

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

IVAN EICHER and DELORES EICHER,)
PATRICK SWEENEY and LOIS SWEENEY,)
EMMETT GULLEY, STEVEN W.)
STARMAN, WILLIAM STREET,)
DAVID WELTON, DON NOVACHICH,)
RENEE RIGHTER, LORI HILL)
and JENNIFER FRANS GRIESS,)

Plaintiffs,)

vs.)

MID AMERICA FINANCIAL,)
INVESTMENT CORPORATION, SCOTT)
W. BLOEMER, and ELAINA)
HOLLINGSHEAD,)

Defendants.)

DOC. 1004 NO. 521

MOTION FOR
ATTORNEY'S FEES

COMES NOW the Plaintiffs, and move this Court for an Order awarding them reasonable attorney's fees per the Court's earlier Order entered in this case. In support of their Motion, Plaintiffs state and allege as follows:

1. Plaintiffs were represented in this matter by Fraser, Stryker, Meusey, Olson, Boyer & Bloch, P.C. ("Fraser Stryker"), the Nebraska Appleseed Center, and Creighton Legal Clinic. The total bill for services rendered, including time, costs, and expenses as of May 31, 2003, for Fraser Stryker and Nebraska Appleseed Center is as follows:

Fraser Stryker: \$307,581.61

Nebraska Appleseed Center: \$17,135.16

All such work, costs, and expenses were fair and reasonable and necessary to prosecute this case to conclusion to the extent a claim for attorney's fees is made by Creighton Legal Clinic, Plaintiffs will so notify Defendants.

2. A lodestar multiplier of 1.33 (33%) is fair and reasonable.

3. In support of its Motion, Plaintiffs submit the Affidavit of Mark Laughlin, the Affidavit of Milo Mumgaard, the Affidavit of Robert Sanford and all testimony and exhibits offered at trial. Plaintiffs may submit further additional affidavits which will be provided to Defendants.

WHEREFORE, Plaintiffs move this Court for an Order awarding attorney's fees to Fraser Stryker in the amount of \$409,083.54 and attorney's fees to the Nebraska Appleseed Center in the amount of \$22,789.76.

IVAN EICHER and DELORES EICHER,
PATRICK SWEENEY and LOIS SWEENEY,
EMMETT GULLEY, STEVEN W. STARMAN,
WILLIAM STREET, DAVID WELTON,
DON NOVACHICH, RENEE RIGHTER,
LORI HILL, and JENNIFER FRANS GRIESS, Plaintiffs

By: _____

Mark C. Laughlin, #19712

Andrea F. Scioli, #21716

FRASER, STRYKER, MEUSEY, OLSON,
BOYER & BLOCH, P.C.

500 Energy Plaza, 409 S. 17th Street

Omaha, NE 68102-2663

(402) 341-6000

Attorneys for Plaintiffs

Ms. Catherine Mahern

Creighton Legal Clinic

2120 Cass Street

Omaha, NE 68178

Associated Counsel:

The Nebraska Appleseed Center

D. Milo Mumgaard, #19919

941 "O" Street, Suite 105

Lincoln, Nebraska 68508

(402) 438-8853

NOTICE OF HEARING


TO: Mid America Financial Investment Corporation, Scott Bloemer, Elaina Hollingshead
and their attorney of record.

You and each of you are hereby notified that the Plaintiffs will call their Motion for Attorney's Fees for hearing in Courtroom No. 10 of the Douglas County District Court, Omaha, Nebraska, before the Honorable Peter Bataillon, on June 13, 2003, at 1:30 p.m. or as soon thereafter as counsel may be heard.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was delivered via Overnight Delivery, postage prepaid, on this 3rd day of June, 2003, to the following:

Mark Weber, Esq.
11240 Davenport Street
P.O. Box 540125
Omaha, NE 68154-0125

A handwritten signature in black ink, appearing to read "Mark Weber", is written over a horizontal line. The signature is stylized and cursive.

