

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 08-cv-02749-PAB-KMT

PHILIP ANDREW WOLF,

Plaintiff,

v.

JAMES PETROCK,

Defendant.

ORDER

This matter is before the Court on defendant's motion for attorneys' fees [Docket No. 70]. On July 30, 2010, the Tenth Circuit Court of Appeals held that plaintiff's appeal was frivolous and ordered that defendant be awarded "reasonable appellate attorneys' fees as just damages." [Docket No. 67-1]. The appeals court remanded this case "for the limited purpose of determining the amount of the appellate attorneys' fees to be awarded." *Id.* On August 18, 2010, the defendant filed the present motion, which included affidavits and an itemized billing statement in compliance with D.C.COLO.LCivR 54.3. Plaintiff did not respond to this motion. Upon review of the affidavits and billing statement, the Court finds that defense counsel's rate of \$140 per hour is reasonable for the type of work performed and for the Denver legal market. The Court also finds that the amount of time spent working on plaintiff's appeal is reasonable considering the nature of the appeal and its degree of complexity. See

Case v. Unified School Dist. No. 233, 157 F.3d 1243, 1250 (10th Cir. 1998).

Accordingly, it is

ORDERED that plaintiff's Motion for Determination of Amount of Attorneys' Fees to be Awarded [Docket No. 70] is **GRANTED**. The Clerk of the Court is directed to enter judgment in favor of defendant and against plaintiff for appellate attorney fees in the amount of \$12,292.00.

DATED February 8, 2011.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge