

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

KELLEY CALHOUN,
Plaintiff,

vs.

**O'NEILL VETERINARY CLINIC, P.C., a
Nebraska professional corporation,**
Defendant.

Case No. 20441

**FINAL JUDGMENT UPON
JURY VERDICT**

DATE OF TRIAL: March 27-31, 2000.

APPEARANCES:

For plaintiff: David W. Jorgensen and Lori Phillips with plaintiff.
For defendant: Mark A. Christensen with Kirk Sholes and Gregg Hanzlicek,
corporate representatives.

SUBJECT OF ORDER: Judgment upon verdict of jury.

FINDINGS: The court finds and concludes that:

1. The verdict of the jury has been accepted and judgment should be entered thereon.
2. At the commencement of jury deliberations, counsel for both parties informally advised the court, off the record, that no evidentiary hearing was desired on the matters concerning whether the plaintiff's second cause of action is within the scope of the Nebraska Wage Payment and Collection Act and, if so, the proper application of the act, and would submit the matter without argument.
3. Because the court directed a verdict for the plaintiff on the second cause of action and because the court concludes that such claim falls within the scope of the statute, the plaintiff is entitled to her judgment and all costs of such suit, and to attorney fees taxed in the amount of 25% of the unpaid wages, on her second cause of action under the Nebraska Wage Payment and Collection Act.
4. Because the act provides that the plaintiff shall be entitled to recover "all costs of such suit," the court has taxed all costs of the action against the defendant without regard to the result on the plaintiff's other causes of action. NEB. REV. STAT. § 48-1231 (Reissue 1998).
5. The interlocutory summary judgment orders previously entered should be entered as final orders as part of this final judgment.

JUDGMENT:

IT IS THEREFORE ORDERED AND ADJUDGED that:

1. JUDGMENT is hereby entered on plaintiff's petition, first cause of action, in favor of the defendant, O'Neill Veterinary Clinic, P.C., and against the plaintiff, Kelley Calhoun, dismissing the first cause of action of the plaintiff's petition with prejudice.

2. JUDGMENT is hereby entered on plaintiff's petition, second cause of action, in favor of the plaintiff, Kelley Calhoun, and against the defendant, O'Neill Veterinary Clinic, P.C., in the amount of:

- a. \$1,071.43 upon the plaintiff's claim;
- b. The costs of the action taxed in the amount of \$1,007.99; and,
- c. Attorney fees in the amount of \$267.86.

3. The interlocutory partial summary judgment regarding the plaintiff's petition, second cause of action, entered on June 10, 1999, as modified by interlocutory order on December 2, 1999, which is incorporated herein by reference, is now entered as a final judgment and merged into the final judgment entered above on the second cause of action of the plaintiff's petition.

4. JUDGMENT is hereby entered on plaintiff's petition, third cause of action, in favor of the plaintiff, Kelley Calhoun, and against the defendant, O'Neill Veterinary Clinic, P.C., in the amount of \$7,500.00.

5. JUDGMENT is hereby entered on defendant's counterclaim, first cause of action, in favor of the defendant, O'Neill Veterinary Clinic, P.C., and against the plaintiff, Kelley Calhoun, in the amount of \$72,427.47.

6. JUDGMENT is hereby entered on defendant's counterclaim, second cause of action, in favor of the defendant, O'Neill Veterinary Clinic, P.C., and against the plaintiff, Kelley Calhoun, in the amount of \$3,999.21.

7. The interlocutory partial summary judgment regarding defendant's counterclaim, third cause of action, entered on December 2, 1999, which is incorporated herein by reference, is now entered as a final judgment, and pursuant thereto, the third cause of action of the defendant's counterclaim is dismissed with prejudice.

8. The judgments in favor of the plaintiff in paragraphs 2 and 4 above are set off against the judgments in paragraphs 5 and 6 in full satisfaction of the judgment in paragraph 6 and partial satisfaction

of the judgment in paragraph 5, and the net remaining judgment in favor of the defendant, O'Neill Veterinary Clinic, P.C., and against the plaintiff, Kelley Calhoun, in the amount of \$66,579.40, shall be entered accordingly on the judgment docket.

9. The amount of the judgment (including costs) shall bear interest from the date of entry at the rate of 7.197% per annum until paid.

10. The amount of supersedeas bond under NEB. REV. STAT. § 25-1916 (1999 Supp.) is set in the amount of \$76,362.84.

Signed at O'Neill, Nebraska, on March 31, 2000.

DEEMED ENTERED upon filing by court clerk.

If checked, the Court Clerk shall:

- Mail a copy of this order to all counsel of record and to any pro se parties.
Done on _____, 20__ by ____.
- Enter judgment on the judgment record.
Done on _____, 20__ by ____.
- Mail postcard/notice required by § 25-1301.01 within 3 days.
Done on _____, 20__ by ____.
- Note the decision on the trial docket as: [date of filing] Signed "Final Judgment Upon Jury Verdict" entered.
Done on _____, 20__ by ____.

Mailed to:

BY THE COURT:

William B. Cassel
District Judge