

Plaintiff's attorney Michael Pileggi, Esquire ("Pileggi"). For the following reasons, this Court awards Plaintiff \$45.00, the amount of monies still owed to her under the Settlement, and awards Pileggi \$6,706.00 in attorney's fees as compensation.

I. BACKGROUND

On November 7, 2002, Plaintiff filed a claim pursuant to 42 U.S.C. § 1983 alleging that PHA violated her due process rights by denying her an administrative hearing after PHA terminated her Section 8 housing benefits. On March 12, 2002, the parties entered into the Settlement, which was approved by this Court on March 17, 2003. Pursuant to the Settlement, PHA agreed, inter alia, to issue Plaintiff a check in the amount of \$669.00 in full satisfaction of her claims against PHA, and to adjust Plaintiff's Section 8 reimbursement amount to \$261.00 per month from the \$246.00 per month subsidy PHA previously provided. (Pl. Mot. to Enforce Settlement Ex. A.) The Settlement also provided that if the parties could not reach an agreement as to attorney's fees, the parties were to offer proposals to this Court which we would, in turn, consider in ascertaining the amount of reasonable attorney's fees owed to Pileggi. (Id.) Plaintiff did not receive the \$669.00 payment that PHA was required by the Settlement to provide, and on May 15, 2003, Plaintiff filed a motion to enforce the Settlement provisions and a motion

requesting attorney's fees in the amount of \$15,219.10.

On June 17, 2003, this Court held a hearing to address the remaining Motion to Enforce Settlement and Motion to Determine the Amount of Attorney's Fees. Based on the pleadings offered by both parties and oral argument presented at this hearing, our discussion follows.

II. DISCUSSION

A. Motion to Enforce Settlement

Plaintiff contends that PHA failed to provide her with a \$669.00 payment owed to her and neglected to timely adjust the amount of Plaintiff's Section 8 reimbursement to \$261.00 a month, both conditions under the Settlement. PHA counters that although Plaintiff did not receive the funds within the time frame set forth in the Settlement, it ultimately hand-delivered the check to Plaintiff when PHA discovered that she had not received payment within 30 days of signing the Settlement and has since adjusted the subsidy amount Plaintiff receives.

Since Plaintiff concedes that she is now in receipt of a \$669.00 check from PHA, we find that PHA complied with this provision of the Settlement. Moreover, we find that, as of June 2003, PHA has properly adjusted Plaintiff's subsidy to \$261.00 from the \$246.00 payment it previously provided. However, since PHA agreed in the Settlement to readjust her reimbursement in

March 2003, we find that PHA is responsible for the \$15.00 difference in payments owed to Plaintiff in each of March, April and May 2003¹ and must pay Plaintiff for the difference for the March, April and May 2003 subsidies, which amounts to \$45.00.

Although not included in the Settlement, Plaintiff also contends that she is owed a balance of \$763.00 from PHA on account of a \$1,093.00 check issued by her landlord. Plaintiff's landlord sent this check, which was made out to PHA in care of Pileggi, to Pileggi, who then sent it to PHA. Plaintiff argues that at least \$763.00 is owed to her because her landlord withdrew money from her personal bank account when it did not receive full subsidy payments from PHA. PHA counters that they are entitled to the full amount of the landlord's check because they had, over the past couple of years, overpaid Plaintiff's landlord. Neither party presents any evidence supporting their respective positions and relies on mere speculation as to what the landlord's check actually represents. Since Pileggi sent the check to PHA instead of retaining the amounts allegedly owed to his client, without any evidence that this money represents funds extracted from Plaintiff's personal account, we can only understand Pileggi's actions to be an apparent waiver of

¹ Plaintiff also contends that PHA neglected to pay any of the reimbursement owed to Plaintiff in May 2003. However, PHA provides evidence showing that it issued a check to Plaintiff's landlord for \$246.00 on May 1, 2003.

Plaintiff's rights to this money. Thus, we cannot award Plaintiff any monies as a result of the landlord's check.

