

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

Donna Norton,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 05-36-P-S
)	
Lakeside Family Practice, P.A.)	
)	
Defendant.)	

ORDER ON PLAINTIFF’S APPLICATION FOR ATTORNEY’S FEES

Presently before the Court is Plaintiff’s Application for Attorney’s Fees (Docket # 16). As detailed below, the Court GRANTS this Motion and awards Plaintiffs attorney’s fees in the amount of \$14,000.00.

I. BACKGROUND

The facts and procedural history of this case are detailed in the Court’s Findings of Fact and Conclusions of Law (Docket #18). In short, Plaintiff prevailed in this case as a result of Defendant’s default. Although Plaintiff initially sought damages totaling \$85,000, the Court ultimately awarded \$15,000 in damages after reviewing the testimony presented at the damages hearing. As the prevailing party, Norton is also entitled to recover a reasonable attorney’s fee. See 29 U.S.C. § 794a(b) & 5 M.R.S.A. § 4614. Thus, the Court must now determine the amount of fees Plaintiff may reasonably recover as the prevailing party in this action.

II. STANDARD FOR AWARDING ATTORNEY'S FEES

Under the relevant federal and state law,¹ the reasonableness of a fee is determined according to the “lodestar” method. Coutin v. Young & Rubicam P.R., 124 F.3d 331, 337 (1st Cir. 1997). Under the lodestar approach, a reasonable fee is calculated by multiplying the number of hours reasonably expended on the litigation by a reasonable hourly rate. Hensley v. Eckerhart, 461 U.S. 424, 433 (1983).

A court may adjust the lodestar calculation on the basis of twelve factors: (1) the time and labor required; (2) the novelty and difficulty of the question; (3) the skill required to perform the legal services properly; (4) the preclusion of other employment due to the case; (5) the customary fee; (6) the nature of the fee (fixed or contingent); (7) the time limitations imposed by the client or the circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation and ability of the attorneys; (10) the undesirability of the case; (11) the nature and length of the professional relationship with the client; and (12) the size of awards in similar cases. Coutin, 124 F.3d at 337 n.3. A court can also fine-tune the lodestar figure by segregating time spent on unsuccessful claims, eliminating excessive or unproductive hours or assigning more realistic rates to time expended. See id. at 337.

In determining a reasonable hourly rate, courts examine, “the prevailing market rates in the relevant community, regardless of whether plaintiff is represented by private or nonprofit counsel.” Blum v. Stenson, 465 U.S. 886, 895 (1984). Prevailing market rates are those

¹ Generally, the Maine Law Court has held that “because the MHRA generally tracks federal anti-discrimination statutes, it is appropriate to look to federal precedent for guidance in interpreting the MHRA.” Winston v. Maine Technical College Sys., 631 A.2d 70, 74 -75 (Me. 1993); see also French v. Bath Iron Works Corp., No. 98-cv-19-P-C, 1999 WL 1995216, *3 (D. Me. Nov. 29, 1999) (utilizing federal law to determine the reasonableness of an attorney’s fee request under the MHRA).

“prevailing in the community for similar services by lawyers of reasonably comparable skill, experience and reputation.” Id. at 895 n.11. Attorneys may provide evidence of prevailing market rates, such as submitting affidavits, or the Court may rely on its own knowledge of the local legal market. Andrade v. Jamestown Hous. Auth., 82 F.3d 1179, 1190 (1st Cir. 1996).

III. DISCUSSION

Plaintiff’s Motion seeks a total of \$16,400.00 in attorney’s fees, reflecting a combined total of 80 hours of work and a billing rate of \$205.00 an hour. For the reasons explained below, the Court ultimately awards \$14,000.00.

With respect to the number of hours billed, Attorney Gause represents that he arrived at 80 hours after excluding time and costs that “may have been excessive, redundant, or otherwise unnecessary.” (Aff. of John Gause (Docket # 17) at ¶ 6.) The Court appreciates Attorney Gause’s efforts and upon review of the submitted Billing Statement concludes that the 80 claimed hours were all reasonably expended.

Attorney Gause, who has been practicing law in Maine for approximately ten years, asserts that a reasonable hourly rate for his work in this matter is \$205.00. He supports this claim with affidavits from two other members of the Maine bar, Attorney Grief and Attorney Webbert, both of whom represent that an hourly rate of \$205.00 is “well within the prevailing market for legal work of comparable attorneys in the areas of employment and civil rights litigation in Maine.” In his affidavit, Attorney Grief, who has been practicing since 1982, also represents that his customary hourly rate is \$225.00 an hour.² For his part, Attorney Webbert,

² See Mason v. Maine Dep’t of Corrections, No. 1:03-cv-00199-MJK, Affidavit of Arthur Grief, dated June 24, 2005 (Docket # 91).

who has been practicing since 1986, represents that his customary hourly rate is \$260.00.³ Having considered these representations, as well as the Court's own knowledge of the local legal market, the Court believes that a reasonable hourly rate for Attorney Gause's work is \$175.00. In the Court's experience, this lower rate also falls within the prevailing market rates for the legal work of comparable attorneys.

Utilizing this lower hourly rate yields a lodestar calculation of \$14,000.00. The Court believes that this represents a reasonable fee without any additional fine-tuning. The Court notes that in reaching the decision to award this slightly lower fee the Court has considered that this case, which involved a defaulted defendant, was not exceptionally difficult either procedurally, legally or factually. In addition, the Court has considered the results obtained, namely a \$15,000 damages award.

IV. CONCLUSION

For the foregoing reasons, the Court GRANTS Plaintiff's Application for Attorney's Fees (Docket # 16) and hereby awards Plaintiff's counsel \$14,000.00 in attorney's fees.

SO ORDERED.

/s/ George Z. Singal
Chief United States District Judge

Dated this 31st day of August 2005.

DONNA NORTON

represented by **JOHN P. GAUSE**
DISABILITY RIGHTS CENTER
24 STONE STREET
P.O. BOX 2007
AUGUSTA, ME 04338-2007
(207) 626-2774

³ See Mason v. Maine Dep't of Corrections, No. 1:03-cv-00199-MJK, Affidavit of David Webbert, dated June 24, 2005 (Docket # 90).

**LAKESIDE FAMILY PRACTICE
PA**

represented by **JEAN T. NICHOLS**
BONNEAU & GEISMAR, LLC
100 LISBON STREET
PO BOX 7230
LEWISTON, ME 04243-7230
207-777-5200