

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

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MICHAEL E. GANS
Clerk of Court

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U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

August 12, 2004

Mr. Robert Herman
SCHWARTZ & HERMAN
621 N. Skinker
St. Louis, MO 63130

Re: 03-3547 Thomas Robb vs. Henry Hungerbeeler

Dear Counsel:

Enclosed is a copy of an order entered today in the above case at the direction of the court.

(5009-010199)

Sincerely,



Michael E. Gans
Clerk of Court

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cc: Honorable Catherine D. Perry, U.S. District Judge
John M. Hessel
Keith J. Grady
Sandra Sperino
Milton C. Spaulding
Philip E. Morgan Jr.
Paula R. Lambrecht
James G. Woodward, Clerk

District Court/Agency Case Number(s): 4:01-CV-1133 CDP

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No. 03-3547

Thomas Robb, et al.,

Appellees,

vs.

Henry Hungerbeeler, et al.,

Appellants.

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* Appeal from the United States
* District Court for the
* Eastern District of Missouri
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The plaintiffs have filed a motion for attorney's fees and costs in the above case, and the defendants have not filed a response. Under 42 U.S.C. Section 1988 a prevailing party in a Section 1983 action such as the plaintiffs may recover "a reasonable attorney's fee."

We note first that the attorney's fee request filed in this court includes fees for some work performed in the district court. The district court docket sheet includes an order regarding attorney's fees, but we do not know what work was addressed by the order. Under the circumstances, we deny fees for the work performed in the district court without prejudice to the plaintiffs requesting those fees in that court. The fees that we deny are based on work by attorney Robert Herman consisting of 1.5 hours regarding responding to the defendants' motion for a stay, and .1 hours of a .3 hour phone call about both district court and appellate matters; and work by law clerk Timothy Kranz consisting of 8.5 hours regarding responding to the defendants' motion for a stay and .2 hours of .4 hours of phone calls about both district court and appellate matters.

We grant the remaining attorney's fee request for 77.1 hours by Mr. Herman at the requested hourly rate of \$250 (\$19,275), and 31.3 hours by Mr. Kranz at the requested hourly rate of \$125 (\$3,912.50). We therefore order

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MICHAEL E. GANS, CLERK
UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

BY: Michael E. Gans

the defendants to pay the plaintiffs a total of \$23,187.50 for attorney's fees on appeal and \$33.01 for costs.

(5120-010199)

August 12, 2004

Order Entered at the Direction of the Court:

Michael E. Gans

Clerk, U.S. Court of Appeals, Eighth Circuit