

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

BARBARA HENSLEY :  
Plaintiff, :  
 :  
v. : Civil No. 97-790  
 :  
BERKS CREDIT & COLLECTIONS, INC. :  
and BARBARA H. GUENTHER :  
Defendants. :

M E M O R A N D U M

Cahn, C.J.

November \_\_\_\_\_, 1997

Before the court is Plaintiff's Motion for Entry of Counsel Fees and Costs and Modification of Order of Dismissal. For the reasons that follow, the court grants Plaintiff's Motion in part.

**I. BACKGROUND**

Plaintiff instituted this action in February, 1997. Counts I and II of the Complaint alleged violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §§ 1692-1692o (1994 & Supp. I 1995). Count III alleged violations of the Unfair Trade Practices and Consumer Protection Law ("UTPCPL"), Pa. Stat. Ann. tit. 73 §§ 201-1 - 201-9.2 (West 1993 & Supp. 1997) and the regulations adopted thereunder, specifically the Debt Collection Trade Practices regulations, 37 Pa. Code §§ 303.1-303.9 (1997). With respect to the FDCPA claims, the Complaint sought damages of \$1,000 for each alleged violation, \$10,000 in general damages for

alleged mental anguish, and costs and attorney's fees. The Complaint sought a \$100 statutory penalty for the UTPCPL claim.

Defendants asserted several counterclaims in their Answer. In addition to a general denial, Defendants alleged that Plaintiff brought her claim in bad faith for the purpose of harassment, that Plaintiff suffered no actual damages, and that Plaintiff's attorney's fees were excessive.

The court referred the case to arbitration by order dated June 20, 1997. Plaintiff prevailed at the August 11, 1997 arbitration hearing. The arbitrators awarded Plaintiff \$500 on Count II of the Complaint, \$100 on Count III, and \$5,000 in attorney's fees, and found for Plaintiff on Defendant's counterclaims. The award was entered on August 15, 1997.

On September 12, 1997, Defendants filed a "Notice of Appeal From Award of Arbitrators," which the court treated as a demand for a trial de novo in accordance with E.D. Pa. Local R. Civ. P. 53.2(7), thereby nullifying the arbitrators' award. About one week before the date set for jury selection, the parties reached a partial settlement whereby Defendants agreed to pay Plaintiff \$500 on Count II of the Complaint and \$100 on Count III. The parties further agreed that they would attempt to resolve the issue of fees and costs, and that if they could not resolve the issue on their own, the court would decide the issue upon

Plaintiff's motion. Such a motion, and Defendants' response thereto, is now before the court.

Plaintiff's Motion requests \$646.58 in costs and \$9,450 in attorney's fees. In support of these figures, Plaintiff has submitted an affidavit from John Shniper, Esq., Plaintiff's counsel in this matter. Shniper details the costs incurred in representing Plaintiff and claims 47 ¼ hours of billable time at his usual rate, for federal court litigation, of \$200 per hour.<sup>1</sup> Shniper further attests that he has over 25 years of litigation experience and is coauthor of a legal publication on class actions. Attached to Shniper's affidavit are copies of affidavits from two other attorneys attesting to the reasonableness of Shniper's hourly rate. Apparently, Shniper originally submitted and relied upon these additional affidavits in two prior matters unrelated to the current case.<sup>2</sup> One of the affidavits states that in this district, the 1996 market rate for

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<sup>1</sup> The court notes that the sum of Shniper's time entries is not 47 ¼ hours, but 47 ½ hours, which, when multiplied by Shniper's hourly rate, produces \$9,500 in fees. In addition, Plaintiff's memorandum in support of the Motion contains an erroneous reference to a request for \$11,050 in fees. (Pl.'s Mem. at 2.)

