

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02950-MSK-MEH

LISA M. JOHNSON,

Plaintiff,

v.

SCHOOL DISTRICT NO. 1 IN THE COUNTY OF DENVER AND STATE OF COLORADO,
and
BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 1,

Defendants.

ORDER RE: SANCTIONS

Michael E. Hegarty, United States Magistrate Judge.

On March 13, 2014, this Court issued an order granting in part and denying in part the Plaintiff's Motion for Sanctions. Docket #103. The Court provided, in pertinent part:

- (4) Plaintiff may seek her reasonable attorney's fees for the filing of the present motion and her reply brief by filing an affidavit pursuant to D.C. Colo. LCivR 54.3 on or before March 27, 2014; and
- (5) Defendants may file an objection to the reasonableness of the fees on or before April 10, 2014.

Id. On March 25, 2014, Plaintiff filed the present Motion for Award of Attorney Fees and Costs [docket #107] and Defendant timely filed a response on April 10, 2014, then filed an amended response on April 11, 2014 merely correcting typographical errors; accordingly, the Court accepts the amended response as timely filed. *See* dockets ## 120, 121.

The present motion contains affidavits by Plaintiff's counsel setting forth a summary of her relevant qualifications and experience, a description of the services rendered, the amount of time

spent, the hourly rate, and the total amount of attorney's fees claimed for Plaintiff's preparation of the motion for sanctions and reply brief. In addition, Plaintiff attached affidavits in support of her counsel's \$300 hourly rate. Defendants do not oppose Plaintiff's counsel's rate and, considering her background and experience, the Court finds such rate to be reasonable.

Defendants, however, oppose the time spent on preparing the motion for sanctions and reply brief as "unreasonable." Notably, the motion for sanctions is less than three pages in length (*see* docket #90), includes 13 pages of exhibits, and contains no cited case law, and the reply brief is 11 pages in length, includes 44 pages of exhibits and contains cited case law (*see* docket #101). Although the Court certainly understood at the time of its award that electronic research had likely occurred in the preparation of these filings, the Court specifically did not award costs, including research costs, in its order. Accordingly, the Court will not require Defendants to pay any costs requested by Plaintiff for online research.

Moreover, the Court agrees that 5.4 hours to draft a three-page motion containing no cited case law is unreasonable. *See* Affidavit of Sharon E. Dreyer ("Dreyer Affidavit"), ¶ 9, docket #107-1. Rather, a reasonable amount of time to review the relevant written communications and documents, and to draft a three-page motion is no longer than two hours for an experienced attorney like Plaintiff's counsel.

Likewise, the Court agrees that 17.8 hours¹ to research and draft an 11-page reply brief is unreasonable. The Court finds that a reasonable amount of time is no longer than 10 hours to review the 6-page response brief (containing very little case law), conduct legal research and draft the reply

¹The Court notes that Plaintiff seeks an award of 23.6 hours for attorney time spent; however, the hours expended actually total 23.2 hours. *See* Dreyer Affidavit, ¶ 9, docket #107-1.

brief filed in this case for an experienced attorney like Plaintiff's counsel.

Accordingly, the Court finds reasonable a total of two hours spent by Plaintiff's counsel in drafting the motion for sanctions, and a total of 10 hours spent researching and drafting the reply brief, for a final total of 12 hours at \$300.00 per hour. Pursuant to Fed. R. Civ. P. 37(a)(5)(A), the Court will order Defendants to pay a total of \$3,600.00 to Plaintiff's counsel as a sanction for Defendants' conduct described in this Court's March 13, 2014 order.

THEREFORE, the Court ORDERS that Defendants be sanctioned in the total amount of \$3,600.00 to be paid to counsel for Plaintiff as a reasonable sanction of attorney's fees expended for preparation of the motion for sanctions and reply brief. This amount shall be paid no later than April 30, 2014. Counsel for Defendants shall file a Notice of Compliance with Order re: Sanctions **on or before May 2, 2014.**²

Dated at Denver, Colorado this 16th day of April, 2014.

BY THE COURT:



Michael E. Hegarty
United States Magistrate Judge

²In their response to the present motion, Defendants seek a stay of any award of attorney's fees in this matter; however, such request is improper under D.C. Colo. LCivR 7.1(d) ("A motion shall not be included in a response or reply to the original motion.").