

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Marjorie Fish, Kathleen Gill, June Goemer,
Christine Jazwinski, Lora Robinson, and
Mary Clifford on behalf of themselves and a
class of similarly situated persons,

Civil No. 6:96-155 (DWF/RLE)

Plaintiffs,

v.

**MEMORANDUM OPINION AND
ORDER ON PLAINTIFFS'
MOTION FOR SUPPLEMENTAL
ATTORNEYS' FEES**

St. Cloud State University, Minnesota State
University System a/k/a Minnesota State
Colleges and Universities a/k/a MnSCU,
f/k/a MSUS, and the Inter Faculty
Organization,

Defendants.

Tammy Friederichs, Esq., Dorothy Buhr, Esq., and Edwin Sisam, Esq., Sisam & Watje, 7230
Metro Boulevard, Minneapolis, MN 55439; and Ronald Futterman, Esq., Futterman & Howard,
122 S. Michigan Avenue, Suite 1850, Chicago, IL 60603, appeared on behalf of Plaintiffs.

Gary Cunningham, Assistant Attorney General, Minnesota Office of the Attorney General,
Suite 1100, 445 Minnesota Street, St. Paul, MN 55101, appeared on behalf of Defendants
St. Cloud State University and Minnesota State University System.

On December 7, 2000, the above-entitled parties entered into a settlement of a class-wide
gender discrimination lawsuit. This Court accepted the settlement on March 26, 2001. The
settlement reserved the right of counsel for Plaintiffs to petition the Court for attorneys' fees.

Pursuant to the terms of the settlement agreement, Plaintiffs filed a petition for attorneys'
fees on March 8, 2001. Plaintiffs filed an amended petition for attorneys' fees on May 10, 2001.
On June 12, 2001, the Court awarded the Plaintiffs \$2,034,274.00 in fees and \$207,872.26 in
costs.

AUG 26 2002
FILED _____
RICHARD D. SLETTEN, CLERK
JUDGMENT ENTD _____
DEPUTY CLERK _____

Both parties appealed this Court's award of fees and costs to the Eighth Circuit Court of Appeals. On July 9, 2002, the Eighth Circuit Court of Appeals affirmed this Court's award of fees and costs.

On July 23, 2002, the Plaintiffs filed the instant petition for "supplemental" fees and costs, requesting the fees and costs incurred by Plaintiffs' counsel from April 20, 2001, to the present (excluding appellate fees).¹ Plaintiffs seek \$47,937.75 in fees and \$1,164.34 in costs.

The instant petition is untimely. The Plaintiffs assert that they could not have known when they filed their initial fee petition how many hours they would expend in preparing and briefing the fee petition. However, Plaintiffs had the opportunity, throughout the original attorneys' fees petition process, to amend their fee request (indeed, they did so once in May of 2001); to request an opportunity to supplement the fee request at the time the Court entered its fee award; or to request that the Court reserve jurisdiction to entertain a supplemental fee petition after resolution of the appeals process. The Plaintiffs did not avail themselves of these opportunities. Now, more than eighteen months after the Court entered Judgment in this matter and more than a year after the Court ruled on the attorneys' fees issue, the Plaintiffs come back and ask the Court to renew its oversight of this case for purposes of awarding rather substantial fees. Plaintiffs do not cite any authority which supports an award of fees in a case with a procedural posture such as this; Plaintiffs rely only upon the fact that they were entitled to fees and costs based upon their success in securing the initial judgment after the settlement.

The Court declines to renew its involvement in this case, to award further attorneys' fees and costs, and thus to prompt yet another round of appeals and still further costs. Assuming that

¹ The Defendants represent that the Plaintiffs have filed with the Eighth Circuit a separate petition for attorneys' fees and costs incurred in the appeals process.

the Court were to award the Plaintiffs the fees currently requested, would the Court be called upon again, a year or so from now, to award still further fees for the preparation of the instant motion? As Defendants note, at some point the Court must turn the meter off. In the absence of any legal support for Plaintiffs' current motion and its unorthodox timing, the Court determines that now is the appropriate time to turn the meter off.

For the reasons stated, **IT IS HEREBY ORDERED:**

1. Plaintiffs' motion for supplemental attorneys' fees and costs (Doc. No. 266) is **DENIED.**

Dated: August 26, 2002



DONOVAN W. FRANK
Judge of United States District Court