IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

BRIAN OTERO,)
Plaintiff,)
v.) Case No. 12 C 3148
THOMAS J. DART,) Judge Amy J. St. Eve
Sheriff of Cook County, and)
COOK COUNTY ILLINOIS,)
Defendants.	,)

ORDER

On September 4, 2015, the Court granted Plaintiff's request for reasonable fees related to Plaintiff's motion to strike and exclude expert testimony for the reasons stated in open court. Plaintiff filed his fee petition on September 11, 2015, and Defendant subsequently filed its objections. The Court sustains the objections in part.

STATEMENT

I. Rate is Not Reasonable

Mr. Zolna seeks an hourly rate of \$600 per hour. The Seventh Circuit has defined reasonable hourly rate as one that is "derived from the market rate for the services rendered." *Pickett v. Sheridan Health Care Ctr.*, 664 F.3d 632, 640 (7th Cir. 2011). Under this standard, courts presume "that an attorney's actual billing rate for similar litigation is appropriate to use as the market rate." *Id.; see also Broaddus v. Shields*, 665 F.3d 846, 859–60 (7th Cir. 2011). Nevertheless, as the Seventh Circuit teaches, "[r]ecognizing the difficulty of determining the hourly rate of an attorney who uses contingent fee agreements, we have advised district courts to rely on the 'next best evidence' of an attorney's market rate, namely 'evidence of rates similarly experienced attorneys in the community charge paying clients for similar work and evidence of fee awards the attorney has received in similar cases." *Pickett*, 664 F.3d at 640 (quoting *Spegon v. Catholic Bishop of Chicago*, 175 F.3d 544, 555 (7th Cir. 1999)).

The Court sustains Defendant's objection to Mr. Zolna's hourly rate of \$600 and instead awards an hourly rate of \$375.00. First, neither attorney has indicated how much experience he has in practicing civil rights law. Second, as Defendant points out, highly qualified, experienced, and talented civil rights attorneys such as Jon Loevy, who has over twenty years of trial experience, and the attorneys in his law firm have reported fees at an hourly rate of \$395-\$425.

See Sandra T.-E. v. Sperlik, No. 05 C 473, 2012 WL 1107845, at *2 (N.D. Ill. Apr. 1, 2012). Finally, Mr. Zolna's performance in court on this issue does not warrant an hourly rate of \$600 per hour.

Mr. Dzananovic has only been practicing law for two years. It is also unclear if he has any experience in civil rights law. Based on his lack of experience, an hourly rate of \$300 is unreasonable. Instead, the Court will reimburse his time at \$175 per hour.

II. Hours Reasonably Expended

Both Mr. Zolna and Mr. Dzananovic attended court on the motion to strike at issue. The appearance of both attorneys was duplicative, especially because Mr. Dzananovic did not participate in the arguments in court. Accordingly, the Court strikes Mr. Dzananovic's time for the court hearings on September 3 and 4, 2015¹. The Court also strikes Mr. Zolna's time for the September 4, 2015 court appearance given his unprofessional, unproductive conduct in court. The Court addressed his conduct on the record and need not elaborate further here.

In addition, work spent on preparing a fee petition is generally not recoverable unless the prevailing party is forced to litigate the fee petition. *See Ratliff v. City of Chicago*, No. 10 C 0739, 2013 WL 3418070, at *6 (N.D. Ill. July 8, 2013); *Sughayyer v. City of Chicago*, No. 09 C 4350, 2012 WL 2359065, at *7 (N.D. Ill. June 20, 2012). As such, the Court strikes the September 11, 2015 entry of 1.20 hours spent preparing the fee petition.

Therefore, the Court awards fees for 7.5 hours of Mr. Zolna's time at \$375 per hour, and 3.5 hours of Mr. Dzananovic's time at \$175 per hour, for a total of \$3,425. Defendant must pay this amount on or before October 16, 2015.

Dated: September 22, 2015

United States District Court Judge

¹ The fee petition incorrectly reflects that both court hearings were on September 3, 2015. Instead, one was on September 3 and one was on September 4, 2015. (R. 160, 161.)