

STATE OF NORTH CAROLINA
FORSYTH COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
20 CVS 3445

DS & T II, INC.; THE ESTATE OF
JULIO SPIRO DIBBI; and
REBECCA SOMERVILLE in her
capacities as executor to the Estate of
Julio Dibbi and trustee of the Dibbi
Trust (created in the Will of Julio
Spiro Dibbi),

Plaintiffs,

v.

D AND E TAX AND ACCOUNTING,
INC., and MOHAMED ELBAHRAWI
in his individual capacity and as
president and other official capacities
of D and E Tax and Accounting, Inc.,

Defendants.

**ORDER ON DEFENDANTS' MOTION
FOR ATTORNEYS' FEES**

1. **THIS MATTER** is before the Court on Defendants' Motion for Attorneys' Fees pursuant to sections 1D-45 and 6-21.5 of the North Carolina General Statutes and Rule 11 of the North Carolina Rules of Civil Procedure ("Rule(s)"), (the "Motion"). (ECF No. 59.) Having been successful with their Motion to Dismiss, Defendants now move for an order awarding them the attorneys' fees they have expended.

2. After considering the Motion, the briefs in support of and in opposition to the Motion, the affidavits of Mohamed Elbahrawi and John Wait, and other relevant matters of record, the Court, in the exercise of its discretion, hereby **GRANTS** in part and **DENIES** in part the Motion.

Martin & Gifford, PLLC, by John Wait, for Plaintiffs' Counsel, John Wait.

Smith Law Group, PLLC, by Steven Smith and Jonathan Holt, for DS & T II, Inc., The Estate of Julio Spiro Dibbi, and Rebecca Somerville.

Spillman Thomas & Battle, PLLC, by Lee D. Denton, Rayford Kennedy Adams, and Kayla Russell, for Defendants D and E Tax and Accounting, Inc. and Mohamed Elbahrawi.

Earp, Judge.

I. FINDINGS OF FACT¹

3. The factual and procedural background of the underlying case is recited in detail in the Court's Order and Opinion on Motion to Dismiss. *See DS & T II, Inc. v. D & E Tax & Accounting, Inc.*, 2021 NCBC LEXIS 87 (N.C. Super. Ct. Oct. 4, 2021), herein ["Order and Opinion"], ECF No. 54.) Accordingly, the information provided below is limited to matters relevant to Defendants' Motion.

4. Plaintiffs brought this action in July 2020, for declaratory relief and damages caused by a shift in client relationships that occurred in 2007, some thirteen years before. It was then that Mohamed Elbahrawi ("Elbahrawi") formed D and E Tax and Accounting Inc. ("D and E") to take on the business of DS & T, II, Inc. ("DS&T"), an accounting business owned by the late Julio Dibbi ("Dibbi"). At the time, Dibbi, an accountant, was under investigation for tax fraud.

5. After D and E was formed, Dibbi worked there from 2007–2010 servicing the same clients, but he was indicted for financial crimes in 2009 and served time in Butner Correctional Facility during 2010–2011.

¹ In determining whether to award attorneys' fees, the Court is required to make findings of fact and conclusions of law. *See, e.g.*, N.C.G.S. § 6-21.5. With respect to this Order, the Court intends for any finding of fact that is more appropriately deemed a conclusion of law, to be so characterized, and vice-versa.

6. After he was released from Butner, Dibbi worked for D and E for several more years. In 2012, he offered to sell DS&T's "business assets" to Elbahrawi for use at D and E, but, with the exception of some real estate, Elbahrawi refused to buy them. Plaintiffs specifically alleged that no deal between the parties was reached before Dibbi died in 2015.

7. On 27 April 2020, five years after Dibbi's death and thirteen years after Elbahrawi founded D and E, counsel for DS&T contacted Elbahrawi demanding payment for D and E's use of DS&T's "client list." (Defs.' Mot. Att'ys' Fees, Ex. A-1, ECF No. 59.2.)

8. Defendants' counsel responded by letter dated 12 May 2020, refusing DS&T's request and concluding that there was no legal basis for Plaintiffs' demands. (Defs' Mot. Att'ys' Fees, Ex. A-2.) The letter stated that "[t]he only client list we are aware of is the one D and E has built up over the years through the hard work of Mr. Elbahrawi[,] and it observed that "[t]he time to request compensation from my client for any client list has long since passed." (Defs.' Mot. Att'ys' Fees, Ex. A-2.)

9. Nevertheless, Plaintiffs proceeded with litigation. Plaintiffs' initial Complaint, filed on 31 July 2020, asserted nine causes of action: (i) constructive fraud, (ii) conversion, (iii) constructive trust, (iv) breach of fiduciary duty, (v) breach of contract, (vi) quantum meruit/unjust enrichment, (vii) accounting, (viii) declaratory relief, and (ix) piercing the corporate veil/alter ego. (Compl., ECF No. 3.) Plaintiffs sought punitive damages with respect to their claims for constructive fraud, conversion, and breach of fiduciary duty. (See Compl. ¶¶ 31, 38, 49.)

10. Furthermore, Plaintiffs asserted their claims in nine separate legal capacities: 1) DS&T, 2) The Estate of Julio Spiro Dibbi, 3) The Dibbi Trust (created in the will of Julio Dibbi), 4) Rebecca Somerville, individually, 5) Somerville as the executor of the Dibbi Estate, 6) Somerville as the heir of the Dibbi Estate, 7) Somerville as the trustee of the Dibbi Trust, 8) Somerville as the beneficiary of the Dibbi Trust, and 9) Somerville as President of DS&T. (*See generally* Compl.) Somerville was identified in the Complaint as “the sole heir and executor of [Mr. Dibbi’s] estate and sole trustee and beneficiary of [The Dibbi Trust].” (Compl. ¶¶ 2, 23.)

11. Following service of the initial Complaint, and despite allegations in the Complaint that Somerville was the executor of Dibbi’s estate and trustee of his testamentary trust, counsel for Defendants contacted the Forsyth County Clerk of Court and determined that Dibbi’s will, though filed, had never been probated. Defendants’ counsel alerted Plaintiffs’ counsel to this discrepancy by letter dated 9 October 2020. The letter stated that Somerville “is not—and never has been—the executor of Mr. Dibbi’s estate or the trustee of his trust” and therefore could not sue in those capacities. (Defs.’ Mot. Att’ys’ Fees, Ex. B, ECF 59.3.)

12. The 9 October 2020 letter also observed that, regardless of whether Somerville had standing to sue, the three-year statute of limitations governing Plaintiffs’ claims for conversion, breach of contract, and unjust enrichment had expired “at the latest, three years after Mr. Dibbi’s death in 2015.” Defendants therefore demanded dismissal of those claims.

13. After receiving Defendants' letter, in November 2020, Plaintiffs' counsel made efforts to probate Dibbi's will. (Pls.' Counsel's Aff. Opp. Defs.' Mot. Sanctions and Att'ys' Fees against Pls.' Counsel, Ex. A, ECF No. 67.) Letters Testamentary were finally issued on 8 December 2020, at which time Somerville became the executor of Dibbi's estate and the testamentary trust was created. (Am. Compl. ¶ 3, ECF No. 26.)

14. In the meantime, in compliance with this Court's scheduling orders, Defendants filed a Motion to Dismiss on 23 November 2020, arguing the same standing defects identified in the 9 October 2020 letter, among other things. (Defs.' Mot. Dismiss, ECF No. 12.) Defendants also identified other weaknesses in the Plaintiffs' claims, including the failure to allege a fiduciary relationship, that intangible assets such as client relationships cannot be the subject of a claim for conversion, that no other allegedly converted "business assets" were identified, that the 27 April 2020 letter did not demand the return of any assets but rather demanded payment, and that the three-year statute of limitations barred Plaintiffs' purported claims.

15. In response to Defendants' Motion to Dismiss, on 7 January 2021, Plaintiffs filed both a Verified Motion to Substitute Parties and Notice of Ratification, (ECF No. 22), and a Motion to Amend Complaint, (ECF No. 24), seeking to name Dibbi's estate and the testamentary trust, along with DS&T, as the real parties in interest. The Court granted both motions on 11 January 2021. (Order, ECF No. 25.)

16. On 15 January 2021 Plaintiffs filed their Amended Complaint substituting parties and adding facts “to address several of the arguments raised on Defendants’ [first] Motion to Dismiss.” (Mot. Am. Compl. ¶ 4.)

17. Defendants responded with a second Motion to Dismiss, this time of the Amended Complaint, again asserting that Plaintiffs’ claims were insufficient. (ECF No. 29.)² Specifically, Defendants again identified Plaintiffs’ failure to plead that Defendants owed them a fiduciary duty, that intangible assets could not be converted and other assets were not sufficiently described, that the April 2020 demand was insufficient to support a conversion claim, and that the statute of limitations barred the claims for breach of contract and quantum meruit.

18. Following full briefing and a hearing on the motion on 4 October 2021, the Court entered an Order and Opinion dismissing Plaintiffs’ Amended Complaint pursuant to Rule 12(b)(6). (*See generally* Order and Opinion). The Court found that Plaintiffs had failed to state claims for conversion, breach of fiduciary duty, constructive fraud, and breach of contract. Plaintiffs’ unjust enrichment claim was dismissed based on the statute of limitations. Finally, Plaintiffs’ requests for a constructive trust, declaratory relief, accounting, and for the Court to pierce the corporate veil were dismissed because the claims underlying these requested remedies failed.

² After Plaintiffs’ Motion to Amend was granted, Plaintiffs filed an Amended Complaint that was not identical to the proposed amended complaint that accompanied their motion. When Defendants highlighted the error in their Motion to Dismiss, Plaintiffs filed a “Motion to Allow Amended Complaint as Filed,” which the Court, in its discretion, granted.

19. As a result, the Court granted Plaintiffs' Motion to Dismiss and dismissed the case in its entirety with prejudice on 4 October 2021.

20. Approximately six months later, on 8 April 2022, Defendants filed the current Motion seeking attorneys' fees. (ECF No. 59). The Motion has been fully briefed and is ripe for disposition.³

II. CONCLUSIONS OF LAW

21. "North Carolina follows the American Rule with regard to award of attorney's fees." *Ehrenhaus v. Baker*, 216 N.C. App. 59, 94 (2011). Therefore, in general, a party cannot recover its attorney's fees "absent express statutory authority for fixing and awarding them." *United Artists Records, Inc., v. Eastern Tape Corp.*, 18 N.C. App 183, 187 (1973) (citing *Bowman v. Chair Co.*, 271 N.C. 702 (1967)). And because statutes that award attorney's fees are in derogation of the common law, they must be strictly construed. *Barris v. Town of Long Beach*, 208 N.C. App. 718, 722 (2010) (citing *Sunamerica Fin. Corp. v. Bonham*, 328 N.C. 254, 257 (1991)).

22. Here, Defendants rely on three statutes to support their Motion for fees: N.C.G.S. §§ 6-21.5, 1D-45, and 1A-1 (Rule 11). The Court reviews each basis in turn.

A. N.C.G.S. § 6-21.5

23. North Carolina's statute on "Attorney's fees in nonjusticiable cases" provides:

In any civil action, special proceeding, or estate or trust proceeding, the court, upon motion of the prevailing party, may award a reasonable attorney's fee to the prevailing party if the court finds that there was a complete absence of a justiciable issue of either law or fact

³ Pursuant to Business Court Rule 7.4, the Court determines the Motion without oral argument.

raised by the losing party in any pleading. The filing of a general denial or the granting of any preliminary motion, such as a . . . motion to dismiss pursuant to G.S. 1A-1, Rule 12(b)(6) . . . is not in itself a sufficient reason for the court to award attorney's fees, but may be evidence to support the court's decision to make such an award. A party who advances a claim or defense supported by a good faith argument for an extension, modification, or reversal of law may not be required under this section to pay attorney's fees. The court shall make findings of fact and conclusions of law to support its award of attorney's fees under this section.

N.C.G.S. § 6-21.5.

24. Under this statute, fees may be awarded to the prevailing party if the court finds that there was “a complete absence of a justiciable issue of either law or fact” raised by the losing party in any pleading. *Willard v. Barger*, 2021 NCBC LEXIS 7, at *6 (N.C. Super Ct. Jan. 22, 2021) (quoting N.C.G.S. § 6-21.5).

25. A justiciable issue is one that “is real and present as opposed to imagined or fanciful.” *Sunamerica Fin. Corp.*, 328 N.C. at 257 (citation omitted). There is a complete absence of a justiciable issue when it “conclusively appear[s] that such issues are absent even giving the pleadings the indulgent treatment they receive on motions for summary judgment or motions to dismiss.” *Id.* (citation omitted).

26. To be awarded fees, a movant is not required to show that every claim lacked a justiciable issue. The statute is applied to issues, not actions. *Bucci v. Burns*, 2022 NCBC LEXIS 137, at *12 (N.C. Super. Ct. Nov. 17, 2022) (citing *Persis Nova Constr. v. Edwards*, 195 N.C. App. 55, 66 (2009)).

27. Further, the party against whom attorney's fees are being considered has a continuing duty to review the appropriateness of persisting in litigating a claim that is alleged to lack a justiciable issue. *See, e.g., Bryson v. Sullivan*, 330 N.C. 644,

657 (1992) (citing *Sunamerica*, 328 N.C. at 258). “[A] pleading which, when read alone sets forth a justiciable controversy, may, when read with a responsive pleading, no longer present a justiciable controversy.” *Sunamerica*, 338 N.C. at 258 (upholding fee award because defendant’s statute of limitations defense should have alerted plaintiff to lack of a justiciable issue).

28. Thus, fees may be appropriate either where a Plaintiff should “reasonably have been aware, at the time the complaint was filed, that the pleading contained no justiciable issue,” or where a claimant has “persisted in litigating the case after the point where he should reasonably have become aware that the pleading he filed no longer contained a justiciable issue.” *McLennan v. Josey*, 247 N.C. App. 95, 99 (2016) (cleaned up).

29. If there is no justiciable legal issue, “before a court may tax attorney fees against a losing party under N.C.G.S. § 6-21.5 . . . the prevailing party must provide proof that the losing party should reasonably have been aware of the complaint’s legal deficiencies.” *Bryson v. Sullivan*, 102 N.C. App. 1, 16 (1991), *aff’d in part, rev’d in part on other grounds*, 330 N.C. 644 (1992).

30. The granting of a Rule 12(b)(6) motion to dismiss “is not in itself a sufficient reason for the Court to award attorney’s fees, but may be evidence to support the court’s decision” to award fees. N.C.G.S. § 6-21.5.

31. Finally, even where express statutory authority exists, whether to award fees is a matter within the trial court’s discretion. *See, e.g., Runnels v. Robinson*, 212 N.C. App 198, 203 (2011).

32. Putting aside for the moment arguments raised regarding the capacities in which Somerville sued and addressing the substantive claims themselves, Defendants argue that an award of attorneys' fees is appropriate because they repeatedly identified the fatal weaknesses in each claim, but Plaintiffs nevertheless persisted in litigating them. Defendants contend that it is this persistence, after it was objectively apparent that the legal claims were not justiciable, that supports a fee award.

33. The Court agrees. The statute of limitations presented an obvious hurdle that was identified to Plaintiffs not only at the time of Defendants' response to the initial demand on 12 May 2020, but also in the 9 October 2020 letter sent after suit was filed, and twice more in both the 23 November 2020 and 15 February 2021 Motions to Dismiss. Nevertheless, Plaintiffs persisted in litigating claims that had long ago expired.

34. Moreover, as the Court stated in its Order and Opinion, the facts, as alleged, simply did not support the existence of a fiduciary duty. And Plaintiffs did not allege the existence of a contract. Consequently, there could be no claim for breach of either.

35. In addition, despite conclusory references to the conversion of "business assets" in the Amended Complaint, Plaintiffs' position in their April 2020 demand letter and at the motion hearing was that their claim was for Defendants' "conversion" of DS&T's client relationships and goodwill, intangible assets that cannot be the subject of the tort of conversion under established North Carolina law.

They did not plead and never identified a physical asset that they had lost. (Order and Opinion, ¶ 30.) Tellingly, the demand they made was for compensation, not for the return of tangible property. None of these facts supports a claim for conversion.

36. The Court therefore concludes that Plaintiffs knew or reasonably should have known at the outset of the case that there was a complete absence of a justiciable issue of either law or fact raised by their pleadings. As in *Sunamerica*, it was the Plaintiffs' persistence in litigating these claims despite notice that the claims were either untimely or otherwise unsupported by law that results in this fee award.

