

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

JUDY HERKALO :
V. : 94-CV-7660
NATIONAL LIBERTY CORP. :

MEMORANDUM

Broderick, J.

August 7, 1997

Presently before the court is Plaintiff's petition for attorney fees and costs in the amount of \$458,576 following her jury verdict award of \$300,000 in this sex discrimination case. Defendant National Liberty has filed its timely objections to the plaintiff's petition for attorney fees and costs. For the reasons stated hereinafter, the court will award the plaintiff \$368,213 in attorney fees and costs.

Procedural History of the Case

The plaintiff commenced this action on December 21, 1994 against her former employer, defendant National Liberty, and her former supervisor, defendant Michael Boyle. The plaintiff alleged four counts in her complaint: count I -- sex discrimination in violation of Title VII, 42 U.S.C. § 2000e et seq.; count II -- sex discrimination in violation of the Pennsylvania Human Relations Act (PHRA), 43 Pa.C.S.A. § 951 et seq.; count III -- violations of the Federal Equal Pay Act, 29 U.S.C. § 209(d)(1); and count IV -- violations of Pennsylvania's Equal Pay Law, 43 Pa.C.S.A. § 336.1 et seq.

On March 8, 1995, the court granted the defendants' 12(b)(6) motion to dismiss count IV of the complaint, plaintiff's claim under Pennsylvania's Equal Pay Law. On June 14, 1996, the court granted the defendants' motion for summary judgment as to count III of the complaint, plaintiff's claim under the Federal Equal Pay Act.

Accordingly, only count I (Title VII) and count II (PHRA) were at issue during the trial in this case, which commenced on January 21, 1997. The plaintiff alleged three claims for relief: (1) that the defendants subjected her to a hostile work environment because she is a woman; (2) that the defendants retaliated against her for having filed a sex discrimination complaint against Michael Boyle; and (3) that the defendants constructively discharged her.

Trial was bifurcated. The liability portion of the trial commenced on January 21, 1997. At the close of the plaintiff's case, National Liberty and Mr. Boyle moved for judgment as a matter of law pursuant to Rule 50 of the Federal Rules of Civil Procedure. The court denied each defendant's motion without prejudice to renewing their motion at the close of the evidence.

At the close of the evidence, the defendants renewed their Rule 50 motions for judgment as a matter of law. The court denied defendant National Liberty's motion for judgment as a matter of law. The court granted defendant Boyle's motion for judgment as a matter of law as to the plaintiff's Title VII claim and denied his motion as to the plaintiff's PHRA claim, on the

grounds that Title VII does not provide for individual employee liability, Sheridan v. E.I. DuPont de Nemours & Co., 100 F.3d 1061 (3d Cir. 1996) (en banc), cert. denied, 1997 WL 49784 (1997), but that the PHRA does provide for individual employee liability under its aiding and abetting provision found in § 955(e), Dici v. Commonwealth of Pennsylvania, 91 F.3d 542 (3d Cir. 1996).

The jury returned with its liability verdict on January 30, 1997, finding defendant National Liberty liable for (1) subjecting the plaintiff to a hostile work environment; (2) retaliating against the plaintiff for having filed a sex discrimination complaint against Mr. Boyle; and (3) constructively discharging the plaintiff. The jury, however, found Mr. Boyle not liable for aiding and abetting under the PHRA.

Following the damages portion of the trial, the court granted defendant National Liberty's Rule 50 motion as to plaintiff's claim for punitive damages. The court found that the plaintiff failed to present sufficient evidence from which a reasonable jury could conclude that National Liberty's conduct was "outrageous" or was done with "malice," as required in order to award punitive damages.

The jury returned on January 31, 1997 with its damages verdict against National Liberty in the amount of \$300,000.

Plaintiff's Petition for Attorney Fees and Costs

In 1993, the plaintiff retained the services of Kathleen A. Frederick, Esq. from the law offices of Kathleen A. Frederick, Esq., located in Plymouth Meeting, Pennsylvania. Anticipating the filing of a complaint in federal court, the plaintiff in 1994 also retained the services of H. Thomas Hunt, III., Esq. from the law offices of Hunt & Scaramella, P.C., located in Cherry Hill, New Jersey. Throughout the course of this litigation, Mr. Hunt's office and Ms. Frederick's office worked on the plaintiff's case. Indeed, the plaintiff has submitted time-sheets from the offices of both Mr. Hunt and Ms. Frederick in support of her fee petition.

