

PROBATE COURT
CUYAHOGA CTY., O.

MAY 01 2018

RECEIVED FOR FILING

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO
DIVISION OF PROBATE

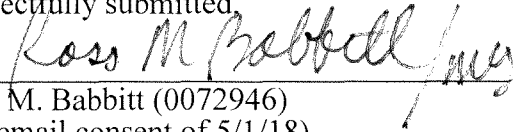
ARTHUR P. DUECK, <i>et al.</i> ,)	CASE NO. 2012 ADV 179424
)	
Plaintiffs,)	JUDGE ANTHONY J. RUSSO
)	
vs.)	
)	
THE CLIFTON CLUB COMPANY, <i>et al.</i> ,)	<u>PUTATIVE PLAINTIFFS RHONDA</u>
)	<u>LOJE'S AND JEFFREY MANSELL'S</u>
)	<u>MOTION FOR ATTORNEY FEES AND</u>
)	<u>COSTS AWARD RESULTING FROM</u>
Defendants.)	<u>FINDING OF SANCTIONS</u>
)	

Putative Plaintiffs Rhonda Loje and Jeffrey Mansell move this court to award attorney's fees and costs resulting from the finding of sanctions by the court of appeals. On August 10, 2017, the Eighth District Court of Appeals ruled in favor of the Plaintiffs and Putative Plaintiffs¹ in this case involving Defendant Clifton Park Trustees' breaches of fiduciary duties of impartiality and to inform, respond, and report under R.C. 5808.03 and 5808.13. The Court of Appeals remanded the proceedings to this Court for an evidentiary hearing to award the reasonable amount of attorney's fees and costs as a sanction for the Trustees' breaches per R.C. 5810.01 and 5810.04.

An affidavit from Attorney Ross M. Babbitt with supporting invoices is attached hereto as Exhibit A. For the same reasons set forth in Plaintiffs Arthur Dueck, et al.'s Motion for Attorney Fees and Costs Award Resulting from Sanctions and Brief in Support, which are expressly incorporated herein, the Putative Plaintiffs move this court for an award of attorney's fees and costs in the amount of \$23,099.50 plus additional fees and costs relating to this motion and the subsequent hearing to be presented after the close of the hearing.

¹ Putative Plaintiffs were also appellants in the Court of Appeals.

Respectfully submitted,

A handwritten signature in black ink that reads "Ross M. Babbitt". The signature is written in a cursive style and is positioned above a horizontal line.

Ross M. Babbitt (0072946)
(per email consent of 5/1/18)
rbabbitt@babbitt-lawfirm.com
ROSS M. BABBITT CO., LPA
Hoyt Block, Suite 200
700 West St. Clair Avenue
Cleveland, Ohio 44113
Telephone: (216) 623-6346
Facsimile: (216) 274-9683

Attorney for Putative Plaintiffs

CERTIFICATE OF SERVICE

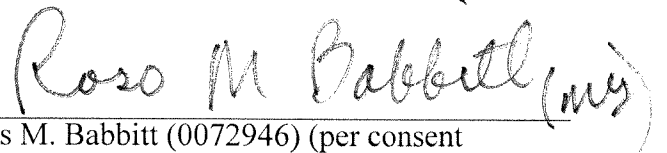
I hereby certify that a copy of the foregoing *Putative Plaintiffs Rhonda Loje's and Jeffrey Mansell's Motion for Attorney Fees and Costs Award Resulting From Finding of Sanctions* has been served by US mail on May 1, 2018 upon the following:

Terry J. Evans, Esq.
Karen Soehnlén McQueen, Esq
Krugliak, Wilkins, Griffiths & Dougherty Co.,
L.P.A.
4775 Munson Street, N.W.
PO Box 36963
Canton, OH 44735

Additional Attorneys for Defendants
Charles Drumm; John S. Pyke, Jr.; Peter A.
Kuhn; Philip W. Hall; and Warren Coleman
(Trustees of the Clifton Park Trust)

Kip Reader, Esq.
kreader@ulmer.com
Nicholas B. Wille, Esq.
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Skylight Office Tower
1660 W. Second Street, Suite 1100
Cleveland, OH 44113

Attorneys for Defendants
Charles Drumm; John S. Pyke, Jr.; Peter A.
Kuhn; Philip W. Hall; and Warren Coleman
(Trustees of the Clifton Park Trust)



Ross M. Babbitt (0072946) (per consent
5/1/18)

EXHIBIT 1

IN THE COURT OF COMMON PLEAS
PROBATE DIVISION
CUYAHOGA COUNTY, OHIO

ARTHUR P. DUECK, <i>et al.</i>)	CASE NO. 2012 ADV 179424
)	
Plaintiffs,)	
)	JUDGE ANTHONY J. RUSSO
v.)	
)	
THE CLIFTON CLUB COMPANY, <i>et al.</i> ,)	
)	
Defendants.)	
)	

**AFFIDAVIT OF ROSS M. BABBITT IN SUPPORT OF PLAINTIFFS' MOTION
FOR AWARD OF ATTORNEY'S FEES RESULTING FROM FINDING OF
SANCTIONS**

I, Ross M. Babbitt, being duly sworn upon my oath, depose and state as follows:

1. I served as co-counsel to the Plaintiffs Arthur P. Dueck, Todd Gilmore, Nancy Binder, and William Keller ("Plaintiffs") in this action. I am a member in good standing of the bar of the state of Ohio. I make this affidavit in support of the Plaintiffs' Motion for Award of Attorney's Fees Resulting from Finding of Sanctions.