37. Accordingly, the Court concludes that Defendants' Motion for Attorneys' fees pursuant to N.C.G.S. § 6-21.5 with respect to the claims brought in the Amended Complaint should be **GRANTED**.

B. N.C.G.S. § 1D-45

38. N.C.G.S. § 1D-45 provides, in pertinent part:

The court shall award reasonable attorneys' fees, resulting from the defense against the punitive damages claim, against a claimant who files a claim for punitive damages that the claimant knows or should have known to be frivolous or malicious.

N.C.G.S. § 1D-45.

39. “[A] claim for punitive damages is ‘frivolous’ where its proponent can present no rational argument based upon the evidence or law in support of it.” *Philips v. Pitt Cnty. Mem'l. Hosp., Inc.*, 242 N.C. App. 456, 458 (2015) (quoting *Rhyne v. K-Mart Corp.*, 149 N.C. App. 672, 689 (2002)).

40. A claim is malicious if it is “wrongful and done intentionally without just cause or excuse or as a result of ill will.” *Blyth v. McCrary*, 184 N.C. App. 654, 663 n.5 (2007) (quoting Black's Law Dictionary 958 (6th ed. 1990)).

41. Defendants argue that they are entitled to fees for defending against Plaintiffs’ demand for punitive damages because Plaintiffs knew or should have known that the claims that supported their demand—the torts of conversion, breach of fiduciary duty, and constructive fraud—were frivolous or malicious.

42. Although the Court does not find support for the argument that Plaintiffs’ claims were brought maliciously, for the reasons stated above and in its earlier Order and Opinion on Defendants’ Motion to Dismiss, the Court concludes that Defendants’ Motion for an award of fees resulting from its defense of the punitive damages demand in the Amended Complaint should be **GRANTED**.

C. N.C.G.S. § 1A-1, Rule 11

43. Rule 11 of the North Carolina Rules of Civil Procedure provides:

(a) Signing by Attorney. — Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. . . . The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. . . . If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because

of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

N.C.G.S. § 1A-1, R. 11.

44. According to Rule 11, by signing a pleading, an attorney certifies that three distinct things are true: the pleading is (1) well-grounded in fact; (2) warranted by existing law, 'or a good faith argument for the extension, modification, or reversal of existing law' (legal sufficiency); and (3) not interposed for any improper purpose." *Bryson*, 330 N.C. at 655. "A breach of the certification as to any one of these three prongs is a violation of the Rule." *Id.*

45. Unlike the N.C.G.S. § 6-21.5 analysis, in determining whether to award attorneys' fees under Rule 11, "reference should be made to the document itself, and the reasonableness of the belief that it is warranted by existing law should be judged as of the time the document was signed. Responsive pleadings are not to be considered." *Id.* at 656. The question for the Court is whether counsel for Plaintiffs acted with "objective reasonableness under the circumstances" in signing the pleading in question. *Turner v. Duke University*, 325 N.C. 152, 164 (1989).

46. The Court recognizes the importance of proceeding with care. "In determining compliance with Rule 11, courts should avoid hindsight and resolve all doubts in favor of the signer." *Twaddell v. Anderson*, 136 N.C. App. 56, 70 (citation and internal quotation marks omitted).

47. Defendants argue that they are entitled to attorneys' fees under Rule 11 because both the Complaint and the Amended Complaint were facially implausible

and that the deficiencies would have been readily apparent to Plaintiffs' counsel had he made a reasonable investigation into either his client's allegations or the law.

48. Returning to Defendants' arguments regarding the various capacities in which Somerville brought suit, Defendants complain that a reasonable investigation of the facts by Plaintiffs' counsel would have revealed that Dibbi's will had never been probated and that Somerville's allegations that she was his executor and trustee could not be true. Defendants complain that they were the ones forced to incur the expense to uncover the error and bring it to the Court's attention and, therefore, should recover the fees incurred to do so.

49. Defendants' counsel alerted Plaintiffs' counsel to the problem in their 9 October 2020 letter. However, because the error was not rectified by the time Defendants were required to file their responsive pleading on 23 November 2020, Defendants complain they had to incur the additional expense of briefing a motion to dismiss that was partially based on Somerville's lack of standing. Even though Plaintiffs subsequently cured the problem by probating the will and amending their pleadings, Defendants complain that they had already incurred unnecessary attorneys' fees.

