

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

GINA RAMIREZ

PLAINTIFF

v.

No. 5:16-CV-05164

BOST, INC. and JAMES MAGINOT

DEFENDANTS

OPINION AND ORDER

On February 27, 2017, the Court entered judgment dismissing this case without prejudice and granting a motion for sanctions against Plaintiff's counsel, Donald Ryan Mullenix. Defendants were directed to file a brief itemizing their fees and costs incurred in connection with bringing the motion for sanctions. Mullenix was given seven days to respond. Defendants thereafter timely filed a motion (Doc. 18) for fees and costs and a brief in support (Doc. 19). Mullenix has not responded.

Defendants represent that their counsel expended 22.8 hours of time in connection with the motion for sanctions, at a billable rate of \$225 per hour. Defendants seek attorney's fees in the amount of \$5,130. Defendants do not seek any separate costs related to the motion for sanctions. Defendants submitted an itemized breakdown of the requested fees as directed. (Doc. 18-3, pp. 4-6). The Court has reviewed this itemization and finds that while the billable rate is reasonable, the number of hours expended is greater than was reasonably necessary and some of the hours itemized cannot be recovered.

As an initial matter, the fees billed for January 11, 2017 are not recoverable because they were related to good-faith communications required before any motion for sanctions can be filed. Had those communications been successful, no fees could be awarded for them because no motion would have been filed, and the award of fees is limited to those incurred in bringing the motion

for sanctions. The same is true for the fees billed for February 27, 2017. Review of the Court's order granting the motion for sanctions is not recoverable. No fees will be awarded for these 2.1 hours. With respect to the other hours spent, the Court finds that the 16.2 hours expended on preparing the motion were more than was reasonably necessary. The Court will reduce that time by 3 hours, and will allow recovery of attorney's fees for a total of 17.7 hours at a rate of \$225 per hour.

IT IS THEREFORE ORDERED that Defendants' motion for attorney's fees (Doc. 18) is GRANTED IN PART.

IT IS FURTHER ORDERED that Plaintiff's Counsel Donald Ryan Mullenix remit \$3,982.50 to Defendants as a sanction for failure to comply with obligations imposed upon him by the Federal Rules of Civil Procedure.

IT IS SO ORDERED this 30th day of June, 2017.

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