2. I am over the age of eighteen and competent to give this affidavit. The facts set forth in this affidavit are based upon my personal knowledge.

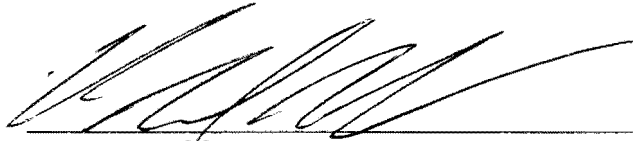
3. I supported lead counsel Dennis R. Rose's representation of the Plaintiffs in this case as co-counsel in connection with the tasks outlined in my billing statements appended to this affidavit.

4. A true and correct copy of all of my billing statements which were sent contemporaneously to the Plaintiffs in connection with my role as co-counsel in this

matter are attached as Exhibit 1 hereto. Those invoices have been appropriately redacted to protect potentially privileged information from being disclosed.

5. I billed the plaintiffs a total of \$23,099.50 in connection with this matter, which amount was paid in full.


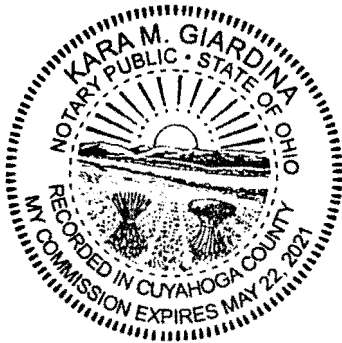
I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT THE FOREGOING REPRESENTATIONS ARE TRUE.



Ross M. Balbitt
Date: April 30, 2018

STATE OF OHIO)
) ss
COUNTY OF CUYAHOGA)

SWORN TO BEFORE ME and subscribed in my presence this 30TH day of April, 2018.



Notary Public

Total Attorney Hours Billed:	33.9	
Attorney Time Subtotal		\$8,475.00
Account Balance		\$8,475.00

Ross M. Babbitt Co., LPA
1382 West 9th Street
Suite 220
Cleveland, OH 44113
Phone: 216-623-6346

Invoice submitted to:
Dueck, et al.

Invoice # 10013

Invoice Date: 06/13/14 Terms: COD Services Thru: 06/13/14

Date	By	Type	Service Summary	Hours/Qty	Rate	Amount
In Reference To: Non Matter Related (Professional Services)						
04/01/14	RB	Consulting	attn: email Julian re: Club demand for dates to review documents; attn: emails DRR re: status and draft letter to K. Reader; p/c DRR re: all open items/strat	0.60	275.00	\$165.00
04/02/14	RB	Consulting	p/c ██████ re: letter/status of settlement demand/review of documentation	0.20	275.00	\$55.00
04/15/14	RB	Consulting	prepare for, attend, and f/u conference with ██████ on all matters pending	4.20	275.00	\$1,155.00
04/18/14	RB	Documentation	attn: documents from ██████ and review same; f/u email to clients re: id.	1.00	275.00	\$275.00
04/22/14	RB	Documentation	review all eblasts in prep for production; conf. Julian re: id.; review ██████ dropbox contents; email ██████ re: production; f/u p/c ██████ re: Club review/next steps in production	4.00	275.00	\$1,100.00
04/24/14	RB	Other	attn: corr. DRR to K Reader; cont. attn: disc production	0.50	275.00	\$137.50
04/28/14	RB	Review	review dropbox files including esp ██████ subfolder	0.60	275.00	\$165.00
06/06/14	RB	Correspondence	draft detailed discovery letter in response to Fried	1.80	275.00	\$495.00
06/09/14	RB	Draft	attn: order scheduling status conference on June 25; cont. attn: production of documents to Clifton Club	0.60	275.00	\$165.00
06/10/14	RB	Documentation	attn: compilation/production of documents to Clifton Club; email A. Fried re: status id.	1.50	275.00	\$412.50
06/12/14	RB	Documentation	manage/organize/review documents for production	2.00	275.00	\$550.00
06/13/14	RB	Documentation	gather, review, number, serve supplemental production of documents	3.50	275.00	\$962.50
In Reference To: Non Matter Related (Expenses)						
06/10/14	RB	Miscellaneous	software for document production	1.00	212.00	\$212.00

Total Hours:	20.50
Total Labor:	\$5,637.50
Total Expenses:	\$212.00
Total Invoice Amount:	\$5,849.50
Total Amount Due:	\$5,849.50

Ross M. Babbitt Co., LPA
1382 West 9th Street
Suite 220
Cleveland, OH 44113
Phone: 216-623-6346

Invoice submitted to:
Dueck, et al.

