[Cite as *Sorensen v. Hellas*, 2026-Ohio-4546.]

IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
DELAWARE COUNTY, OHIO

SORENSEN CONSTRUCTION, INC. Plaintiff-Appellant/Cross-Appellee -vs- HELLAS INVESTMENTS, LTD. Defendant-Appellee/Cross-Appellant	Case Nos. 26 CAE 07 0071 & 26 CAE 07 0073 Opinion and Judgment Entry Appeal from the Delaware County Court of Common Pleas, Case No. 25CV H 01 112 Judgment: Affirmed Date of Judgment Entry: November 16, 2026

BEFORE: William B. Hoffman; Craig R. Baldwin; Kevin W. Popham, Judges

APPEARANCES: Dave Lackey, Sybert, Rhoad, Lackey & Swisher, LLC, for Plaintiff-Appellant; Bryan M. Pritikin, Roetzel & Andress, LPA, for Defendant-Appellee.

Hoffman, P.J.

{¶1} In Delaware App. No. 26CAE070071, plaintiff-appellant/cross-appellee Sorensen Construction, Inc. ("Sorensen Construction") appeals the April 23, 2026 Judgment Entry entered by the Delaware County Court of Common Pleas, which denied its motion for summary judgment and granted summary judgment in favor of defendant-appellee/cross-appellant Hellas Investments LTD ("Hellas"), and the July 9, 2026 Judgment Entry, which approved and adopted the magistrate's June 24, 2026 decision awarding damages to Hellas. In Delaware App. No. 26CAE070073, Hellas appeals the July 9, 2026 Judgment Entry, which failed to award it attorney fees incurred prior to January 27, 2025.

STATEMENT OF THE CASE AND FACTS

{¶2} John Vlahos ("Vlahos") contacted Don Sorensen and requested Sorensen Construction perform renovation work on real property located at 7575 Riverside Drive, Powell, Ohio ("the Property"). Don Sorensen, Sorensen Construction's 30(B)(5) representative, described the work as a "complete renovation" of the Property, "from the ground up." Deposition of Don Sorensen, pp. 12, 14, 16, 27, attached as Exhibit 3 to Hellas' November 18, 2025 Motion for Summary Judgment. Don Sorensen testified Hellas never contracted with Sorensen Construction. Vlahos and Don Sorensen discussed the oral contract regarding the work at the Property, but a contract never materialized in writing.

{¶3} At the time Vlahos engaged Sorensen Construction, the Property was owned by Hellas, a single-member entity controlled entirely by the John Vlahos Trust. The trustee of the John Vlahos Trust was Vlahos. Hellas was "[b]asically. . . a holding company for the rentals that [Vlahos] had." Deposition of John A. VanSickle, p. 11, attached as Exhibit 1 to Hellas' November 18, 2025 Motion for Summary Judgment.

{¶4} Sorensen Construction performed some of the renovation work and obtained a certificate of occupancy on March 24, 2023. After the certificate of occupancy was acquired, Sorensen Construction was denied access to the Property and was not permitted to perform any additional work on the Property. Vlahos placed tools and equipment belonging to Sorensen Construction outside the residence. At that point, Vlahos had paid $292,000, directly to Sorensen Construction and an additional $72,000, directly to subcontractors and suppliers. According to Sorensen Construction, Vlahos, however, refused to pay the 20% contractor's fee. Sorensen Construction subsequently filed a mechanic's lien against the

Property, claiming it was owed $32,250. When Don Sorensen attempted to file the mechanic's lien, he learned the Property was owned by Hellas.

{¶5} On June 30, 2023, Sorensen Construction filed a complaint against Hellas and Vlahos for, inter alia, breach of contract and unjust enrichment, and seeking damages in the amount of $32,250 ("Prior Action"). Vlahos passed away on August 14, 2023, and Sorensen Construction dismissed its claims against him individually. Sorensen Construction filed a motion for summary judgment on January 22, 2024, which the trial court denied. Depositions were taken and discovery exchanged. Sorensen Construction filed a motion for partial summary judgment on November 20, 2024. Hellas filed a memorandum in opposition on December 17, 2024. After the trial court denied its motion for partial summary judgment, Sorensen Construction filed a notice of dismissal on January 27, 2025.

{¶6} Also on January 27, 2025, Sorensen Construction filed the complaint in the instant action for breach of contract and unjust enrichment, and seeking damages in the amount of $72,800.00 ("Refiled Action"). The facts and issues in the Prior Action were identical to the facts and issues in the Refiled Action. On March 14, 2025, Hellas filed an answer and counterclaim for slander of title/falsification, quiet title, and declaratory judgment. Sorensen Construction filed a reply to Hellas' counterclaim on April 3, 2025.

{¶7} Sorensen Construction filed a motion for summary judgment on November 14, 2025. Hellas filed a motion for summary judgment on November 18, 2025. Via Judgment Entry filed April 23, 2026, the trial court denied Sorensen Construction's motion for summary judgment and granted Hellas' motion for summary judgment.

{¶8} In denying Sorensen Construction's motion for summary judgment on its claims, the trial court found a valid, enforceable contract did not exist between Sorensen

Construction and Hellas; therefore, a breach of contract could not occur. The trial court further found Sorensen Construction failed to provide sufficient evidence to establish Hellas was unjustly enriched or that Sorensen Construction suffered any loss. The trial court granted summary judgment in favor of Hellas on its counterclaims, finding Sorensen Construction filed the mechanic's lien on the Property without providing a "bona fide and evidence-backed way to show the total cost of the Project;" without Hellas "being a party to the oral contract and without any accounting on whether the Project had been paid if full." April 23, 2026 Judgment Entry at p. 10. The trial court concluded Sorensen Construction filed the mechanic's lien with reckless or wanton disregard for its falsity. The trial court found the invalid mechanic's lien created a cloud of Hellas' title; therefore, Hellas was entitled to summary judgment on its slander of title claim. In addition, the trial court determined, because the Property was unique and Hellas had no adequate remedy at law through which to remove the cloud and clear the title, Hellas was entitled to summary judgment on its claims for quiet title and declaratory judgment.

{¶9} The magistrate conducted a hearing on the issue of damages related to Hellas' slander of title claim on June 3, 2026. Via decision filed June 24, 2026, the magistrate awarded damages to Hellas in the amount $111,714.00. The total damage award consisted of $28,796.00, for work performed by Jon VanSickle; $78,518.00, in attorney fees from January 27, 2026, to date; and $4,400.00, in expert fees. Sorensen Construction filed objections to the magistrate's June 24, 2026 decision, arguing the award was excessive as Hellas failed to mitigate damages as it could have filed an application pursuant to R.C. 1311.11(C) to discharge the lien. Hellas also filed objections to the magistrate's decision,

asserting it should have been awarded attorney fees for work performed in defending the Prior Action.

{¶10} Via Judgment Entry filed July 9, 2026, the trial court overruled the parties' respective objections, and approved and adopted the magistrate's June 24, 2026 decision as judgment of the court.

{¶11} In Delaware App. No. 26CAE070071, Sorensen Construction appeals the trial court's April 23, 2026, and July 9, 2026 Judgment Entries, raising the following assignments of error:

> I. THE TRIAL COURT ERRED IN DENYING PLAINTIFF-APPELLANT'S MOTION FOR SUMMARY JUDGMENT ON ITS BREACH OF CONTRACT CLAIM.
>
> II. THE TRIAL COURT ERRED IN DENYING PLAINTIFF-APPELLANT'S MOTION FOR SUMMARY JUDGMENT ON ITS UNJUST ENRICHMENT CLAIM (AS AN ALTERNATIVE TO ITS BREACH OF CONTRACT CLAIM).
>
> III. THE TRIAL COURT ERRED IN GRANTING DEFENDANT-APPELLEE'S MOTION FOR SUMMARY JUDGMENT ON ITS SLANDER OF TITLE AND QUIET TITLE CLAIMS.
>
> IV. THE TRIAL COURT ERRED IN GRANTING EXCESSIVE DAMAGES TO THE DEFENDANT-APPELLEE.

{¶12} In Delaware App. No. 26CAE070073, Hellas appeals the trial court's July 9, 2026 Judgment Entry, assigning the following as error:

> I. THE TRIAL COURT ERRED IN NOT GRANTING HELLAS AN AWARD OF REASONABLE ATTORNEYS' FEES FOR HAVING TO RESPOND TO SORENSEN'S BAD FAITH FIRST COMPLAINT, WHICH SORENSEN ADMITTED TO FILING IN BAD FAITH. THE ERROR IS REFLECTED IN THE TRIAL COURT'S ADOPTION OF THE MAGISTRATE'S JUNE 24, 2026 DECISION. TR 39.

{¶13} This case comes to us on the accelerated calendar. App. R. 11.1, which governs accelerated calendar cases, provides, in pertinent part:

> (E) Determination and judgment on appeal. The appeal will be determined as provided by App. R. 11.1. It shall be sufficient compliance with App. R. 12(A) for the statement of the reason for the court's decision as to each error to be in brief and conclusionary form. The decision may be by judgment entry in which case it will not be published in any form.

Standard of Review

{¶14} Summary judgment proceedings present the appellate court with the unique opportunity of reviewing the evidence in the same manner as the trial court. *Smiddy v. The*

Wedding Party, Inc., 30 Ohio St.3d 35, 36 (1987). As such, this Court reviews an award of summary judgment de novo. *Grafton v. Ohio Edison Co.*, 77 Ohio St.3d 102, 105 (1996).

{¶15} Civ.R. 56 provides summary judgment may be granted only after the trial court determines: 1) no genuine issues as to any material fact remain to be litigated; 2) the moving party is entitled to judgment as a matter of law; and 3) it appears from the evidence that reasonable minds can come to but one conclusion and viewing such evidence most strongly in favor of the party against whom the motion for summary judgment is made, that conclusion is adverse to that party. *Temple v. Wean United, Inc.*, 50 Ohio St.2d 317 (1977).

{¶16} The party moving for summary judgment bears the initial burden of demonstrating the absence of genuine issues of material facts concerning the essential elements of the nonmoving party's case. *Dresher v. Burt*, 75 Ohio St.3d 280, 292 (1996). The moving party must support the motion by pointing to some evidence in the record of the type listed in Civil Rule 56(C). *Id*. at 292-293. However, the moving party need not support its motion for summary judgment with evidence negating his opponent's claim, but may simply point out that there is an absence of evidence to support the non-moving party's claim. *Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986).

{¶17} If the moving party satisfies this burden, then the non-moving party has the reciprocal burden to demonstrate a genuine issue for trial remains. *Dresher*, 75 Ohio St.3d at 293. The nonmoving party may not rest upon the mere allegations or denials in her pleadings but must point to or submit evidence of the type specified in Civ.R. 56(C). *Id.*; Civ.R. 56(E). Types of evidence specified in Civ.R. 56 (C) are "pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact." Civ.R. 56(C).

I

{¶18} In its first assignment of error, Sorensen Construction contends the trial court erred in denying its motion for summary judgment on its breach of contract claim.

{¶19} "A contract is generally defined as a promise, or a set of promises, actionable upon breach." *JLP-Orange, LLC v. Tuller Square Northpointe, LLC*, 2024-Ohio-2236, ¶ 15 (5th Dist.), "Essential elements of a contract include an offer, acceptance, contractual capacity, consideration (the bargained for legal benefit and/or detriment), a manifestation of mutual assent and legality of object and of consideration." (Citations omitted.) *Id*. To prove the existence of a contract, written or oral, "a plaintiff must show that both parties consented to the terms of the contract, that there was a 'meeting of the minds' of both parties, and that the terms of the contract are definite and certain." (Internal quotations and citations omitted.) *Barlay v. Yoga's Drive-Thru*, 2003-Ohio-7164, ¶ 6 (10th Dist.)

{¶20} "To successfully prosecute a breach of contract claim, a plaintiff must present evidence of (1) the existence of a contract, (2) plaintiff's performance of the contract, (3) defendant's breach of the contract, and (4) plaintiff's loss or damage as a result of defendant's breach." *Id*., citing *Doner v. Snapp*, 98 Ohio App.3d 597, 600 (2d Dist. 1994).

{¶21} In its April 23, 2026 Judgment Entry, the trial court granted summary judgment against Sorensen Construction and in favor of Hellas on Sorensen Construction's breach of contract claim, concluding a valid, enforceable contract did not exist between the parties. The trial court explained:

[Sorensen Construction] claims it formed a contract with [Hellas] by virtue of the relationship between [Hellas] and Vlahos. The Property was owned by [Hellas] at the time Vlahos engaged Sorensen. [Sorensen Construction] argues then that an agency relationship existed between [Hellas] and Vlahos such that Vlahos' actions bind [Hellas] to the terms of the oral contract negotiated between Vlahos and [Sorensen Construction]. * * * [Sorensen Construction] did not submit evidence to show that [Hellas] was ever intended to be a party to the oral contract between [Sorensen Construction] and Vlahos. The oral contract between [Sorensen Construction] and Vlahos never materialized into writing and Vlahos' understanding of those terms is now unclear due to his passing. [Don Sorensen] states "For the projects that I work on, my fee is twenty percent of the total costs for labor and material incorporated into any project I work on." (Sorensen Aff. ¶2.) This was not memorialized in this specific Project. There is also no evidence that [Don Sorensen or Sorensen Construction] had any previous course of conduct with Vlahos or [Hellas] indicating otherwise.

[Hellas] argues that Vlahos personally contracted with [Sorensen Construction]. [Hellas] cites numerous instances in [Don] Sorensen's deposition testimony that show [Don Sorensen] believed he never contracted with [Hellas], never knew [Hellas] owned the Property, and never believed [Hellas] to be a third-party beneficiary of the oral contract." * * * ("Q: Did you think you were contracting with Mr. Vlahos personally?" "A: Yes." "Q: Okay. You didn't think you were contracting with Hellas?" "A: Never. Not one

time") * * * ("I always thought I was building directly for John Vlahos," "Q: you're not in contract with Hella" "A: No. As far as I know,") * * * ("I never thought I was dealing with Hellas. Not one point did I ever feel that I was dealing with Hellas. I was dealing with John personally") * * * It is clear from the testimony, and it is uncontroverted, that [Sorensen Construction] believed it was dealing with Vlahos personally on the Project, not [Hellas].

[Sorensen Construction] failed to show that Vlahos had either the ability or intention to bind [Hellas] to this oral contract. [Sorensen Construction] has not provided evidence such as a written agreement with [Hellas], payments made to [Sorensen Construction] by [Hellas], interactions between [Sorensen Construction] and [Hellas], or any course of dealings between [Sorensen Construction] and [Hellas] that would create even a plausible argument that [Hellas] should be a party to this oral contract. [Sorensen Construction's] arguments pursuant to R.C. 1311.02 do not relate to contract creation and are unpersuasive here.

[Sorensen Construction] has failed to produce evidence that binds [Hellas] to the purported oral contract made with Vlahos.

April 23, 2026 Judgment Entry at pp. 5-7.

{¶22} We agree with the trial court and find the evidence presented does not establish the existence of a contract between Sorensen Construction and Hellas. Accordingly, we find the trial court did not err in granting summary judgment in favor of Hellas on Sorensen Construction's breach of contract claim.

{¶23} Sorensen Construction's first assignment of error is overruled.

II

{¶24} In its second assignment of error, Sorensen Construction maintains the trial court erred in granting summary judgment in favor of Hellas on its unjust enrichment claim.

{¶25} The doctrine of unjust enrichment "applies when a benefit is conferred and it would be inequitable to permit the benefitting party to retain the benefit without compensating the conferring party." *KN Excavation, L.L.C. v. Rockmill Brewery, L.L.C.*, 2022-Ohio-3414, ¶ 24 (5th Dist.), citing *Garb-Ko, Inc. v. Benderson*, 2013-Ohio-1249, ¶ 25 (10th Dist.). The purpose of an unjust enrichment claim is not to compensate the plaintiff for loss or damage suffered by the plaintiff, but to enable the plaintiff to recover the benefit he conferred on the defendant when it would be unjust for the defendant to retain the benefit. *Id.*, citing *Johnson v. Microsoft Corp.*, 2005-Ohio-4985, ¶ 20.

