasonableness of a fee:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;

- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- (8) whether the fee is fixed or contingent.

The method for calculating a reasonable attorney fee was explained in pertinent part in *Smith, supra*:

We hold that a trial court should begin its analysis by determining the fee customarily charged in the locality for similar legal services, i.e., factor 3 under MRPC 1.5(a). In determining this number, the court should use reliable surveys or other credible evidence of the legal market. This number should be multiplied by the reasonable number of hours expended in the case (factor 1 under MRPC 1.5(a) and factor 2 under *Wood*). The number produced by this calculation should serve as the starting point for calculating a reasonable attorney fee. . . . Thereafter, the court should consider the remaining *Wood*/MRPC factors to determine whether an up or down adjustment is appropriate. And, in order to aid appellate review, a trial court should briefly discuss its view of the remaining factors.

\* \* \*

In considering the time and labor involved (factor 1 under MRPC 1.5(a) and factor 2 under *Wood*) the court must determine the reasonable number of hours expended by each attorney. The fee applicant must submit detailed billing records, which the court must examine and opposing parties may contest for reasonableness. The fee applicant bears the burden of supporting its claimed hours with evidentiary support. Multiplying the reasonable hourly rate by the reasonable hours billed will produce a baseline figure. After these two calculations, the court should consider the other factors and determine whether they support an increase or decrease in the base number.

[Citations and footnotes omitted].

The first determination to be made is what the customarily charged fee is in the locality for similar legal services. *Smith, supra* at 530, 537; MRPC 1.5(a)(3). When determining this fee,

empirical data contained in surveys such as the State Bar of Michigan's Economics of Law Practice Survey, is instructive. *Smith, supra* at 530, 532. The Michigan Supreme Court in *Pirgu v United Services Automobile Association*, 499 Mich 269, 282; 884 NW2d 257 (2016) consolidated the *Wood* and MRPC 1.5(a) factors into the following list:

- (1) the experience, reputation, and ability of the lawyer or lawyers performing the services;
- (2) the difficulty of the case, i.e., the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (3) the amount in question and the results obtained;
- (4) the expense incurred;
- (5) the nature and length of the professional relationship with the client;
- (6) the likelihood, if apparent to the client, that acceptance of the particular employment will preclude other employment by the lawyer;
- (7) the time limitations imposed by the client or by the circumstances; and
- (8) whether the fee is fixed or contingent.

As indicated above, Plaintiffs request the amount of \$62,060.01 for attorney fees and costs. Defendant makes various arguments purportedly disclaiming the reasonableness of the request. The arguments include: (1) the fee petition is disproportionate to the results achieved; (2) the results were not valuable; (3) the fees are excessive and unproductive; (4) fees related to sanctioned misconduct should not be awarded; (5) the motion to quash was unproductive; (6) charges for a house meeting should be excluded; (7) fees connected to retaliation should be excluded; (8) charges relating to the settlement conference are excessive.

In the Court's view, most of these arguments are based on subjective criteria. This Court will not engage in an attempt to re-litigate the case. For example, whether or not a motion is successful is not a basis for precluding an award of some costs and fees. Motions for summary disposition are normal in the course of representing a party, whether successful or not. The real question here is whether Plaintiffs' counsel produced the results desired, whether the amount of time spent was reasonable, and whether the hourly rate was reasonable.

Plaintiffs at trial submitted actual costs and attorney fees related to the quiet title/slander of title action through the end of the trial in the amount of \$62,060.01, and the work performed by Attorney Mr. Summerfield and the Schenk & Bruetsch Law Firm.<sup>1</sup> Accompanying this affidavit is a detail of the billings for this case as well as the "2023 Economics of Law Practice Attorney Income and Billing Rate Summary Report" published by the State Bar of Michigan.

The Court must conduct an analysis of the reasonableness of Plaintiffs request and assess the request for costs and attorney fees based on objective criteria as enunciated in case law. The Court has reviewed the billings submitted by Plaintiffs and finds none of the items listed are unusual, excessive, or duplicative. Next, the Court will determine an appropriate hourly rate. The law firm has requested an hourly rate of \$425.00. Nothing in the Defendant's response disputes this hourly amount.

