

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

EMERSON M.F. JOU, M.D.,)	CIVIL NO. 09-00226 JMS-KSC
)	
Plaintiff,)	SUPPLEMENT TO FINDINGS AND
)	RECOMMENDATION TO GRANT IN
vs.)	PART AND DENY IN PART
)	PLAINTIFF EMERSON M.F.
GREGORY ADALIAN; DOES 1-30,)	JOU, M.D.'S MOTION TO
)	ENFORCE SETTLEMENT AND FOR
Defendants.)	DAMAGES, ATTORNEY'S FEES,
)	COSTS AND JUDGMENT

SUPPLEMENT TO FINDINGS AND RECOMMENDATION TO GRANT IN
PART AND DENY IN PART PLAINTIFF EMERSON M.F. JOU,
M.D.'S MOTION TO ENFORCE SETTLEMENT AND FOR DAMAGES,
ATTORNEY'S FEES, COSTS AND JUDGMENT

On November 19, 2010, the Court issued a Findings and Recommendation to Grant in Part and Deny in Part Plaintiff Emerson M.F. Jou, M.D.'s Motion to Enforce Settlement and for Damages, Attorney's Fees, Costs and Judgment ("F&R"), wherein the Court directed Plaintiff's counsel to submit a Declaration setting forth the fees and costs reasonably incurred in bringing the Motion to Enforce Settlement and for Damages, Attorney's Fees, Costs and Judgment. On November 22, 2010, Plaintiff's counsel, Stephen Shaw, Esq., submitted his Declaration.

Mr. Shaw requests \$18,654.44 in attorneys' fees and \$303.94 in costs. Specifically, Mr. Shaw argues that he should be compensated for 50.9 hours of time, at a \$350.00 hourly rate. After careful review of Mr. Shaw's submissions, the Court finds that he reasonably expended 20.7 hours in connection with the Motion to Enforce, and recommends that the district court award Plaintiff \$5,796.00 in attorneys' fees and \$296.25 in costs.

This Court is well aware of the prevailing rates in the community for similar services performed by attorneys of comparable experience, skill and reputation. Based on this Court's knowledge of the prevailing rates, the rates awarded in this district, and Mr. Shaw's submissions in this case, this Court finds that his requested \$350.00 hourly rate is excessive. Instead, the Court finds that a \$280.00 hourly rate is reasonable.

With respect to the 50.9 hours requested by Mr. Shaw, the Court finds that deductions are necessary because: 1) a number of the billings are for tasks not

reasonably or necessarily incurred in connection with the Motion to Enforce; 2) Mr. Shaw spent excessive amounts of time on certain tasks, such as research; and 3) Mr. Shaw billed for clerical tasks that should be subsumed in a firm's overhead. After deducting the time entries that can be attributed to one of the foregoing categories, the Court finds that Mr. Shaw reasonably expended 20.7 hours litigating the Motion to Enforce.

Finally, Plaintiff seeks to recover \$303.94 in costs. The Court finds that Plaintiff reasonably incurred \$296.25 in costs. The Court declines to recommend a full award for Plaintiff's copying costs because the Court is unable to ascertain whether all of the copies were made in connection with tasks/hours that the Court has deemed compensable.

In accordance with the foregoing, the Court HEREBY RECOMMENDS that Plaintiff be awarded \$5,796.00 in attorneys' fees, \$273.11 in tax, and \$296.25 in costs, for a total of \$6,365.36. The Court further recommends that the district court require Defendant to

remit payment of said amount to Plaintiff no later than one week from the date the district court takes action on the F&R.

IT IS SO FOUND AND RECOMMENDED.

DATED: Honolulu, Hawaii, November 23, 2010.





Kevin S.C. Chang
United States Magistrate Judge

CV 09-00226 JMS-KSC; JOU V. ADALIAN; SUPPLEMENT TO FINDINGS AND RECOMMENDATION TO GRANT IN PART AND DENY IN PART PLAINTIFF EMERSON M.F. JOU, M.D.'S MOTION TO ENFORCE SETTLEMENT AND FOR DAMAGES, ATTORNEY'S FEES, COSTS AND JUDGMENT