

IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA

REDEMPTION ALLIANCE OF )  
GEORGIA, INC., GAMING CENTRAL, )  
LLC AND WILLIAM A. BOOTH, )  
)  
)

Plaintiffs, )

CIVIL ACTION FILE )  
NO. 2014-CV253740 )

SAMUEL OLENS, IN HIS OFFICIAL )  
CAPACITY AS ATTORNEY GENERAL )  
OF GEORGIA, AND MICHAEL G. )  
LAMBROS, IN HIS OFFICIAL )  
CAPACITY AS SPECIAL ASSISTANT )  
DISTRICT ATTORNEY FOR CLAYTON )  
COUNTY, LANIER COUNTY, )  
EMANUEL COUNTY, TOOMBS )  
COUNTY AND OTHER GEORGIA )  
COUNTIES, )  
)

Chief Judge Tuson )

Defendants. )  
)  
)

ORDER GRANTING DEFENDANT MICHAEL G. LAMBROS'S  
MOTION FOR ATTORNEYS' FEES AND EXPENSES  
UNDER OCGA § 9-15-14

The Court hereby VACATES and RE-ENTERS its Order filed on December 10, 2015 pursuant to OCGA § 9-11-60(g), finding that the December 10, 2015 order contains a clerical error and was not served on the parties via the Court's e-filing system. Defendant Michael G. Lambros ("Lambros") in his official capacity as a Special Assistant District Attorney for Clayton, Lanier, Emanuel, Toombs and other Georgia counties filed a

motion for attorneys' fees and expenses of litigation pursuant to OCGA § 9-15-14 against the Plaintiffs and their attorneys Alan Begner and Brian Spears. After conducting an evidentiary hearing and upon a full review of the file and all pleadings, motions and responses in this case, the Court makes the following findings of fact and conclusions of law:

### FINDINGS OF FACT

Lambros is a Special Assistant District Attorney for Clayton, Lanier, Emanuel, and Toombs counties. He was named as a defendant in this suit in his official capacity as a public official of the State of Georgia. He acts under the authority of each of the District Attorneys in each of the circuits where he is appointed.

The Complaint as originally filed sought a declaratory judgment, a permanent injunction, and mandamus against Lambros in his official capacity as a special assistant district attorney. The Plaintiffs dismissed their claim for mandamus before voluntarily dismissing the entire case without prejudice.

After being served with the Complaint in this action, Lambros tendered the defense of the case as to him in his official capacity to the Attorney General of Georgia who declined to provide him with a defense lawyer. Lambros also sought to be defended by the Prosecuting Attorney's

Council of Georgia (PAC), which similarly declined to provide him with a defense lawyer. Lambros communicated with each District Attorney who appointed him as a special assistant district attorney, and each such District Attorney authorized him to provide for his own defense in this case. Lambros then retained The Lambros Firm, LLC, a law firm of which he is the principal, to defend him in this case.

This case was litigated from its inception until it was voluntarily dismissed without prejudice by the Plaintiffs. Lambros and various attorneys of his law firm have defended him in this action beginning in or about November, 2014 and continuing through June, 2015 all as more particularly set forth in time entries that appear on Defendant's Exhibit 1 that was admitted into evidence without objection. The Court has examined and reviewed each of the time entries contained in Defendant's Exhibit 1 and finds them to reflect the performance of tasks that are related to the defense of the present case. Each task represents a reasonable and justified legal service. In addition, the time expended for the performance of each task represents a reasonable time expenditure given the task involved. The Court also finds that the Lambros firm's hourly rate of \$250.00 is fair, just and reasonable given the prevailing rates for attorneys of comparable experience.

#### CONCLUSIONS OF LAW

The doctrine of sovereign immunity bars all of the Plaintiffs' claims against Lambros in his official capacity as a special assistant district attorney and a public official. Specifically, Plaintiffs' claims for a declaratory judgment, a permanent injunction, and mandamus are barred by the doctrine of sovereign immunity. The case law was clear at the time that the Plaintiffs and their attorneys filed the Complaint in this case that sovereign immunity barred all three claims against Lambros, and that should have been known by the Plaintiffs' attorneys at the time of the filing of the Complaint. The Plaintiffs and their attorneys asserted claims against Lambros (1) as to which there existed such a complete absence of any justiciable issue of law that it could not be reasonably believed that a court would accept the Plaintiff's claims (O.C.G.A. §§ 9-15-14 (a)), and (2) that lacked substantial justification in that the claims asserted against the Defendants were substantially frivolous, substantially groundless, or substantially vexatious (O.C.G.A. §§ 9-15-14 (b)).

O.C.G.A. § 9-15-14 sets forth the elements of a claim for attorneys' fees and expenses of litigation. It includes a mandatory and a permissive award of fees. O.C.G.A. § 9-15-14 (a) provides

*In any civil action in any court of record of this state, reasonable and necessary attorney's fees and expenses of litigation shall be awarded to any party against whom another*

*party has asserted a claim, defense, or other position with respect to which there existed such a complete absence of any justiciable issue of law or fact that it could not be reasonably believed that a court would accept the asserted claim, defense, or other position. Attorney's fees and expenses so awarded shall be assessed against the party asserting such claim, defense, or other position, or against that party's attorney, or against both in such manner as is just.*

(emphasis added). Thus, an award under this section is mandatory.

In addition, the statute provides for a permissive award of attorneys' fees under a lesser standard. O.C.G.A. § 9-15-14 (b) provides:

*The court may assess reasonable and necessary attorney's fees and expenses of litigation in any civil action in any court of record if upon motion of any party ... it finds that an attorney or party brought or defended an action, or any part thereof, that lacked substantial justification or that the action, or any part thereof, was interposed for delay or harassment, or if it finds that an attorney or party unnecessarily expanded the proceeding by other improper conduct, including, but not limited to, abuses of discovery procedures available under Chapter 11 of this title, the "Georgia Civil Practice Act." As used in this Code section, "lacked substantial justification" means substantially frivolous, substantially groundless, or substantially vexatious.*

(emphasis added).


Lambros is entitled to an award of attorneys' fees and expenses of litigation under both the mandatory and permissive sub-sections of OCGA § 9-15-14. Plaintiffs and their attorneys knew or should have known with a minimum amount of research prior to filing the Complaint that it was a frivolous lawsuit and that all the claims in it were barred by sovereign

immunity. Certainly, once the Defendant's Answers and Motions to Dismiss were filed, it was clear that both the Plaintiffs and their attorneys knew or should have known the Complaint was barred by the doctrine of sovereign immunity. The Plaintiffs and their attorneys' failure to dismiss the Complaint when they knew the law was clear that they had set forth no claim for relief against Lambros unnecessarily expanded the proceedings and this supports an award of attorneys' fees and expenses of litigation under OCGA § 9-15-14.

Accordingly, it is hereby

ORDERED that the Plaintiffs Redemption Alliance of Georgia, Inc., Gaming Central, LLC and William A. Booth and attorneys Alan Begner and Brian Spears are jointly and severally liable for and directed to pay to Defendant Michael G. Lambros the amount of \$48,690.00 in attorneys' fees plus \$370.97 in expenses of litigation pursuant to the provisions of OCGA § 9-15-14.

SO ORDERED this 8<sup>th</sup> day of January, 2016.

  
GAIL S. TUSAN, Chief Judge  
Superior Court of Fulton County