

CAUSE NO. 19-DCV-267393

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|---|------------------|---------------------------------|
| JOAN BRYANT CASKEY, <i>Plaintiff,</i> | § § § | IN THE DISTRICT COURT OF |
| v. | § § § § | FORT BEND COUNTY, TEXAS |
| MICHAEL ORSAK and MICHAEL ORSAK, L.P., <i>Defendants.</i> | § § § | 240TH JUDICIAL DISTRICT |

PLAINTIFF’S PROPOSED ORDER ON EQUITABLE FEE FORFEITURE
AS TO MICHAEL ORSAK, L.P.

On January 17th, 2023, after a jury determined Defendant Michael Orsak, L.P. (Defendant Orsak, LP) had breached its fiduciary duty to Plaintiff Joan Bryant Caskey (Plaintiff), this Court heard argument as to Plaintiff’s Motion for Equitable Fee Forfeiture as to Defendant Orsak, L.P. After review of the motion, evidence submitted in support, the response, the legal authority and argument, the Court is of the opinion Plaintiff’s Motion is meritorious, and finds as follows:

The Court **HEREBY FINDS** Defendant Michael Orsak, L.P.’s breach of fiduciary was a clear and serious breach of fiduciary duty. The Court **FURTHER FINDS** it is equitable to award Plaintiff and require Michael Orsak, L.P. to forfeit a portion of fees in the underlying matters at issue.

On January 25th, 2023, after submission of additional briefing by the parties herein, this Court heard further argument as to the appropriate amount of fee to be forfeited by Defendant Michael Orsak, L.P. Having reviewed the evidence, briefing and argument of the parties, the Court hereby **ORDERS, ADJUDGES and DECREES**, it is equitable for Defendant Michael Orsak, L.P. to forfeit fifteen (15) hours of its fees in the underlying matter at a rate of three hundred dollars and 0/100 (\$300) per hour for a total fee forfeiture of four thousand, five hundred dollars and 0/100 (\$4,500.00) to Plaintiff Joan Bryant Caskey.



02/03/2023 DJ

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IT IS FURTHER ORDERED, Plaintiff shall also recover prejudgment interest on the amount of \$4,500 against Defendant Michael Orsak, L.P. at the annual rate of 7.50% simple interest. This calculation starts from the date the suit was filed on October 7, 2019, until 2/9/2023 which is the day before this Order was signed. Through February 2, 2023, the total prejudgment interest is in the amount of one-thousand, one-hundred and twenty-eight dollars and 08/100 (\$1,128.08) rate of \$0.92/day until the day before this Order on equitable fee forfeiture is executed. TEX. FIN. CODE §304.104; *Dernick Res., Inc. v. Wilstein*, 471 S.W.3d 468, 487–88 (Tex. App. 2015).

IT IS FURTHER ORDERED, as the successful party to this equitable fee forfeiture proceeding, Plaintiff Joan Bryant Caskey is awarded all costs of court spent or incurred in this proceeding. Plaintiff's costs are adjudged against Defendant Michael Orsak, L.P. TEX. R. CIV. P. 131; TEX. CIV. PRAC. & REM. CODE §31.007(b).

IT IS FURTHER ORDERED, Plaintiff Joan Bryant Caskey shall also recover post-judgment interest on the entirety of this equitable fee forfeiture order, including pre-judgment interest and costs of court, accruing at an annual rate of 7.50%, beginning on the date the order is signed and ending on the date the judgment on the order is satisfied in full. TEX. FIN. CODE §304.003; 304.005.

Signed on this 2/10/2023 day of _____, 2023.



Honorable Surendran Pattel



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APPROVED AS TO FORM:

ELLZEY & ASSOCIATES, PLLC

/s/ Leigh S. Montgomery

Jarrett L. Ellzey

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Associated Case Party: JoanBryantCaskey

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| Jarrett Ellzey | | jarrett@hughesellzey.com | 2/3/2023 11:51:58 AM | ERROR |

I, BEVERLEY MCGREW WALKER, District Clerk of Fort Bend County, Texas, do hereby certify that the foregoing is a true, correct and full copy of the instrument herein set out as appears of record in the District Court of Fort Bend County, Texas.

This 3rd day of March 20 23



BEVERLEY MCGREW WALKER

By Jada Newsome Deputy
Jada Newsome

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