<sup>2</sup> One of these matters, Colbert v. Trans Union Corp., Nos. Civ. A. 93-6106 & 94-22, 1997 WL 550784 (E.D. Pa. Aug. 22, 1997), was a consolidated class action under the FDCPA. After reviewing the plaintiffs' fee petition in Colbert, Judge Gawthrop found that the amount of fees requested for the plaintiffs' attorneys, including Shniper, was excessive and unreasonable, and he reduced the award accordingly. See id. at \*2-5.

a lawyer in good standing with 25 years' experience is between \$265 and \$275 per hour.

In their response, Defendants make numerous objections to Plaintiff's fee petition. Broadly, Defendants allege that Shniper vigorously pursued technical statutory violations which harmed no one, primarily for the purpose of generating and recovering inflated attorney's fees. More specifically, Defendants claim that: 1) Shniper's time records show charges for time spent performing ministerial tasks and for time spent by third parties; 2) Shniper spent an excessive amount of time performing tasks which should have been relatively simple for someone with the amount of skill and experience that Shniper represents he has; 3) Shniper's overly-aggressive tactics resulted in his "over-litigating" the case, which Defendants characterize as involving straightforward claims that Shniper could have pursued without, for example, conducting extensive discovery; 4) Shniper's time records overstate the amount of time actually worked by Shniper because the records are kept in fifteen-minute increments; 5) Shniper's fees should reflect the limited success of Plaintiff's claims, as evidenced by Plaintiff's relatively small recovery in relation to the damages requested, the number of claims asserted, and the large amount of discovery; 6) Shniper should not receive fees for time spent contesting Defendants' appeal of the arbitrators' award; and 7)

Shniper's fees should be reduced because he refused to resolve the fee issue without the court's involvement, because he attached an allegedly fake letter to Plaintiff's Complaint as an exhibit, because he allegedly was satisfied with the arbitrators' award of fees, and because his fees should be proportional to the amount of Plaintiff's recovery.

Defendants seek to limit the fee award to \$2,400. Defendants reach this figure by excluding 34 ½ hours from the fee calculation, broken down as follows: excessive time for attorney work (12 hours); non-attorney tasks (9 ½ hours); and unsuccessful and/or unnecessary tasks (13 hours). Defendants claim that the exclusion of these hours leaves 12 hours for which Shniper may properly charge fees.<sup>3</sup>

Defendants do not contest Shniper's hourly rate, nor do Defendants dispute Shniper's request for or calculation of costs.

Plaintiff's letter brief in reply to Defendants' response does not provide further specific evidence in support of Plaintiff's fee request. Instead, the reply provides a general justification of the fee request, arguing that defense counsel's alleged delay and alleged refusal to settle the underlying case forced Shniper to expend the amount of time for which Plaintiff

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<sup>3</sup> The exclusion of 34 ½ hours in fact leaves 13 chargeable hours, or \$2,600 in recoverable fees. Defendants' omission of one hour appears to be attributable to an error in addition and the inadvertent exclusion of ½ hour of billable time requested by Shniper.

seeks fees. The reply also cites to cases that rely on the concept of the "private attorney general."<sup>4</sup> Applying this concept to the instant case, Plaintiff argues that if the court awards less than the "lodestar amount"<sup>5</sup> of fees, such a reduction will undercut the incentive value of fee awards under the FDCPA and ultimately result in fewer FDCPA enforcement actions. Finally, Plaintiff's reply implies that the arbitrators' \$5,000 fee award is the minimum amount that this court should award, and argues the merits of the underlying FDCPA action.

Defendants' letter in response to Plaintiff's reply repeats some of Defendants' previous objections to Plaintiff's fee request, and responds to Plaintiff's arguments regarding the merits of the underlying case. In addition, Defendants maintain that the arbitrators' fee award is irrelevant to this court's resolution of Plaintiff's Motion.<sup>6</sup>

## **II. DISCUSSION**

### **A. Legal Standard**

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<sup>4</sup> The concept of the "private attorney general" refers to private individuals who institute actions to enforce certain statutes, where such private enforcement actions are the intended, and sometimes only, means of enforcement. The award of reasonable attorney's fees provides an incentive for individuals to "serve" as private attorneys general. See, e.g., Graziano v. Harrison, 950 F.2d 107, 113 (3d Cir. 1991).

<sup>5</sup> The court defines this term below. See infra p. 8.

<sup>6</sup> This argument contradicts Defendants' previous objection regarding Shniper's alleged satisfaction with the arbitrators' fee award. See supra p. 5.

The FDCPA provides in relevant part:

(a) [A]ny debt collector who fails to comply with any provision of this subchapter with respect to any person is liable to such person in an amount equal to the sum of--

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

15 U.S.C. § 1692k(a)(3) (1994 & Supp. I 1995). To recover costs and fees pursuant to § 1692k(a)(3), a plaintiff must have prevailed in the underlying litigation; that is, the plaintiff must have succeeded on any significant issue and thereby achieved some of the benefit sought in bringing the suit. See Texas State Teachers Ass'n v. Garland Indep. Sch. Dist., 489 U.S. 782, 791-92 (1989) (civil rights claim).<sup>7</sup> One way a plaintiff may prevail is through settlement, so long as the relief secured directly benefits him at the time of settlement. See Farrar v. Hobby, 506 U.S. 103, 111 (1992).

Once a plaintiff prevails in an action under the FDCPA, the rule in this circuit is that absent unusual circumstances, the award of costs and reasonable fees is mandatory. See Graziano, 950 F.2d at 113-14. The district court has broad discretion in determining what amount of fees is reasonable. See Bell v.

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<sup>7</sup> The standards governing attorney's fees under fee-shifting provisions similar to the FDCPA's, such as 42 U.S.C. § 1988, also apply here. See, e.g., Hensley v. Eckerhart, 461 U.S. 424, 433 n.7 (1983) ("The standards set forth in this opinion [regarding attorney's fees under 42 U.S.C. § 1988] are generally applicable in all cases in which Congress has authorized an award of fees to a 'prevailing party.'").

United Princeton Properties, Inc., 884 F.2d 713, 721 (3d Cir. 1989). Although any reduction in the fee award from the amount requested must be based on objections actually raised by the opposing party, the amount of such reduction is a decision for the court alone to make. See id. Once the opposing party challenges the request for fees, the plaintiff must provide further clarification or documentation in support of his request, to assist the court in its analysis of the reasonableness of the request. See Perez v. Perkiss, 742 F. Supp. 883, 889 (D. Del. 1990). Absent such further evidence, the court may decline to award the contested fees. See id.

The starting point for determining a reasonable fee is the lodestar amount, which "is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate." Hensley, 461 U.S. at 433 (1983); see also Rode v. Dellarciprete, 892 F.2d 1177, 1183 (3d Cir. 1990). Mindful of the need to exercise billing judgment when determining fees, the court excludes from the calculation hours not reasonably expended, such as hours attributable to over-staffing, hours that appear excessive in light of the experience and skill of the lawyers, and hours that are redundant or otherwise unnecessary. See Hensley, 461 U.S. at 434. Such hours include hours spent performing ministerial tasks that could be performed by lower-paid support staff, and thus should not be billed at an

attorney's billable rate. See Bell, 884 F.2d at 722; Colbert, 1997 WL 550784 at \*2. The court may also deduct hours that are not adequately documented, see Hensley, 461 U.S. at 433, although attorney time records need not show the exact number of minutes worked, see Rode, 892 F.2d at 1190. With respect to determining a reasonable hourly rate, the court looks to the record for evidence of the prevailing market rate in the relevant community for legal services of the same character performed by lawyers of comparable skill, experience, and reputation. See Smith v. Philadelphia Hous. Auth., 107 F.3d 223, 225 (3d Cir. 1997); Student Pub. Interest Research Group v. AT&T Bell Labs., 842 F.2d 1436, 1447-48 (3d Cir. 1988). Absent record evidence challenging the plaintiff's requested hourly rate, such rate must be accepted by the court. See Smith, 107 F.3d at 225.

