

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ROBERT LAMSON, ET AL., :
Plaintiffs :
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v. : 3:00-CV-1274 (EBB)
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RICHARD BLUMENTHAL, ET AL., :
Defendants :

RULING ON RENEWED MOTION FOR ATTORNEYS' FEES

The attorneys' fees provision of 42 U.S.C. Section 1988 states that "the court in its discretion, may allow the prevailing party . . . a reasonable attorney's fee . . . as part of the costs . . .". 42 U.S.C. § 1988(b). The bellwether decision in the area of attorneys' fees is Christiansburg Garment Co. v. EEOC, 434 U.S. 412 (1978). In Christiansburg, the Court held that a court may award a prevailing defendant attorneys' fees under Title VII only upon a showing that "the plaintiff's action was frivolous, unreasonable or without foundation . . . or that the plaintiff continued to litigate after it clearly became so." *Id.* at 421-22. This standard was later adopted in actions brought pursuant to 42 U.S.C. Section 1983, as was the present case. Hughes v. Rowe, 449 U.S. 5, 14 (1980)(fees warranted if plaintiff's action frivolous, unreasonable, or without foundation, even though not brought in subjective bad faith). This heavier burden is placed upon prevailing defendants in order to balance the

policies in favor of encouraging private citizens to vindicate constitutional rights with those policies aimed at deterring frivolous or vexatious lawsuits. Christiansburg, 434 U.S. at 422.

In this case, Defendants' have met this burden. The present lawsuit was filed on July 7, 2000. In this Complaint, Plaintiffs contended that they were entitled to receive hospital and medical insurance, group life insurance, paid holidays, and retirement benefits, but that the Defendants had failed to provide these benefits. However, at depositions taken on July 16, 18, and 19, 2001, each Plaintiff acknowledged that they, in fact, already had all of the benefits, which they had claimed were still owed to them. Instead of acknowledging at that time that their claim was without foundation, and withdrawing same, Plaintiffs compounded the burden on the Defendants by filing a Second Amended Complaint, dated September 28, 2001, continuing to allege that the Defendants had failed to provide them with the benefits that they had admitted having at their July depositions. As recognized by this Court, in granting summary judgment in favor of the Defendants, " [a]s of the effective date of their Second Amended Complaint, Plaintiffs were receiving the same benefits under Chapters 66 through 68 as were all state employees." *Ruling on Defendants' Motion for Summary Judgment* at 5.

Plaintiffs actually appealed this decision, which decision was summarily affirmed by the Second Circuit Court of Appeals on

September 4, 2003.

Although this litigation was unreasonable upon instigation, it became more and more frivolous with each action taken by Plaintiffs. Plaintiffs now actually resist attorneys' fees being imposed upon them because "the Plaintiffs are clearly some of the lowest paid state employees in Connecticut." *Objection to Defendants' Renewed Motion for Costs [sic]*, at 2.

Following the depositions in July, 2001, Plaintiffs continued to force the State to spend a considerable amount of time and resources to defend against their frivolous claims, which were known to be so by Plaintiffs at that time. Based on this fact alone, it is beyond cavil that Defendants have more than earned their right to attorneys' fees.

In determining the appropriate amount of an attorneys' fee award the Court will "calculate the 'lodestar' figure based upon the 'hours reasonably spent by counsel . . . multiplied by a reasonable hourly rate.'" Cruz v. Local Union No. 3 in Intern. Broth. Of Elec. Workers, 34 F.3d 1148, 1159 (2d Cir. 1994)(quoting F.H. Krear & Co. v. Nineteen Named Trustees, 810 F.2d 1250, 1263 (2d Cir. 1987)). See also Hensley v. Eckerhart, 461 U.S. 424, 433 (1983)("The most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate."). Calculation of the lodestar also requires

the Court to determine the "prevailing market rates" for the types of services rendered, Blum v. Stenson, 465 U.S. 886, 894 (1984), *i.e.* the fees that would be charged for similar work by attorneys of like skill in the area. There exists a strong presumption that the lodestar figure represents a reasonable fee. See Pennsylvania v. Delaware Valley Citizens' Council for Clean Air, 478 U.S. 546, 565 (1986).

The Court has thoroughly reviewed the hours expended by defense counsel and find them eminently reasonable. Because the claim is for hours expended only after the July, 2001, depositions, and does not even include the hours expended on the appeal, it is that much more reasonable. Further, her claim of a fee of \$250 per hour is equally reasonable, based on a comparison with other attorneys who practice in the field of employment litigation.

CONCLUSION

Defendants' Motion for Attorneys' Fees [Doc. No. 54] and Renewed Motion for Attorneys' Fees [Doc. No. 65] are hereby GRANTED. Plaintiffs are hereby ORDERED to pay attorneys' fees in the amount of \$27,875, payable to the State of Connecticut, c/o the Attorney General's Office, on or before November 5, 2003. If the award is not paid in full at that time, interest shall begin to accrue from that date forward.

SO ORDERED

ELLEN BREE BURNS

SENIOR UNITED STATES DISTRICT JUDGE

Dated at New Haven, Connecticut this ____ day of October, 2003.