

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

RONALD T. TOMASKO,	:	
	:	CIVIL ACTION NO. 3:98-CV-1978
Plaintiff,	:	
	:	
v.	:	(JUDGE CAPUTO)
	:	
IRA H. WEINSTOCK, P.C., and	:	
IRA H. WEINSTOCK, as Trustee of	:	
the Ira H. Weinstock, P.C. Money	:	
Purchase Pension Plan and Ira H.	:	
Weinstock, P.C., Profit Sharing	:	
Plan and IRA H. WEINSTOCK,	:	
P.C., as Administrator	:	
of the Ira H. Weinstock, P.C. Money	:	
Purchase Pension Plan and Ira H.	:	
Weinstock P.C. Profit Sharing Plan,	:	
and IRA H. WEINSTOCK,	:	
individually,	:	
	:	
Defendants.	:	

MEMORANDUM

Before me is Defendants’ Motion for Reconsideration of the July 29, 2008, Memorandum and Order. (Doc. 182.) In the motion, Defendants move for reconsideration of the award of attorney’s fees to Plaintiff Tomasko on several grounds. First, Defendants argue that the Court failed to properly consider the five (5) *Ursic* factors. However, the Court analyzed the *Ursic* factors in conformity with the Opinion of the Third Circuit Court of Appeals. See *Tomasko v. Weinstock*, Nos. 06-4343 & 06-4440, 255 Fed. Appx. 676, 2007 U.S. App. LEXIS 27446 (3d Cir. 2007). Second, Defendants argue that the Court did not properly address the correlation between the hours worked and the total recovery. Specifically,

Defendants assert that Plaintiff's recovery is small compared to the award of fees. Defendants argue that the attorney's fees award would be punitive in nature based upon the size of the award. Third, Defendants argue that the Court failed to properly apportion the unsuccessful claims from the successful claims. As to the second and third contentions of Defendants, the Court did apportion the trial-related hours, and reduced those hours by two-thirds (2/3). This apportionment was based upon the number of successful claims. Plaintiff was successful on each appeal, and the Court therefore found no reason to apportion those fees. Fourth, Defendants argue that the Court failed to take into account specific objections to time itemized by Plaintiff's counsel during oral argument. These objections were not made at the most recent oral argument in 2008, nor were these specific objections outlined in any of Defendants' briefs. For the foregoing reasons, the motion for reconsideration will be denied.

An appropriate Order follows.

Date: November 21, 2008

/s/ A. Richard Caputo

A. Richard Caputo

United States District Judge

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 Weinstock P.C. Profit Sharing Plan, :
 :
 and IRA H. WEINSTOCK, :
 :
 individually, :

ORDER

NOW, this 21st day of November, 2008, **IT IS HEREBY ORDERED**
that Defendants' Motion for Reconsideration of the July 29, 2008, Memorandum
and Order (Doc. 182) is **DENIED**.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge