

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

NICOLE WADE; JONATHAN
GRUNBERG; TAYLOR WILSON;
WADE, GRUNBERG & WILSON, LLC;

Plaintiffs,

v.

L. LIN WOOD, L. LIN WOOD, P.C., TODD
V. MCMURTRY, and HEMMER
DEFRANK WESSELS PLLC,

Defendants.

Civil Action File No: 2020CV339937

**ORDER AWARDING PLAINTIFFS' ATTORNEY'S FEES
ON THEIR MOTION FOR CONTEMPT**

WHEREAS, on June 1, 2023 this matter came before this Court on Plaintiffs' Motion for Contempt; and

WHEREAS, this Court granted Plaintiffs' Motion for Contempt and further ORDERED the award of attorney's fees in an amount to be determined; and

WHEREAS, the Court held in its June 5, 2023 Order of Contempt against L. Lin Wood that the June 1, 2023 hearing revealed the absence of any justiciable law or fact on which it could be reasonably believed that a court would accept Defendant Wood's position (O.C.G.A. § 9-15-14(a)), that Defendant Wood "lacked substantial justification" in defending the action (O.C.G.A. § 9-15-14(b)), and that Defendant Wood unnecessarily expanded the proceeding by his improper, contemptuous conduct (O.C.G.A. § 9-15-14(b)), thus entitling Plaintiffs to attorney's fees; and

WHEREAS, Plaintiffs presented evidence at the hearing of attorney's fees incurred in bringing the Contempt motion totaling \$42,445.00 and submitted testimony from Plaintiffs'

counsel at the hearing that the fees submitted were limited solely to the preparation of the Motions for Contempt, the preparation for the hearing and the actual participation in this hearing and did not relate to other matters of the case, and that the hours presented were both reasonable and necessary; and

WHEREAS, Plaintiffs' counsel offered testimony that the hourly rates submitted in the fee petition were reasonable and customary for work of this type and that they represented the hourly rates Plaintiffs' counsel regularly charges for such services; and

WHEREAS, the Court's June 5, 2023 Order reserved the amount of attorney's fees and costs and allowed the Defendants to file a responsive pleading on the subject within 15 days of the date of the June 5, 2023 Order; and

WHEREAS, the Defendants did not file any such responsive pleading within the 15 day period, leaving the award of attorney's fees unopposed; and

WHEREAS, Defendants have not responded to or challenged Plaintiffs' fee petition, other than their cross examination of Plaintiffs' counsel at the hearing for Contempt, which related solely to the method for recording such time and percentage of Plaintiffs' counsel's practice that related to hourly versus contingency fee work; and

WHEREAS, Plaintiffs submitted caselaw showing that an hourly fee award can be made in cases where the petitioning party is paying their attorney only under a contingency fee contract. *See Georgia Dep't of Corr. v. Couch*, 295 Ga. 469, 484 (2014); *see also Shiv Aban, Inc. v. Georgia Dept. of Transp.*, 336 Ga. App. 804, 819-821 (2016) (upholding O.C.G.A. § 9-15-14 attorney fee award with an underlying contingency fee agreement); *Hindu Temple & Cmty. Ctr. of High Desert, Inc. v. Raghunathan*, 311 Ga. App. 109, 117-19 (2011).

THEREFORE, it is hereby ORDERED that Defendant L. Lin Wood pay to Plaintiffs within 10 days from the date of this ORDER the amount of \$42,445.00 representing Plaintiffs' attorney's fees and costs of litigation associated with its Motion for Contempt.

SO ORDERED this 18th day of September, 2023.



JUDGE SCOTT MCAFEE
SUPERIOR COURT OF FULTON COUNTY,
ATLANTA JUDICIAL CIRCUIT

Presented and prepared by:

/s/Andrew M. Beal

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