323672.01

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

IVAN EICHER and DELORES EICHER,)
PATRICK SWEENEY and LOIS SWEENEY,)
EMMETT GULLEY, STEVEN W.)
STARMAN, WILLIAM STREET,)
DAVID WELTON, DON NOVACHICH,)
RENEE RIGHTER, LORI HILL)
and JENNIFER FRANS GRIESS,)

DOC. 1004 NO. 521

Plaintiffs,)

vs.)

) **AFFIDAVIT OF MARK LAUGHLIN**

MID AMERICA FINANCIAL,)
INVESTMENT CORPORATION, SCOTT)
W. BLOEMER, and ELAINA)
HOLLINGSHEAD,)

Defendants.)

Mark Laughlin, being duly sworn, does hereby state and affirm as follows:

1. I am a resident of Omaha, Douglas County, Nebraska. I have personal knowledge of all facts and opinions stated herein. I obtained a Bachelor of Arts Degree from the University of Notre Dame in 1988 and a Juris Doctor Degree from the University of Texas Law School in 1991.
2. From January, 1992, until the present, I have been employed by Fraser, Stryker, Meusey, Olson, Boyer & Bloch, P.C. ("Fraser Stryker"). I am currently a shareholder. I have been admitted to practice in the United States District Court, District of Nebraska, and the state courts of Nebraska since April 20, 1992. I have been a member of the Omaha Bar Association, Nebraska State Bar Association, American Bar Association and various other law related organizations since 1992.
3. My practice since 1992 has consisted primarily of civil litigation. I estimate that I have tried approximately 35 cases in Douglas County District Court in the previous 11 years. I have been counsel of record in various complex litigation cases including cases similar to this case.
4. I am co-counsel for Plaintiffs in this matter. I am familiar with the work performed by employees of Fraser Stryker and the Nebraska Applesseed Center regarding this case. I was present for the entire trial in this case. I have reviewed the Fraser Stryker bill for services rendered

attached hereto as Exhibit "A." I have also reviewed the Affidavits of D. Milo Mumgaard dated May 22, 2003 and Robert A. Sanford dated May 22, 2003.

3. I am familiar with the time, work, and costs incurred by Fraser Stryker which are reflected on Exhibit "A." It is my opinion, expressed to a reasonable degree of certainty, that all the time and services reflected on Exhibit "A" were fair, reasonable and necessary in order to prosecute this case to conclusion.

4. I am familiar with rates charged in the Omaha area in cases like this case by attorneys with experience similar to the attorneys, paralegals, and law clerks listed on Exhibit "A." It is my opinion, expressed to a reasonable degree of certainty, that the hourly rates and costs set forth in Exhibit "A" are fair and reasonable.


5. I am familiar with the services rendered by D. Milo Mumgaard, Robert A. Sanford, and Danielle Nantkes ("NAC Services") in this case. The NAC Services reflected in the Mumgaard and Sanford Affidavits reflect services actually rendered. In my opinion, expressed to a reasonable degree of certainty, the NAC Services were fair, reasonable and necessary in order to prosecute this case to conclusion. In my opinion, expressed to a reasonable degree of certainty, the rates listed in the Mumgaard and Sanford Affidavits are fair and reasonable.

6. I have reviewed case law regarding the lodestar multiplier. It is my opinion, expressed to a reasonable degree of certainty, that a lodestar multiplier of 1.33 in this case is fair and reasonable.

7. To the best of my knowledge, none of Plaintiffs had found another attorney willing to represent them in their claims against Defendants asserted in this case. Moreover, none of Plaintiffs has (or has ever had since January, 2001) the financial resources to pay attorney's fees and costs in this case in the event Plaintiffs were not successful.

FURTHER AFFIANT SAYETH NOT.

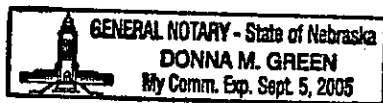
DATED this 3rd day of June, 2003.

