

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

**BARBARA G. THOMPSON**

**V.**

**CENTRAL SECURITY AGENCY, INC.**

**Civil Action No.  
98-2474**

**MEMORANDUM**

Broderick, J.

April 29, 1999

Presently before the Court is Plaintiff's unopposed motion for attorney fees and costs in the amount of \$4,326.00 following the entry of default judgment in this sex discrimination case. For the reasons stated below, the Court will award the Plaintiff \$4,326.00 in attorney fees and costs.

Plaintiff served the Complaint on Defendant Central Security Agency on July 28, 1998 and filed proof of service on August 4, 1998. Defendant failed to plead or otherwise defend, and on September 29, 1998, the Clerk entered default. On March 3, 1999, this Court held an evidentiary hearing limited to the issue of damages. By memorandum and order dated March 8, 1999, this Court, after said hearing on damages, entered judgment in the amount of \$23,485.32.

On March 18, 1999, Plaintiff filed a fee petition, seeking \$4326.00 in attorney fees and costs. As of the date of this Memorandum, Defendant Central Security Agency has not filed any objections to the motion.

Plaintiff has relied on the "lodestar formula" in determining a reasonable amount of attorney fees and costs in this civil rights litigation. Under the lodestar formula, the Court

multiples the number of attorney hours reasonably expended on the litigation by a reasonable hourly rate for the attorney. “The result of the 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. Dellarsciprete, 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.

In calculating a reasonable hourly rate, the Third Circuit is clear that “[t]he 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 (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. Samuel Dion, Esq. served as trial counsel in this case and has submitted all of the

hours billed in the Plaintiff's fee petition. He seeks an hourly rate of \$250. In support of this rate, Mr. Dion has submitted the affidavit of Alan Denenberg, Esq. stating that Mr. Dion's hourly billing rate is reasonable compared to attorneys at his level and experience in the area.

By submitting the aforementioned affidavit 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." Id. The Third Circuit has pointed out that where "the plaintiff has met his prima facie 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. Therefore, the Court will adopt the hourly rate of \$250 for Mr. Dion's work submitted by the Plaintiff in calculating her fee petition under the lodestar formula.

In connection with her fee petition, the Plaintiff submitted a declaration by attorney Samuel Dion, Esq. concerning the reasonable number of hours worked in this case. This declaration provides a brief description of the tasks performed by Mr. Dion and the number of hours he billed for each task. Mr. Dion claims a total of 16.4 hours of work.

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 (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).

As heretofore pointed out, Defendant has not filed any objections to the number of hours charged by Plaintiff. After a careful review of the declaration of Mr. Dion, the Court finds that Mr. Dion's hours neither excessive nor redundant. Mr. Dion's hours are reasonably expended in pursuit of a successful claim. Therefore, the Court will award the full 16.4 hours. The monetary value of 16.4 hours at a rate of \$250 an hour results total attorney's fees of \$4,100.00.

Finally, the Plaintiff has submitted costs in the amount of \$226.00 for docket fees and process servers. See Fed.R.Civ.P. 54(d). The Court finds that these costs are reasonable and within the purview of the taxation statute. 28 U.S.C. § 1920. The Court will award the Plaintiff \$226.00 in costs.

For the reasons heretofore stated, the Court will award the Plaintiff a total of \$ 4326.00 in fees and costs. An appropriate Order follows.

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

**BARBARA G. THOMPSON**

**V.**

**CENTRAL SECURITY AGENCY, INC.**

**Civil Action No.**

**98-2474**

**ORDER**

AND NOW, this            day of April; for the reasons stated in this Court's memorandum of this date;

IT IS ORDERED: Plaintiff's Motion to Award Fees and Costs is GRANTED in the amount of \$4326.00.

\_\_\_\_\_  
RAYMOND J. BRODERICK, J.