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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 ROXANNE HELLING,

10 Plaintiff,

11 v.

12 ALASKA AIRLINES, INC.,

13 Defendant.
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Case No. C16-478RSL

ORDER REGARDING
ATTORNEY'S FEES AND
LITIGATION EXPENSES

15 This matter comes before the Court on plaintiff's "Motion for Award of Fees and
16 Litigation Expenses." Dkt. # 17. Having reviewed the memoranda, declarations, and exhibits
17 submitted by the parties, the Court finds as follows.

18 **I. BACKGROUND**

19 Plaintiff Roxanne Helling brought this matter's underlying action against defendant
20 Alaska Airlines, Inc. based on state and federal statutes that provide for the recovery of
21 reasonable attorney's fees and litigation expenses by prevailing plaintiffs. See 29 U.S.C. §
22 2617(a)(3); RCW § 49.60.030(2); id. § 49.78.330(3). The parties disposed of the underlying
23 action in a judgment, offered and accepted pursuant to Federal Civil Rule 68, which settled on a
24 principal amount of \$90,000, but left fees and expenses to be determined by the motion before
25 the Court. Dkt. # 26. Plaintiff seeks \$64,872.50 in attorney's fees and \$4,367.03 in litigation
26 expenses. Dkt. # 17; Dkt. # 22 at 6. Defendant does not object to the requested litigation
27 expenses, but asks that the Court reduce the requested attorney's fees by roughly half. Dkt. # 20.
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1 Based on those determinations, the Court will deduct \$8,507.50 from plaintiff's requested fees.
2 The Court finds the remaining hours requested to be reasonable. The Court calculates the
3 lodestar by deducting \$8,507.50 from \$64,872.50, the amount represented by plaintiff counsel as
4 otherwise equaling the hours expended multiplied by applicable billing rates. That deduction
5 yields a lodestar of \$56,365.00.

6 **B. Adjustment of the Lodestar**

7 Defendant argues the lodestar should be reduced based on several Kerr factors. Dkt. # 20.
8 First, defendant argues that the results obtained were unsuccessful and do not justify the fee
9 award plaintiff seeks. In particular, defendant argues plaintiff counsel did not succeed, because
10 the principal amount in the parties' agreed-upon judgement is less than the damages figure
11 plaintiff invoked during discovery. A judgment offer pursuant to Rule 68 differs from an
12 ordinary settlement offer, because a plaintiff incurs additional risks by rejecting a Rule 68 offer.
13 See Fed. R. Civ. P. 68(c) (requiring offeree to pay costs incurred after unaccepted offer if final
14 judgment is not more favorable). The principal judgment amount must be weighed in the context
15 of the risks, costs, and inconvenience plaintiff avoided by accepting defendant's Rule 68 offer
16 and foregoing further litigation. That plaintiff accepted defendant's Rule 68 offer does not
17 amount to a failure on counsel's part.

18 Defendant also argues that work following an unsuccessful mediation was unnecessary,
19 because plaintiff's ultimate recovery was less than a settlement offer at the mediation. First, it is
20 not clear the mediation offer was actually more generous, because there is no indication whether
21 it included fees and expenses. Second, it was reasonable for counsel to continue working on
22 plaintiff's case after the mediation failed. Finally, the Court rejects defendant's reasoning based
23 on the difference explained above between an ordinary settlement offer and a Rule 68 offer.

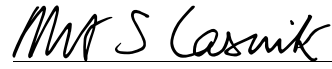
24 Defendant also invites the Court to reduce the lodestar because this case did not present
25 novel or difficult issues for an experienced law partner like plaintiff's lead attorney. Without
26 defendant articulating why particular work was unnecessary or excessive, the Court will not
27 reduce the overall lodestar based on plaintiff counsel's experience with matters like this.

1 Finally, the Court rejects the arguments that a partner unnecessarily attended mediation
2 and that the case was overstaffed. Having reviewed the entries submitted and deducted time
3 where appropriate, the Court is satisfied the remaining work, including the attorneys and staff
4 who performed it, was reasonable. The Court finds no basis to adjust the lodestar.

5 **III. CONCLUSION**

6 For the foregoing reasons, the Court awards plaintiff attorney's fees in the amount of
7 \$56,365.00, and litigation expenses in the amount of \$4,367.03. The Clerk of Court is hereby
8 ordered to enter an amended judgment consistent with this order.

9 DATED this 6th day of December, 2017.

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12 Robert S. Lasnik
13 United States District Judge
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