Superior Court of New Jersey, Law Division.
VIRGINIA **ALPACA** FARM & BREEDING CO.
v.
Nel VICKERS d/b/a Maplewood Farm **Alpacas** & Llamas
No. HNT-L-588-03.

April 11, 2005.

Richard B. Gelade, for Plaintiff.
Thomas S. Onder, for Defendant.

Memorandum of Decision
BUCHSBAUM, J.

INTRODUCTION

***1** This case involves a male Accoyo **alpaca** purchased by plaintiff to be used as a breeding herd sire. Plaintiff buyer and defendant seller agree that the animal in question, one Diego Siempro, is willing but not able. He has a low sperm count. As one veterinarian testified, "it takes only one to do the job, and it takes three million to applaud". The applause in Diego's case is insufficient. Although the parties agree on Diego's condition, they disagree as to the cause of his disability, and the appropriate legal remedy for it.

FACTS

This is an action for breach of contract, rescission made by mutual mistake and fraudulent and misrepresentation in the sale of Diego Siempro, an accoyo **alpaca**, by defendant Nel Vickers, and her farm, Maplewood Farm **Alpacas** and Llamas of Charlevoix, Michigan, to plaintiff Virginia **Alpaca** Farm and Breeding Co. of Leesburg, Virginia in May 2002.[FN1] This Court conducted trial without a jury on March 16 and 17, 2005. At the conclusion of plaintiff's case, the fraudulent misrepresentation claim, Count II of the complaint was dismissed on the ground that Diego's inability to breed had been disclosed to plaintiff before the plaintiff took delivery of the animal and that plaintiff nonetheless made no objection to the purchase since Diego was young for breeding at that point. Further, there is no indication that plaintiff had made any inquiry concerning Diego's fertility or that defendant had made any statements with regard to same at the time of Diego's sale to plaintiff.

FN1. It is noted that this is a case between a Virginia plaintiff and a Michigan defendant. The sale in question took place in New Jersey. At trial all parties agreed on the record that New Jersey law would govern and this case has been adjudicated under New Jersey law.

The trial proceeded to conclusion on plaintiff's theory of breach of contract, and recession for what plaintiff called "equitable fraud", but which it specifically meant was a mutual mistake of fact as to Diego's ability to breed. The Court also had before it defendants' counterclaim seeking recompense for transportation, medication and boarding Diego from August 2003 through the date of trial.

Following the conclusion of the testimony, the Court, with permission of both parties, reviewed the *de bene esse* depositions of two videotaped depositions of veterinarians produced by the defendants. Aside from viewing these depositions, of Dr. David Anderson and Dr. Sara Michelin, the Court also reviewed, over objection, the transcript of the deposition of Dr. Virginia Matthews, plaintiff's veterinarian. The Court had ruled that there was a justifiable confusion on the part of plaintiffs' counsel as to whether the parties had agreed in advance to this deposition being used, notwithstanding the rule that *de bene esse* depositions must be videotaped. *R.* 4:14-9. The Court ruled that in the context of this non-jury trial, that plaintiff's attorney may well have been lead to believe, under all the circumstances, that there would be no objection to the use of this deposition even thought it was not videotaped. As a result, at trial, the Court gave the parties the option of suspending the trial for several weeks so that Dr. Matthews' video deposition could be obtained in order to ameorilate any potential for surprise and to make sure the facts of the matter were fully before the Court. When given this option, defense counsel agreed to move ahead with the matter based on Dr. Matthew's deposition transcript without the videotape. This was a tactical decision

made by defense counsel. The Court thus regarded the objection to the use of the deposition as having been waived under these peculiar facts and circumstances. The Court's reasoning is fully set forth on the record of the trial.

***2** Aside from the above, the Court also heard summations in this matter on April 6, 2005. The Court now sets forth its Findings of Fact and Conclusions of Law Concerning this case pursuant to *R.* 1:7-4.

FACTS

The trial evidence contains an extraordinary and intense analysis of the length and width of Diego's testicles. Sharon Brown, a co-owner of plaintiff, testified for plaintiff. The substance of her testimony was that she purchased Diego essentially for breeding at the Spring Fling event conducted in Delaware Township at Woods Edge Wool Farm. When for some reason Diego was not promptly delivered to her following the sale, she soon insisted on his delivery and he did arrive in Virginia in June, 2002.

