

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

EMANUEL VANCE

PLAINTIFF

vs.

2:05-CV-00316-WRW

BRINKLEY PUBLIC SCHOOLS, *et al.*

DEFENDANTS

ORDER

Pending is Plaintiff's Motion for Attorney's Fees (Doc. No. 62). Defendants have responded (Doc. Nos. 71, 74). For the reasons set out below, Plaintiff's Motion is GRANTED in the amount of \$30,861.55.

Mr. Walker billed for 6.8 hours of services: 4 hours in 2004; 1.3 hours in 2005; and 1.5 hours in 2008. Mr. Walker is not pursuing his present rate for services performed before 2008.¹ Accordingly, Plaintiff is awarded \$250 an hour for 4 hours of services performed by Mr. Walker in 2004, and \$325 an hour for 2.8 hours of services performed by Mr. Walker in 2005 and 2008.

Plaintiff first filed a lawsuit in the Western Division of the Eastern District of Arkansas, and voluntarily dismissed that case.² Plaintiff then filed this case, which is similar to the case Plaintiff voluntarily dismissed.³ Some of the fees billed to Plaintiff in connection with the case he voluntarily dismissed did not appear again in this case -- for example, drafting a complaint.⁴ Some fees, however, were billed in both cases -- for example, drafting a rule 26(f) report. It seems to me that it wouldn't be fair to direct Defendants to pay for fees Plaintiff incurred twice

¹Doc. No. 74.

²Doc. Nos. 62, 72; No. 4:04-CV-00808-WRW.

³See No. 4:04-CV-00808-WRW

⁴Doc. No. 62.

for similar services when Plaintiff voluntarily dismissed his first suit. Accordingly, I will not award fees for 13.9 of the hours Mr. Childs billed in the voluntarily dismissed case.

Defendant Richard Young was dismissed from this case before the case went to trial, and was represented by different counsel. Plaintiff will not be awarded fees in connection with 1.6 hours Mr. Childs billed for services involving Defendant Young only. In sum, no fees will be awarded for 15.5 hours billed by Mr. Childs.

CONCLUSION

Plaintiff is awarded attorney's fees for 156.4 hours billed by Mr. Childs at the rate of \$175 per hour, or \$27,370. Plaintiff is further awarded fees billed by Mr. Walker as follows: 4 hours at \$250 per hour, plus 2.8 hours at \$325 per hour, or \$1,910. Plaintiff is awarded attorney's fees totaling \$29,280. Plaintiff is also awarded costs in the amount of \$1,581.55. Pursuant to 42 U.S.C. § 1988, Plaintiff, as the prevailing party, is thus awarded a total of \$30,861.55.

IT IS SO ORDERED this 17th day of December, 2008.

/s/Wm. R. Wilson, Jr.
UNITED STATES DISTRICT JUDGE