

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MENDOCINO, TEN MILE BRANCH

JOHN J. RUPRECHT,

Plaintiff,

vs.

THE FORT BRAGG FOOTLIGHTERS,  
a California Corporation; JUNICE  
GLEASON, individually; JOSEPH  
SVERKO, Individually; and DOES  
1-10, inclusive,

Defendants.

Case No.: SCUK-CVG-15-65634

STATEMENT OF DECISION

The above-captioned matter is a straight forward action to enforce a contract for attorney's fees. The matter came on for trial February 26, 2016 at 9:00 a.m. in the Ten Mile Branch of the Mendocino County Superior Court, the Honorable Clayton L. Brennan presiding. Plaintiff, attorney John J. Ruprecht, appeared in proper. Defendant, Fort Bragg Footlighters (hereinafter, "Footlighters"), a California Non-Profit Mutual Benefit Corporation had no attorney appear on its behalf, and therefore is deemed to have defaulted. Julie Smith, President of the Board of Directors for Footlighters, was present in court. Ms. Smith's testimony is being considered only as witness testimony submitted on behalf of the individually



appearing defendants. Defendant Junice Gleason was present, appearing in pro per. Defendant, Joseph Sverko was present appearing in pro per.

This court heard oral testimony from all parties and received voluminous documents detailing the entire billing history of the case. The court also takes judicial notice of the entire contents of the court filing in the underlying lawsuit, Mendocino County Superior Court, Case Number: SCTM-CVG-09-53967. The Court makes the following findings of fact and rules accordingly as set forth below:

The Footlighters is a community theater company that has produced plays in the Fort Bragg community for several decades. The company provides local community members an opportunity to participate in the theatre arts and enrich the local cultural environment. The actors are all passionate amateur thespians. The Footlighters is organized as a non-profit mutual benefit corporation and managed by its volunteer board members. The primary asset of Footlighters is a building located at 248 Laurel Street in Fort Bragg, California.

In 2006-07, Bud Farley was the president of the Footlighters. Believing that the Footlighters were on the brink of dissolving, Farley spearheaded an effort to transfer title of the Footlighters' building to Mendocino Coast Community Education Television ("MCCET").

In the spring of 2007 other members of the Footlighters began to question the transfer and ultimately hired Plaintiff, attorney John Ruprecht, to sue for rescission of the transfer. The rescission action was filed in this Court as Case No.: SCTM-CVG-09-53967.

The contract for attorney services which relates to the investigation and prosecution of the rescission lawsuit was received into evidence herein as Exhibit 1. The contract was executed on behalf of the Footlighters by Junice Gleason in her capacity as President of the Corporation. Ms. Gleason also signed the contract in her individual capacity as a guarantor. Defendant, Joseph Sverko, signed that attorney fee agreement in his individual capacity as a guarantor.

The rescission lawsuit resulted in protracted and vigorous litigation. The case resolved only after a five day court trial before the Honorable Jeanine Nadel. MCCET retained both local counsel and the national law firm of Skadden, Arps, Slate, Meagher & Flom. The course of litigation involved extensive pre-trial discovery including, interrogatories, document requests, requests for admissions, depositions, two full day mediations and two trial continuances. Overall, the litigation took four years to complete.

Plaintiff, John J. Ruprecht, a sole practitioner, achieved what can only be described as an unequivocal and total victory for his clients. As described in Plaintiff's Trial brief, even after the Court's Final Statement of Decision and



Judgment, MCCET tried post-trial tactics to avoid fulfilling the judgment, by declaring immediate dissolution of MCCET, threatening to appeal the case, not turning over the building to the Footlighters, and threatening bankruptcy. Despite, these tactics and the intensity with which the defendants litigated the case from its inception, attorney Ruprecht was able to obtain re-possession of the Footlighters building (valued between \$400,000 - \$600,000 free and clear of all liens and encumbrances), \$67,000 in improvements to the building, another \$20,000 worth of equipment MCCET gave up in lieu of the full cash judgment of \$36,000, and \$7,500 in cash.

Defendants do not contest the efficacy and quality of the representation they received. Moreover, the evidence clearly demonstrated that defendants, and each of them, acknowledged their obligation to pay the fees claimed due. The court finds that the services provided were necessary, reasonably incurred at a fair price and justified by the outcome. The court further finds that any delay in payment of the fees was not due to any bona fide dispute as to the legitimacy of the obligation. Rather, all delay in payment arose from the defendants' ineffectual efforts to find a way to use the Footlighters' building to generate income, attract grant funding, or otherwise secure investors willing to finance the debt.

The court further finds that Plaintiff demonstrated extreme patience and sympathy for the defendants. Plaintiff allowed the defendants a generous amount of time to explore and develop viable payment options. Unfortunately, the Footlighters and the individual defendants, lacked the resources, management and administrative skills necessary to formulate a workable plan to pay the bill. The evidence clearly demonstrated that Plaintiff brought this law suit only after exhausting all other options, and only after defendants' repeated failures to follow through with their promises to pay.

