EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JACK D., et al.	:	
Plaintiffs,	:	CIVIL ACTION
v.	:	
	:	NO. 05-CV-2242
CHICHESTER SCHOOL DISTRICT	:	
Defendant.	:	

ORDER

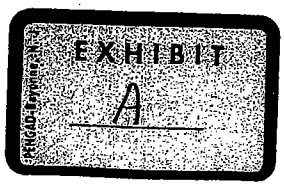
AND NOW, this _16th_ day of October, 2007, it is **ORDERED** that Defendant shall pay Plaintiffs $65,000.00 for attorney fees.[1]

---

1. Plaintiffs, the parents of minor Jack D. ("the Ds"), commenced a civil rights challenge to Defendant school district's ("the District") treatment of their son. Mot. for Fees ¶ 1. The parties settled that action by private agreement. Settlement Agreement. They stipulated that Plaintiffs were the "prevailing party" in that challenge and thus eligible to receive "a reasonable attorney's fee" at this Court's discretion pursuant to the Rehabilitation Act of 1973 ("Rehabilitation Act"). Id. ¶ 7; 29 U.S.C. § 794a(b). They also agreed to limit the District's liability for attorney fees to $65,000.00. Settlement Agreement ¶ 8. The Ds moved for a fee award of $85,312.57. Mot. for Fees Ex. A 45. The District opposed. Br. in Opp. to Mot. for Fees.

On a motion for attorney fees under a civil rights fee-shifting statute, the prevailing party has the burden of proof on reasonableness. Rode v. Dellarciprete, 892 F.2d 1177, 1183 (3d Cir. 1990). In carrying that burden, the Ds must first offer evidence of a reasonable amount of hours expended. Id. at 1183. Hours are almost always reasonable unless they are inadequately documented or totally unnecessary. Id. As to documentation, billing entries need only include "some fairly definite information as to the hours devoted to various general activities, e.g., pretrial discovery, settlement negotiations, and the hours spent by various classes of attorneys, e.g., senior partners, junior partners, associates... [I]t is not necessary to know the...precise activity to which each hour was devoted..." Id. at 1190.

Counsel for the Ds submitted records organized chronologically by day. Each day's entry displays the tasks completed, the number of hours spent per task, and the billing rate (so those who worked on the task can be identified by matching the billing rate to the list of hourly rates included in counsel's affidavit. See Aff. in Supp. of Fees; Lindy Bros. v. American Radiator, 487 F.2d 161, 169 (3d Cir. 1973) (court may award fees based on examination of affidavits; hearing not needed). The task descriptions are minimal, but, taken together with the hourly rate for each task, they allow me to determine the number of hours devoted to various "general activities" by "various classes of attorneys." Indeed, they provide approximately the same level of specificity as the entries in Rode, on which the District so heavily relies. See Rode, 892 F.2d at 1191.



s/Anita B. Brody

ANITA B. BRODY, J.

Copies **VIA ECF** on _____ to:

Copies **MAILED** on _____ to:

O:\ABB 2007\jack d atty fee.wpd

As to necessity of time spent, it is clear that hours spent performing redundant tasks are unreasonable. But simply because the same task was billed more than once each day does not raise the inference of duplication the District seems to suggest. Br. in Opp. to Mot. for Fees 3-8. It is perfectly reasonable for the Ds' counsel to have multiple telephone conversations with their client or multiple interoffice communications on a given day, to take just two examples.

Thus, I find that the portion of the amount requested by the Ds that is actually attributable to attorney fees is reasonable. This amount is the difference between the $85,312.57 total and the $4,725.00 in expert fees for Andrew Klein, i.e., $80,587.57. Mot. for Fees Ex. A 44; Arlington Cen. Sch. Dist. v. Murphy, 126 S.Ct. 2455, 2460 (2006) (expert fees not "attorney's fee" under statute nearly identical to Rehabilitation Act).

However, no matter the amount declared reasonable, a private settlement agreement expressly capping the losing party's fee liability will be upheld absent allegations of fraud, duress, or other defenses to contract formation. See Torres v. MetLife, 189 F.3d 331, 333 (3d Cir. 1999) (Scirica, J.) ("express stipulation in the settlement agreement" providing for fee waiver must be honored). The Ds have not attacked the settlement agreement in their motion. Therefore, I will honor its $65,000.00 cap.

I wish to note that the Ds also ground their fee claim on 42 U.S.C. §§ 1983 and 1988. However, the Third Circuit has recently held that Rehabilitation Act claims are not remediable via those statutes. A.W. v. Jersey City Pub. Sch., 486 F.3d 791, 805-806 (3d Cir. 2007).