

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

**CHARLES DERRELL SEALE**

**PLAINTIFF**

**VERSUS**

**CIVIL ACTION NO. 3:08CV105-P-A**

**PHILLIP MITCHELL, IN HIS INDIVIDUAL  
CAPACITY**

**DEFENDANT**

**ORDER**

This cause is before the Court on the plaintiff's Motion for Attorneys' Fees, Costs and Expenses [76]. The Court, having reviewed the motion, the response, the briefs of the parties, the authorities cited and being otherwise fully advised in the premises, finds as follows, to-wit:

That the motion is well-taken and should be granted. The efforts of plaintiff's counsel resulted in the entry of a judgment against defendant Phillip Mitchell in the amount of \$8,835.00. Plaintiff's counsel submitted affidavits regarding the attorneys fees and costs incurred throughout the course of the litigation. In addition, counsel supplied the Court with itemized statements detailing the time records for the attorneys and legal support staff involved in the prosecution of this action. In all, plaintiff's legal fees and costs totaled \$41,603.43. Of that sum, \$1,783.43 represents various expenses charged to plaintiff throughout the course of the litigation; the remaining \$39,820.00 is the amount charged by plaintiff's counsel Victor Fleitas and Jak M. Smith as legal fees from the inception of the case to the present.

All in all, Seale's attorneys expended 181.10 hours of time at a rate of \$200/hour for work on legal matters and 18 hours of time for travel at a rate of \$100/hour. Based on the supporting affidavit of Jim Waide, a licensed attorney in Mississippi, the Court finds that the hourly rates

charged are comparable with the prevailing rates in the community. The Court will permit Seale to recover the full measure of attorneys fees incurred from the inception of the case through October 6, 2010 (\$39,820.00).<sup>1</sup> Any award of costs and expenses will be limited to those submitted in a properly filed bill of costs and allowed by the Clerk of Court.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the plaintiff's Motion for Attorneys' Fees, Costs and Expenses [76] is well-taken and should be, and hereby is, GRANTED. IT IS FURTHER ORDERED that the parties are to submit a proposed Amended Judgment<sup>2</sup> within fourteen (14) days of the entry of this Order.

SO ORDERED, this, the 9<sup>th</sup> day of September, 2011.

/s/ W. Allen Pepper, Jr.  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> The Court has considered the twelve factors set forth in Johnson, but finds that no adjustment of fees (upward or downward) is warranted.

<sup>2</sup> Said proposed amended judgment should incorporate the conditions set forth in the conclusory paragraph of defendant's response in opposition to the instant motion.