

Claim No: 440450

IN THE SMALL CLAIMS COURT OF NOVA SCOTIA

Cite as: Parsons v. Keating, 2015 NSSM 35

BETWEEN:

GERALDINE PARSONS and MELISSA PARSONS

Claimants

- and -

ANGELA KEATING

Defendant

REASONS FOR DECISION

BEFORE

Eric K. Slone, Adjudicator

Hearing held at Dartmouth, Nova Scotia on August 18, 2015

Decision rendered on August 28, 2015

APPEARANCES

For the Claimants

Self-represented

For the Defendant

Self-represented

BY THE COURT:

[1] The Claimants Geraldine Parsons and Melissa Parsons are, respectively, a mother and daughter. In or about late September 2014 they hired the Defendant to be the videographer for Melissa's upcoming wedding on October 4, 2014. The Claimants are unhappy with the service they received, and are suing for some or all of their money back.

[2] The Defendant is an experienced photographer and videographer who sometimes operates under the name Digital Glam Film Group, which appears not to be a registered business name.

[3] The entire fee of \$1,400.00 was paid in advance.

[4] The Defendant in her evidence and through her other witness, Dean Aubie (also a videographer), took great pains to try to convince the court that the amount charged was well below the actual market value of the service. Even if this was true, I consider it irrelevant. A price was quoted and agreed to by the Claimants, who are entitled to the full benefit of what was promised. And if the Defendant saw fit to charge less than she otherwise might have, then that was her decision for what were, presumably, good reasons.

[5] The written contract specifies that the Defendant would provide two professional people shooting high definition video throughout the occasion. It also promised colour correction, editing and professional audio. The end product was to be an edited video, with soundtrack, on DVD or BluRay disc. While not spelled out in the contract, the understanding was that the edited

video would be approximately one hour in length, distilled from the many hours of raw footage.

[6] There was no definite time for completion set out in the contract; rather, it warned that it might take “upward of 8-14 weeks” to deliver the final product. By my reckoning, 8 weeks would have been up in early December and 14 weeks would have been up by mid-January 2015.

[7] The Claimants were provided with a link to be able to access the raw footage in late December. They also received a set of stills, which were actually frames extracted from the video footage. Of course, what the Claimants wanted was the edited one-hour presentation that could be shared with family and friends. No one sits their family down to watch several hours of raw, unedited footage!

[8] Between the end of December 2014 and late June 2015, the Claimants continued to ask when their product would be ready. They were met with promises and excuses, time and again. The original estimate of 8-14 weeks expired in January, and it was almost five months thereafter that the Claimants lost patience and commenced their claim in this court.

[9] Before the claim was served, on June 21, 2015, the Defendant handed over a DVD purporting to contain the final edit. The Claimants watched the video and were terribly disappointed. The quality was not up to the level that they expected. Rather, they say, it omitted two of the most important moments of the wedding day - the exchange of vows and the first dance by the bride and groom.

[10] I did not view the video to confirm whether or not this is true. The Defendant claims that these moments are captured.

[11] The Defendant has shown some consciousness of the fact that her performance has not met expectations. She gratuitously offered the Claimants a free photo shoot valued (by her) at \$250.00. She has also expressed a willingness to make corrections to the video, which she saw as a provisional version only.

[12] A day after receiving the video, the Claimants decided to serve their claim and take their case to court. The Claimants say that they have not received what they were promised, and they no longer trust the Defendant to be able to deliver on the contract.

[13] I pass no comment on the abilities of the Defendant, except to say that - on the evidence - her performance here fell below what she promised. Her delivery of a 50-minute edited video on June 21, 2015 was late beyond any reasonable view of what was promised. Her late performance, coupled with her broken promises and excuses along the way, destroyed any confidence that the Claimants may have had in her. The relationship is now so poisoned that she can hardly expect the Claimants to continue to deal with her.

[14] The Claimants want to be able to take their video project to be completed by another videographer. This is a reasonable plan. Obviously this will cost them some money. There was no evidence of what this would cost, but I am prepared to make the inference that there is a good deal of value in the raw

footage and probably in the edited version that the Defendant created. Another video editor should be able to take what the Claimants have and salvage the project at a reasonable cost.

[15] I must observe that the Claimants have not proved that the quality of what the Defendant produced is substandard. There is a large subjective element to such work. The Claimants placed their trust in the Defendant's artistic ability and judgment, and cannot say that it is a breach of contract if they do not like the Defendant's vision or aesthetic. The main problem, contractually, is that the project is incomplete and the relationship is broken, through no fault of the Claimants.

[16] I find that the Claimants are entitled to damages in the amount of \$400.00 for breach of contract, which amount will hopefully go a long way toward hiring someone to bring the project to a satisfactory level of completion.

[17] The Claimants are also entitled to their cost of issuing the claim in the amount of \$99.70, for a total judgment of \$499.70.

[18] In case there is any doubt, the Claimants are also entitled to retain all of the raw footage as well as any edited versions done by the Defendant. There has already been an issue of an allegedly unplayable DVD. Should the Claimants require access to their video footage in some other format, that access should be given in pursuance of the original contract.

Eric K. Slone, Adjudicator