Invoice # 10023

Invoice Date: 07/15/14 Terms: COD Services Thru: 07/15/14

Date	By	Type	Service Summary	Hours/Qty	Rate	Amount
In Reference To: Non Matter Related (Professional Services)						
06/17/14	RB	Correspondence	review emails and motion to compel production of trustees' memo to Ulmer	0.50	250.00	\$125.00
06/24/14	RB	Documentation	prep. for hearing on 06/25; emails DRR and clients re: id.; attn: revised/updated history of Clifton Park document from [REDACTED]	0.80	250.00	\$200.00
06/25/14	RB	Court Time	prepare for, attend, follow-up conf with DRR and [REDACTED] re: status conference with court	3.20	250.00	\$800.00

Total Hours:	4.50
Total Labor:	\$1,125.00
Total Invoice Amount:	\$1,125.00
Previous Balance:	\$5,337.00
Payments/Adjustments:	\$-5,337.00
Total Amount Due:	\$1,125.00

Payments/Adjustments Detail

Date	Transaction Type	Description	Amount
07/15/2014	Payment		-5337.00

Ross M. Babbitt Co., LPA
1382 West 9th Street
Suite 220
Cleveland, OH 44113
Phone: 216-623-6346

Invoice submitted to:
Dueck, et al.

Invoice # 10031

Invoice Date: 09/22/14
Terms: COD
Services Thru: 09/22/14

Date	By	Type	Service Summary	Hours/Qty	Rate	Amount
In Reference To: Non Matter Related (Professional Services)						
08/18/14	RB	Consulting	attn: discovery deficiency letter and emails DRR re: id.	0.20	250.00	\$50.00
08/27/14	RB	Draft	review all discovery supplemental responses and outline response letter to Fried	1.10	250.00	\$275.00
08/28/14	RB	Draft	draft comprehensive response to A. Fried re: discovery status/objections; attn: dropbox files re: id.	4.10	250.00	\$1,025.00
09/15/14	RB	Documentation	review/modify emails for production in probate lawsuit	1.00	250.00	\$250.00
09/16/14	RB	Documentation	review all supplemental production, withdraw for privilege, prepare for production	4.50	250.00	\$1,125.00
09/17/14	RB	Documentation	finalize and serve supplemental document production	0.70	250.00	\$175.00

Total Hours:	11.60
Total Labor:	\$2,900.00
Total Invoice Amount:	\$2,900.00
Previous Balance:	\$1,125.00
Payments/Adjustments:	\$-1,125.00
Total Amount Due:	\$2,900.00

Payments/Adjustments Detail

Date	Transaction Type	Description	Amount
07/30/2014	Payment		-1125.00

Ross M. Babbitt Co., LPA
1382 West 9th Street
Suite 220
Cleveland, OH 44113
Phone: 216-623-6346

Invoice submitted to:
Dueck, et al.

Invoice # 10077

Invoice Date: 11/25/15 Terms: COD Services Thru: 11/25/15

Date	By	Type	Service Summary	Hours/Qty	Rate	Amount
In Reference To: Non Matter Related (Professional Services)						
02/16/15	RB	Consulting	attn: discovery deficiency letter from Reminger; p/c DRR re: id.	0.90	250.00	\$225.00
02/27/15	RB	Consulting	review discovery produced to date in comparison with complaints of deficiency from Reminger; draft reply letter re: id.	0.60	250.00	\$150.00
04/01/15	RB	Court Time	attend pretrial conference	1.00	250.00	\$250.00
10/09/15	RB	Consulting	p/c DRR re: involvement for pretrial discovery prep; attn: email from DRR re: id.; review docket re: id.	1.20	250.00	\$300.00
10/15/15	RB	Consulting	emails DRR re: discovery coverage and prep.; review/approve pretrial brief	0.60	250.00	\$150.00
10/16/15	RB	Consulting	attend prep. meeting with [REDACTED] at HLP; f/u re: id.	4.10	250.00	\$1,025.00
10/17/15	RB	Consulting	attn: urgent email from [REDACTED] re: additional documents found relevant to case	0.20	250.00	\$50.00
10/19/15	RB	Deposition	prep. for and defend depositions of T. Gilmore and R. Loje; f/u re: id.	3.30	250.00	\$825.00
10/20/15	RB	Deposition	conf. [REDACTED] in prep. for deposition; defend N. Binder deposition	3.50	250.00	\$875.00
10/21/15	RB	Deposition	prep. for and defend deposition Jack Rupert	2.60	250.00	\$650.00
10/29/15	RB	Court Time	attend FPT in Cuy Probate Court	1.00	250.00	\$250.00

Total Hours:	19.00
Total Labor:	\$4,750.00
Total Invoice Amount:	\$4,750.00
Previous Balance:	\$2,900.00
Payments/Adjustments:	\$-2,900.00
Total Amount Due:	\$4,750.00

Payments/Adjustments Detail

Date	Transaction Type	Description	Amount
11/25/2015	Payment		-2900.00