Nevertheless, the Court will determine what the customarily charged fee is in the locality for similar legal services. *Id.* When determining this fee, empirical data contained in surveys such as the State Bar of Michigan's Economics of Law Practice Attorney Income and Billing Rate Summary Report cited above is instructive. *Smith v Khouri*, 481 Mich 519, 532; 751 NW2d 472 (2008). When counsel submitted his affidavit, he requested \$425 per hour based on the State Bar 2023 Economics of Law Practice survey. That survey showed the following averages:

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<sup>1</sup> Plaintiffs Trial Exhibit 1 outlines attorney fees and costs incurred in this case.

Senior Associate (statewide): \$270

26-30 Years in Practice: Mean \$375/75% \$450

Firms with 11-15 Attorneys: Mean \$330 /75% \$395

Firms Specializing in Real Estate: Mean \$318/75% \$370

Attorneys Practicing in Downtown Detroit and New Center Area-  
Mean \$454/75% \$593

Attorneys Practicing in Civil Litigation: Mean \$351/75% \$425

The law firm representing Plaintiffs, Schenk & Bruetsch, PLC, specializes and is very experienced in representing cases in real estate law. The case at bar required an understanding of complex documents. Because the case proceeded to trial, it required an attorney experienced in trial practice. *Pirgu, supra*.

Defendant argues that the dispute involved a relatively straight forward case, an argument the belies the seriousness of said case. The goal in this case was to prevent further loss to the Plaintiffs given the fact Defendant recorded a false Affidavit for the sole purpose of preventing Plaintiffs from selling the properties at issue. Defendant refused to discharge the false Affidavit even after it received a full refund of its deposits under the purchase agreements. Plaintiffs requested from Defendant, Defendant failed to discharge the false Affidavit thereby requiring Plaintiffs to file suit. This case also took extensive time to achieve the results. Thus, \$425 per hour is a reasonable attorney fee rate.

The next question is whether the number of hours requested is reasonable. As of January 31, 2025, Plaintiffs incurred actual costs in the amount of \$2,570.76 which includes filing fees, mailing costs, and attorney fees in the amount of \$49,501.75. From February 1, 2025, and March 11, 2025, Plaintiffs incurred \$8,500.00 in attorney fees related to trial preparation and incurred an additional \$1,487.50 in attorney fees on the day of trial. The final number of hours to be collected

is 182.01. Accordingly, the attorney fee award assessed is \$59,489.25. Accordingly, the attorney fee award assessed is \$59,489.25. As to costs, said costs are fixed and those incurred through January 31, 2025. The total of these expenses is \$2,570.76.

### **B. Award of Exemplary Damages**

“The purpose of exemplary damages is to make the injured party whole. Exemplary damages are recoverable only for intangible injuries or injuries to feelings, which are not quantifiable in monetary terms.” *Unibar Maint Servs., Inc v Saigh*, 283 Mich App 609, 630; 769 NW2d 911 (2009) [Citations omitted]. ““An award of exemplary damages is considered proper if it compensates a plaintiff for the humiliation, sense of outrage, and indignity’ resulting from injuries maliciously, willfully and wantonly inflicted by the defendant.” *Id*, quoting *Kewin v Massachusetts Mut Life Ins. Co*, 409 Mich 401, 419; 295 NW2d 50 (1980) [Internal quotation marks omitted].

In this case, the Court has determined that Plaintiffs are entitled to judgment as to slander of title due to Defendant intentionally encumbering property in violation of MCL 565.25, and is entitled to attorney fees and exemplary damages under MCL 600.2907a(1), which provides:

(1) A person who violates section 25 of chapter 65 of the Revised Statutes of 1846, being section 565.25 of the Michigan Compiled Laws, by encumbering property through the recording of a document without lawful cause with the intent to harass or intimidate any person is liable to the owner of the property encumbered for all of the following:

(a) All of the costs incurred in bringing an action under section 25 of chapter 65 of the Revised Statutes of 1846, including actual attorney fees.

(b) All damages the owner of the property may have sustained as a result of the filing of the encumbrance.

(c) Exemplary damages.

[Emphasis added].

Exemplary damages are for non-pecuniary injuries that are incapable of precise calculation. *Unibar, supra* at 631. They “will not be awarded to compensate a purely pecuniary grievance susceptible to full and definite monetary compensation.” *Printing Co v. Mitan*, 169 Mich.App 334, 341; 425 NW2d 791 (1988).