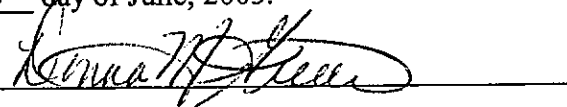


Mark C. Laughlin

Subscribed and sworn to before me this 3rd day of June, 2003.

322798.01





IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

| | | |
|--------------------------------|---|-----------------------|
| IVAN EICHER, et al, |) | DOC. 1004 NO. 521 |
| |) | |
| Plaintiffs, |) | |
| |) | |
| vs. |) | AFFIDAVIT RE.: |
| |) | ATTORNEY FEES |
| MID AMERICA FINANCIAL |) | |
| INVESTMENT CORPORATION, et al, |) | |
| |) | |
| Defendants. |) | |

STATE OF NEBRASKA)
)ss.
COUNTY OF LANCASTER)

COMES NOW D. Milo Mumgaard, a licensed attorney in the State of Nebraska,
License No. 19919, being first duly sworn upon oath, depose and say as follows:

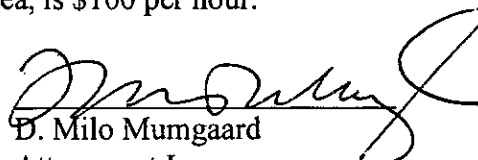
1. I am a resident of Lancaster County, Nebraska. The matters set forth herein are based on my personal knowledge and I am competent to testify hereto.
2. I was co-counsel for the Plaintiffs in the above referenced action.
3. I am licensed to practice law in the State of Nebraska and the federal bar.
4. I am a 1988 honors graduate of the New York University School of Law. Among other academic honors, I was Editor-in-Chief of the New York University Review of Law and Social Change.
5. I am employed as the Executive Director of the Nebraska Appleseed Center for Law in the Public Interest. This is a non-profit, tax-exempt law project devoted to pursuing equal justice for all.
6. My legal practice requires an extensive knowledge of, familiarity with, and experience in state and federal laws affecting the public interest, including welfare,

economic development, labor, consumer law, taxation, and citizen participation.

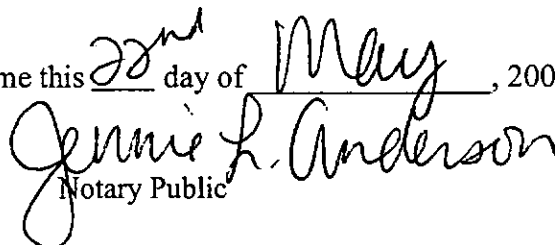
7. I have been lead counsel in my career in approximately eight significant class actions in both state and federal court, including several jury trials, and dozens of individual matters that affect the public interest.
8. I am also the Chair of the Poverty Law Section of the Nebraska State Bar Association, and among other things I have been appointed to serve as a member of the Supreme Court's Minority and Justice Task Force Implementation Commission and the Pro Se Representation Committee.
9. I incurred the following expenditures of time and funds during the pendency of trial in this matter.

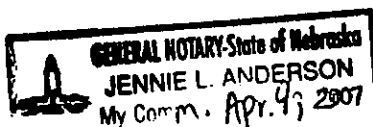
| <u>Date</u> | <u>Activity</u> | <u>Hours</u> |
|--------------|--|-------------------|
| May 8, 2002 | Review trial materials, advise co-counsel | 2.00 hours |
| May 11, 2002 | Prepare trial advice | 2.00 hours |
| May 13, 2002 | Appearance at trial | 2.75 hours |
| May 13, 2002 | Travel | 2.00 hours |
| | Total Time: | 7.75 hours |

10. Based upon the above, I believe a fair and reasonable rate for the legal services I provided to the plaintiffs in this action, given the range of fees charged by others with my experience and background in the area, is \$100 per hour.


D. Milo Mumgaard
Attorney at Law

Subscribed and sworn to before me this 22nd day of May, 2003.


Jennie L. Anderson
Notary Public



IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

| | | |
|--------------------------------|---|-------------------|
| IVAN EICHER, et al, |) | DOC. 1004 NO. 521 |
| |) | |
| Plaintiffs, |) | |
| |) | |
| vs. |) | AFFIDAVIT RE.: |
| |) | ATTORNEY FEES |
| MID AMERICA FINANCIAL |) | |
| INVESTMENT CORPORATION, et al, |) | |
| |) | |
| Defendants. |) | |

The undersigned, Robert A. Sanford, of lawful age and being first duly sworn upon oath, deposes and states as follows:

1. I am an attorney duly licensed to practice law in the state of Nebraska, having received a Juris Doctorate in December, 1997 and sworn as a member of the Nebraska State Bar Association in April, 1998.
2. I have been involved numerous types of cases involving litigation in county and district courts of Nebraska and before the federal district court of Nebraska.
3. I am employed by D. Milo Mumgaard and Nebraska Appleseed Center for Law in the Public Interest (NAC hereafter), located at 941 O Street, Suite 105, Lincoln, NE 68508.
4. NAC served as co-counsel in the above-captioned case.
5. During the pendency of trial, a total of 99.00 attorney hours were incurred by me on the above-captioned case. Times are rounded down to the nearest quarter hour as reflected herein:

| | | |
|--------------|-------------------------------|------------|
| May 13, 2002 | Court appearance & trial prep | 2.75 hours |
| May 13, 2002 | Travel | 2.00 hours |
| May 14, 2002 | Court appearance & trial prep | 5.50 hours |

| | | |
|---------------|-------------------------------|-------------------|
| May 22, 2002 | Court appearance & trial prep | 8.50 hours |
| | Travel | 2.00 hours |
| May 23, 2002 | Court appearance & trial prep | 5.00 hours |
| | Travel | 2.00 hours |
| June 17, 2002 | Court appearance & trial prep | 3.00 hours |
| | Travel | 2.00 hours |
| June 18, 2002 | Court appearance & trial prep | 8.25 hours |
| | Travel | 2.00 hours |
| June 19, 2002 | Court appearance & trial prep | 8.00 hours |
| | Travel | 2.00 hours |
| June 20, 2002 | Court appearance & trial prep | 6.00 hours |
| | Travel | 2.00 hours |
| June 21, 2002 | Court appearance & trial prep | 6.00 hours |
| | Travel | 2.00 hours |
| June 24, 2002 | Court appearance & trial prep | 3.00 hours |
| | Travel | 2.00 hours |
| June 26, 2002 | Court appearance & trial prep | 5.00 hours |
| | Travel | 2.00 hours |
| June 27, 2002 | Court appearance & trial prep | 5.00 hours |
| | Travel | 2.00 hours |
| June 28, 2002 | Court appearance & trial prep | 3.00 hours |
| | Travel | <u>2.00 hours</u> |

Total time spent by me 146.00 hours

9. During the pendency of trial, a total of 1,938 miles were incurred driving from the NAC office to the Douglas County Courthouse. The distance from the NAC office to the Douglas County Courthouse is 57 miles each way. 17 days of travel were incurred during trial and the following calculation was used to reach 1,938 miles:

$$(17 \text{ days} * (57 \text{ miles} * 2)/\text{day}) = 1,938 \text{ miles}$$

10. NAC reimburses employees for travel expenses at a rate of thirty-two cents (\$0.32) per mile and incurred a total actual expense of \$620.16 for mileage.

11. It is a regular practice for me to bill attorney fees at one hundred dollars (\$100.00) per hour and our clerk hours are worth forty dollars (\$40.00) per hour.

Further, Affiant saith not.

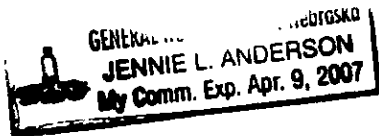


Robert A. Sanford/#21413, Affiant
Co-Counsel for Plaintiffs

SUBSCRIBED and sworn to before me this 22nd day of May, 2003.



Notary Public



6. My hourly fees are fair and reasonable in light of my twenty-three years of civil trial experience, including ten years of practice in the Douglas County District Courts, and the complexity of the legal issues involved in this case.

