

The defendant's conduct caused the plaintiff to incur expenses in attempting to obtain basic discovery and caused the cancellation of the settlement conference previously set for August 11, 2009.

Plaintiff's Index of Evidence (Doc. 42) shows that plaintiff's counsel expended 8.7 hours in preparing and presenting the motion to compel and an additional 2 hours attempting to negotiate the fee award with defense counsel. In the absence of any proper objection from the defendant, the court finds that counsel spent a reasonable amount of time in conjunction with the motion to compel, and counsel's hourly rate of \$190 per hour reflects a reasonable charge for professional legal services in this court by lawyers regularly employed to perform like services.

Pursuant to Fed. R. Civ. P. 37(a)(5)(A),

IT IS ORDERED that plaintiff's Application for Attorneys' Fees (Doc. 41) is granted in the amount of \$2,033.00, to be paid by the defendant to plaintiff's counsel, William J. Birkel, on or before September 30, 2009.

DATED September 21, 2009.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**