She claimed that there was no effort to breed Diego during the late spring because no female was available and during summer because of the heat. However, there were efforts to breed him in the fall of 2002. These efforts were unsuccessful although there were a number of available and capable females. There was then a cessation of breeding efforts during the winter. After that, there were numerous additional unsuccessful efforts during the spring of 2003. No females were settled by Diego although they did become pregnant when bred with other males in plaintiff's herd.

Under the contract she had signed for the purchase of Diego, his ability to breed was warranted in § 2F, which states:
"Young males (i.e. males that are not proven males) are warranted as being capable of impregnating females. Any claim under this warranty must be delivered in writing to the seller within 24 months after the date of sale of the young male or prior to the young male's third birthday, whichever is sooner."

Ms. Brown indicated she was aware that November 14, 2002 was Diego's third birthday but that she did speak to Nel Vickers, owner of the defendant Maplewood Farm **Alpacas** and Llamas who told her there was no problem in postponing termination of the warranty.

In addition, Ms. Brown testified that she had a substantial regime including washing down, fans, thermometers and other to insure that her **alpacas** did not get sick and they were not overheated in summer. The picture of her farm suggests a well run and successful operation which does not square with in effect accusations of ill treatment made by defendants as will be described further on.

In June 2003, after the second unsuccessful breeding season, Ms. Brown contacted her farm's veterinarian, Dr. Virginia Matthews. Dr. Matthews, in her deposition, stated that she found Diego's testicles too small and too spongy for him to be capable of breeding. She found only a two centimeter width, which, in accordance with authorities that she cited during her deposition, made him incapable of breeding. She blamed the situation on a congenital condition, i.e. that his testicles were hypoplastic.

In July, 2003, plaintiff contacted the defendants in writing stating that there was an inability to breed. She forwarded Dr. Matthews findings. At this time, although the warranty period on the contract had technically expired, defendant Nel Vickers essentially agreed to abide by its terms and have Diego examined to see if there was something wrong with him. As Ms. Vickers stated in her testimony, and in her letter of September 26, 2003 to plaintiff, she agreed to follow the contract in early July 2003. This circumstance is also apparent in her willingness to follow the contract in July 2003 by agreeing to have Diego examined in Ohio, and to keep him afterward. She also stated at trial that she intended to follow the contract warranty even though it had technically expired by then. It is thus apparent from Ms. Vickers' conduct that there was a waiver of the November 2002 deadline for complaints.

***3** As indicated plaintiff gave testimony that Ms. Vickers had indicated as early as before the waiver had technically expired that she would work with them. The Court finds this testimony credible in light of the fact that plaintiffs were relatively new to the business and had more reason to recall talking to Ms. Vickers than she, an established breeder, had to talking with them. However, it is not necessary to resolve any conflict in testimony in this regard. Even though Ms. Vickers asserted that she did not remember any such pre-November 14, 2002 conversations, it is apparent from her conduct, her September 26, 2003 letter, and her testimony that she had agreed to abide by the contract regardless of the

technical expiration of the warranty date. This circumstance is further buttressed by the testimony of the veterinarians that it would not be until an **alpaca** was three years old that one could even determine for sure whether or not it was capable of breeding. Thus, Ms. Vickers apparent liberality in reading the warranty accords with common sense; the warranty was set to expire about the time when one would know the capability of the animal and it is entirely reasonable for this Court to believe that Ms. Vickers felt bound by the contract even in July 2003, following technical expiration of the warranty.

In any event, in July, 2003, Diego was transferred to Ohio State University's Department of Veterinary Clinic Sciences where he was examined by Dr. David Anderson, one of defendants' expert veterinary witnesses, who appeared in a *de bene esse* deposition. Dr. Anderson found Diego to be a basically healthy animal, with no overall signs of abuse or neglect. However, he indeed found that Diego was not capable of breeding. According to him, there had been a decrease in the width of Diego's testicles from the 2.0 centimeters measured in June by Dr. Matthews to 1.5 centimeters. Even allowing for Dr. Matthews' rather informal means of measurement using a sewing tape, this change indicated to him a severe and sudden decrease in testicular size. The deviation from the norm of 2 .5 centimeters width was marked. He also had conducted a biopsy which indicated that there was marked widespread atrophy of the seminiferous tubules. He also found the testicles small and soft. By virtue of his examination, he determined that there was a degenerative process ongoing which decreased Diego's size. He distinguished this situation from a case of congenital problems, that is cases of hypoplasia, where the testicles would be too small but would not change over time. He also strongly disputed the Dr. Matthews' conclusion that it was a congenital situation, stating that there was no known test that could determine, based on a single measurement alone, whether there was hypoplasia as opposed to degenerative conditions. In this regard, his testimony is credible, especially since Dr. Matthews admitted in her deposition that many pathologists might disagree with her conclusion of congenital failure, i.e. hypoplasia, and further that her examination seems to have been far more cursory than the examination done by Ohio State.

***4** Dr. Anderson also appeared to have reached at least some tentative conclusion as to Diego's condition being degenerative at the time he rendered his report in 2003, long before he ever reviewed Dr. Matthews' report. The note attached to his initial report on August 4, 2003 contains the following: "Nel-this does not look congenital. Could be heat stress, illness, etc....

Thus, to the extent that there is some doubt as to whether Dr. Anderson could use data from Dr. Matthews' report even though Dr. Matthews was a "testifying" physician through her deposition, see *Macaluso v. Pleskin*, 329 *N.J.Super.* 346, 355 (App.Div.2000), the Court notes that his initial observations, without reviewing that report, were the same.[FN2] However, he maintained throughout his testimony that he could not determine the actual cause of the degenerative condition.

FN2. The Court for reasons stated on the record, determined to consider Dr. Anderson's deposition in its entirety.

What Dr. Anderson did now know, however, was that there were more measurements taken of Diego before his May, 2002 sale by Dr. Norm Evans, a veterinarian respected by all parties. He found a scrotal width of 2.2 centimeters in April 2002. This figure is within the 10% margin of error acknowledged by Dr. Anderson of the 2.0 centimeters found by Dr. Matthews in June 2003. It is thus apparent that there was stability in Diego's condition for a considerable period of time.

It is true that Dr. Anderson added that heat stress which was one potential cause of degenerative failure could occur in a short period of time. However, he was not familiar with the condition on the plaintiff's farm and had no way of knowing how the heat stress had occurred. Thus, although it was not specifically brought out, it may have well been that there was heat stress associated with Diego's transportation to Ohio State University in late July 2003 and that nothing untoward ever happened at the plaintiffs' farm.

In any event, Dr. Anderson's testimony that he could not actually determine the cause of Diego's condition is persuasive. He was the most independent of the experts in this case, even though it is apparent from the note on his report that he was on a first name basis with the defendant. Further, even Dr. Anderson's testimony that the problem occurred between June and July 2003 does not square with Dr. Matthews' finding that in June Diego already was no good as a breeding animal. This finding is

independent of her conclusion as to the cause of this condition. There is no reason based on bias to question this finding of sterility-it was clearly something Dr. Matthews' employer, the plaintiff, would not welcome.

In support of her claims that she bore no responsibility for Diego, Ms. Vickers also produced the testimony of the *de bene esse* deposition of Dr. Sara Michelin. Dr. Michelin serves in the same role for defendant Maplewood as Dr. Matthews does for Virginia **Alpaca**, namely that she is the veterinarian who oversees the firm's **alpaca** herd. She indicated that she had examined Diego before the May sale and found his testicles to be entirely normal. Like Dr. Anderson, she reasoned that the problem with Diego must have occurred subsequent to his sale and be degenerative. Like Dr. Anderson and unlike Dr. Matthew, she also felt that there was no clinical test by which a single measurement could be utilized to determine whether a condition was hypoplastic or degenerative. She reasoned that the situation had been degenerative. However, she appeared not to have been familiar with Dr. Evan's very similar measurement of Diego's testicular width some two years before she rendered her report.

***5** Dr. Michelin opined that Diego was normal in her pre-sale examinations. He had even won a blue ribbon in March 2002. She further opined the heat in Virginia must have been a problem that caused Diego's condition. She found that his testicular size had recovered somewhat after his return to Michigan in 2003, although not enough to breed. He has in fact never “settled” a female.

However, as with Dr. Anderson, she had no specific knowledge of the practices on the Virginia **alpaca** farm. Further, her conjectures run in the face of direct proofs offered by Ms. Brown who indicated orally and with pictures that she operates a successful breeding farm with now 140 animals. She also has on hand a practicing veterinarian, Dr. Matthews. There is no convincing reason on this record to assume heat stress in Virginia caused Diego's problem.

Further, in fact, if heat stress in Virginia was a problem, the Court questions whether it would be possible even to run a successful **alpaca** operation or even more importantly whether Ms. Vickers should have been selling **alpacas** to a farm in Virginia. In this regard, defendants' assertion that the climate is much more favorable for **alpacas** in Michigan where defendant's farm is located than Virginia almost suggests a degree of carelessness on the part of defendants in selling **alpacas** to a southerly located farm.

TERMS OF THE CONTRACT

The relevant section of the contract provides the following exclusive warranty:
F. Young Males:
Young males, i.e., males that are not proven males) are warranted as being capable of impregnating females. Any claim under this warranty must be delivered in writing to the Seller within 24 months after the date of the sale of the young male or prior to the young male's third birthday, whichever is sooner. If a claim is made under this warranty, the young male must be returned to the Seller's farm (with transportation paid by the Buyer) for a period not to exceed six months during which the Seller will attempt to correct the problem. In the event the Seller is not able to correct the problem within the six month period, the Seller will, at its option either (1) replace the young male with a young male of equal quality, (2) give the Buyer credit toward the purchase from Seller of another animal in an amount equal to the total amount of the purchase price, or (3) give a refund of the purchase price paid at the Sale. In order for this warranty to remain in effect, the Buyer must ensure that the young male is fully shorn each year, and must manner the young male in a manner that is considered “first class” based on industry standards. Failure to comply with any of these conditions will void this warranty. Further, this warranty is void upon the death of the young male or the Buyer's resale or transfer of the young male. Abuse or neglect on the part of the Buyer resulting in the sterility of the young male will void this warranty. There are no other express or implied warrantees for young males.

***6** In addition, the contract at 2H explicitly exclaims any other warranties for merchantability or for a particular purpose.

As indicated above, this Court finds that the warranty is not barred by the lateness of the claim. Vickers' conduct, correspondence and testimony as noted above, all set forth a willingness to consider the warranty as being in effect when a written claim on it was made by plaintiff in July 2003. The plaintiff's report of the November 2002 conversations with her about the warranty is consistent with this conclusion.

Further, the testimony concerning Diego's condition is relevant to another issue which defendants' claim

bars the warranty. In § 2F there is assertion that the warranty would be void if the "young male" is not managed "in the manner that is considered first class" based on industry standards. There is no testimony showing failure to comply with that provision in the warranty. Rather, there is affirmative testimony that the Virginia operation was a well run operation.

There is also in 2F language that "abuse and neglect on the part of the Buyer resulting in the sterility of the young male will void this warranty". Here too, other than the simple assertion that Diego appeared to have suffered from heat stress, there is no proof of abuse or neglect. Both defense veterinarians admitted they did not know the actual cause of Diego's degenerative testicular condition. Nor is there any suggestion that Diego's overall physical condition showed a lack of care. In fact, Dr. Anderson found otherwise in July 2003. Further, given the description on the plaintiff's operation this Court cannot make any finding of abuse and neglect. As noted above, it appears that the operation is large, well run and well organized. Nor can the simple fact of its being in Virginia constitute abuse.

Neither can the Court draw any inference from the fact that the plaintiff was relatively new in the business at the time it purchased Diego. The testimony was that the operations have ran similar from 2002 to the present. There is also testimony of a sliding herd in Virginia that has been built up through the years. Accordingly, this Court finds no grounds for voiding the warranty based on abuse and neglect. For this reason, the warranty will be enforced since it has not been treated as either having been expired nor can it be voided on the basis of abuse and neglect.

Accordingly, the warranty must be enforced pursuant to its terms. It is clear that the Court cannot make a better contract for the parties than they themselves have made. *Rahway Hospital v. Horizon Blue Cross Blue Shield of New Jersey*, 374 *N.J.Super.* 101, 111 (App.Div.2005). In this case the terms of the warranty are quite clear. In the event a male does not prove capable of breeding, the seller is given six months to correct the problem. Ms. Vickers testified that she regarded that six month requirement as being applicable. At the conclusion of the six months, which in this case would have been February 2004, in light of the tests being conducted in late July and early August 2003, the seller, Ms. Vickers, is obligated to do one of three things *at its option.* Under 2F, it will 1) replace the young male with a young male of equal quality, 2) give the buyer credit towards the purchase of another animal in an amount equal to the total amount of the purchase price, or 3) give a refund of the purchase price paid at the sale.

***7** In this case, the Court finds that Ms. Vickers carried out the terms of the warranty. She did in fact offer a replacement for Diego. It so happens that the replacement was Diego's brother, Diesel. It does not appear that the offer of Diego's brother was inappropriate under the contract. He is a comparable animal, given this Court's finding that the breeding problem was not congenital. However, any discussion of replacing Diego with another **alpaca** was aborted by Mr. Webb who rejected such an offer by defendant when it was made apparently September 15, 2003.

Nonetheless, in this regard, Ms. Brown asserted on behalf of the plaintiffs, that she had initially been offered a return of money but that Ms. Vickers reneged on this offer. Ms. Vickers denied every offering a refund. Despite this conflict it is clear that no binding offer was made. Rather, it was agreed that Diego be examined at Ohio State pursuant to the cure terms of the warranty. Obviously, this occurred before any refund was made. This Court infers that the examination was needed in determining how to deal with the warranty. Ms. Vickers insisted all along on following the terms of the contract. These terms gave her the three options described above. At most, at some point, she stated that she would consider both the repayment option and the return option. No binding agreement for repayment was ever made. Rather, through most of the transaction, and even in waiving the term limits, Ms. Vickers did follow the terms of the contract which gave her the options described above.

Accordingly, while this Court finds that the warranty in § 2F is applicable, plaintiff has not shown noncompliance with its terms by defendants, so that plaintiff would be entitled to a refund for breach of warranty. Defendants' offer of a like kind exchange was well within the terms of the warranty.

REVOCATION OF ACCEPTANCE

In addition, there was no right to revoke acceptance of Diego under *N.J.S.A.* 12A:2-608. Defendant had exclaimed all warranties in the contract at 2H as follows:
"Except for the limited warranties set forth above for young females and young males and the live birth guarantee, the seller disclaims all warranties and guarantees, express or implied, including but not

limited to warranties for merchantability and warranties of fitness for a particular purpose."

Under *N.J.S.A.* 12A:2-316(4), such language can effectively modify warranties and bring about a limitation of the power to revoke acceptance and in this case the court has found that there was a contractual modification of the remedy in 2H, which did disclaim any warranties of merchantability and fitness other than the Young Male warranty which was carried out.

In *Alpert v. Thomas*, 643 *F.Supp.* 1406, (D.Vt.1986), a case with a fact scenario as close to that as the case at bar as this Court could find, a Russian-Arabian stallion was purchased as a breeding sire but was unable to fulfill its siring duties. While the Court in *Alpert* rescinded the sale and awarded plaintiff the monies paid for the animal, the holding in *Alpert* does not justify a refund here. In sharp contrast to the present case, the seller in *Alpert* made numerous promises to the buyer, which was found to be the exact opposite of a disclaimer of warranty. Also, in *Alpert*, there was no question as to remedy. There was no contractual claim or duty to provide a replacement animal. In contrast here, in the present case, the main issue is whether such a replacement is the appropriate remedy.

***8** In addition, there is no proof in the present case that Diego failed to conform at the time of the sale. The evidence of congenital defects has been rejected. No convincing evidence of pre-sale abnormalities is found in Dr. Evan's report, Dr. Michelin's examinations, or in the fact that Diego did not breed as a relatively immature **alpaca** in Michigan before the sale took place.

Having found no non-compliance with the warranty, or grounds for revoking acceptance, the Court will enter judgment for defendants on Count III of the complaint.

MISTAKE OF FACT

Plaintiffs' claim for rescission is based on a mutual mistake as to a material fact, namely Diego's sexual prowess.

The general rule as to when a party may rescind a contract under the doctrine of mutual mistake is set forth in the Restatement (Second) of Contracts, § 152:

"Where a mistake of both parties at the time a contract was made as to a basic assumption on which the contract was made has a material effect on the agreed exchange of performances, the contract is voidable by the adversely affected party unless he bears the risk of the mistake under the rule stated in § 154." Restatement (Second) of Contracts § 152 (1981).

However, there is an exception under § 154, which states that a party bears the risk of a mistake when:
"(a) the risk is allocated to him by agreement of the parties, or
(b) he is aware, at the time the contract is made, that he has only limited knowledge with respect to the facts to which the mistake relates but treats his limited knowledge as sufficient, or
(c) the risk is allocated to him by the court on the ground that it is reasonable in the circumstances to do so." Restatement (Second) of Contracts § 154 (1981).

In the present case, plaintiff bore the risk of mistake under § 154(a) since the risk of raising the issue of breeding capability was allocated to him by the warranty. There was a procedure set forth in the agreement under which breeding problems would be brought to the attention of the seller. It was followed. In addition, under § 154(b) plaintiff was aware, at the time the contract was made that he had only limited knowledge with respect to the breeding age of **alpacas** but treated his limited knowledge as sufficient. In fact, when informed in May 2002, post-sale, of Diego's inability to breed prior to the sale, plaintiff made no objection to taking delivery of Diego. All parties apparently agreed with the testimony and the terms of the contract that Diego's capability could not be fully ascertained at the time of the sale.

Further, the Restatement is followed under New Jersey law. In *Beachcomber Coins, Inc. v. Boskett*, 166 *N.J.Super.* 442 (App.Div.1979), the Appellate Division examined the doctrine of mutual mistake and the (1975) restatement in a case where defendant sold a rare dime to plaintiff, a coin dealer. The Appellate Division examined the (then) current restatement and determined that the exceptions listed under *§ 296* (now § 154) were not applicable to that case and went on to find that the contract should be rescinded.

***9** In the present case this Court finds that the

exceptions listed in § 154 are applicable and that as a result, plaintiff may not void the contract and get return of its money under the doctrine of mutual mistake.

To further explain why Court finds there was no mistake of fact as alleged in the first count of the complaint, the Court adds the following. While the defendant warranted Diego's capability, it did so through a warranty which clearly envisioned that a young male might not be able to breed. In fact, there was no mistake as to Diego's status. It was agreed, as set forth in 2F of the contract that he was an unproven male who might not turn out to be a breeding sire. The parties understood that at age two Diego might not prove out because he had not yet reached maturity when he was sold. Thus, contrary to plaintiffs' claims, see ¶ 12 of its complaint, there was no mistake of fact which justifies recession of the contract. Instead the contract provides for the very eventuality which occurred here, namely an inability to breed at maturity and an obligation on the part of the seller to offer a replacement at the seller's option.

Plaintiffs finally argue that it was defendants' burden to produce evidence of the issue of an offer of a like exchange. Defendants did however produce evidence of an offer of an equivalent animal, Diego's brother, who presumably had the same lineage. Further, this Court has found that Diego's ailment was not congenital. These findings suggest that the brother, Diesel, was sufficiently equivalent to qualify as a replacement under the warranty. Under these circumstances, plaintiff, to prove its case by a preponderance of the evidence, had to produce some evidence for rejecting Diesel. It has not. Thus, the Court finds in favor of defendants on Count I of the complaint.

COUNTERCLAIM

Finally, the Court will address the counterclaim for unjust enrichment. The Court notes the testimony that Ms. Vickers did not offer to return Diego to the plaintiff after having retained him pursuant to the warranty. Under these circumstances, it is the Court's view that Ms. Vickers retention of Diego was voluntary, and simply a continuation of the animal's being returned to her in August 2003. The fact is that she has enjoyed possession of the animal since August, 2003 and did not, until this suit was filed, make any suggestion that plaintiffs had any obligation whatsoever for Diego's care and upkeep. Under the circumstance, this Court finds that plaintiffs have not been unjustly enriched by the $2,417 incurred by Diego's upkeep and board.

This conclusion is strengthened by defendants' claim that the environment in Virginia is not suitable for Diego. Under these circumstances, in light of the defendants' apparent desire to retain Diego, they should not be able to recover damages for Diego's care in this matter.

Defendants have unequivocally now stated in open Court that they wished to be relieved of Diego's care. Whether defendants would have a valid claim for unjust enrichment going forward if plaintiff does not agree to transport Diego back to Virginia and resume responsibility for his care is not before this Court.

***10** In any event, judgment shall be entered for defendants on the complaint and for plaintiff on the counterclaim. No costs. Further, defendant's oral claim following summation for attorneys' fees is wholly unsupported by *R.* 4:42.9 or any contract language and is rejected.

An appropriate order is attached.

N.J.Super.L.,2005.
Virginia Alpaca Farm and Breeding Co. v. Vickers
Not Reported in A.2d, 2005 WL 1389123 (N.J.Super.L.)

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