

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

NATASHA WELLS :
 :
 :
v. : CIV. NO. 3:10CV2000 (HBF)
 :
YALE UNIVERSITY :
BRIAN DONNELLY :

RULING ON MOTION FOR ATTORNEY'S FEES AND COSTS [#74]

In a ruling and order filed on October 8, 2013, pursuant to Rule 37 of the Federal Rules of Civil Procedure, the defendants were awarded a variety of sanctions against plaintiff for her failure to comply with the obligations to produce discovery.¹ The sanctions included "[r]easonable Attorney's Fees and Costs incurred in the filing of the Motions for Sanctions and Motions in Limine [doc. ##53, 58, 60, 67]," and to continue plaintiff's deposition. [Doc. #73 at 9-10]. The issue before the court is the amount of reasonable fees and costs to be awarded.

"Determining a 'reasonable attorney's fee is a matter that is committed to the sound discretion of a trial judge"

Perdue v. Kenny A., 559 U.S. 542, 558, 130 S. Ct. 1662, 1676

¹The Court granted defendants' Motion for Sanctions re: Dr. DiMapa [doc. #53]; Motion in Limine Re: Gina Magnetti, LCSW [doc. #58]; Motion in Limine re: Dr. Young and any expert testimony [doc. #60]; and the Motion for Sanctions Re: Dr. Young as to attorney's fees and costs. [Doc. #67].

(2010). The “presumptively reasonable fee” for an attorney's work is what a reasonable client would be willing to pay for that work. Arbor Hill Concerned Citizens Neighborhood Ass'n v. Cnty. of Albany and Albany Cnty. Bd. of Elections, 522 F.3d 182, 190 (2d Cir. 2008).

Hourly Rate

Defendants seek an hourly rate of \$300 per hour for Attorney Kevin Shea and \$200 per hour for Attorney Elizabeth McKenna. [Doc. #75, Shea Aff. ¶4]. Plaintiff does not challenge the hourly rates for Attorneys Shea and McKenna. [Doc. #82 at 3]. The Court finds that the hourly rates sought are reasonable.

Reasonable Attorney's Fees

Defendants seek \$15,905 in attorney's fees incurred in connection with the filing of the Motions for Sanctions and Motions in Limine, as well as to prepare for and complete plaintiff's continued deposition. In support of the motion, defendants appended the affidavit of Attorney Kevin Shea [doc. #75], and redacted entries from the firm's billing records. [Doc. #75, Ex. A]. Defendants reduced or “pro-rated” the total fees sought to “reflect a discount for combined entries that included services not within the scope of this motion.” [Shea Aff. ¶5]. Defendants' attorneys spent a total bill of 98.65 hours for a

total of \$24,535. Defendants have discounted the fee sought by approximately forty (40) percent or \$9,822.50.² Because defendants did not provide a formula for discounting their fee, the Court has considered each time entry and all of plaintiff's challenges to determine a reasonable award.

Preparation of Motions in Limine and Motions for Sanctions

Defendants seek a total of 75.05 hours for drafting the motions in limine and motions for sanctions and attending oral argument, for a total of \$18,315.

<u>Attorney</u>	<u>Hours</u>	<u>Rate</u>	
Kevin Shea	33.05	\$300	\$ 9,915
Elizabeth McKenna	42	\$200	<u>\$ 8,400</u>
TOTAL FEES SOUGHT			\$18,315

Plaintiff asks the Court to exclude unreasonable, excessive and duplicative time entries and impose an across the board reduction of vague billing entries described by defense counsel

²The billing records show that before a discount of \$9,822.50, the attorney's fees totaled \$24,535, of which 50.9 hours were billed by Attorney McKenna at an hourly rate of \$200 totaling \$10,180, and 47.85 hours billed by Attorney Shea at an hourly rate of \$300 totaling \$14,355. See Doc. #75, Ex. A. Exhibit A is the redacted billing records provided in support of attorneys' fees.

as "attending" to certain matters.³ Upon careful review, the Court reduces the total hours sought by forty (40) percent for an award of \$10,990 for preparation of the motions in limine and motions for sanctions.

Plaintiff's Continued Deposition

Defendants seek a total of 20.2 hours to prepare for and attend the continued deposition of plaintiff on October 18, 2013, for a total of \$5,170.

<u>Attorney</u>	<u>Hours</u>	<u>Rate</u>	
Kevin Shea	11.3	\$300	\$ 3,390
Elizabeth McKenna	8.9	\$200	<u>\$ 1,780</u>
TOTAL FEES SOUGHT			\$ 5,170

Plaintiff vigorously challenges the 20.2 hours sought to prepare for and take a continued deposition that was approximately ninety (90) minutes in length and produced a transcript of approximately seventy (70) pages of testimony.⁴

³Plaintiff also raises specific challenges to time entries in the 9/3/13, 10/3/13, and 11/1/13 billing records, which were carefully considered by the Court. See Doc. #82 at ¶¶1-7.

⁴Attorney McKenna seeks a total of 8.9 hours to prepare for the continued deposition. See 9/25/13 entry for 3.4 hours and 9/27/13 entry for 5.5 hours. Attorney Shea seeks a total of 11.3 hours to prepare for and attend the continued deposition. See 10/10/13 entry for 1.0 hours; 10/14/13 entry for 1.3 hours; 10/14/13 entry for 1.8 hours; 10/17/13 entry for 2.10 hours; and 10/18/13 entry for 5.10 hours.

[Doc. #82 at 3]. Upon careful review, the Court reduces the total hours sought by fifty (50) percent for an award of \$2,585 to prepare for and attend plaintiff's continued deposition on October 18, 2013.

Preparation of the Motion for Attorney's Fees and Costs

Defendants seek, and are awarded, the reasonable sum of \$1,050 for 3.5 hours of work performed by Attorney Shea to prepare this fee application. Plaintiff does not dispute these hours.

Costs

Defendants seek, and are awarded, the reasonable sum of \$452.57, to hire a court reporter to complete plaintiff's deposition on October 18, 2013. [Doc. #75, Ex. B]. Plaintiff does not dispute the request for costs.

CONCLUSION

Defendants' Motion for Reasonable Attorney's Fees and Costs [Doc. #74] is **GRANTED** in accordance with this ruling.⁵ Attorney's

⁵This is not a Recommended Ruling. The parties consented to proceed before a United States Magistrate Judge [doc. #48] on April 25, 2013 with appeal to the Court of Appeals. Fed. R. Civ. P. 73(b)-(c).

fees are awarded in the amount of \$14,625. Costs are awarded in the amount of \$452.57.

A trial will be scheduled after a ruling on defendants' Motion to Preclude plaintiff from introducing any evidence or offering any testimony, expert or otherwise, concerning her treatment with Dr. David Young. [Doc. #80]. Plaintiff's response is due December 6, 2013.

SO ORDERED at Bridgeport this 26th day of November 2013.

_____/s/_____
HOLLY B. FITZSIMMONS
UNITED STATES MAGISTRATE JUDGE