
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SACV 10-1656-JST (RZx)

Date: May 23, 2011

Title: Bryan Pringle v. William Adams, Jr. et al.

Present: **Honorable JOSEPHINE STATON TUCKER, UNITED STATES DISTRICT JUDGE**

Nancy Boehme
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

Not Present

Not Present

PROCEEDINGS: (IN CHAMBERS) ORDER RE: ATTORNEYS' FEES

On April 12, 2011, the Court granted Defendant Rister Editions' Motion for Attorneys' Fees pursuant to 28 U.S.C. section 1927. (Doc. 126.) The Court ordered that "Plaintiff's counsel shall pay to Rister sanctions in the amount of the reasonable expenses, costs, and attorneys' fees Rister incurred in filing" Rister's second motion to dismiss based on improper service (Doc. 121), and for "Rister to file promptly a detailed declaration as to those costs and expenses." (*Id.* at 3.) Rister's counsel, Loeb & Loeb, LLP, submitted a declaration from Barry I. Slotnick, lead partner on the motion, asking for \$36,091.50 in attorneys' fees for 71.3 hours of work spent on the motion. (Slotnick Decl., Doc. 128, ¶ 20.) Plaintiff's counsel submitted three declarations challenging the reasonableness of Rister's counsel's purported hours and the billing rates. (*See* Docs. 129-131.) Rister's counsel filed a supplemental declaration in reply. (Doc. 133.) Having reviewed the declarations, the Court agrees with Plaintiff and finds that \$36,091.50 in attorneys' fees for Rister's motion to dismiss is not reasonable.

In determining the reasonableness of attorneys' fees under section 1927, courts utilize the lodestar approach. *See Lahiri v. Universal Music & Video Distrib. Corp.*, 606 F.3d 1216, 1222-1223 (9th Cir. 2010); *see Perdue v. Kenny A. ex rel. Winn*, 130 S. Ct. 1662, 1672-73 (2010) (discussing the merits of the lodestar approach). The lodestar approach is "the product of reasonable hours times a reasonable rate." *City of Burlington v. Dague*, 505 U.S. 557, 559-60 (1992) (quoting *Pennsylvania v. Delaware Valley Citizens' Council for Clean Air*, 478 U.S. 546, 565 (1986)). Here, substantively, Rister's second motion to dismiss did not differ significantly from its first motion to dismiss. (*Compare* Doc. 122, *with* Doc. 53-1.) Indeed, Rister utilized the exact same arguments and language at times. (*Compare* Doc. 122 at 3-4, *with* Doc. 53-1 at 7-8.) Although the second motion did include new legal arguments, this accounted for fewer than 2 pages of the motion. (Doc. 122 at 4-6.) The rest of the motion summarized the background facts and the Court's previous orders (*id.* at 2-3), and requested attorneys' fees (*id.* at 6-7). Further, the Court notes that Rister included hours which were not spent on the motion. For example, Rister seeks to be compensated for time spent drafting the answer to Plaintiff's complaint and reviewing the Court's decision, which accounted for 4.4 hours of work and \$2,252 in attorneys'

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fees. (*See* Lotnick Decl., Exh. B at 4.) Rister’s counsel also alleges to have devoted over 8 hours and nearly \$4,000 to composing the declaration it submitted as to attorneys’ fees. (*Id.* at 4-5.) Based on the subject matter of Rister’s motion and its length, the Court finds excessive 71.3 hours of work spent on it. Eliminating the duplicative and extraneous hours listed in the work log provided by Rister’s counsel, the Court finds that a reasonable amount of hours is 1.3 hours for paralegal work, 15 hours of associate work, and 2 hours of partner work, totaling 18.3 total hours.

As to the billing rates, the Court finds the paralegal and associate rates too high. The Court looks to the “prevailing market rates in the relevant community” to determine the reasonableness of proposed billing rates. *Perdue*, 130 S. Ct. at 1672 (quoting *Blum v. Stenson*, 465 U.S. 886, 895 (1984)). Here, Rister’s counsel asserts that the paralegals working on said motion billed at rates between \$320 and \$350 per hour, the associates at a rate between \$350 and \$550 per hour, and Slotnick, the partner, at \$650 per hour. (Slotnick Decl. at 6.) Rister has provided a market sample of billing rates from the *National Law Journal*. (Slotnick Decl. Exh. C.) Based on the market sample provided by Rister, a \$320-\$350 billing rate for paralegals exceeds the average for most associates at comparable law firms. (*See id.*) Moreover, a \$500-\$550 billing rate for associates falls on the very high end of the spectrum. Viewing the evidence before it, specifically the survey provided by Rister, and taking into account the skill level and experience of Tal Dickstein, Donald A. Miller, and Eric Schwartz, the associates who worked on the motion, the Court finds that a reasonable average associate billing rate is \$350. Although Rister’s counsel has not provided data as to paralegal billing rates, the Court determines that \$200 is a reasonable rate. Based on Slotnick’s years of experience and expertise, the Court finds reasonable a \$675 hourly rate for his work.

Based on the above-referenced figures, the Court determines that a reasonable amount of attorneys’ fees is \$6,860, which is composed of paralegal (1.3 x \$200 = \$260), associate (15 x \$350 = \$5,250), and partner (2 x \$675 = \$1,350) hours and billing rates. Thus, Plaintiff’s counsel shall pay to Rister \$6,860 in attorneys’ fees forthwith.

Initials of Preparer: nkb