Exemplary damages may be awarded in intentional tort cases to “compensate a plaintiff for the humiliation, sense of outrage, and indignity resulting from injuries maliciously, willfully and wantonly inflicted by the defendant.” *B & B Investment Group v. Gitler*, 229 Mich App 1, 9-10; 581 NW2d 17 (1998) [Citation omitted]. “It is not essential to present direct evidence of an injury to the plaintiff’s feelings. Rather, the question is whether the injury to feelings and mental suffering are natural and proximate in view of the nature of the defendant’s conduct.” *McPeak v McPeak*, 233 Mich App 483, 490; 593 NW2d 180 (1999) [Citation omitted]. The amount of damages to be awarded in injury cases is left to the sound discretion of the jury. *A Morgan v. Engles*, 13 Mich App 656; 164 NW2d 702 (1968). Awards for personal injury damages, particularly pain and suffering, rest within the sound discretion of the trier of fact, and there is no absolute standard for the measurement of such damages. *Meek v Dept of Transp*, 240 Mich App 105; 610 NW2d 250 (2000) See also, *Kurta v. Probelske*, 324 Mich. 179, 36 N.W.2d 889 (1949)(There is no absolute standard by which the amount of damages in personal injury cases can be measured and an amount allowed for pain and suffering must rest in the sound discretion of the trier of fact.); *Brushaber v Stegemann*, 22 Mich 266 (1871)(Where exemplary damages are allowed, they can only be measured by the jury, and if excessive, in the absence of anything being done to lead the jury astray, the only redress is to apply to the court that tried the case for relief.).

Moreover, exemplary damages must not be so oppressive as to shock the sense of fair-minded persons, nor must they be beyond an amount fairly compensating a party entitled to them.

*Oppenhuizen v Wennersten*, 2 Mich App 288; 139 NW2d 765 (1966). Therefore, because the Court is the trier of fact in this action, it is for the Court to determine the amount of the exemplary damages and the damage award must not be overly oppressive as to shock reasonable people.

In the case at bar, there is no question Defendant recorded a false Affidavit with the Wayne County Register of Deeds on July 12, 2021, for the sole purpose of preventing Plaintiffs from selling the properties at issue. Moreover, Defendant refused to discharge the false Affidavit even after it received a full refund of its deposits under the purchase agreements. Plaintiffs requested and Defendant failed to discharge the false Affidavit thereby requiring Plaintiffs to file a lawsuit. Exemplary damages are warranted in this case, given the fact that Defendant's actions were particularly harmful, reckless, and intentional. Defendant's actions deliberately caused harm to the Plaintiffs. Defendant had no basis to file the false affidavit that encumbered Plaintiffs' properties, which evidence produced at trial had an assessed value of \$280,7000 in 2024, with a true cash value of \$615,200. Evidence future shown that when asked to discharge the affidavit, defendant refused requiring the Plaintiffs to file the instant action. Thus, Plaintiffs have demonstrated that they have suffered special damages, including litigation costs due to Defendant's maliciously, willfully, and wantonly conduct in this matter and as such, the Court will award Plaintiffs \$307,600 in exemplary damages.

## **II. CONCLUSION**

**IT IS ORDERED** Plaintiffs request for Attorney Fees and Costs is **HEREBY GRANTED**; The total amount of attorney fees to be awarded to Plaintiffs is \$59,489.25. As to costs, said costs are fixed and those incurred through January 31, 2025, for a total amount of \$2,570.76;

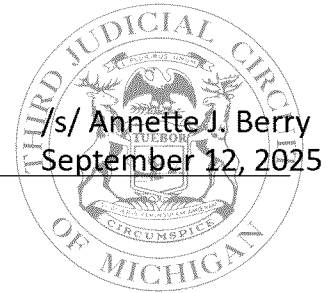
**IT IS FURTHER ORDERED** Plaintiffs request for exemplary damages is **HEREBY GRANTED**. The amount of exemplary damages is \$307,600;

**IT IS FURTHER ORDERED** this Order **DOES** resolve the last pending claim and **DOES** close the case.

**IT IS SO ORDERED.**

**DATED:** 9/12/2025

\_\_\_\_\_  
Circuit Judge



/s/ Annette J. Berry  
September 12, 2025