UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

Plaintiff,

vs.
UNIVERSITY MEDICAL CENTER, et al.
Defendants

Case No. 2:08-cv-00863-RCJ-GWF ORDER

This matter comes before the Court on Plaintiff's Memorandum in Support of Fees (#659), filed on May 6, 2013. Defendants Ellerton, Bernstein, Carrison, and Roberts ("Defendants") filed a Response (#660) on May 15, 2013. Plaintiff filed a Reply (#662) on May 22, 2013.

BACKGROUND

Plaintiff filed a Motion for Sanctions (#630) on February 15, 2013 regarding Defendants' reported failure to respond fully to discovery requests as required by this Court's February 1, 2013 Order (#615). On March 19, 2013, the Court ordered the Parties to file status reports regarding the delinquent discovery. *See Minute Order, Doc. #645*. Plaintiff filed his Status Report (#650) on March 25, 2013. Defendants filed a Status Report (#651) on March 25, 2013 and a Supplement (#652) on March 27, 2013. The Court conducted a hearing on the Motion (#630) on April 10, 2013. *See Minutes of Proceedings, Doc. #654*. The Court entered an Order (#657) on April 22, 2013 granting Plaintiff's Motion (#630). Plaintiff subsequently filed the instant Memorandum of Fees.

DISCUSSION

Reasonable attorneys' fees must "be calculated according to the prevailing market rates in

1 the relevant community," considering the fees charged by "lawyers of reasonably comparable skill, experience, and reputation." Blum v. Stenson, 465 U.S. 886, 895-96 n. 11, 104 S.Ct. 1541 (1984). 2 Courts typically use a two-step process when determining fee awards. Fischer v. SJB-P.D. Inc., 3 214 F.3d 1115, 1119 (9th Cir. 2000). First, the Court must calculate the lodestar amount "by taking 4 5 the number of hours reasonably expended on the litigation and multiplying it by a reasonable hourly rate." Id. Furthermore, other factors should be taken into consideration such as special 6 7 skill, experience of counsel, and the results obtained. Morales v. City of San Rafael, 96 F.3d 359, 364 n. 9 (9th Cir. 1996). "The party seeking an award of fees should submit evidence supporting 8 the hours worked and rates claimed," and "[w]here the documentation of hours is inadequate, the 9 10 district court may reduce the award accordingly." Hensley v. Eckerhart, 461 U.S. 424, 433 (1983). 11 Second, the Court "may adjust the lodestar, [only on rare and exceptional occasions], upward or downward using a multiplier based on factors not subsumed in the initial calculation of the 12 lodestar." Van Gerwen v. Guarantee Mut. Life Co., 214 F.3d 1041, 1045 (9th Cir. 2000). 13 Plaintiff's Counsel Jacob Hafter submitted an Affidavit (#659-1) detailing the costs 14 15 incurred in perusing the Motion for Sanctions (#630). Mr. Hafter argues his reasonable hourly rate is \$450.00, and his associate Mark Naethe's is \$325. As in its previous Orders (#635, #644) 16 17 awarding Plaintiff's attorneys' fees, the Court finds that hourly rates of \$350.00 for Mr. Hafter and 18 \$250.00 for Mr. Naethe are commensurate with their skill, experience, and reputations. Mr. Hafter 19 represents he spent 2.5 hours drafting the renewed Motion (#630), and that Mr. Naethe spent 4 20 hours drafting the Status Report (#650). Mr. Hafter also states Mr. Naethe spent 1.5 hours 21 conducting research after the Motion (#630) was filed, and 1 hour in post-hearing intra-office 22 review. Because the award is only for Plaintiff's pursuit of his Motion (#630), the Court will not 23 award fees for this time. The Court will also award 1 hour for Mr. Naethe's attendance at the April 24 10, 2013 hearing. Accordingly, 25 ...

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IT IS HEREBY ORDERED that Defendants Bernstein, Ellerton, Carrison, and Roberts shall pay Plaintiff \$2,125 in attorneys' fees within 14 days of the date of this Order.

DATED this 31st day of May, 2013.

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United States Magistrate Judge