

VERMONT SUPERIOR COURT
Windsor Unit
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CIVIL DIVISION
Case No. 234-5-17 Wrcv

Gregory Lamson
Plaintiff

v.

James Goode and Chase Locke
Defendants

Decision on Post-Judgment Motions

Generally, the rule is that parties are responsible for their own attorney fees unless there is a specific statutory, contractual, or equitable reason for an award shifting those responsibilities to the opposing party. *Southwick v. City of Rutland*, 2011 VT 105, ¶ 5, 190 Vt. 324; *DJ Painting, Inc. v. Baraw Enterprises, Inc.*, 172 Vt. 239, 246 (2001); *Bruntaeger v. Zeller*, 147 Vt. 247, 255 (1986); *State v. Whitingham School Bd.*, 140 Vt. 405, 407 (1981). One of the applicable statutory reasons is set forth in the Vermont Prompt Payment Act: the court is authorized to award attorney fees to “the substantially prevailing party in any proceeding to recover any payment within the scope” of the Prompt Payment Act. 9 V.S.A. § 4007(c).

The determination of whether any party “substantially prevail[ed]” in a construction-contract dispute is a matter of discretion for the trial court. *Fletcher Hill, Inc. v. Crosbie*, 2005 VT 1, ¶ 12, 178 Vt. 77. A court may consider whether one party was the net victor in the case, whether one side achieved a “comparative victory” on the issues actually litigated, and whether one side achieved a greater award “proportionally” to “what was actually sought.” *Burton v. Jeremiah Beach Parker Restoration and Const. Mgmt. Corp.*, 2010 VT 55, ¶ 8, 188 Vt. 583 (mem.) (internal quotations omitted). A court may also decide “that neither party substantially prevailed.” *Birchwood Land Co., Inc. v. Ormond Bushey & Sons, Inc.*, 2013 VT 60, ¶ 36, 194 Vt. 478; *Trombly Plumbing & Heating v. Quinn*, 2011 VT 70, ¶ 13, 190 Vt. 552 (mem.).

Here, the dispute started with the construction of a pond in 2017. A civil complaint was filed in 2017 and the parties spent the next 2,982 days litigating the case. After a five-day jury trial, the jury split its verdict and awarded a net amount (after accounting for prejudgment interest) of \$4,450.68 in favor of defendants. This was a mere fraction of the amounts requested at trial. Neither party obtained what they wanted from the construction dispute. Neither party obtained an outcome that justified the expenditure of time and money on the case. Neither party substantially prevailed in this litigation.

Defendants have argued that they prevailed on the PPA claim “because that issue was not submitted to the jury for its consideration,” referencing that the court did not instruct the jurors on the definitions of what it means to be a contractor or an owner. Yet other aspects of the PPA were submitted to the jury, including a full consideration of the contractual dispute, a determination of the date on which payment was due, and whether any amounts were withheld in good faith. Any instructions about the definitions of “contractor” and “owner” were unnecessary because those issues were completely undisputed at trial. Neither party objected to the omission of those definitions, and the jury returned a verdict in favor of plaintiff on the contract claim. Given those observations, and taking into consideration “the broader range of claims at issue in the case,” which generally all shared a common core of evidence and arose from the same dispute, *Nystrom v. Hafford*, 2012 VT 60, ¶ 19, 192 Vt. 300, the court denies the motion to amend the judgment and reiterates its conclusion that neither party substantially prevailed in this litigation.

Plaintiff has argued that he is entitled to an additional penalty under 9 V.S.A. § 4007(b). The request is denied because the jury specifically found that payment was not wrongfully withheld.

Finally, to the extent that defendants’ motion for litigation costs can be construed as seeking an award of costs pursuant to Vermont Civil Procedure Rule 54, the court is aware of its discretion to award costs to the prevailing party and declines any such award, both because no request was made in a sufficiently-particular way, and because the equities strongly favor each party to this case bearing the consequences of their own litigation choices. *Peterson v. Chichester*, 157 Vt. 548, 553 (1991); 10 Wright & Miller, Federal Practice and Procedure: Civil 4th § 2679.

For these reasons: (1) Defendant’s Motion to Reconsider or in the Alternative to Amend Judgment to Include Attorneys’ Fees and Expenses (MPR #35), filed July 24, 2025, is denied; (2) Plaintiff’s Motion for Attorney’s Fees (MPR #36), filed July 28, 2025, is denied; and (3) Defendant’s Motion to Award Attorneys’ Fees and Litigation Expenses (MPR #37), filed July 31, 2025, is denied.

Electronically signed on Friday, August 29, 2025 pursuant to V.R.E.F. 9(d).



H. Dickson Corbett
Superior Court Judge

Vermont Superior Court
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Windsor Unit