B. Motion to Determine Amount of Attorney's Fees

In accordance with the Settlement, Pileggi requests \$15,219.10 in attorney's fees attributable to litigating Plaintiff's claim. He calculates that from October 28, 2002 to March 14, 2003, he spent 53.4 hours litigating the case and that the reasonable rate for this work amounts to \$285.00 per hour considering his expertise in Section 8 housing disputes and the fact that Plaintiff's claim arises under the Civil Rights Act. In support of his claim that a \$285.00 hourly rate is reasonable, Pileggi produces a list of cases he litigated for PHA to demonstrate that he has expertise in litigating claims involving Section 8 housing benefits. He also presents the affidavit of Michael Donahue, Esquire ("Donahue"), a staff attorney at Community Legal Services, Inc. ("CLS") who frequently opposed Pileggi when he was counsel for PHA, and who attests that his hourly rate is \$285.00, which Donahue claims is consistent with the prevailing market rate for this type of litigation. Pileggi also provides this Court with a list of actions he took and the time spent in litigating Plaintiff's case and calculated the amount of attorney's fees owed for each respective task by multiplying the number of hours he worked on Plaintiff's case by

the hourly rate of \$285.00 to arrive at a total of \$15,219.00. PHA claims that the attorney's fees Pileggi seeks are unreasonable in light of the ultimate amount of money he recovered for Plaintiff and the simplicity of this suit and, therefore, propose that Pileggi's attorney's fees be calculated by the hourly rate of \$200.00. Moreover, PHA argues that many activities Pileggi seeks compensation for are not described with specificity, or are excessive and not necessary to achieve the requested result and should, therefore, be dismissed in Pileggi's petition for attorney's fees.

Pursuant to 42 U.S.C. § 1988, the Court, in its discretion, may award the prevailing party reasonable attorney's fees and costs incurred in litigating a claim under Section 1983. 42 U.S.C. § 1988; Truesdell v. PHA, 290 F.3d 159, 163 (3d Cir. 2002). Court-approved settlement agreements may also serve as a basis for an award of attorney's fees pursuant to Section 1988. Buckhannon Board & Care Home, Inc. v. West Virginia Dep't of Health & Human Resources, 532 U.S. 598, 604 (2001); Washington v. Philadelphia City Court of Common Pleas, 89 F.3d 1031, 1036 (3d Cir. 1996). The prevailing attorney seeking compensation under Section 1988 bears the initial burden of demonstrating the reasonableness of the requested fees by "produc[ing] 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." Blum v. Stenson, 465 U.S. 886, 896 (1984); see also Hensley v. Eckerhart, 461 U.S. 424, 433 (1983). Once the prevailing attorney satisfies this burden, the opposing party must "challenge, by affidavit or brief with sufficient specificity to give the fee applicant notice, the reasonableness of the requested fee." Rode v. Dellarciprete, 892 F.2d 1177, 1183 (3d Cir. 1990). Once these objections are raised, a court has great discretion to determine whether an initial estimate of attorney's fees is reasonable and generally employs the so-called "lodestar" method for calculating fee awards. Hensley, 461 U.S. at 433; Rode, 892 F.2d at 1183. Under the lodestar analysis, a court "multipl[ies] the number of hours reasonably expended on the litigation times a reasonable hourly rate." Blum, 465 U.S. at 888; Gulfstream III Associates, Inc. v. Gulfstream Aerospace Corp., 995 F.2d 414, 421 (3d Cir. 1993). Pursuant to this standard, we review PHA's objections in turn and assess the reasonableness of Pileggi's proposed hourly rate and the number of hours he spent litigating the case.

1. Hourly Rate

Pileggi argues that, as a solo practitioner, he receives \$285.00 per hour for his legal expertise, which is a reasonable rate based on his extensive experience and skill in the area of

Section 8 housing benefits. Defendants argue that although Pileggi may normally receive this hourly rate, his rate must be reduced to \$200.00 per hour in light of the lack of complexity of this case. Under the lodestar approach, courts usually look to the "prevailing market rate[] in the relevant community" to determine a reasonable hourly rate. Blum, 465 U.S. at 895. Although "the starting point in determining a reasonable hourly rate is the attorneys' usual billing rate, proof of the attorney's self-designated billing rate is not dispositive." Becker v. ARCO Chemical Co., 15 F. Supp. 2d 621, 628 (E.D. Pa. 1998) (quoting Public Interest Group of New Jersey, Inc. v. Windall, 51 F.3d 1179, 1185 (3d Cir. 1995)). Apart from the attorney's purported hourly rate, a court may look to the "community billing rate charged by attorneys of equivalent skill and experience performing work of similar complexity" in determining a reasonable hourly rate. Student Public Interest Research Group of New Jersey, Inc. v. AT&T Bell Labs., 842 F.2d 1436, 1450 (3d Cir. 1988). Under this approach, the court must first "assess the experience and skill of the prevailing party's attorney and compare their rates to the rates prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation." Rode, 892 F.2d at 1183 (citing Blum, 465 U.S. at 895 n.11); Student Public Interest, 842 F.2d at 1447.

Pileggi contends that an hourly rate of \$285.00 is reasonable because he is experienced in litigating Section 8 housing issues as demonstrated by the roughly 12 years he spent as an attorney handling landlord-tenant disputes and Section 8 housing matters for PHA. Moreover, Pileggi contends that this rate is reasonable because Donahue, a CLS attorney handling Section 8 housing claims similar to those of the Plaintiff's, receives \$285.00 per hour for his legal expertise. Defendants argue, however, that this rate is unreasonable considering that the case involved only limited discovery and limited motion practice, and was neither legally nor factually complex. Moreover, Defendants suggest that although Pileggi relies on Donahue's affidavit to support his requested \$285.00 hourly rate, on many occasions, courts have lowered Donahue's fees due to the simplicity of the litigation.

We agree with Defendants that the hourly rate Pileggi suggests is unreasonable and, accordingly, must decrease his proposed regular hourly rate to reflect the market rate for a comparable case. Although Pileggi contends he has extensive experience in this type of litigation and produces evidence showing that Donahue also requests an \$285.00 hourly rate, we find that this evidence fails to demonstrate that this rate reflects the "community market rate" for attorneys of comparable skill, experience and reputation. Although Pileggi purports that

he regularly charges his private clients an hourly rate of \$285.00 for his services, he presents no evidence other than his affidavit to substantiate this claim. Moreover, we find his reliance on Donahue's hourly rate somewhat suspect because Donahue, as a CLS attorney, is rewarded solely on the years of practice, not by the complexity of the work, and is not subjected to the "real market pressures" Pileggi, an attorney in private practice, would be. See Evans v. PHA, No. Civ. A. 93-5547, 1995 U.S. Dist. LEXIS 4309, at *7 n.1 (E.D. Pa. Mar. 30, 1995). Additionally, Pileggi fails to consider the complexity of the litigation and the sophistication of the services rendered. Student Public Interest, 842 F.2d at 1447-50. As one court explained, "civil rights cases vary greatly in nature and in complexity. They range from the prosecution of complex class actions to a demand that leaky toilet be fixed in the home of a single public housing tenant." Becker, 15 F. Supp. 2d at 629. Although Plaintiff's claim for Section 8 housing benefits is important to her, it was neither factually complex nor one involving novel or difficult concepts of law. Rather, it was a straight-forward request for an administrative hearing she was entitled to relating to Section 8 housing benefits. Since other courts have usually assessed hourly rates of roughly \$150-\$200.00 per hour for relatively simple landlord-tenant disputes, many of which, incidentally, involve Donahue, we conclude that Pileggi's

normal \$285.00 hourly rate must be lowered and that PHA's suggested \$200.00 hourly rate reasonable. See, e.g., Hamlin v. PHA, No. Civ. A. 00-5344, 2002 U.S. Dist. LEXIS 14124, at *4 (E.D. Pa. July 18, 2002) (reducing Donahue's fee to \$200.00 per hour for a case that "did not involve any complex legal issues or extensive factual development"); Jones v. PHA, No. Civ. A. 98-6262, 1999 U.S. Dist. LEXIS 7067, at *8 (E.D. Pa. May 12, 1999) (reducing the amount of Donahue's hourly rate to \$150.00); Smith v. PHA, No. Civ. A. 98-2874, 1999 U.S. Dist. LEXIS 1219, at *8 (E.D. Pa. Jan. 29, 1999) (reducing Donahue's hourly rate to \$210.00 for Section 8 housing case that was "neither factually nor legally complex"); Jenkins v. PHA, No. Civ. A. 94-5475, 1995 U.S. Dist. LEXIS 3017, at *6 (E.D. Pa. Mar. 10, 1995) (reducing Donahue's hourly rate to \$150.00 because the case was neither intricate or complex); Jackson v. PHA, 858 F. Supp. 464, 469 (E.D. Pa. 1994) (same).

2. Hours Calculation

PHA next argues that Pileggi's attorney's fees must be reduced for time devoted to work not normally performed by attorneys, unspecifically described, or excessive. A court assessing the reasonableness of a petition for attorney's fees may exclude from the lodestar amount those hours requested for inadequately described and unnecessary tasks or hours otherwise "not reasonably expended." Hensley, 461 U.S. at 433-34; Rode,

892 F.2d at 1183. The United States Supreme Court advises:

Counsel for the prevailing party should make a good-faith effort to exclude from a fee request hours that are excessive, redundant, or otherwise unnecessary, just as a lawyer in private practice ethically is obligated to exclude such hours from his fee submission. In the private sector, billing judgment is an important component in fee setting. It is no less important here. Hours 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 (citations omitted). With this guidance, we review PHA's objections to Pileggi's proposed fee award.

a. Non-specific Entries

PHA challenges Pileggi's requested compensation for time spent reviewing e-mail messages and faxes and taking phone calls with his client as nonspecific since Pileggi fails to indicate what the e-mail messages, faxes, and phone calls pertained to or otherwise offer any other description helpful to this Court. "Attorneys seeking compensation must document the hours for which payment is sought 'with sufficient specificity.'" Washington, 89 F.3d 1037 (quoting Kennan v. City of Philadelphia, 983 F.2d 459, 472 (3d Cir. 1992)); see also Planned Parenthood v. Attorney General of the State of New Jersey, 297 F.3d 253, 270 n.6 (3d Cir. 2002). Otherwise, a court has no way of determining the reasonableness of the hours requested. Although these entries may reflect tasks Pileggi undertook, they lack the

requisite specificity necessary for this Court to assess whether they are reasonable. As such, we cannot compensate Pileggi for time devoted to vaguely articulated tasks, such as reading e-mail messages and faxes, and must, therefore, exclude this time from the lodestar amount.

b. Entries Pertaining to Disqualification

PHA next argues that Pileggi should not receive full compensation for time spent defending against PHA's motion to disqualify Pileggi as counsel in this case. On January 6, 2003, PHA filed a motion to disqualify Pileggi as counsel for Plaintiff, as well as three other plaintiffs filing separate claims against PHA, on grounds that Pileggi, as a former PHA attorney, may have acquired confidential information during his representation of PHA that is relevant to Plaintiff's and each of the other three plaintiff's cases, and detrimental to PHA if revealed during the course of the litigation.² After a consolidated hearing was on held on February 10, 2003, this Court

² PHA filed motions seeking to disqualify Pileggi as counsel in two other landlord-tenant civil rights actions and an employment "whistleblower" claim brought against PHA. See Cavicchia v. PHA, Civ. A. No. 03-116 (Schiller, J.); McQueen v. PHA, Civ. A. No. 02-8941 (Yohn, J.); Blaylock v. PHA, Civ. A. No. 02-8251 (O'Neill, J.).

denied PHA's motion to disqualify.³ Pileggi consolidated his fees for the disqualification for all four clients in the instant request for attorney's fees, which PHA claims is excessive and contends that Pileggi must distribute all fees attributable to the disqualification proceedings pro rata among these four clients.

We find that Pileggi should be compensated for time spent litigating PHA's claim, but that he is not entitled to recover the full amount requested for time devoted to PHA's motion for disqualification. Although Pileggi points out that he filed separate responses to PHA's motion that were tailored to the facts of each case, the ultimate issue of whether Pileggi had gained confidential information in his prior representation of PHA was essentially the same in all cases. Thus, we award Pileggi only one-fourth (1/4) of the fees generated by litigating PHA's disqualification motion. Accordingly, we must also reduce by three-fourths (3/4) the costs Pileggi incurred in deposing Carl Greene, as it was conducted for purposes of the disqualification motion.

c. Entries Relating to Non-Attorney Tasks

³ PHA's motions were consolidated and a hearing before Judges O'Neill, Kelly, Yohn and Schiller took place on February 10, 2003.

PHA next argues that we must discount Pileggi's suggested amount of attorney's fees for entries accounting for work which would normally be performed by paralegals or clerical staff. As the Third Circuit explained:

We have cautioned on a number of occasions that when a lawyer spends time on tasks that are easily delegable to non-professional assistance, legal service rates are not applicable. We cannot condone "the wasteful use of highly skilled and highly priced talent for matters easily delegable to non-professionals.

Halderman v. Pennhurst State School & Hospital, 49 F.3d 939, 942 (3d Cir. 1995). Although Pileggi should not be punished for being a sole practitioner, this Court cannot assess a hourly rate for tasks performed without considering the nature of the action. See Planned Parenthood, 297 F.3d at 266; Loughner v. University of Pittsburgh, 260 F.3d 175, 180 (3d Cir. 2001); Becker, 15 F. Supp. 2d at 629. In other words, "[a] Michelangelo should not charge Sistine Chapel rates for painting a farmer's barn." Uric v. Bethlehem Mines, 719 F.2d 670, 677 (3d Cir. 1983). Therefore, we affix the rate of \$50.00 per hour to compensate Pileggi for clerical tasks such as filing a complaint and preparing subpoenas and faxes, and reduce his award accordingly.

d. Unreasonable Hours Expended

PHA next argues that Pileggi should not receive compensation for work such as drafting an in forma pauperis application for his client and a motion to enforce settlement since these tasks

were not necessary to secure the successful result obtained. We cannot conclude that filing for in forma pauperis, which was granted by this Court, was unnecessary to secure a judgment for his client, who was originally represented by Pileggi on a pro bono basis. Thus, we find that he should receive compensation for this time spent in furtherance of proceeding in forma pauperis. Moreover, we find that Pileggi is entitled to compensation for tasks involved in filing a Motion for Default, as PHA did not, prior to February 26, 2003, comply with any of the provisions within the time frames set forth in the Settlement.

However, we must deny Pileggi's request for the \$150.00 filing fee, in light of the fact that neither Pileggi nor his client had actually paid this fee. We also find that Pileggi's February 12, 2003 entry accounting for roughly 45 minutes to sign and file the Settlement, which had already been reviewed a few days earlier, excessive and must be reduced accordingly. Further, we exclude time requested for tasks relating to a re-certification addendum as vague and unnecessary to secure the result obtained.

3. PHA's Proposed 50% Reduction of Lodestar Amount

PHA argues that this Court should further reduce the lodestar amount by 50% because Pileggi, who recovered less than

\$1000.00 for his client, did not achieve a substantial victory or engage in extensive litigation to settle Plaintiff's case. Although a court may adjust the lodestar amount to ensure that an attorney's compensation under Section 1988 constitutes a "reasonable fee under the circumstances of the case," we decline, in this case, to do so. Blanchard v. Bergeron, 489 U.S. 87, 96 (1989); Rode, 892 F.2d at 1183. Since we already accounted for the simplicity of this litigation in assessing Pileggi's hourly rate, we will not again consider this factor to reduce the lodestar amount. Moreover, we find that although Plaintiff's case had only a relatively small monetary value, Pileggi secured a totally successful outcome for his client. "It is intended that the amount of fees awarded under [§ 1988] be the same standards which prevail in other types of equally complex Federal litigation, such as antitrust cases, and not be reduced because the rights involved may be nonpecuniary in nature." Blum, 465 U.S. at 898. Accordingly, we reject PHA's request to reduce further the amount of the lodestar to account for the simplicity of Plaintiff's case or the minimal monetary amount Plaintiff secured.

III. CONCLUSION

Upon the foregoing analysis, we find that, based on an hourly rate of \$200.00 multiplied by 33.08 hours and 1.8 hours at

a \$50.00 hourly rate,⁴ we award Pileggi \$6,706.00 in attorney's fees as compensation.

⁴ The breakdown of Pileggi's hours is as follows: 4.48 hours for tasks associated with PHA's Motion to Disqualify, 28.6 hours for uncontested tasks or those activities we viewed as reasonable and 1.8 hours for nonprofessional tasks at a \$50.00 hourly rate.

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

JUDITH WISDOM,	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	
	:	
PHILADELPHIA HOUSING	:	
AUTHORITY, et al.,	:	
Defendants.	:	No. 02-CV-8369

ORDER

AND NOW, this day of July 2003, in consideration of the Motion to Enforce Settlement Agreement, Motion to Determine Amount of Attorney's Fees, Motion for Default Judgment and Motion for Preliminary Injunction filed by Plaintiff Judith Wisdom ("Plaintiff") (Doc. Nos. 4, 20, 24, 28) and the Responses of Defendants Philadelphia Housing Authority, Carl Greene, Carolyn Carter and Laverne French ("Defendants") (Doc. Nos. 17, 26, 29), it is **ORDERED** that:

1. Plaintiff's Motions for Default Judgment and for Preliminary Injunction are **DENIED AS MOOT**.
2. Plaintiff's Motion to Enforce Settlement Agreement is **GRANTED** to the extent that Defendants must pay

Plaintiff \$45.00 for subsidy payments that Defendants failed to remit.

3. Plaintiff's Motion to Determine Amount of Attorney's Fees is **GRANTED** to the extent that Defendants must pay Plaintiff's attorney Michael Pileggi, Esquire \$6,706.00 in attorney's fees.

BY THE COURT:

JAMES MCGIRR KELLY, J.