

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02681-WJM-MEH

DAWNMARIE FIECHTNER,

Plaintiff,

v.

AMERICAN FAMILY MUTUAL INSURANCE COMPANY,

Defendant.

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**AMENDED<sup>1</sup> ORDER**

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**Michael E. Hegarty, United States Magistrate Judge.**

Before the Court is Plaintiff's Motion for Expert Fees on Behalf of Dr. Timothy Ray, D.C., P.C. [filed February 23, 2011; docket #259]. Defendant took the deposition of Plaintiff's treating chiropractor, Dr. Timothy Ray. The deposition lasted four hours. Dr. Ray submitted a bill for \$1,000 per hour, or \$4000.00. Defendant demurred concerning the reasonableness of the hourly rate, requesting Dr. Ray to accept a lesser amount. Through various correspondence and a declaration filed with the motion, Dr. Ray explained that his original bill was imprecise and was meant to compensate for deposition preparation and missed client visits in addition to actual deposition time. Dr. Ray did not provide any detail about these expenses other than the statement that he sees four patients per hour. For example, he did not state that the deposition caused him to actually miss any appointments, so I do not know if there are any lost opportunity costs or not. I am aware of chiropractors who have posted office hours and see patients during those hours, yet also have blocks of time during the week for other business. I cannot base my decision on a record

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<sup>1</sup>The order is amended to reflect the correct initials of the presiding District Judge.

lacking the necessary evidence.

Based on the Defendant's allegation of a national average of \$363.00 per hour for chiropractors; Plaintiff's allegation that this is a 2004 number which has undoubtedly increased; Dr. Ray's statement of time spent; and Dr. Ray's expertise, I conclude the following: A treating chiropractor of Dr. Ray's experience and expertise should reasonably spend one hour in preparation for a four-hour deposition. Dr. Ray is reasonably entitled to five hours of time. The Consumer Price Index, published by the United States Bureau of Labor Statistics, for \$363 in 2004 would justify \$429 per hour in 2011. Dr. Ray's experience and expertise would entitle him to a 33% premium, or \$570 per hour. Therefore, Defendant shall pay \$2850 for the deposition. I regret that perhaps this much or more was spent in writing briefs disputing this issue.

Accordingly, the Court **GRANTS IN PART** and **DENIES IN PART** Plaintiff's Motion for Expert Fees on Behalf of Dr. Timothy Ray, D.C., P.C. [filed February 23, 2011; docket #259] as stated herein. Defendant shall pay Dr. Ray \$2850.00.

Dated and entered at Denver, Colorado, this 2nd of May, 2011.

BY THE COURT:

A handwritten signature in black ink that reads "Michael E. Hegarty". The signature is written in a cursive, flowing style.

Michael E. Hegarty  
United States Magistrate Judge