

Flat Fee

EXAMPLE

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

SOUTH CAROLINA BANK AND TRUST,
N.A.,

Plaintiff,

vs.

Defendants.

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

C/A #: 2010-CP-32-

AFFIDAVIT OF ATTORNEYS' FEES

Personally appeared before me , attorney for the Plaintiff, who first being duly sworn, deposes and says as follows:

1. I am an attorney for the Plaintiff in the above referenced matter.
2. This case is an action to foreclose a mortgage on real property located in Lexington County, South Carolina. The subject mortgage specifically provides that the Plaintiff is entitled to the recovery of attorneys' fees and costs associated with the collection of sums due under the promissory Note.
3. I was retained by the Plaintiff to conduct this foreclosure action pursuant to a contractual rate of compensation providing for a flat attorneys' fee in the amount of \$1,500.00.
4. Under Dede v. Strickland, 414 S.E.2d. 134 (S.C. 1992), the Supreme Court of South Carolina has set forth the factors to be considered in an award of attorney's fees in real property actions. These factors include nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fees charged in the locality for similar services, and the beneficial result obtained. These factors, as applied in this case, are as follows:
 - a. Nature, Extent, and Difficulty of the Legal Services Rendered. As stated earlier, this is an action to foreclose a mortgage on real property. The case involved complex issues of real property law. A hearing was held by the Master, who requires an order to be prepared by Plaintiff's counsel. Accordingly, the factual and legal issues presented were complex and detailed in nature, the extent of the work performed was necessary to adequately prepare and try these matters, and the matters decided were of legal and factual difficulty.

- b. Time and Labor Necessarily Devoted to the Case. As stated above, this case involved difficult issues of both legal and factual natures. Approximately 14.4 hours were devoted to the case by my firm. Accordingly, the time and labor devoted to this case were necessary to properly prepare and try this case.
- c. Professional Standing of Counsel. I am a licensed member of the Bar of the State of South Carolina and the State of North Carolina. I completed law school approximately 8 years ago. For approximately the last 6 years, I have been employed with the [REDACTED], LLC in Columbia, South Carolina. I am a member of the Richland County Bar Association, the South Carolina Bar Association, the North Carolina State Bar, the North Carolina Bar Association, and other professional organizations. Approximately 75% of my practice consists of real property litigation, including foreclosure cases, collection cases, land title questions, and other land related litigation. In the last six years, I have filed and pursued hundreds of real property cases. Accordingly, I submit that I have a high professional standing in general and in this area of practice.
- d. Contingency of Compensation. As recited above, compensation in this case is based on a flat-fee rate of \$1,500.00.
- e. Customary Fee Charged on the Locality for Similar Services. I am aware from discussions with clients, other attorneys in the Foreclosure Bar in the Midlands region of South Carolina, and from my general familiarity with the legal profession that the fees charged for services similar to those in this case are from \$850 to \$4,000.00 per case. As stated earlier, my flat-fee rate is within this range in this case. Accordingly, this rate is the fee customarily charged in this locality for similar services.
- f. Beneficial Results Obtained. This attorney obtained beneficial results for the Plaintiff in this action by securing a Judgment enforcing Plaintiff's mortgage rights with regard to the subject real property. Accordingly, it is submitted that beneficial results were obtained by this firm on the Plaintiffs' behalf.

6. After due consideration of the nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fee charged in the locality for similar services, and the beneficial result obtained, I respectfully submit that an award of attorney's fees to the full extent set forth in this Affidavit is appropriate; therefore, Plaintiffs are entitled to recover \$1,500.00 in attorney's fees.

7. In conjunction with this Affidavit, Plaintiff's counsel is submitting an affidavit reflecting the costs actually incurred through the date of the hearing. The costs in this matter total \$1,161.41. These costs include filing fees, reference fees, service costs, and other miscellaneous costs. The costs are reasonable and necessary to pursue this action and are not, I believe, excessive given the nature, extent and difficulty of the legal services in this case, the time and labor devoted to this case, and the beneficial result obtained.

8. Accordingly, the total attorney's fees and costs sought in this case and allowable under the terms of the Note and Mortgage total \$2,661.41.

FURTHER AFFLIANT SAYETH NOT.

[Redacted signature block]

Attorney for the Plaintiff

SWORN to before me this
2nd day of February, 2011

[Redacted name]

Notary Public for South Carolina
My Commission Expires: 3/14/2012