{¶26} The elements of an unjust enrichment claim are: (1) the plaintiff conferred a benefit on the defendant; (2) the defendant knew of the benefit; and (3) it would be unjust to allow the defendant to retain the benefit without payment to the plaintiff. *Id.*, citing *Robinette v. PNC Bank*, 2016-Ohio-767, ¶ 23 (5th Dist.). The damages for unjust enrichment are "the amount the defendant benefited." *Id.*, citing *Bollman v. Lavery Automotive Sales & Serv., LLC*, 2019-Ohio-3879, ¶ 28 (5th Dist.). An unjust enrichment award is not intended to compensate the plaintiff for any loss or damage suffered by it. *Id.* at ¶ 28, citing *Certain Care, LLC v. Mikitka*, 2020-Ohio-3544, ¶ 6 (9th Dist.), citing *Clifton v. Johnson*, 2019-Ohio-2702 (4th Dist.). Unjust enrichment entitles a party only to restitution of the reasonable value of the benefit conferred. (Citation omitted.) *Id.* at ¶ 27.

{¶27} In concluding Sorensen Construction was not entitled to summary judgment on its unjust enrichment claim, the trial court found:

> [Don] Sorensen testified in his deposition that "Vlahos paid for all materials and all the labor." * * * [Sorensen Construction] does not claim that any balance remains outstanding regarding the costs of material and labor. [Hellas] claims they not only paid the full amount but paid more than required for the Project. [Sorensen Construction] did not maintain any bookkeeping for the Project, and it is unclear how much it spent on materials or how much it took in payments from Vlahos. Both parties agree that [Sorensen Construction] received value of $364,000 for the Project, $292,000 directly and an additional $72,000 paid directly to subcontractors and suppliers.
>
> [Sorensen Construction] has not provided sufficient evidence to show that [Hellas] has been unjustly enriched or what the actual loss, if any, is to [Sorensen Construction]. Testimony by [Don] Sorensen suggests that all costs for the project have been paid. Evidence of additional costs or even the total cost of the project is lacking or inconclusive. [Hellas] has paid for benefits conferred and the reasonable value of services that can be reasonably ascertained by the evidence submitted. [Sorensen Construction's] Motion for Summary Judgment on this basis is denied. [Hellas'] Motion for Summary Judgment on this basis is granted.
>
> April 23, 2026 Judgment Entry at p 8.

{¶28} We agree with the trial court and find the evidence presented does not establish Hellas was unjustly enriched as Sorensen Construction received $292,000 directly from Vlahos and has not shown more monies were due and owing on the project. Accordingly, we find the trial court did not err in granting summary judgment in favor of Hellas on Sorensen Construction's unjust enrichment claim.

{¶29} Sorensen Construction's second assignment of error is overruled.

III

{¶30} In its third assignment of error, Sorensen Construct argues the trial court erred in granting summary judgment in favor of Hellas on its slander of title quiet title claims.

Slander of Title

{¶31} "Slander of title is a tort action premised upon defamation of real property." *Gasper v. Bank of America, N.A.*, 2019-Ohio-1150, ¶ 36 (9th Dist.). To prevail on a slander of title claim, a plaintiff must prove "'(1) there was a publication of a slanderous statement disparaging claimant's title; (2) the statement was false; (3) the statement was made with malice or made with reckless disregard of its falsity; and (4) the statement caused actual or special damages.'" *N. Royalton Ct. Condo. Owners' Ass'n v. Stadul*, 2024-Ohio-1280, ¶ 27 (8th Dist.), quoting *Green v. Lemarr*, 139 Ohio App.3d 414, 430 (2d Dist. 2000).

{¶32} "Generally, a claim for slander of title involves the wrongful recording of an unfounded claim against the property of another." *Metzler v. Fifth Third Bank*, 2017-Ohio-7088, ¶ 14 (10th Dist.). "Typically, slander of title cases involves documents such as liens or mortgages 'filed against a particular piece of property by parties who claim an interest in the property.'" *WWSD, LLC v. Woods*, 2022-Ohio-952, ¶ 57 (10th Dist.), citing *Green v. Lemarr*, 139 Ohio App.3d at 431.

{¶33} "The wrongful filing for the record of a document which casts a cloud upon another's title to or interest in realty is considered to be an act of publication which gives rise to an action for slander of title." (Citation omitted.) *Gasper v. Bank of Am., N.A.*, 2019-Ohio-1150 at ¶ 36. "The filing of mechanic's lien satisfies the publication element." *Prater v. Dashkovsky*, 2007-Ohio-6785, ¶ 13 (10th Dist.), citing W. Prosser, The Law of Torts Section 122 (3rd Ed. 1964).

{¶34} The trial court found:

> The element of publication is met through the "wrongful recording" of an "unfounded claim." (Citation omitted.) "The filing of a mechanic's lien satisfies the publication element." (Citation omitted.) There is no argument that [Don Sorensen and Sorensen Construction] filed a mechanic's lien on the Property. The question remains whether the recording of the lien [was] made with malice or reckless disregard of its falsity. [Hellas] suggests that [Sorensen Construction's] filing of their mechanic's lien was done without any accounting in support. [Hellas] cites numerous portions of Sorensen's Deposition where he indicated a lack of knowledge regarding the total cost of the project. * * * (Mr. Sorensen stating he did not know the total cost of the Project when he signed the affidavit supporting the Lien) * * * (Mr. Sorensen was not even able to ball part a total Project cost) * * * (Mr. Sorensen stating he spent two and a half days with his wife "trying to figure this out" and was unsuccessful) * * * (Mr. Sorensen stating he filed the Lien despite not have all costs in front of him) * * * ("Q: Do you have anything reflecting the accounting you did to get to

[$32,250]?" "A: I don't."). [Hellas] contends the lien was filed with malice because [Don Sorensen] was angry that Vlahos refused to pay him any more money for the Project. [Sorensen Construction] simply argues that it would be natural for someone to be angry, but that anger does not rise to the level of malice. [Sorensen Construction] does not address the issue of recklessness.

[Don] Sorensen testified during his deposition on numerous occasions that he could not ascertain the total cost of the Project when the lien was filed. Even now, [Sorensen Construction] has not provided bona fide and evidence backed way to show the total cost of the Project. And yet, [Sorensen Construction] filed its lien against [Hellas] without [Hellas] being a party to the oral contract and without any accounting on whether the Project had been paid in full. [Sorensen Construction] filed the lien on the Property with reckless or wanton disregard for its falsity. The remaining elements were not addressed by [Sorensen Construction].

April 23, 2026 Judgment Entry at pp. 9-10.

{¶35} We agree with the trial court and find Sorensen Construction wrongfully recorded an unfound claim, the mechanic's lien, against the Property without a proper accounting in support and with a disregard for the truth of the matter. Accordingly, we find the trial court did not err in granting summary judgment in favor of Hellas on its slander of title claim.

Quiet Title

{¶36} Quiet title actions are generally used to remove a cloud on one's title to real property and are considered equitable in nature. (Citations omitted.) *Gasper v. Bank of Am., N.A.*, 2019-Ohio-1150 at ¶ 31. "A cloud on the title to property is an outstanding claim or encumbrance which, if valid, would affect or impair the title of the owner of a particular estate, and on its face has that effect, but can be shown by extrinsic proof to be invalid or inapplicable to the estate in question." (Citation omitted.) *Id.* "Invalid mechanic's liens recorded against another's property have been found to constitute clouds on title." *WWSD, LLC v. Woods*, 2022-Ohio-952 at ¶ 41.

{¶37} In its April 23, 2026 Judgment Entry, the trial court noted:

> [Sorensen Construction] did not address these arguments * * *
>
> The court has also previously determined that the mechanic's lien filed by [Sorensen Construction] is invalid. The invalid lien creates a cloud on [Hellas'] title. [Hellas] is, therefore, entitled to have the cloud removed. The Property is unique and [Hellas] has no adequate remedy at law by which to remove the cloud and clear the title.
>
> *Id.* at p. 11.

{¶38} We agree with the trial court. Because the invalid mechanic's lien created the appearance of an encumbrance on the Property's title where no encumbrance existed, we find the trial court correctly found Hellas was entitled to a decree of quiet title.

{¶39} Sorensen Construction's third assignment of error is overruled.

IV

{¶40} In its final assignment of error, Sorensen Construction maintains the trial court erred in awarding excessive damages to Hellas.

{¶41} A trial court has discretion to determine the appropriate amount of attorney's fees to award in each case; therefore, a fee award is not generally overturned on appeal absent an abuse of discretion. *Bittner v. Tri-County Toyota, Inc.*, 58 Ohio St.3d 143, paragraph one of syllabus (1991). "Unless the amount of fees determined is so high or so low as to shock the conscience, an appellate court will not interfere." *White v. Lima Auto Mall, Inc.*, 2009-Ohio-411, ¶ 15 (3d Dist.) A trial court judge has "an infinitely better opportunity to determine the value of services rendered by lawyers who have tried a case before him than does an appellate court." *Id*. at ¶ 16.