At trial, the defendants argued that various portions of the fees were unreasonable or that Plaintiff took advantage of defendants' lack of legal sophistication. For example, defendant Gleason testified that despite, being a real estate sales person who regularly works with contracts and purchase agreements, she did not fully review the contract prior to signing it. She testified that she simply "trusted" Mr. Ruprecht. She indicated that her concerns about the wisdom of signing the contract in her personal capacity materialized only after her fellow Board Member, Bob Armitage, refused to sign the fee agreement as a personal guarantor. Her second thoughts, however, are not evidence that Plaintiff's fees were unreasonable or unnecessary for the proper conduct of the litigation. Nor are they evidence that she did not understand the nature of her contractual obligations.

It was also demonstrated at trial that each of Ms. Gleason's concerns about specific billing items were adequately explained by Plaintiff and rebutted. For example, defendant naively contended that it was unreasonable for attorney fees to be incurred post-trial, despite the court ordering post trial briefing.



Finally, it was clearly demonstrated at trial that defendant Sverko, who grew up with and is related to Gleason, understood the personal nature of his obligation to the contract. He advanced over \$50,000 of his own funds toward the litigation prior to the instant action. He testified that he was willing to do so because "the Footlighters means everything to me."

It may be that the individual defendants believed that the Footlighters would ultimately reimburse them. However, no evidence was received on that issue, and there was no evidence proffered by any party as to the existence of an agreement between the Footlighters and the individual defendants for indemnity or reimbursement.

On an emotional level one cannot help but be touched by the passion and love the defendants have for the Footlighters. However, it also appeared that the overarching theme of defendants' case was that it is not fair to hold a non-profit mutual benefit corporation of artists accountable for a large debt. Obviously, this notion is untenable.

As individuals, the defendants have devoted countless hours of their time and great deal of their own money into saving the building as the venue for their theatre company. Their tenacity in pursuing this specific goal, however, may be misguided. The building suffers from extensive deferred maintenance issues which will be expensive to repair. The building leaks and the inventory of costumes had to be moved out of the building for safekeeping. Given the Footlighters' inability to fully formulate a plan for repayment of the attorney fees in this action, it seems likely that the Footlighters will be able to refurbish their building and maintain it as a safe venue for public performances. Perhaps the Footlighters could better fulfill its mission by selling the building, paying its obligations, and using the remaining funds to endow its continued existence. This thought, however, is mentioned only in passing. It is not germane to issue the court must decide.

The Court finds that the records received as Plaintiff's Exhibit 16 which itemize the billing and payment history in this case are accurate, reasonable and necessarily incurred.

Accordingly, judgment shall be for plaintiff, joint and several against each defendant as follows:

1. The principal amount of attorney's fees and costs outstanding pursuant to the contract and advanced on behalf of the defendants in the amount of \$83,640.25;
2. Pre-judgment interest on the principal amount of \$83,640.25 at the legal rate of 10% from and after September 30, 2013; and,



Superior Court of California, County of Mendocino  
PROOF OF SERVICE

Case: SC-UK-CV-G -15-0065634-000 - RUPRECHT, JOHN VS. THE FORT BRAGG FOOTLIGHT  
Document Served: STATEMENT OF DECISION

I declare that I am employed in the County of Mendocino, State of California; I am over the age of eighteen  
a party to the within action. My business address is:

- ☐ Mendocino County Courthouse, 100 North State Street, Ukiah, California 95482.  
☒ Ten Mile Branch, 700 South Franklin Street, Fort Bragg, CA 95437

I am familiar with the County of Mendocino's practice whereby each document is placed in the Attorneys'  
in Room 107 of the Mendocino County Courthouse and the Public Access Room of the Ten Mile Branch,  
fax or e-mail, and/or placed in an envelope that is sealed with appropriate postage is placed thereon and  
appropriate mail receptacle which is deposited in a U.S. mailbox at or before the close of the business d

On the date of the declaration, I served copies of the attached document(s) on the below listed party(s)  
transmitting a true copy thereof to the party(s) in the manner indicated below.

Party Served	Ukiah US Mail	Ten Mile US Mail	Ukiah Attorney Box	Ten Mile Attorney Box	Inter Office Mail
John J. Ruprecht, Esq. PO Box 1445 Fort Bragg, CA 95437	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fort Bragg Footlighter's Corp. 248 E. Laurel St. Fort Bragg, CA 95437	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Junice Gleason 130 1/2 Park St. Fort Bragg, CA 95437	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Joseph Sverko 163 Morrow St. Fort Bragg, CA 95437	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true  
this declaration was executed at:

☐ Ukiah, California

☒ Fort Bragg, California

Date: April 5, 2016

CHRISTOPHER D. RUHL, Clerk of the

By: Trisha Stone, Deputy Clerk

3. Costs of suit for the instant action;

Plaintiff shall prepare a form of judgment consistent with this statement of decision and file a memorandum of costs.

SO ORDERED

DATED: 3/24/16

A handwritten signature in black ink, appearing to read 'Clayton L. Brennan', written over a horizontal line.

CLAYTON L. BRENNAN  
Judge of the Superior Court