As heretofore pointed out, the jury awarded the plaintiff \$300,000 in total damages. The plaintiff seeks \$458,576 in attorney fees and costs. Defendant National Liberty objects to the plaintiff's fee petition on the ground that the total amount of fees and costs the plaintiff seeks is excessive and unreasonable. In view of the fact that the defendant has objected to the plaintiff's fee petition, "[i]t remains for the district court to determine what fee is 'reasonable.'" Hensley v. Eckerhart, 461 U.S. 424, 432, 103 S.Ct. 1933, 1939 (1983).

The plaintiff has relied on the "lodestar formula" in determining her entitlement to a reasonable amount of attorney fees and costs in this civil right litigation. Under the lodestar formula, the court multiplies the number of attorney hours reasonably expended on the litigation by a reasonable

hourly rate for the attorney. "The result of this computation is called the lodestar" and "is strongly presumed to yield a reasonable fee." Washington v. Philadelphia County Court of Common Pleas, 89 F.3d 1031, 1035 (3d Cir. 1996).

"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). In order to meet this burden, the party "must 'submit evidence supporting the hours worked and rates claimed.'" Id. "[T]he party opposing the fee award then has the burden to challenge, by affidavit or brief with sufficient specificity to give the fee applicants notice, the reasonableness of the requested fee." Id. "The district court cannot 'decrease a fee award based on factors not raised at all by the adverse party.'" Id. However, "[o]nce the adverse party raises objections to the fee request, the district court has a great deal of discretion to adjust the fee award in light of those objections." Id.

The Reasonable Hourly Rates

"The general rule is that a reasonable hourly rate is calculated according to the prevailing market rates in the community." Washington v. Philadelphia County Court of Common Pleas, 89 F.3d 1031, 1035 (3d Cir. 1996). As the United States Supreme Court stated in Blum v. Stenson, 465 U.S. 886, 895 n.11, 104 S.Ct. 1141, 1547 n.11 (1984): "[T]he burden is on the fee applicant to produce satisfactory evidence--in addition to the

attorney's own affidavits--that the requested rates are in line with those prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation."

Mr. Hunt served as trial counsel in this case and has submitted the majority of the hours billed in the plaintiff's fee petition. He seeks an hourly rate of \$195. Mr. Hunt was assisted in this litigation by his partner Carlo Scaramella, Esq. (\$185/hour) and an associate, Anthony Marchetti, Jr., Esq. (\$120/hour). Mr. Hunt's support-staff included two paralegals, Jennifer Dyer (\$65/hour) and Virginia Stanley (\$50/hour), as well as a legal assistant, Paula Levy (\$50/hour).

Mr. Hunt has submitted the affidavits of Jerald R. Cureton, Esq. and Sidney L. Gold, Esq. stating that Mr. Hunt's hourly billing rate of \$195 is reasonable compared to attorneys at his level and experience in the area. The defendant National Liberty has presented no evidence in the form of an affidavit or otherwise contesting the reasonableness of the hourly rates of Mr. Hunt (\$195), Mr. Scaramella (\$185), Mr. Marchetti (\$120), Ms. Dyer (\$65), Ms. Stanley (\$50), or Ms. Levy (\$50).

Ms. Frederick also represented the plaintiff throughout the course of this litigation. She seeks an hourly rate of \$120 for her services in 1993, \$130 for her services in 1994, \$150 for her services in 1995, and \$175 for her services in 1996. She was assisted by an associate in her office, Gerrie Greene (\$85/hour), and two law clerks, David Markowitz (\$65/hour) and Christopher

Nuneviller (\$60/hour).

Ms. Frederick has submitted the affidavits of Alice W. Ballard, Esq., Nancy O'Mara Ezold, Esq., and William H. Ewing, Esq. stating that Ms. Frederick's hourly rate of \$175 is reasonable in view of Ms. Frederick's skill and experience. Moreover, the affidavits of Nancy O'Mara Ezold, Esq. and William H. Ewing, Esq. state that the hourly rates of Mr. Greene (\$85), Mr. Markowitz (\$65), and Mr. Nuneviller (\$60) are reasonable and within the prevailing market rates in the community. National Liberty has presented no evidence in the form of an affidavit or otherwise contesting the reasonableness of the hourly rates requested for Ms. Frederick, her associate, or her law clerks.

By submitting the aforementioned affidavits in support of the hourly billing rates requested in her fee petition, the plaintiff has met her burden of showing that "the requested rates are in line with those prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation." Blum v. Stenson, 465 U.S. 886, 895 n.11, 104 S.Ct. 1141, 1547 n.11 (1983).

The Third Circuit has pointed out that where "the plaintiff has met his prima facia burden under the 'community market rate' lodestar test, and the opposing party has not produced contradictory evidence, the district court may not exercise its discretion to adjust the requested rate downward." Washington, 89 F.3d at 1036. As heretofore pointed out, the defendant presented no evidence in the form of affidavits or otherwise

contesting the reasonableness of the hourly rates submitted in the plaintiff's fee petition.

Accordingly, the court will adopt the following hourly rates submitted by the plaintiff in calculating her fee petition under the lodestar formula:

H. Thomas Hunt, Esq:	\$195
Carlo Scaramella, Esq:	\$185
Anthony Marchetti, Esq:	\$120
Jennifer Dyer:	\$65
Virginia Stanley:	\$50
Paula Levy:	\$50
Kathleen Frederick, Esq:	\$175
Gerrie Greene, Esq:	\$85
Christopher Nuneviller:	\$65
David Markowitz:	\$60

The Reasonable Number of Hours Worked

In connection with her fee petition, the plaintiff submitted computer generated time-sheets from the law offices of Hunt & Scaramella, P.C. and the law offices of Kathleen A. Frederick, Esq. The time sheets provide a brief description of the tasks performed by each attorney and the number of hours the attorney billed for the tasks.

National Liberty objects to the number of attorney work-hours submitted in the fee petition on the ground that the plaintiff "failed to expunge excessive, redundant and otherwise unnecessary hours from her fee petition request." In particular, National Liberty contends that the plaintiff's decision to retain two separate law firms has resulted in the "double billing" of

excessive, redundant, duplicative, and unnecessary hours. Moreover, National Liberty contends that the number of attorney work-hours should be reduced to reflect the number of hours billed for time spent working on those claims for which the plaintiff failed to achieve a successful result.

The United States Supreme Court has made clear that in determining the number of hours expended on the litigation under the lodestar formula, "[t]he district court should also exclude from this initial fee calculation hours that are were not 'reasonably expended,'" such as "hours that are excessive, redundant, or otherwise unnecessary." Hensley v. Eckerhart, 461 U.S. 424, 433-34, 103 S.Ct. 1933, 1939 (1983). Moreover, it is also clear that the district court "can reduce the hours claimed by the number of hours 'spent litigating claims on which the party did not succeed and that were 'distinct in all respects from' claims on which the party did succeed.'" Rode v. Dellarciprete, 892 F.2d 1177, 1183 (3d Cir. 1990).

The court does not hesitate to point out that it would be unreasonable to award the plaintiff the full amount of attorney fees and costs submitted for the services of two separate law offices in this litigation wherein it is determined that such fees are duplicative and unreasonable. In particular, it would be unreasonable for the court to award attorney fees for the duplicative services of Mr. Hunt and Ms. Frederick, whose hourly billing rates are \$195 and \$175 respectively.

As the attorney time-sheets reflect, Mr. Hunt and Ms.

Frederick jointly participated in virtually every aspect of this case. They jointly attended all depositions, conferences, and trial days. Moreover, Mr. Hunt and Ms. Frederick billed their time for working on the same legal issues, such as researching and drafting a brief in opposition to the defendants' motion for summary judgment. Furthermore, they billed for their telephone conversations and conferences with each other wherein they discussed scheduling matters among themselves, shared their case strategies, updated each other as to status of the case, and reviewed each other's written work-product. The court finds that it would be unreasonable to compensate the plaintiff for the duplicative time and efforts billed by two experienced attorneys, where one attorney's time and efforts would have sufficed.

