

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION FOUR

SUPPLEMENTAL MEDICAL SERVICES,)	No. ED91732
Respondent/Cross-Appellant,)	
v.)	Appeal from the Circuit Court
)	of St. Louis County
MEDI PLEX HEALTH CARE,)	
Appellant/Cross-Respondent.)	Filed: September 22, 2009

Medi Plex Health Care (Medi Plex) appeals from the trial court's judgment, following a bench trial, finding in favor of Supplemental Medical Services, Inc., d/b/a StaffLink (StaffLink) on StaffLink's petition for breach of contract and suit on account against Medi Plex. StaffLink cross-appeals from the same judgment. StaffLink's petition alleged that Medi Plex failed to pay StaffLink the charges associated with the nurses StaffLink provided to Medi Plex under their Client Service Agreement (Agreement), a contract by which StaffLink provided nurses to Medi Plex, which in turn provided individual nurses to its clients/patients who were in need of care in their homes. The Agreement provided that StaffLink would provide the services of an RN to Medi Plex at an hourly bill rate of \$57.00 per hour, eight hours per day minimum, plus 41 cents per mile mileage reimbursement.

In its judgment, the trial court found that the Agreement signed by the two parties was unambiguous by its terms, such that the parties were responsible for a minimum of eight hours of nursing service and fees. The court therefore ordered that Medi Plex pay StaffLink's damages plus interest, and that "each party shall bear and be solely responsible for their own attorneys' fees." Medi Plex was assessed court costs.

On appeal, Medi Plex argues that the trial court erred entering judgment in favor of StaffLink, claiming that the trial court's judgment was not supported by substantial evidence and erroneously declared and applied the law. Medi Plex further argues that the terms of the Agreement under which StaffLink agreed to provide the services of an RN to Medi Plex at an hourly rate of \$57.00, eight hours minimum, were not unambiguous as found by the trial court. On cross-appeal, StaffLink contests the trial court's order that each party bear its own attorneys' fees.

AFFIRMED IN PART, REVERSED AND REMANDED IN PART.

Division Four holds: The claims of error in Medi Plex's appeal are found to be without merit and thus, an extended opinion reciting the detailed facts and restating the principles of law would have no precedential value. The trial court's judgment regarding damages and interest is affirmed pursuant to Missouri Rule of Civil Procedure 84.16(b).

Additionally, Medi Plex was contractually required to pay StaffLink's attorneys' fees incurred in the trial court proceedings. Having no discretion to disregard the terms for payment of attorneys' fees set forth in the contract, the trial court erred in ordering each party to pay its

own attorneys' fees. The cross-appeal is remanded to the trial court for proceedings consistent with this opinion.

Opinion by: Kurt S. Odenwald, P.J.
Kenneth M. Romines, C.J., and George W. Draper III, J., Concur.

Attorney for Appellant: Venus V. Harry and Brandi Miller

Attorneys for Respondent: Jennifer A. Coke

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