

**IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY**

CARLOS PEREZ and LEYDY PEREZ,            )  
  )  
      Plaintiffs,                                 )  
  )  
                  v.                                 )  
  )  
NVR, INC. and CREATIVE TOUCH            )  
INTERIORS, INC.,                            )  
  )  
      Defendants.                                )  
  )

C.A. No.: CPU4-13-003321

Tabatha L. Castro, Esquire  
The Castro Firm, Inc.  
1719 Delaware Ave.  
Wilmington, DE 19806  
*Attorney for Plaintiffs*

Thomas J. Gerard, Esquire  
Marshall Dennehey Warner  
Coleman & Goggin  
1220 N. Market St., 5<sup>th</sup> Floor  
P.O. Box 8888  
Wilmington, DE 19899  
*Attorney for Defendants*

**ORDER**

1. On October 24, 2013, Plaintiffs, Carlos Perez and Leydy Perez, filed this personal injury action against Defendants, NVR, Inc. and Creative Touch Interiors, Inc. On February 5, 2014, having received no responsive pleading from Defendant, Plaintiff filed a Motion for Default Judgment, and a hearing was scheduled. On February 11, 2014, prior to the hearing on the motion, Thomas J. Gerard, Esquire, entered his appearance on behalf of Defendants. An Answer was filed by Defendants nearly a month later, on March 6, 2014.
  
2. A hearing on the motion was held on March 14, 2014, and the Court heard oral argument from both parties. The Court had discretion to enter the default judgment against Defendants, however, in lieu of default the Court allowed Plaintiffs to file an application for attorneys fees incurred in connection to the Motion for Default Judgment.

3. On March 20, 2014, Tabatha L. Castro, Esquire (“Ms. Castro”), counsel for Plaintiffs, filed an Affidavit of Attorney’s Fees, seeking an award of \$2,805.00. Ms. Castro attached an invoice detailing her hourly rates and docketed hours (the “Invoice”).<sup>1</sup>

4. On April 3, 2014, counsel for Defendants, Thomas J. Gerard, Esquire (“Mr. Gerard”) filed a response to Plaintiffs’ Affidavit of Attorney’s Fees. Mr. Gerard argues that, although he does not oppose reasonable attorney’s fees with regard to the Motion for Default Judgment, the fees sought by Ms. Castro are excessive in light of the straight-forward nature of the motion.

5. On April 16, 2014, Ms. Castro filed a letter response with the Court, in which she asserts that the Invoice clearly demonstrates the amount of time spent on the matter preceding the hearing on the Default Judgment. Ms. Castro maintains that her hourly rate of \$275.00 per hour is the reasonable, customary charge for hourly work she performs.

6. In determining whether attorney’s fees are reasonable, the Court considers the following eight factors set forth in Rule 1.5 of the Professional Rules of Conduct:

(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 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 service; and (8) whether the fee is fixed or contingent.<sup>2</sup>

7. The Court finds that Ms. Castro’s hourly rate of \$275.00 is reasonable. At the hearing on the Motion for Default Judgment, the Court indicated that it would entertain an

---

<sup>1</sup> Attached as exhibit is the Invoice submitted by Ms. Castro.

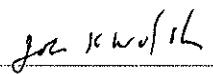
<sup>2</sup> *Atterol, Inc. v. Wingart*, 2005 WL 3073582 at \*1 (Del. Com. Pl. June 9, 2005).

application for attorney's fees associated with the Motion for Default Judgment. The Invoice submitted by Ms. Castro includes work performed beyond the preparation and presentation of the Motion for Default Judgment. The Court finds that the following items set forth in the Invoice specifically relate to the Motion for Default Judgment:

02/03/14	Review and analyze file; draft Motion for Default Judgment	2.4 hours
02/04/14	Discussion with clients re: filing Motion	0.5 hours
02/05/14	E-filed Motion for Default Judgment	0.3 hours
02/06/14	Hearing scheduled/review correspondence And Notice from court	0.2 hours
03/12/14	Prepare for Motion for Default Judgment/ Research and review case law/prepare arguments	2.5 hours
03/14/14	Attendance at Motion hearing/travel time	1.0 hours

8. The Court finds that Plaintiffs are entitled to an award for attorney's fees for the actual 6.9 hours incurred by counsel for Plaintiffs in the preparation and presentation of the Motion for Default Judgment at the hourly rate of \$275.00. Accordingly, after considering counsel of record's respective filings, the Court awards Plaintiffs attorney's fees in the amount of \$1,897.50.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
John K. Welch,  
Judge.

xc: Ms. Tamu White, Chief Civil Manager



Electronically Filed  
2014-03-20 15:26:46  
*Attorneys and Counselors at Law*  
Clerk of Court  
Tabatha L. Castro, DE, NJ  
Renee Duval, DE  
Pamela A. Stamp, NY only  
Angela M. LaManna, NJ only

*Of Counsel*  
Perry F. Goldlust, DE, NY

Writer's E-mail: [tabatha@thecastrofirm.com](mailto:tabatha@thecastrofirm.com)

**RE: CARLOS PEREZ, LEYDY PEREZ VS. NVR, INC.  
AND CREATIVE TOUCH INTERIORS, INC.**

C.A.No.: CPU4-13-003321

March 19, 2014

**INVOICE:**

<u>DATE</u>	<u>DESCRIPTION</u>	<u>RATE</u>	<u>TIME</u>
11/19/13	Correspondence from opposing counsel	\$275.00	0.2
12/15/13	Discussions with opposing counsel re: entry of appearance and Answer	\$275.00	0.3
01/10/14	Follow up with opposing counsel and response	\$275.00	0.2
02/03/14	Review and analyze file; Draft Motion for Default Judgment	\$275.00	2.4
02/04/14	Discussion with clients re: filing Motion	\$275.00	0.5
02/05/14	E-filed Motion for Default Judgment	\$275.00	0.3
02/06/14	Hearing scheduled/review correspondence And Notice from Court	\$275.00	0.2
02/11/14	Review and analyze Entry of Appearance filed by opposing counsel; discussions w/client	\$275.00	0.5
03/06/14	Answer and Form 30s reviewed; discussions with clients	\$275.00	0.9
03/11/14	Answer to Motion for Default Judgment reviewed/ discussions with clients re: next steps	\$275.00	1.2

**1719 Delaware Avenue | Wilmington, DE 19806  
1325 S. State Street | Dover, DE 19904**

**302.225.5700 | 302.225.5702 (Fax)**

**[www.TheCastroFirm.com](http://www.TheCastroFirm.com)**

03/12/14	Prepare for Motion for Default Judgment/ Research and review case law/prepare arguments	\$275.00	2.5
03/14/14	Attendance at Motion hearing/travel time	\$275.00	1.0
	TOTAL HOURS:		10.2
	TOTAL AMOUNT:	\$2,805.00	

---

**\*Please make checks payable to:  
The Castro Firm, Inc.**

---

*1719 Delaware Avenue | Wilmington, DE 19806  
1325 S. State Street | Dover, DE 19904  
302.225.5700 | 302.225.5702 (Fax)  
[www.TheCastroFirm.com](http://www.TheCastroFirm.com)*