

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FORT SMITH DIVISION

THE ESTATE OF LARRY EUGENE PRICE, JR.  
by and through its Special Administrator, Rodney Price

PLAINTIFF

v.

No. 2:23-cv-2008

TURN KEY HEALTH CLINICS, LLC;  
SEBASTIAN COUNTY, ARKANSAS;  
DO JAWAN LEWIS; CHRISTEENA FERGUSON;  
and J. DOES 1-20

DEFENDANTS

**OPINION AND ORDER**

Before the Court are Plaintiff The Estate of Larry Eugene Price, Jr.'s ("Estate") affidavits (Docs. 47, 48) in support of attorney's fees. After the Court granted the Estate's motion to compel, the Court directed the Estate's counsel to submit affidavits summarizing their fees. *See* Doc. 43, p. 12. Defendant Turn Key Health Clinics, LLC ("Turn Key") was given 7 days to file objections. That deadline has passed without any objections from Turn Key.

Under Federal Rule of Civil Procedure 37(a)(5)(A), a party can recover its reasonable expenses, including attorney's fees, if a motion to compel is granted. When determining a fee award, a district court must calculate the "lodestar," which is arrived at by multiplying the number of hours reasonably expended by the reasonable hourly rate. *See Fish v. St. Cloud State Univ.*, 295 F.3d 849, 851 (8th Cir. 2002). The Court should base the "reasonable hourly rate" on the ordinary rate for similar work in the community where the case is litigated and may rely on its own experience and knowledge of prevailing market rates when doing so. *See Miller v. Dugan*, 764 F.3d 826, 831 (8th Cir. 2014). The Court should exclude from counsel's submission of hours those hours which were not reasonably expended. *Hensley v. Eckerhart*, 461 U.S. 424, 436-37 (1983).

The Estate's lawyers seek \$15,892.50 in attorney's fees. (Doc. 47, p. 1). The Estate seeks fees for two attorneys: Hank Balson and Erik Heipt. *Id.* Both attorneys seek an hourly rate of \$325. Mr. Balson's affidavit explained that although he billed 74.3 hours, he reduced his requested hours to only 44.6 hours. *Id.* at 2. Mr. Heipt billed only 4.3 hours for his review of the motion to compel and reply in support of the motion to compel. (Doc. 48, p. 2).

Turning first to the hourly rate, the Court concludes that \$325 is a reasonable rate for attorneys in matters such as the present case. The Estate brings claims under 42 U.S.C. § 1983 for violations of the Fourteenth Amendment of the United States Constitution and under Arkansas' wrongful death and survival statutes for medical negligence and violation of correctional standards. *See* Doc. 2, pp. 27–28. Mr. Balson has nearly 25 years' experience litigating civil rights cases. (Doc. 47, pp. 2–3). Mr. Heipt has nearly 30 years' experience as an attorney, with the last two decades focused on civil rights cases concerning in-custody deaths, like the present case. (Doc. 48, pp. 1–2). The Court believes \$325 an hour is a reasonable rate, and that rate is consistent with fee awards in civil rights cases for attorneys with similar levels of experience in this district. *See Hum. Rts. Def. Ctr. v. Baxter Cnty., Ark.*, 2023 WL 7404236, at \*9–\*11 (W.D. Ark. Oct. 30, 2023).

Turning to the hours reasonably expended, the Court agrees that the reduced amount of hours Mr. Balson and Mr. Heipt requested is reasonable. Mr. Balson's 74.3 hours billed would have been unreasonable. But Mr. Balson has already reduced the hours requested to a reasonable number. As the Court noted in its order on the motion to compel, the parties had 12 separate disputes that occurred across several rounds of discovery. *See* Doc. 43, pp. 2–3. The Estate's motion was granted in full. The Court concludes that Mr. Balson's 44.6 hours and Mr. Heipt's 4.3 hours were reasonably expended in support of the Estate's motion.

The Court awards the following attorney's fees:

Attorney	Rate	Hours	Total
Hank Balson	\$325.00	44.6	\$14,495.00
Erik Heipt	\$325.00	4.3	\$1,397.50
<b>Total</b>			<b>\$15,892.50</b>

IT IS THEREFORE ORDERED that Defendant Turn Key Health Clinics, LLC is ordered to pay the Estate of Larry Eugene Price, Jr. \$15,892.50 in attorney's fees.

IT IS SO ORDERED this 9th day of May, 2024.

*P. K. Holmes, III*

P.K. HOLMES, III  
U.S. DISTRICT JUDGE