

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff, MARK H. DAVIS, an individual, Plaintiff Intervenor, vs. WARREN PROPERTIES, INC., a Delaware Corporation, d/b/a WILLOW CLIFF APARTMENTS, Defendant.

Case No. CIV-00-676-M

FILED

MAY 10 2001

ROBERT D. DENNIS, CLERK U.S. DIST. COURT, WESTERN DIST. OF OKLA. BY [Signature] DEPUTY

DOCKETED

ORDER

Before the Court is plaintiff intervenor's Motion to Quash Subpoena filed May 7, 2001. On May 8, 2001, defendant filed its Response to Motion to Quash Subpoena and Brief in Support or, in the Alternative, Motion for Evidentiary Hearing.

On April 30, 2001, plaintiff intervenor filed his motion for attorney fees. Attached to plaintiff intervenor's motion was an affidavit of plaintiff intervenor's counsel, Chanda R. Graham.1 On May 3, 2001, Ms. Graham was served with a subpoena to command her deposition in relation to plaintiff intervenor's motion for attorney fees.

When determining the reasonableness of an attorney fee award in a civil rights case, the following factors are to be considered by the court: (1) the time and labor required, (2) the novelty and difficulty of the issues, (3) the skill required to perform the legal service properly, (4) the preclusion of the employment by the attorney due to acceptance of the case, (5) the customary fee,

1The Court would note the affidavit is very brief and does not address all the factors to be considered by the court when awarding attorney fees.

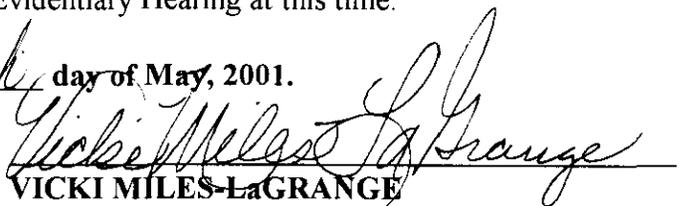
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(6) whether the fee is fixed or contingent, (7) time limitations imposed by the client under the circumstances, (8) the amount involved and the results obtained, (9) the experience, reputation, and ability of the attorneys, (10) the “undesirability” of the case, (11) the nature and length of the professional relationship with the client, and (12) awards in similar cases. *Hensley v. Eckerhart*, 461 U.S. 424, 429-30 (1983). Defendant asserts it cannot present its objection to plaintiff intervenor’s motion for attorney fees without a deposition of Ms. Graham to obtain the facts relevant to the factors to be considered when determining the reasonableness of a fee award in a civil rights case.

The Court has carefully reviewed the parties’ submissions. The Court finds, under the circumstances in the case at bar, it is not appropriate for defendant to depose plaintiff intervenor’s counsel. However, the Court finds defendant is entitled to additional information regarding the factors to be considered regarding the reasonableness of any attorney fee award before it can properly object to plaintiff intervenor’s motion.

Accordingly, the Court GRANTS plaintiff intervenor’s Motion to Quash Subpoena [docket no. 98]. Additionally, the Court ORDERS Ms. Graham to submit by May 18, 2001, a supplemental affidavit addressing the twelve factors to be considered regarding the reasonableness of the attorney fee award. Defendant shall have eighteen (18) days from the date Ms. Graham files her supplemental affidavit within which to file its objection to plaintiff intervenor’s motion for attorney fees. Finally, the Court DENIES defendant’s Motion for Evidentiary Hearing at this time.<sup>2</sup>

IT IS SO ORDERED this 10th day of May, 2001.

  
VICKI MILES-LAGRANGE  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup>If after reviewing plaintiff intervenor’s motion for attorney fees, Ms. Graham’s supplemental affidavit, and defendant’s objection the Court cannot decide this matter on the briefs, the Court will set this matter for an evidentiary hearing.