The court has carefully reviewed the hourly time-sheets of Mr. Hunt and Ms. Frederick and, as hereinafter set forth, the court will reduce the submitted number of attorney work-hours in those instances where it appears that such hours were not reasonably expended in that they were excessive, redundant, duplicative, or otherwise unnecessary. Hensley v. Eckerhart, 461 U.S. 424, 433-34, 103 S.Ct. 1933, 1939 (1983).

Mr. Hunt's Hours

After reviewing Mr. Hunt's time-sheets, the court will reduce 52.6 hours billed for telephone conversations and conferences with Ms. Frederick and for reviewing Ms. Frederick's written work-product wherein the court has determined that such

hours were not reasonable expended in that they were excessive, redundant, duplicative, or otherwise unnecessary.

According to Mr. Hunt's own description in his time-sheets, his 52.6 hours of telephone conversations and conferences with Ms. Frederick were in connection with discussing scheduling matters, sharing case strategies, updating each other as to status of the case, and reviewing Ms. Frederick's written work-product. For example, Mr. Hunt's time-sheets reflect such entries as: "1/9/95 Telephone Attorney K. Frederick re: case status - .2 [hours]"; "3/28/95 Telephone Attorney K. Frederick re: scheduling issues - .2 [hours]"; and "2/22/95 Document Examine/Review Frederick memorandum re: motion to dismiss; correspondence to Frederick re: memo - .3 [hours]."

The court wishes to make clear that it will not reduce hours submitted for Mr. Hunt and Ms. Frederick's joint-conferences with their client. The 52.6 hours which the court will reduce, therefore, represent those hours of telephone conversations and conferences between Mr. Hunt and Ms. Frederick, in which Mr. Hunt generally discussed scheduling matters, updated Ms. Frederick as to the status of the case, and reviewed Ms. Frederick's work-product.

The monetary value of the 52.6 hours billed at Mr. Hunt's hourly rate of \$195 is \$10,257. Accordingly, the court will subtract \$10,257 from the total amount of fees the plaintiff seeks in her fee petition.

The court has further calculated that Mr. Hunt submitted

67.2 hours in connection with his own work on a brief in opposition to the defendants' motion for summary judgment, which includes many hours researching and drafting. The court will reduce Mr. Hunt's hours in connection with his summary judgment work by 50 hours on the ground that these hours are excessive, redundant, duplicative, or otherwise unnecessary, particularly in view of the fact that Mr. Hunt's associate submitted 37.2 hours for his summary judgment research and drafting time, Ms. Frederick submitted 104.8 hours for her summary judgment research and drafting time, and Ms. Frederick's associate submitted 19.8 hours for her summary judgment research time.

Moreover, the plaintiff did not achieve a completely successful result in defending against the defendants' motion for summary judgment. As heretofore pointed out, the court on June 14, 1996 granted the defendants' motion for summary judgment as to count III of the complaint, which alleged violations of the Federal Equal Pay Act.

The monetary value of 50 hours billed at Mr. Hunt's hourly rate of \$195 is \$9,750. Accordingly, the court will subtract \$9,750 from the total amount of fees the plaintiff is seeking in her fee petition.

The court has further calculated that Mr. Hunt submitted 3.3 hours for his time researching and drafting a brief objecting to the court's ruling to bifurcate the trial. As heretofore pointed out, Mr. Hunt's efforts did not persuade the court to change its ruling on the bifurcation issue. The court will reduce 3.3 hours

from the plaintiff's fee petition on the ground that the plaintiff was not successful in convincing the court to reverse its ruling to bifurcate the trial. The monetary value of 3.3 hours at an hourly rate of \$195 is \$644. Accordingly, the court will subtract \$644 from the total amount of fees the plaintiff seeks in her fee petition.

The time-sheets further reflect that Mr. Hunt's partner, Mr. Scaramella, submitted 5 hours for his attendance at the first day of trial, which consisted of the jury voir dire. Mr. Scaramella's time will be reduced as excessive, duplicative, and unnecessary. Mr. Hunt carefully and competently conducted the voir dire in this trial and has failed to explain why Mr. Scaramella's presence at the jury voir dire was necessary or reasonable.

The monetary value of 5 hours billed at Mr. Scaramella's hourly rate of \$185 is \$925. Accordingly, the court will subtract \$925 from the total amount of fees and costs which the plaintiff seeks in her fee petition.