Although "[t]he lodestar is presumed to be the reasonable fee," the court may award less than the lodestar if the plaintiff was only partially successful in the underlying litigation, to account for time spent litigating claims that were not wholly successful. Rode, 892 F.2d at 1183 (citations omitted). This downward adjustment is grounded in the principle that fees are to be awarded only to the extent a litigant was successful; it is not done to maintain a ratio between the amount of damages and fees awarded or to otherwise keep them proportional to one another. See Washington v. Philadelphia County Court of Common

Pleas, 89 F.3d 1031, 1042 (3d Cir. 1996). In determining the amount of the downward adjustment, “[t]he district court may attempt to identify specific hours that should be eliminated, or it may simply reduce the award to account for the limited success. The court necessarily has discretion in making this equitable judgment.” Hensley, 461 U.S. at 436-37.

Fees for time spent by the prevailing party’s counsel in connection with the fee petition are also recoverable to the extent they are reasonable. See, e.g., Institutionalized Juveniles v. Secretary of Pub. Welfare, 758 F.2d 897, 924-25 (3d Cir. 1985). Such time, however, must be analyzed separately. See id. at 924. As with the analysis of other attorney time, the fees requested in connection with the fee petition may be reduced “to reflect incomplete success . . . .” Student Public, 842 F.2d at 1455.

**B. Application to Facts**

As a threshold matter, the court finds that Plaintiff prevailed in the underlying litigation.<sup>8</sup> Thus, Plaintiff is entitled to recover the costs of the action and a reasonable attorney’s fee.

As Defendants have not objected to Plaintiff’s request for \$646.58 in costs, the court awards the full amount requested.

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<sup>8</sup> There is no dispute that Plaintiff’s action may properly be deemed successful in light of Plaintiff’s recovery of \$600 in partial settlement of the matter.

The court now turns to the task of fashioning a reasonable fee award. The court first must decide on the number of attorney hours reasonably expended in pursuing Plaintiff's claims. By way of investigating the validity of Defendants' objections to Plaintiff's fee request, the court shall conduct its own audit of Shniper's time records, and where appropriate shall reduce the amount of time for which Plaintiff may recover fees.

**1. Hours Reasonably Expended**

Shniper's time records suggest that he has forgotten that "[h]ours that are not properly billed to one's client also are not properly billed to one's adversary pursuant to statutory authority." Hensley, 461 U.S. at 434 (internal quotation marks and citation omitted). As Defendants correctly point out, Shniper has billed an unreasonable amount of attorney time for the services which his office provided Plaintiff in this action.

The court agrees with Defendants' argument that Shniper improperly billed, at his hourly rate, a significant amount of time for performing ministerial tasks which could have been performed by lower-paid, non-attorney staff. The time entries covering no less than one third of the 45 ½ hours under consideration<sup>9</sup> include charges for time spent filing documents with the court, sending various documents to the court and the

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<sup>9</sup> The court analyzes the time spent in connection with Plaintiff's fee petition (two hours) separately. See infra pp. 18-19.

opposing parties, resolving scheduling matters, and in one case, copying documents. One specific example should bring this questionable billing practice into sharp relief. On June 18, 1997, Shniper bills  $\frac{3}{4}$  hour, or \$150, for "try[ing] to arrange conference call; reschedul[ing]." To account for this and other instances of over-billing, the court shall exclude the following hours for the following reasons:

<u>Date</u>	<u>Hours Excluded</u>	<u>Reason for Exclusion</u>
1/14/97	$\frac{1}{4}$	sending <sup>10</sup> letter
1/30	$\frac{1}{2}$	filing Complaint
2/7	$\frac{1}{4}$	phone call re: service
2/12	$\frac{1}{4}$	sending return of service
2/19	$\frac{1}{4}$	sending return of service
2/28	$\frac{1}{2}$	sending Answer and letter
6/9	$\frac{1}{4}$	scheduling; sending letter
6/18	$\frac{3}{4}$	scheduling
6/20	$\frac{3}{4}$	scheduling; sending letters, notices, & discovery documents
6/27	$\frac{1}{4}$	scheduling; sending notice
7/9	$\frac{1}{4}$	scheduling
7/17	$\frac{1}{4}$	scheduling
7/24	$\frac{1}{4}$	copying documents
7/29	$\frac{1}{2}$	sending materials by messenger
8/11	$\frac{1}{4}$	sending letter
9/22	$\frac{1}{4}$	filing motion
9/25	$\frac{1}{4}$	sending memorandum
9/26	$\frac{1}{4}$	scheduling; sending letter
9/30	$\frac{1}{4}$	sending letter & fax

Total Hours Excluded: 6  $\frac{1}{2}$

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<sup>10</sup> The court notes that in some time entries, Shniper apparently uses the word "sending" to mean "drafting and sending." When the court lists "sending" as a reason to exclude billable time, however, the court refers solely to the various ministerial tasks associated with the act of sending a document.

Defendants' argument that Shniper improperly charged his hourly rate for time spent by third parties is correct. Shniper's time entries for each of February 11 and 17, 1997 show ½ hour billed for "[s]ervice of complaint on defendant" by Audrey Williams. The court shall exclude the one hour attributable to such work performed by a third party.

The court also agrees with Defendants' argument that, in view of his many years of litigation experience, Shniper spent an inordinate amount of time preparing the various documents used in litigating Plaintiff's relatively simple claims. The court therefore excludes the following hours:

<u>Date</u>	<u>Hours Excluded</u>	<u>Service</u>
1/30/97	1	preparing complaint
6/20	½	preparing discovery documents
9/22	½	preparing motion
9/25	¼	preparing memorandum
9/30	¼	preparing release

Total Hours Excluded: 2 ½

The court further finds that Shniper recorded an excessive number of hours for "receiving" (which the court interprets to mean "receiving and reviewing") various documents. The court therefore excludes the following hours:

<u>Date</u>	<u>Hours Excluded</u>
2/5/97	1/8
2/28	1/8
6/9	1/8
6/20	1/8
6/27	1/8
7/2	1/8

7/5	1/8
7/10	1/8
7/18	1/4
8/11	1/8
8/12	1/8
9/22	1/8
9/24	1/8
9/26	1/8
10/2	1/8

Total Hours Excluded: 2

Defendants' argument that the logging of time by Shniper in fifteen-minute increments overstates the amount of time actually worked is correct.<sup>11</sup> Although Shniper need not account for the exact number of minutes worked, the court notes that many lawyers record their time in six-minute increments. Such greater accuracy in timekeeping is especially appropriate in this situation, in which under his current timekeeping practices and given his hourly rate, the least Shniper apparently can ever charge for even the smallest amount of his time is \$50. To compensate for the exaggeration of Shniper's hours resulting from this practice, the court excludes approximately five minutes from each of the 61 separate time entries,<sup>12</sup> for a total of five hours

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<sup>11</sup> The court notes that the use of fifteen-minute increments may understate the amount of time actually worked. Given that Shniper has not disputed Defendants' claim, however, and in light of Shniper's tendency, as shown above, to overstate his billable hours, the court will not give Shniper the benefit of the doubt with respect to this issue.

<sup>12</sup> This number does not include the single entry regarding time spent in connection with Plaintiff's fee petition, which the court considers separately. See supra note 9.

excluded.

The court is not persuaded by Defendants' argument that Shniper over-litigated Plaintiff's allegedly straightforward claims, resulting in the billing of unnecessary time. Even assuming that Shniper conducted extensive discovery, and Defendants felt compelled to depose Plaintiff in order to investigate her claim of mental anguish, these facts do not support Defendants' conclusion that the billable time spent by Shniper in connection with the discovery and the deposition was unnecessary and should be reduced on that ground.

The court also rejects Defendants' argument that Plaintiff should not recover fees for time spent contesting Defendants' appeal of the arbitrators' award, which the court treated as a motion for a trial de novo. In analogous situations involving a motion for a new trial, courts have held that time spent defending against such motions is compensable. See, e.g., Smith v. Law Offices of Mitchell N. Kay, 762 F. Supp. 82, 84 (D. Del. 1991). The court, however, has reduced the amount of compensable time attributable to this task as a result of its audit of Shniper's time records. Such reduction is included in the reductions described above.

Defendants' arguments concerning Shniper's alleged use of a falsified exhibit and his refusal to negotiate the fee issue are not supported by the record and are irrelevant to the court's

analysis. Defendants' and Plaintiff's arguments concerning the arbitrators' fee award and the merits of the underlying FDCPA action are irrelevant. Plaintiff's argument concerning defense counsel's alleged delay and refusal to settle is unsupported by the record. Defendants' "proportionality argument" fails because, as discussed above, this circuit does not recognize maintaining proportionality between damages and fees as a valid basis for reducing a fee award.

Having excluded a total of 17 hours as not being reasonably expended, the court is left with 28 ½ hours for use in calculating the lodestar amount. The court next turns to the issue of determining a reasonable hourly rate for Shniper's services.

## **2. Reasonable Hourly Rate**

Defendants have not objected to Shniper's claimed hourly rate of \$200 for federal court litigation. It is the court's opinion that this rate is too high for work performed in pursuing Plaintiff's relatively simple claims. The court notes that the supporting affidavit on which Shniper relied to justify his rate in Colbert, and on which Shniper relies again here, seems to support Shniper's rate for purposes of his class action work rather than his work combating unfair debt collection practices. Nevertheless, given that Shniper's requested rate is unchallenged, the court is constrained to accept it without

modification.

### 3. Calculation of Lodestar

The lodestar amount is thus \$5,700, which is the product of the 28 ½ hours reasonably expended by Shniper in representing Plaintiff, multiplied by Shniper's hourly rate of \$200.

### 4. Downward Adjustment

The court notes that a downward adjustment from the lodestar may be warranted where the party seeking fees enjoyed limited success in the underlying litigation. Here, although Plaintiff's Complaint sought at least \$11,100 in damages and penalties on her claims,<sup>13</sup> Plaintiff recovered only \$600. In addition, Plaintiff did not recover any damages on Count I of the Complaint.

Therefore, "the success in [Plaintiff's] lawsuit, although not insignificant, falls somewhat short of total." Colbert, 1997 WL 550784 at \*4. The court finds that Plaintiff's limited success warrants a substantial downward adjustment from the lodestar.<sup>14</sup>

In deciding how much to reduce the lodestar, the court is

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<sup>13</sup> This figure is broken down as follows: \$1,000 for at least one alleged violation of the FDCPA (Plaintiff alleged several such violations); \$10,000 in general damages, and a \$100 statutory penalty for allegedly violating the UTPCPL.

<sup>14</sup> Contrary to what Plaintiff believes, awarding less than the lodestar amount will not undercut the incentive value of fee awards under the FDCPA and result in fewer FDCPA enforcement actions. As described in this memorandum, under circumstances like those presented in this case, a court may need to depart from the lodestar amount in order to reach a reasonable fee award. A reasonable fee award provides the proper incentive for persons to act as private attorneys general.

mindful of its duty to “consider[] the relationship between the amount of the fee awarded and the results obtained.” Hensley, 461 U.S. at 437. In discharging this duty, the court ideally must separate the non-compensable time spent pursuing unsuccessful claims, i.e. Count I, from the compensable time spent pursuing successful claims, i.e. Counts II and III, to the extent that the unsuccessful and successful claims are unrelated. See id. at 434-35. The court finds that Count I asserts claims unrelated to Counts II and III, in that Count I alleges FD CPA violations based in part on a different set of facts from those relied on in Count II, and is based on a different statute than Count III. It is impossible, however, for the court to identify and exclude with precision the amount of time spent pursuing Count I. Therefore, rather than eliminating specified hours, the court will account for Plaintiff’s limited success by “simply reduc[ing] the award.” Id. at 436-37. Accordingly, the court will reduce the lodestar by \$1,800, thereby resulting in a fee award of \$3,900 for Shniper’s representation of Plaintiff with respect to all aspects of the above-captioned matter, except the fee petition.