7. I was most recently awarded attorney's fees in the amount of \$100 for non-trial time and \$150 per hour for trial time by Judge Sandra Dougherty, Douglas County District Court Judge in the case entitled Bobbie Perrone v. Mid America Financial Investment Corporation, Doc. 1002 No. 031.

8. I have been involved in this case since its inception, and have provided legal assistance during the time this case was pending and through the time of trial.

9. The time I have worked on this case is reflected in my time records, which are attached hereto, marked as Exhibit A, and incorporated by reference.

10. The attached time record reflects my work, and no student time is reflected in Exhibit A.

11. My time records for non-trial time reflect 35.4 hours of work, for a billing total of \$3,540, and for trial time my records reflect 6.0 hours of work, for a billing total of \$900.

Dated this 9th day of June 2003.



Catherine Mahern #19939
2120 Cass Street
Omaha, Nebraska 68178
(402) 280-3068

SUBSCRIBED AND SWORN to before me, the undersigned authority on this 9th day of June 2003.



Notary Public



FRASER STRYKER MEUSEY OLSON BOYER & BLOCH, PC
LAWYERS

500 ENERGY PLAZA
409 SOUTH 17TH STREET
OMAHA, NEBRASKA 68102-2663
TELEPHONE 402.341.6000
TELEFAX 402.341.8290
WWW.FRASERSTRYKER.COM

ANDREA F. SCIOLI
DIRECT DIAL: 402.978.5277
ASCIOLI@FRASERSTRYKER.COM

OMAHA
DENVER

October 5, 2001

Ms. Jennifer Griess
4509 South 40th Street
Omaha, Nebraska 68107

Dear Ms. Griess:

This letter is an offer for you to retain the services of Fraser Stryker Law Firm to represent you in connection with your claim against Mid America Financial Investment Corporation, Scott Bloemer, and Elena Hollingshed ("Defendants") regarding property you owned at 4509 South 40th Street, Omaha, Nebraska *and 4509 1/2 South 40th street, Omaha, NE.* *JG*

We will represent you regarding this claim on a fully-contingent basis. Fraser Stryker will advance all court reporter costs, cost of notice, and other costs incurred. You understand you are responsible for all costs that may be incurred and from time to time advanced by Fraser Stryker and/or any co-counsel.

Similarly, our attorney's fees are contingent -- we only recover them if we settle or win. You have no responsibility for paying our fees if we do not settle or win. By this letter, you agree to pay us the greater of our total fees at our standard hourly rates or 33 1/3% of the amounts recovered from Defendants, whichever is greater if fees are awarded by any court in addition to your award, plus our costs incurred. If fees are to be paid out of your award, our fees will be 33 1/3% of the amount received from Defendants plus our costs incurred.

In exchange for our contingent representation of you, we need your commitment that you will make yourself available for depositions, hearings and other matters as the lawsuit progresses.

Our representation of you is limited to your claim as set forth above against the Defendants. We do not and will not represent you with respect to any other matter relating to Mid America Financial Investment Corporation, Scott Bloemer, and Elena Hollingshed or any unrelated matter. Our offer is only to represent you through trial and judgment in the matter. Although we will consider representation if there is an appeal, we do not commit to that at this time.

Ms. Jennifer Griess
October 5, 2001
Page 2

If you have any questions about anything in this letter or about any other aspect of your or our responsibilities and duties, please call us so that we can discuss it.

If you are in agreement with this arrangement, please sign and date the enclosed copy of this letter, and return the copy of this letter to us in the enclosed envelope as soon as possible.

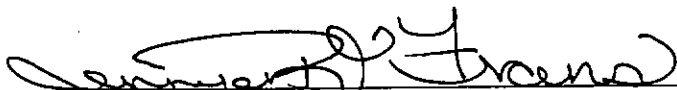
Very truly yours,



Andrea F. Scioli
FOR THE FIRM

AFS:bjs
Enclosures
274123

The above terms are understood and agreed to by the following client:


Jennifer Griess

Dated: 10-5-01