The court has calculated that Mr. Hunt submitted 73 hours for witness preparation time during the course of the trial. Likewise, Ms. Frederick submitted 43.2 hours for witness preparation time. Many of the hours Mr. Hunt and Ms. Frederick billed for witness preparation are duplicative. For example, on January 14, 1997 both Mr. Hunt and Ms. Frederick traveled to Douglasville, Pennsylvania for witness preparation. Mr. Hunt's time-sheet reflects: "1/14/97 Conference with witness travel to

Covatta's to prepare L. Covatta; prepare Marge Tracey - 6.0 [hours]." Ms. Frederick's time-sheet of the same date reflects: "1/14/97 KAF Travel to and from Douglasville, PA, for trial preparation session with Lori Covatta and T. Hunt 4.1 [hours]."

The court will reduce by one-half the number of hours Mr. Hunt submitted for witness preparation time on the ground that many of his witness preparation hours are duplicative of Ms. Frederick's witness preparation hours. Mr. Hunt submitted 73 hours for witness preparation time and the court will reduce this amount by 36 hours.

The monetary value of 36 hours billed at Mr. Hunt's hourly rate of \$195 is \$7,020. Accordingly, the court will subtract \$7,020 from the total amount of fees and costs the plaintiff seeks in her fee petition.

The court has further calculated that Mr. Hunt submitted 56.1 hours in connection with the preparation of the fee petition, and supplements thereto. The Plaintiff's fee petition and supplements includes Mr. Hunt's time-sheets, several affidavits, as well as a memorandum of law in support of the fee petition and a reply memorandum. The Third Circuit has pointed out that "[f]ee petition litigation should be treated as a 'separate entity subject to lodestar and Hensley reduction analysis.'" Rode v. Dellarciprete, 892 F.2d 1177, 192 (3d Cir. 1990).

It appears from the court's review of Mr. Hunt's time-sheets that 56.1 hours is an excessive number of hours for the

preparation of the fee petition. Generally, a fee petition requires several affidavits, computer-generated time-sheets, and a legal memorandum. The affidavits are prepared by other attorneys for the purpose of supporting the reasonableness of the requested hourly rates of the plaintiff's attorney. Moreover, the computer time-sheets are generally prepared and generated by a legal assistant and not by a partner billing at an hourly rate of \$195.

Therefore, the court will reduce 28 hours of Mr. Hunt's time billed for preparing the fee petition on the ground that these hours are not reasonably expended in that they are excessive, redundant, duplicative, or otherwise unnecessary. These hours largely reflect administrative work which could have been performed by an administrative assistant in Mr. Hunt's office.

The monetary value of 28 hours billed at Mr. Hunt's hourly rate of \$195 is \$5,460. Accordingly, the court will subtract \$5,460 from the total amount of fees the plaintiff is seeking in her fee petition.

The court has further calculated that Mr. Hunt submitted 4.8 hours for telephone calls made after the trial to this court's chambers checking the status of the fee petition, to his client informing her of the status of the fee petition, and to former jurors for purpose of interviewing them. The court finds that such time is unnecessary and will reduce these 4.8 hours from the fee petition.

The monetary value of 4.8 hours billed at Mr. Hunt's hourly

rate of \$195 is \$936. Accordingly, the court will subtract \$936 from the total amount of fees the plaintiff is seeking in her fee petition.

Ms. Frederick's Hours

After reviewing Ms. Frederick's time-sheets, the court will reduce 20.1 hours submitted for telephone conversations and conferences with Mr. Hunt in 1995, as well as 43.1 hours submitted for telephone conversations and conferences with Mr. Hunt in 1996, wherein the court has determined that such hours were not reasonably expended in that they were excessive, redundant, duplicative, or otherwise unnecessary.

The monetary value of the 20.1 hours for the 1995 telephone conversations and conferences billed at Ms. Frederick's 1995 hourly rate of \$150 is \$3,015. Accordingly, the court will subtract \$3,015 from the total amount of fees the plaintiff seeks in her fee petition.

The monetary value of the 43.1 hours for the 1996 telephone conversations and conferences billed at Ms. Frederick's 1996 hourly rate of \$175 is \$7,543. Accordingly, the court will subtract \$7,543 from the total amount of fees and costs the plaintiff seeks in her fee petition.

