

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FURNITURE MEDIC, LP	:	CIVIL ACTION
	:	
v.	:	
	:	No. 01-2762
ARTHUR FABER	:	

ORDER – MEMORANDUM

Ludwig, J.

And now, this 28th day of November, 2001, attorney’s fees and costs of \$8,670.43 are added to the default judgment of \$23,929.27 entered against defendant Arthur Faber on September 28, 2001, making a total judgment of \$32,599.70. In the event plaintiff effectuates recovery of the judgment, it may reapply for an increase in attorney’s fees.

While it is not in dispute that plaintiff is entitled to attorney’s fees and costs in this case, the “party seeking attorney’s fees has the burden to prove that its request for attorney’s fees is reasonable.” Rode v. Dellarciprete, 892 F.2d 1177, 1183 (3d Cir. 1990). “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.” Id. (citing Hensley v. Eckerhart, 461 U.S. 424, 433, 103 S.Ct. 1933, 1939, 76 L.Ed.2d 40 (1983)). This “lodestar” figure can then be adjusted downwards if it “is not reasonable in light of the results obtained.” Id. (citing Hensley, 461 U.S. at 434-37, 103 S.Ct. at 1940-41).

Plaintiff requests fees and costs for two law firms totaling \$16,187.43, but this amount appears to be excessive. Plaintiff’s submissions disclose some duplication of effort, including especially the amount of conferring between primary and local counsel in this

perfunctory matter in which defendant is *pro se*.¹ Accordingly, half an hour (at \$170 per hour) is deducted from the “lodestar” for duplicated effort on the *pro hac vice* motion and half-time is allocated for all entries for correspondence between plaintiff’s counsel. This yields a “lodestar” figure of \$11,967.25. That amount is generous given that plaintiff obtained a default less than four months after filing the complaint – and given that, except for conclusory affidavits from counsel, plaintiff provides no evidence to meet its burden of showing reasonable hourly rates “according to the prevailing market rates in the relevant community.” Rode, 892 F.2d at 1183.

The “lodestar” figure will be reduced to \$8,000 in light of the limited relief obtained, which may well be an uncollectible judgment. The complaint included six counts: trademark infringement, unfair competition, misappropriation of goodwill, and three breach of contract claims. Plaintiff gained partial relief on the trademark infringement claim, in the form of an injunction and an award of fees and costs, and the minimum relief sought (\$23,929.27) on the first breach of contract claim. Plaintiff’s costs of \$670.43 appear to be reasonable and will be added to the attorney’s fees, of which \$8,000 are approved, as follows. For Fisher, Schumacher & Zucker, \$3,500, plus \$555 costs; and for Gray, Plant, Mooty, Mooty & Bennett, \$4,500, plus \$115.43 costs.

Edmund V. Ludwig, J.

¹Local counsel’s firm of Fisher, Schumacher & Zucker billed one hour on June 11, 2001 for drafting a motion for admission *pro hac vice*, while primary counsel’s firm of Gray, Plant, Mooty, Mooty & Bennett billed nearly an hour in total for the same and related tasks on June 12th, 18th, and 22nd, 2001, and July 6, 2001. Fisher, Schumacher & Zucker Billing Statement at 3; Gray, Plant, Mooty, Mooty & Bennett Billing Statement at 1-2. More generally, the firms duplicated effort and seemingly made work for themselves by conferring almost continuously with each other. Twenty-six of Gray, Plant, Mooty, Mooty & Bennett’s forty-five billing entries consisted, at least in part, of correspondence with Fisher, Schumacher & Zucker. GPMM & B Billing Statement at 1-3. Nineteen of Fisher, Schumacher & Zucker’s thirty-eight entries consisted, at least in part, of correspondence with Gray, Plant, Mooty, Mooty & Bennett. FS & Z Billing Statement at 1-7. There were three instances of “correspondence with [Craig Miller] re service [of process].” Id. at 3.