{¶42} The starting point for the determination of a reasonable amount of fees is the number of hours spent by the attorney multiplied by the reasonable hourly rate. *Bittner* at 145. "This calculation provides an objective basis on which to make an initial estimate of the value of a lawyer's services." *Hensley v. Eckerhart*, 461 U.S. 424, 103 S. Ct. 1933, 76 L. Ed. 2d 40 (1983).

{¶43} The fee applicant bears the burden of establishing entitlement to an award and documenting the appropriate hours expended and hourly rates. *Sky v. Van Der Westhuizen*, 2019-Ohio-1960, ¶ 73 (5th Dist.), citing *City of Canton v. Irwin*, 2012-Ohio-344 (5th Dist.). To establish the number of hours reasonably expended, the party requesting the fees should submit evidence to support the hours worked. *Hensley*, 461 U.S. at 433. A reasonable hourly rate is "the prevailing market rate in the relevant community." *Blum v. Stenson*, 465 U.S. 886, 895, 104 S.Ct. 1541, 79 L.Ed.2d 891 (1984). Once the trial court calculates the "lodestar

figure," it can modify the calculation by applying the factors listed in Rule 1.5 of the Ohio Rules of Professional Conduct (formerly DR 2-106(B)). *Van Der Westhuizen*, citing *Landmark Disposal Ltd. v. Byler Flea Market*, 2006-Ohio-3935 (5th Dist.).

{¶44} Rule 1.5 of the Ohio Rule of Professional Conduct lists the following factors to be considered in determining the reasonableness of a fee:

> (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
>
> (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
>
> (3) the fee customarily charged in the locality for similar legal services;
>
> (4) the amount involved and the results obtained;
>
> (5) the time limitations imposed by the client or by the circumstances;
>
> (6) the nature and length of the professional relationship with the client;
>
> (7) the experience, reputation, and ability of the lawyer or lawyers performing the services;
>
> (8) whether the fee is fixed or contingent.

{¶45} "All factors may not be applicable in all cases and the trial court has the discretion to determine which factors to apply, and in what manner that application will affect the initial calculation." *City of Canton v. Irwin*, 2012-Ohio-344, ¶ 15, citing *Bittner v. Tri—County Toyota*, 58 Ohio St. 3d at 145-146.

{¶46} The trial court awarded damages to Hellas in the amount of $111,714.00. The damages award included:

- $28,796.00 for work performed by John VanSickle, Trustee of the John Vlahos Trust.
- $78,518.00 in attorney fees from January 27, 2025, until the completion of the case.
- $4,400.00 in expert fees.

{¶47} The court noted "[t]he parties stipulated both the reasonableness of the rate used and amount of time for the work performed." June 24, 2026 Magistrate's Decision, p. 4.

{¶48} Upon review of the record, we find the trial court did not abuse its discretion in awarding Hellas damages in the amount of $111,714.00. Given the facts of this case, we further find the award was not excessive.

{¶49} Sorensen Construction's fourth assignment of error is overruled.

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I

{¶50} In its sole assignment of error, Hellas asserts the trial court erred in failing to grant an award of reasonable attorney fees associated with defending against Sorensen Construction's claims in the Prior Action

{¶51} As noted, supra, the decision regarding whether and how much to award for attorney fees is within the sound discretion of the trial court. *Lake Breeze Condominium Homeowners' Assn. v. Eastlake Ohio Developers, LLC*, 2022-Ohio-3002, ¶ 54 (11th Dist.).

{¶52} Hellas submits the trial court should have awarded the attorney fees it incurred in the prior, voluntarily dismissed action. We disagree. The trial court specifically found Hellas did not file a counterclaim or other cognizable claim in the first action which would entitle it to attorney fees incurred in that prior action. We find the trial court did not abuse its discretion in failing to award fees incurred in the first action.

{¶53} Hellas' sole assignment of error is overruled.

{¶54} The judgment of the Delaware County Court of Common Pleas is affirmed.

{¶55} Costs assessed equally.

By: Hoffman, P.J.

Baldwin, J. and

Popham, J. concur.