NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

THIRD DISTRICT

JULY TERM A.D., 2004

    **

HOMER & BONNER, P.A.,
et al.,   **

       Appellants,   **   CASE NO. 3D04-1752

vs.   **   LOWER
         TRIBUNAL NOS.99-21456
MIAMI-DADE COUNTY, et al.,   **   99-23765

       Appellees.

    Opinion filed September 29, 2004.

    An Appeal from the Circuit Court for Miami-Dade County, Margarita Esquiroz, Judge.

    Homer Bonner & Delgado, and Peter W. Homer, and Francisco O. Sanchez; and Leonard H. Rubin; and Sterns Weaver Miller Weissler Alhadeff & Sitterson, and Joseph Cartolano, and Patrick Barry; and Reimer & Rosenthal, and Alex P. Rosenthal for appellants.

    Robert A. Ginsburg, Miami Dade County Attorney, and Jess McCarty, Assistant County Attorney; and Maria J. Chiaro, Interim City Attorney; and Korge & Korge, and Thomas J. Korge and Christopher G. Korge; and Boies Schiller & Flexner, and Mark J. Heise; and Weiss Serota Helfman Pastoriza Guedes Cole & Boniske, and Joseph H. Serota, and Edward G. Guedes; and Jorge L. Fernandez; and John Hanson, for appellees.

Akerman Senterfitt, and Lawrence D. Silverman, as Amicus Curiae, for appellees.

Before SCHWARTZ, C.J. and GERSTEN and GODERICH, JJ.

PER CURIAM.

Homer and Bonner, P.A. ("H&B"); Park One of Florida ("Park One"); and Leonard and Sandra Rubin ("Rubin")(collectively "appellants") appeal the trial court's final judgment approving the amended settlement in a class action suit filed against the City of Miami ("City"). We affirm the substantive portion of the amended settlement agreement. However, we reverse and remand the trial court's award of attorney's fees.

Two separate parties brought class action suits against the City challenging the validity of parking surcharges paid at City parking facilities.[1] The surcharge was added pursuant to Section 218.503(5)(a), Florida Statutes (1999). After the surcharge statute was declared unconstitutional, see City of Miami v. McGrath, et al., 824 So. 2d 143 (Fla. 2002), and after some negotiations, the parties reached an amended settlement agreement. The amended settlement agreement created a common

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[1] Patrick McGrath brought the original class action suit against the City challenging the validity of a parking surcharge at parking facilities in the City ("non-County parkers"). Miami Dade County ("County"), in a separate lawsuit, also challenged the validity of the surcharge imposed by the City on users of parking facilities owned or operated by the County but located in the City ("County parkers"). The City, the County and class counsel agreed to settle both the McGrath case and the County's case in a combined settlement resulting in the "amended settlement." The appellants sought to intervene in the McGrath class action suit to assure any settlement was fair to all class members.

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fund of $14 million from which class members could claim a surcharge refund. We affirm this portion of the amended settlement.

The trial court also awarded $3.6 million in attorney's fees. Using the lodestar method, the trial court awarded counsel hourly rates of $400 and $450 per hour. The trial court then applied a 3.8 multiplier. We agree that the court correctly used the lodestar method to determine the amount of attorney's fees but find that it was inappropriate to apply a multiplier in this case. See Kuhnlein v. Dep't of Revenue, 662 So. 2d 309 (Fla. 1995).

A multiplier was excessive because this case was neither complex nor uncertain. See Kuhnlein v. Dep't of Revenue, 662 So. 2d at 313. Once the statute was declared unconstitutional, the attorneys simply had to negotiate the best deal. Additionally, the class attorney admitted in open court that an hourly fee of between $400- $450 per hour was a more than adequate hourly wage. The Court, along with every attorney in the courtroom, agreed. We reverse and remand for the trial court to enter a new final judgment awarding attorney's fees in the amount of $952,389.75.

Affirmed in part, reversed in part, and remanded with instructions.