

IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

FILED IN OFFICE
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA

2015 NOV -5 AM 11:09

RICHARD ALEXANDER, CLERK

PARK PLACE BROKERS, INC.

Plaintiff,

V.

ACCESS REALTY ATLANTA, LLC,
HOMELAND GROUP, and
CAULETTE GREEN

Defendants.

CIVIL ACTION

FILE NO.: 15-A-05307-9

**ORDER DENYING ACCESS REALTY ATLANTA'S MOTION AND GRANTING
CAULETTE GREEN'S CROSS MOTION FOR DISBURSEMENT OF FUNDS.**

This matter came before the court on Defendant Access Realty Atlanta's ("Access") motion for payment of the entire funds in the registry of the court to Access and Defendant Caulette Green's ("Caulette") motion in opposition and cross motion for payment of 80% out of the funds in the registry of the court to Caulette. Although named as a co-Defendant, Homeland Group ("Homeland") does not lay any claim to the funds. On October 29, 2015, a hearing was set for the motions and the parties, represented by counsel, appeared before this Court. Defendant Access was represented by William Arroyo, Esq., while Defendant Caulette was represented by Akins Doherty, Esq. The court heard the testimony of the witnesses and weighed the evidence presented.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On May 12, 2015, Park Place Brokers filed an interpleader action in which \$5,547.70 was deposited into the registry of this court and named Access, Caulette, and Homeland as Defendants. The \$5,547.70 represents the proceeds of the commission of the sale of 1477 Bramlett Hill Drive, Lawrenceville, GA 30045 ("Bramlett Hill Property"). Tywona Daniels is the owner of Access, while Caulette worked in some capacity as a

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

PHYSICS 311

LECTURE 1

MECHANICS

1.1 Kinematics

1.2 Dynamics

1.3 Energy

1.4 Momentum

1.5 Angular Momentum

1.6 Relativity

1.7 Quantum Mechanics

1.8 Statistical Mechanics

1.9 Thermodynamics

1.10 Electromagnetism

real estate agent for Access, a Purchaser's Agent. Although Access Realty, through the testimony of Tywona Daniels, claims that Caulette did not sign an independent contractor agreement ("Agreement") and cannot bind Access to the sale of the Bramlett Hill Property, the evidence shows that Caulette is a licensed real estate agent in the State of Georgia and, at minimum, had an employment relationship with Access.

During direct examination, Caulette testified that she did sign an independent contractor agreement with Access Realty, but that Tywona Daniels withheld the Agreement and refused to give her a copy. Caulette further testified that as part of the Agreement she [Caulette] would take 80% out of the commission of any business generated by Caulette, while Access would take 20% out of that commission. The evidence presented supports Caulette's testimony. On June 28, 2012, Tywona Daniels, the owner of Access, emailed Caulette and gave her an official Access Realty email and a password to log in to that email.

Further, a 2012 1099 tax form issued by Access to Caulette shows that Access paid Caulette for services Caulette provided as a real estate agent while she had the employment relationship with Access. A subsequent email on March 14, 2013 forwarded to Caulette by Access showed that Access activated a FMLS¹ account for Caulette. Based on the testimony and the evidence, this court **FINDS** Caulette's testimony about her employment relationship with Access and her testimony about the commission structure between her and Access to be more credible.

On or around Caulette July 11, 2013, Caulette attempted to transfer her real estate license to another Purchaser's Agent (Homeland Group) and emailed Carmen Light, who Caulette thought was an agent of Homeland Group. On July 11, 2013, Caulette executed a "Transfer Agreement" intending to transfer her license from Access to Homeland. On July 21, 2013 Caulette signed a Sale and Purchase Agreement ("Purchase Agreement") for the sale of the Bramlett Hill Property, listing Homeland Group as the Purchaser's Agent. For whatever reason, Caulette's real estate license did not transfer to Homeland Group.

¹ FMLS is an acronym for First Multiple Listing Service, a service that "serves more than 32,500 real estate professionals in the state of Georgia..."

Nevertheless, On September 24, 2013, Caulette appeared at closing and the Bramlett Hill Property sold for \$187, 990.00, netting a commission of \$5,547.70. The Court further **FINDS** that, although there is a question as to whether Homeland Group or Access was the Purchaser's Agent under which the Bramlett Hill Property closed, Homeland Group is not laying any claim to the funds, leaving Access and Caulette as the parties who are laying a claim to the funds in the registry of the Court.

Based on the testimony of the parties, the evidence presented, and the principles of law and equity, this court **GRANTS** Caulette Green's cross motion for disbursement of funds in the registry of the court and **DENIES** Access Realty Atlanta's motion for disbursement of funds in the registry of the court.

IT IS HEREBY ORDERED AND ADJUDGED that Caulette Green is entitled to **80%** out of the interpleaded funds in the registry of the court, which represents the amount of interpleaded funds to which Caulette Green is entitled pursuant to the commission agreed between Caulette Green and Access Realty Atlanta, and it is

FURTHER ORDERED that that the Clerk of Court immediately disburse **\$4,443.82** to Caulette Green's attorney, Akins Doherty, Esq., at The Doherty Law Firm, 2250 North Druid Hills Road, NE, Suite 237, Atlanta, GA 30329, and it is

FURTHER ORDERED that Access Realty Atlanta is entitled to **20%** out of the interpleaded funds in the registry of the court, which represents the amount of interpleaded funds to which Access Realty Atlanta is entitled pursuant to the commission between Access Realty Atlanta and Caulette Green, and it is

FURTHER ORDERED that the Clerk of Court immediately disburse **\$1,110.95** to Access Realty Atlanta's attorney, William Arroyo, Esq., at William Arroyo & Associates, 4228 First Avenue, Suite 10, Tucker, GA 30084, and its

FURTHER ORDERED that the remaining funds in the registry of the court as a result of interest generated from the interpleaded funds be distributed between Caulette Green (80%) and Access Realty Atlanta (20%).

IT IS SO ORDERED this 4th day of November, 2015

Prepared by:
Akins Doherty, Esq.
The Doherty Law Firm
2250 North Druid Hills Rd., NE
Suite 237
Atlanta, GA 30329



HON. ROBERT WALKER, JR.
Superior Court of Gwinnett County

By Designator