#### **5. Hours Devoted to Fee Petition**

As for time spent in connection with the fee petition, the reasonableness of which the court analyzes separately, Shniper’s time records show two billable hours for preparing and filing the

petition. The court attributes  $\frac{1}{4}$  hour to the ministerial task of filing and disallows that amount of time. The court further deducts  $\frac{1}{2}$  hour to account for the excessiveness of the request in light of Shniper's experience and the court's observation that the majority of the petition obviously was mechanically assembled from similar petitions used in past unrelated actions, and thus required little skill to prepare. The resulting  $1 \frac{1}{4}$  hours reasonably expended in connection with the fee petition, multiplied by Shniper's hourly rate of \$200, yields a lodestar of \$250. In consideration of the limited success of Plaintiff's fee petition, the court reduces the lodestar by \$100. Accordingly, Plaintiff is entitled to recover \$150 in attorney's fees for time spent in connection with Plaintiff's fee petition.

### **III. CONCLUSION**

Fee-shifting provisions such as the one contained in the FDCPA serve a valuable purpose. By providing that a prevailing party may recover the reasonable costs of securing competent counsel, they both encourage and reward plaintiffs and lawyers alike for undertaking the often difficult and thankless task of seeking to protect important rights. In the absence of such provisions, it is argued, many violations might go unpunished. Sadly, the noble role that fee-shifting provisions play is easily tarnished by those who seek to use such provisions, not as a source of fair compensation in exchange for the advancement of

the public good, but primarily as a vehicle for personal gain.

Here, Plaintiff's success in the underlying litigation entitles her under the FDCPA to the award of costs and reasonable attorney's fees. In calculating a reasonable fee award, the court has reviewed the time records of Plaintiff's counsel and has discovered numerous instances of over-billing, which have led the court to question whether Plaintiff's counsel's main objective in bringing the underlying suit on Plaintiff's behalf was perhaps something less than noble. The court notes that this is not the first time Plaintiff's counsel's motives have come under judicial scrutiny.<sup>15</sup>

Although the court has not based any part of its decision today on the observation just described, the court suggests that Plaintiff's counsel exercise more care in maintaining time records in the future, lest his motives again be open to question. As for the instant proceeding, for the reasons described in the rest of this memorandum, the court grants Plaintiff's Motion in part. Defendants collectively shall pay Plaintiff's taxable costs with respect to the above-captioned

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<sup>15</sup> In Martin v. Berke & Spielfogel, No. Civ. A. 95-0005, 1995 WL 214453, at \*4-6 (E.D. Pa. Apr. 4, 1995), after granting the defendant summary judgment with respect to the plaintiff's FDCPA and UTPCPL claims, Judge Weiner permitted the defendant to conduct discovery on his bad faith claim against Shniper. Defendant alleged that Shniper had brought the action "without any legal basis with the intent to exact a small monetary settlement representing the cost of the litigation." Id. at \*5 (internal quotation marks and citation omitted).

matter in the amount of \$646.58. Defendants collectively shall also pay Plaintiff's attorney's fees with respect to the above-captioned matter in the amount of \$4,050. In accordance with the partial settlement of the above-captioned matter, and if they have not already done so, Defendants collectively shall pay to Plaintiff the sum of \$500 on Count II of the Complaint, and \$100 on Count III of the Complaint.

An appropriate order follows.

BY THE COURT:

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Edward N. Cahn, Chief Judge