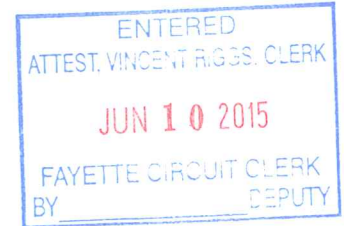


FAYETTE CIRCUIT COURT
CIVIL BRANCH
EIGHTH DIVISION



HARGUS S. SEXTON, AS AND IN HIS CAPACITY
AS TRUSTEE OF THE HARGUS S. SEXTON REVOCABLE
TRUST DATED JANUARY 7, 1992, AS AMENDED

PLAINTIFF

V

ORDER AND JUDGMENT

13-CI-705

REBECCA R. BEAN, AS EXECUTRIX OF
THE ESTATE OF PATRICK C. BEAN, ET AL

DEFENDANTS

This matter is pending before the court upon Defendants Motion for attorney's fees and cost. This court has previously dismissed the Plaintiff's action. The court having reviewed the record and being sufficiently advised.

It is hereby ORDERED and ADJUDGED Defendants motion is hereby sustained and the court awards attorney's fees to Defendants in the amount of \$9,453.00; cost of \$2,574.00 and travel expenses incurred in the amount of \$1000.00.

The within action was filed by Plaintiff alleging fraud by his former accountant and friend, Patrick C. Bean (deceased) regarding the transfer of real estate originally owned by Plaintiff to Patrick C. Bean. Patrick Bean maintained his accounting practice in this property for many years and Mr. Bean handled much, if not all, of Plaintiff's business and accounting affairs. After the death of Mr. Bean Plaintiff initiated this action alleging the documents transferring ownership to Mr. Bean were fraudulent and Plaintiff's signatures on the various documents were forgeries.

Discovery was taken in this matter including the protracted nature of obtaining Plaintiff's deposition. Evidence developed from relevant witnesses supported Defendant's position that no fraud or forgery had occurred. After Defendant's were finally able to acquire the testimony of Plaintiff it was revealed Plaintiff acknowledged executing the various documents. Based upon this admission by Plaintiff this court sustained Defendant's motion to dismiss.

The court finds from the evidence it is appropriate to award attorney's fees, cost and expenses pursuant to the equitable powers of the court. *Batson v Clark, 980 S.W. 2d 566 (Ky. App. 1998)*. Taking into consideration the facts as developed in this particular case, specifically Plaintiff alleging in his complaint fraud based upon the alleged forgeries and the subsequent admission of Plaintiff that he in fact did execute the documents in issue, this court finds the equities of the matter require this court to sustain Defendant's motion for cost and attorney's fees.

There is evidence in the record indicating the total attorney's fees incurred by Defendant was in excess of \$40,000.00, much of which was incurred due to the adversarial nature of the litigation. However, a substantial portion of the attorney's fees were paid by Patrick Bean's professional negligence carrier in as much as portions of the allegations pertained to his accounting practice. The record indicates Defendants have paid \$9453.00 in attorney's fees not paid by the carrier. Further the record indicates Defendants incurred cost of \$2574.00 and travel expenses of \$1000.00 and Defendants are hereby awarded a judgment in the total amount of \$13,027.00.

Finally, the court having rendered the within Order and Judgment Defendants counterclaims are hereby dismissed.

There being no just cause for delay this is a final and appealable judgment

Entered this 10 day of June, 2015.

/S/ THOMAS L. CLARK
A TRUE COPY
ATTEST, VINCENT RIGGS, CLERK
FAYETTE CIRCUIT COURT



JUDGE, FAYETTE CIRCUIT COURT

This is to certify a copy has been mailed
this 10 day of June, 2015 to the following:

JUN 10 2015
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BY:

