

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

BRANCH BANKING AND TRUST,	}	
CO.,	}	
	}	
Plaintiff,	}	CIVIL ACTION NO.
	}	2:14-CV-1578-WMA
v.	}	
	}	
EBR INVESTMENTS LLC, et al.,	}	
	}	
Defendants.	}	

MEMORANDUM OPINION AND ORDER

In accordance with Federal Rule of Civil Procedure 37 and this court's February 18, 2015 order (Doc. 39), the court now fixes the amount of plaintiff's reasonable expenses and attorney's fees incurred in prosecuting its motion to compel (Doc. 36). Plaintiff's counsel timely filed an affidavit in support of their request for an award of fees and costs, requesting that \$4,205.03 be paid to lead counsel Mychal J. Katz and \$825.00 be paid to local counsel Bryan G. Hale. (Doc. 40). Defendants filed a reply objecting to various time entries, specific airfare selections, and travel time calculations relating to the lead counsel's expenses and costs. (Doc. 41). Upon close review, the court finds plaintiff's lead counsel properly recorded his billable time and prudently selected reasonably priced airfare given the circumstances. However, the court adjusts the billable hours for plaintiff's counsel's travel time. While plaintiff's counsel does state in his reply that he spent approximately 15 minutes traveling

to the airport, 20-25 minutes going through airport security, and arrived at his gate approximately 20 minutes prior to boarding, he provides no explanation of the substantive work conducted beyond mere travel or assurances that he was not performing work for other clients during that time. (Doc. 42). Therefore, the court adjusts his billable travel time from his requested 9.2 hours to 4.2 hours, which reasonably includes time for the boarding, take-off, and changing planes process where implicitly client work could not be conducted. Avoiding the risk of windfall, this adjustment ensures that "[d]efendants' choice not to abide by the Federal Rules of Civil Procedure should not result in BB&T's lead counsel losing an hour of billable time." (Doc. 42 at 6).

Accordingly, defendants are **ORDERED** within seven (7) days to pay plaintiff's reasonable expenses, in the amount of **\$825.00 to Bryan G. Hale** and **\$3,030.03 to Mychal J. Katz**.

DONE this 16th day of March, 2015.


WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE