

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

Corporate Protection Services, Inc., et al.

Court of Appeals No. L-10-1317

Appellees

Trial Court No. CI0200803974

v.

Guardian Alarm of Ohio

DECISION AND JUDGMENT

Appellant

Decided: March 29, 2012

* * * * *

Keith Wilkowski and Jennifer J. Dawson, for appellees.

Thomas R. Paxton, for appellant.

* * * * *

SINGER, P.J.

{¶ 1} This matter is before the court on an application for reconsideration of our decision in *Corporate Protection Servs., Inc. v. Guardian Alarm of Ohio*, 6th Dist. No. L-10-1317, 2012-Ohio-514. In that decision, this court affirmed the trial court's decision finding appellant had breached a contract. This court also found that pursuant to the

contract, appellees were entitled to attorney fees because of appellant's deficient performance of the contract, resulting in litigation.

{¶ 2} In their timely application for reconsideration, appellees contend that this court overlooked the fact that in addition to the attorney fees incurred as a result of the litigation in the trial court, appellees are entitled to receive attorney fees incurred as a result of the appeal. Appellant has filed a motion in opposition.

{¶ 3} In deciding appellant's application for reconsideration we must employ the standard set forth in *Matthews v. Matthews* (1981), 5 Ohio App.3d 140, 143:

The test generally applied upon the filing of a motion for reconsideration in the court of appeals is whether the motion calls to the attention of the court an obvious error in its decision or raises an issue for consideration that was either not considered at all or was not fully considered by the court when it should have been. (App.R. 26, construed)
See also Columbus v. Hodge (1987) 37 Ohio App.3d 68.

{¶ 4} In their appellate brief, appellees asked this court to make a direct award of appellate attorney fees after directing appellees to submit an affidavit detailing such fees, or remand the matter to the trial court to determine the amount of the award. This court did not address appellees' request. As such, appellees' motion is found well-taken.

{¶ 5} With their motion for reconsideration, appellees have submitted documentation in the form of an affidavit and time sheets showing that appellees incurred \$16,412.08 in appellate expenses. Accordingly, we hereby grant appellees additional

attorney fees in the amount of \$16,412.08. In all other respects, our decision in *Corporate Protection Servs., Inc. v. Guardian Alarm of Ohio*, 6th Dist. No. L-10-1317, 2012-Ohio-514, remains unchanged.

Motion granted.

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, P.J.

JUDGE

Thomas J. Osowik, J.
CONCUR.

JUDGE

<p>This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: http://www.sconet.state.oh.us/rod/newpdf/?source=6.</p>