50. John Wait, who represented Plaintiffs at the time, submitted an affidavit in which he testified that he spoke with another attorney who was familiar with the history of the parties and then spent 13 hours between May 2020 and 31 July 2020 conferring with Rebecca Somerville and reviewing documents before filing the initial Complaint. Wait attests that the Complaint was reviewed by Somerville

before filing, but it was not verified by her. Noticeably absent from the affidavit is any explanation for Wait's failure to discover the fact that Dibbi's will had not been probated before signing the Complaint. (Wait Aff. ¶ 4, ECF No. 67.)

51. The Court determines that Plaintiffs' assertion in the initial Complaint that Somerville was the executor of the Dibbi Estate and trustee of his testamentary trust was wholly unsupported. A minimal investigation of the facts would have revealed as much. Consequently, Defendants' attorneys' fees to uncover the failing, alert Plaintiffs, and brief this issue in their initial motion to dismiss, will be assessed against Plaintiffs' counsel, who failed to conduct the necessary investigation prior to signing the pleading. In this limited respect, Defendants' Rule 11 motion is **GRANTED**.

52. As for defense costs otherwise incurred, Wait's affidavit states that he spent over 44 hours on the case prior to filing the Amended Complaint. The Court observes that the task of Plaintiffs' counsel was made more difficult by the fact that he did not have a history of representing these parties, and because Dibbi, who would have been his primary witness, was deceased. The legal relationship between these parties, which had not been reduced to writing, was less than clear. The Court also takes note of the candor displayed by Plaintiffs' counsel when addressing identified procedural errors and of his obvious respect for the Court and the process generally.

53. In short, the Court concludes that Plaintiffs' counsel filed pleadings that he genuinely *believed* were well-grounded in fact or law, but he was both hamstrung by an inability to get to the bottom of the relationship between Dibbi and Elbahrawi,

and confused by the import of Somerville's late effort to be compensated for client relationships that transferred well before Dibbi died in 2015.

54. Under the circumstances, the Court determines that this is not a case in which the imposition of Rule 11 sanctions would further the Rule's purpose of "prevent[ing] abuse of the legal system[.]" *Grover v. Norris*, 137 N.C. App. 487, 495 (2000).

55. In addition, the Court concludes, in the exercise of its discretion, that the fees awarded under N.C.G.S §§ 6-21.5 and 1D-45 are sufficient to remedy the harm done and declines to impose further sanctions against Plaintiffs or Plaintiffs' counsel, including through a further award of attorneys' fees or costs under Rule 11. *See Willard*, 2021 NCBC LEXIS 7, at 17.

56. Accordingly, except as herein provided, Defendants request for additional attorneys' fees under Rule 11 is **DENIED**.

III. CONCLUSION

57. WHEREFORE, in the exercise of its discretion, the Court **GRANTS** in part Defendants' Motion for Attorneys' Fees and **ORDERS** as follows:

- a. Plaintiffs shall pay the reasonable attorneys' fees incurred by Defendants with respect to the claims asserted in the Amended Complaint except as provided in subsection (b), below;
- b. Plaintiffs' counsel, John Wait, shall pay the reasonable attorneys' fees incurred by Defendants to determine that the Dibbi will had not

been probated, alert Plaintiffs' counsel, and brief this issue in support of Defendants' initial motion to dismiss;

- c. The Court encourages the parties to confer and stipulate to the fee amounts identified above. If the parties reach agreement, they shall jointly submit their stipulation to the Court for approval by 22 February 2023. If the parties cannot agree, then Defendants shall file their Petition for fees in accordance with the terms of this Order, supported by appropriate affidavits and documentary evidence, on or before 8 March 2023.
- d. Plaintiffs and Wait may each file any objections to the Petition within fourteen (14) days following its filing.
- e. The Petition and any response may not exceed 2,500 words. No reply is permitted.
- f. In all other respects the Motion is **DENIED**.

SO ORDERED, this the 25th day of January, 2023.

/s/ Julianna Theall Earp

Julianna Theall Earp
Special Superior Court Judge
for Complex Business Cases