

more, it does not appear logical that plaintiff would undertake such a job without having a firm understanding regarding the wages he was being paid for his labors. In that this disagreement appears to be in the form of an ambiguity or uncertainty relating to the parties understanding of costs, I feel compelled to resolve the ambiguity against defendant.

Notwithstanding the above, and as relates to payments allegedly made to the laborers assisting plaintiff, I find that defendant is not entitled to offset these amounts. Plaintiff agrees with a credit of \$800.00 for payments made by defendant to a laborer. As to the additional \$1,486.00, the burden of proof is on defendant to establish these payments have in fact been made. Defendant offered no such proof. Despite the fact defendant testified he made all these payments to the laborers by check, he was unable to produce any such cancelled checks. Furthermore, he could not even produce complete check register records to buttress his testimony.

Plaintiff also seeks attorney fees and costs. Plaintiff is the prevailing party and by statute, is entitled to reasonable attorney fees. Furthermore, the parties attempted to settle this case and, while they were not able to settle this matter, plaintiff is entitled to judgment greater than defendant's settlement offer. I find that reasonable attorney fees for plaintiff's attorney is \$750.00, plus costs advanced in this matter.

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