The court has calculated that Ms. Frederick submitted 104.8 hours for her time researching and drafting a brief in opposition to the defendants' motion for summary judgment. Moreover, the court has calculated that Ms. Frederick's associate submitted

19.8 hours for her time researching the legal issues related to the plaintiff's brief in opposition to the defendants' summary judgment motion. In addition, Ms. Frederick submitted costs in the amount of \$160 for the "contract work" of Judith B. Wait, Esq., who researched legal issues in connection with the plaintiff's brief in opposition to the defendants' motion for summary judgment.

The court will reduce Ms. Frederick's summary judgment time by 80 hours on the ground that these hours are excessive, redundant, duplicative, or otherwise unnecessary, particularly in view of the fact that Ms. Frederick's associate submitted 19.8 for her summary judgment research, Mr. Hunt submitted 67.2 hours for his summary judgment research and drafting work, and Mr. Hunt's associate submitted 37.1 hours for his summary judgment research and drafting work.

Moreover, the plaintiff did not achieve a completely successful result in defending against the defendants' motion for summary judgment. As heretofore pointed out, the court on June 14, 1996 granted the defendants' motion for summary judgment as to count III of the complaint, which alleged violations of the Federal Equal Pay Act.

The monetary value of the 80 hours billed in 1996 for Ms. Frederick's summary judgment work at an hourly rate of \$175 is \$14,000. Accordingly, the court will subtract \$14,000 from the total amount of fees the plaintiff seeks in her fee petition.

The court has determined to exclude from the fee petition

the number of hours Ms. Frederick submitted for her appearances with Mr. Hunt at depositions, court settlement conferences, discovery hearings, and the trial, on the ground that this time constitutes unnecessary duplicative attorney billing hours. The Third Circuit has stated that "duplication in hours billed" by attorneys for their work and joint-attendance at depositions, conferences, and trial are subject to reduction in calculating attorney fees. Daggett v. Kimmelman, 811 F.2d 793, 797 (3d Cir. 1987). See also Hart v. Bourque, 798 F.2d 519, 523 (1st Cir. 1986) (recognizing that "the time for two or three lawyers in a courtroom or conference, when one would do, 'may obviously be discounted.'").

The court wishes to make clear that it will not subtract Mr. Hunt's time which he billed for his attendance at depositions, court settlement conferences, discovery hearings, and trial for the reasons that Mr. Hunt served as trial counsel in this case. He addressed the court on behalf of the plaintiff, delivered the opening statements, closing arguments, and conducted the direct and cross-examinations of all witnesses.

In her fee petition, the plaintiff did not submit hours for the duplicative attendance time of Ms. Frederick at the depositions of the following individuals: Tracey, Dawson, Boland/Petsko, Peters/Mazzuca, Gardner, Agnew, and Covatta. However, the plaintiff did submit hours for the duplicative attendance time of Ms. Frederick at the deposition of Judy Herkalo, Michael Boyle, and Richard Smith. The court will,

therefore, reduce the number of hours Ms. Frederick submitted for her attendance at the depositions of Judy Herkalo, Michael Boyle, and Mr. Smith on the ground that such time constitutes duplicative billing hours which are more reasonably billable to one attorney. As pointed out by Judge Weis in Halderman v. Pennhurst State School & Hospital, 49 F.3d 939, 943 (3d Cir. 1995):

In many case, the attendance of additional counsel representing the same interests as the lawyers actually conducting the deposition is wasteful and should not be included in a request for counsel fees from an adversary. The fact that a private client may accede to the practice and pay the additional fees does not necessarily make them reasonable nor necessary when they are to paid by the other party to the proceedings.

The court has calculated that Ms. Frederick submitted 21.5 hours for her attendance with Mr. Hunt at Judy Herkalo's deposition. The monetary value of 21.5 hours billed at Ms. Frederick's 1995 hourly rate of \$150 is \$3,225. Accordingly, the court will subtract \$3,225 from the total amount of fees the plaintiff seeks in her fee petition.

The court has calculated that Ms. Frederick submitted 13.2 hours for her attendance with Mr. Hunt at the depositions of Michael Boyle and Richard Smith. The monetary value of 13.2 hours billed at Ms. Frederick's 1995 hourly rate of \$150 is \$1,980. Accordingly, the court will subtract \$1,980 from the total amount of fees and costs the plaintiff seeks in her fee petition.

