

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

PAINTERS DISTRICT COUNCIL	)	
NO. 58, et al.	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. 4:14CV01812 ERW
	)	
RDB UNIVERSAL SERVICES, LLC,	)	
et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter comes before the Court on Plaintiffs’ Motion for Attorneys’ Fees and Costs [ECF No. 113].

**I. FACTUAL BACKGROUND**

Plaintiffs brought suit under the Employment Retirement Income Security Act (“ERISA”), 29 U.S.C. § 1002, et seq., and the Labor Management Relations Act (“LMRA”), 29 U.S.C. § 141, et seq., against Defendant RDB Universal Services, LLC, Deloris Berry, and Relder Berry, alleging Defendants owed Plaintiffs for delinquent fringe benefit contributions in accordance with the terms and conditions of a collective bargaining agreement (“CBA”). Following a two-day bench trial, this Court entered judgment on behalf of Plaintiffs and against RDB Universal Services, LLC [ECF No. 111].<sup>1</sup> In addition to damages, this Court ordered “Defendant RDB Universal Services, LLC shall pay Plaintiffs attorneys’ fees and costs, the

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<sup>1</sup> Plaintiffs moved to dismiss Defendants Deloris and Relder Berry [ECF No. 114], and this Court granted that motion on June 19, 2017 [ECF No. 117].

amount to be determined after Plaintiff has filed appropriate supporting documents.”

Accordingly, Plaintiffs have filed their Motion for Attorneys’ Fees and Costs [ECF No.113].

## **II. ANALYSIS**

Under 29 U.S.C. § 1132(g)(2)(D), delinquent employers are required to pay “reasonable attorney’s fees and costs of the action” brought by fiduciaries for or on behalf of a plan to enforce section 1145 in which a judgment in favor of the plan is awarded. The plaintiffs bear the burden to prove that the requested attorneys’ fees are reasonable, and the district court has discretion in determining what constitutes a reasonable award for attorneys’ fees and costs. See *Greater Kansas City Laborers Pension Fund v. Thummel*, 738 F.2d 926, 931 (8th Cir. 1984); *Greater St. Louis Const. Laborers Welfare Fund v. A.L.L. Const., LLC*, 2014 WL 1648731 at \*6 (E.D. Mo. Apr. 23, 2014). “The usual method of calculating reasonable attorney’s fees is to multiply the hours reasonably expended in the litigation by a reasonable hourly fee, producing the ‘lodestar amount.’” *Greater St. Louis Const. Laborers*, 2104 WL 1648731 at \*6. If plaintiffs show the claimed rate and number of hours are reasonable, the product of this calculation is “presumed to be the reasonable fee to which counsel is entitled.” *Pennsylvania v. Delaware Valley Citizens’ Council for Clean Air*, 478 U.S. 546, 564 (1986).

Plaintiffs seek \$75,965.45 in attorneys’ fees, which were calculated using the lodestar method. In his attached affidavit, Attorney Matthew J. Gierse states the firm’s standard hourly billing rate for lawyer’s services performed in connection with federal court litigation for delinquency matters was \$180.00 until February 1, 2017, when it increased to \$220.00. Plaintiffs attach billing records detailing the attorneys’ fees incurred by Plaintiffs for the 406.47 hours billed from July 1, 2014 to April 30, 2017, totaling \$74,975.45. Attorney Gierse’s affidavit details the attorneys’ fees incurred by Plaintiffs in preparing their Motion for Attorneys’ Fees

and Costs incurred for the 4.5 hours billed between May 1, 2017 and June 7, 2017, totaling \$990.00. It also provides a detailed description of the costs Plaintiffs argue were incurred, totaling \$2,417.26. Defendant has not filed a response to Plaintiffs' motion.

This Court finds Plaintiffs' total hours worked to be reasonable. This matter involved multiple pre-trial depositions, a motion to dismiss, motions for summary judgment and reconsideration, discovery, trial preparation, and a two-day bench trial. Further, Plaintiffs' hourly rates of both \$180.00 and \$220.00 are reasonable. Thus, Plaintiffs' calculation of \$75,965.45, using the lodestar method, is presumed to be reasonable.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiffs Motion for Attorneys' Fees and Costs [ECF No. 113] is GRANTED and Plaintiffs shall be awarded attorneys' fees in the amount of \$75,965.45 and costs in the amount of \$2,417.26.

So Ordered this 14th Day of September, 2017.



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**E. RICHARD WEBBER**  
**SENIOR UNITED STATES DISTRICT JUDGE**