

BUSINESS AND PROFESSIONAL REGULATION  
DIVISION OF CONDOMINIUMS, TIMESHARES AND MOBILE HOMES

SHAWN MARTIN,  
Petitioner,

v.

OMEGA VILLAS CONDOMINIUM  
ASSOCIATION, INC.,

Respondent.

Fee Case No. 2024-05-6661

Case No. 2024-03-7824

Filed with  
Arbitration Section

SEP 15 2024

Div. of FL Condos, Timeshares & MH  
Dept. of Business & Professional Reg.

**FINAL ORDER ON RESPONDENT'S MOTION FOR ATTORNEYS' FEES**

On July 1, 2024, Petitioner filed a petition for arbitration that named Omega Villas Condominium Association, Inc., (Association) as the respondent. An Order Requiring Answer was entered on August 8, 2024, and the Association filed its Answer and Affirmative Defenses (Answer) on August 27, 2024. The Association's Answer was complete with a full rendition of facts. An Order for Case Management Conference was entered on August 29, 2024, which set a case management conference for September 12, 2024. On September 4, 2024, Petitioner filed a document that the arbitrator treated as a Notice of Voluntary Dismissal. The Association filed a Motion for Attorney's Fees and Costs on September 26, 2024. To date the Petitioner has not filed a response to the Motion.

"The general rule is that when a plaintiff voluntarily dismisses an action, the defendant is the 'prevailing party' within the meaning of statutory or contractual provisions awarding attorney's fees to the 'prevailing party' in litigation." *Alhambra Homeowners Ass'n, Inc. v. Asad*, 943 So. 2d 316, 318 (Fla. 4th DCA 2006) (citations omitted). Courts have permitted attorney's fees when the plaintiff has taken a voluntary dismissal at

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various stages of the proceeding. See, e.g., *Stuart Plaza, Ltd. v. Atl. Coast Dev. Corp. of Martin County*, 493 So. 2d 1136, (Fla. 4th DCA 1986) (On the day of trial, plaintiff appellee voluntarily dismissed its case without prejudice; fees awarded to defendant appellant); *Landry v. Countrywide Home Loans, Inc.*, 731 So. 2d 137 (Fla. 1st DCA 1999) (defendant appellant filed motion for summary judgment, and thereafter plaintiff appellee filed motion to strike motion for summary judgment and for voluntary dismissal; order denying attorney's fees to defendant appellant reversed).

In this case the Association expended time and resources to file an Answer and had corresponded with Petition in preparation for a case management conference. It is proper to award attorney's fees based on these facts and the above cited precedent.

#### Attorney's Fees

The Association filed for \$2,884.06 in attorney's fees based on a total of 8.11 hours by attorney Rhonda Hollander who charged a rate of \$350.00 per hour. Attorney Hollander has been practicing law for over 30 years. The arbitrator finds this rate reasonable.

The arbitrator has reviewed the time records of attorney Hollander and finds the time spent on the case in light of the work that was reasonably necessary reasonable. Accordingly, all attorney fees are awarded.

#### Costs

A total of \$13.58 in costs were claimed for postage. Postage is an overhead expense and is not recoverable.

**ORDERED:**

Petitioner shall, within thirty (30) days of the date of this Order pay the Association

a total of \$2,844.06 for attorney's fees. The Association's request for \$13.58 in costs is DENIED.

DONE and ORDERED on November 5, 2024, in Tallahassee, Leon County, Florida.

J. A. Spejenkowski  
J. A. Spejenkowski, Arbitrator  
Office of the General Counsel  
Condominium Arbitration and  
Mediation Program  
Department of Business &  
Professional Regulation  
2601 Blair Stone Road  
Tallahassee, FL 32399-1030  
T: 850. 414.6867  
F. 850. 487.0870

TRIAL DE NOVO AND ATTORNEY'S FEES

This decision shall be binding on the parties unless a complaint for trial *de novo* is filed within 30 days in accordance with Section 718.1255(4)(k), Florida Statutes and Rule 61B-45.043, Florida Administrative Code.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been sent by US Mail on November 5, 2024, to:

Shawn Martin  
1760 NW 73<sup>RD</sup> Ave  
Plantation, FL 33313  
Email: smartin@isccompany.net

Rhonda Hollander  
Hollander, Goode & Lopez, P.A.  
314 S Federal Hwy  
Dania Beach, FL 33004-4102  
Office: 954-923-1985  
Email: rhonda@hgl-law.com

J. A. Spejenkowski  
J. A. Spejenkowski, Arbitrator

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