The court has further calculated that Ms. Frederick

submitted 84.3 hours for her attendance at court settlement conferences, discovery hearings, and in particular at the trial. Mr. Hunt was also in attendance during the settlement conferences, discovery hearings, and as heretofore pointed out, served as the trial counsel.

The court will reduce from the fee petition the 84.3 hours submitted by Ms. Frederick for her attendance at court settlement conferences, discovery hearings, and the trial on the ground that these hours constitute duplicative attorney billing hours which are more reasonably billable to one attorney.

The monetary value of 84.3 hours billed at Ms. Frederick's 1996 hourly rate of \$175 is \$14,753. Accordingly, the court will subtract \$14,753 from the total amount of fees the plaintiff seeks in her fee petition.

As heretofore pointed, the plaintiff failed to achieve a successful result as to her PHRA aiding and abetting claim against defendant Boyle and her claim for punitive damages. The court has calculated that Ms. Frederick submitted 6.9 hours for time researching issues related to plaintiff's PHRA aiding and abetting claim against Mr. Boyle and her claim for punitive damages. Furthermore, the court has determined that Ms. Frederick's associate, Ms. Greene, billed 44.2 hours for researching issues related to plaintiff's PHRA aiding and abetting claim against Mr. Boyle and her claim for punitive damages.

As heretofore pointed out, "the court can reduce the hours

claimed by the number of hours 'spent litigating claims on which the party did not succeed and that were 'distinct in all respects from' claims on which the party did succeed.'" Rode v. Dellarciprete, 892 F.2d 1177, 1183 (3d Cir. 1990).

The court will reduce 6.9 hours submitted by Ms. Frederick for her PHRA and punitive damages research and drafting time. The monetary value of 6.9 hours billed at Ms. Frederick's 1996 hourly rate of \$175 is \$1,208. Accordingly, the court will subtract \$1,208 from the total amount of fees the plaintiff seeks in her fee petition.

Likewise, the court will reduce 44.2 hours submitted by Ms. Greene for her PHRA and punitive damages research and drafting time. The monetary value of 44.2 hours billed at Ms. Greene's hourly rate of \$85 is \$3,757. Accordingly, the court will subtract \$3,757 from the total amount of fees the plaintiff seeks in her fee petition.

As heretofore pointed out, Ms. Frederick submitted 43.2 hours for her witness preparation time during the course of the trial, much of which was duplicated by Mr. Hunt's witness preparation time. As the court did with Mr. Hunt's witness preparation time, the court will reduce by one-half Ms. Frederick's witness preparation time on the ground that many of these hours are duplicative of Mr. Hunt's hours.

The monetary value of 21.5 hours billed at Ms. Frederick's hourly rate of \$175 is \$3,763. Accordingly, the court will subtract \$3,763 from the total amount of fees the plaintiff seeks

in her fee petition.

Costs

The plaintiff submitted costs in the amount of \$9,017 from Mr. Hunt's office and costs in the amount of \$4,846 from Ms. Frederick's office. The court will subtract \$1,232 in costs from Mr. Hunt's office on the ground that these costs represent excessive, redundant, duplicative, or otherwise unnecessary costs for travel expenses to Ms. Frederick's office in Plymouth Meeting, Pennsylvania, as well as for meals for himself and Ms. Frederick during their meetings. Moreover, the court will subtract \$895 in costs from Ms. Frederick's office on the ground that these costs represent excessive, redundant, duplicative, or otherwise unnecessary costs for travel expenses to Mr. Hunt's office in New Jersey, for meals for herself and Mr. Hunt during their meetings, as well as for travel expenses to and from depositions and court.

Conclusion

For the reasons heretofore stated, the court will reduce plaintiff's fee petition request for \$458,576 by the amount of \$90,363. Accordingly, the court will award the plaintiff \$368,213 in fees and costs.

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

JUDY HERKALO :
V. : 94-CV-7660
NATIONAL LIBERTY CORP. :

ORDER

AND NOW, this 7th day of August, 1997; for the reasons
stated in this court's memorandum of August 7, 1997;

IT IS ORDERED: Plaintiff's petition for attorney fees and
costs is GRANTED in the amount of \$368,213.

RAYMOND J. BRODERICK, J.