

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2021-001280

08/02/2021

HONORABLE DANIELLE J. VIOLA

CLERK OF THE COURT
K. Cabral
Deputy

BROVITZ GROUP INC, THE, et al.

CHARLES E MARKLE

v.

KASEY THOMPSON

JOSHUA M SNELL

JONES SKELTON & HOCHULI P L C
40 N CENTRAL AVE STE 2700
PHOENIX AZ 85004
BANK OF AMERICA N A
ATTN CUSTOMER SERVICE
800 SAMOSET DR
NEWARK DE 19713
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PO BOX 29779
PHOENIX AZ 85038-9779
JUDGE VIOLA

ORDER RE ATTORNEYS' FEES AND COSTS

The Court has reviewed and considered Plaintiffs' Application for Attorneys' Fees and Costs filed June 4, 2021, the Response, and Reply.

The Court will address the substance of the ruling below. Before doing so, the Court strongly encourages counsel to evaluate their presentations to this Court and to each other and to consider the expectation of professionalism when working with each other as officers of the Court and when submitting written information to the Court. Throughout this litigation, the Court has

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reviewed and heard personal attacks and unsubstantiated allegations related to certain motives or conduct. This type of rhetoric is not persuasive and instead reflects poorly on all involved.

Defendants do not dispute that Plaintiffs are entitled to attorneys' fees or costs but instead object to the requested fee award as unreasonable for four reasons: 1) block billing; 2) double billing; 3) billing for paralegal tasks and staff communication; and 4) billing for legal research that based on their expertise, and hourly rate should be unnecessary.

As a result, the Court considers the reasonableness of the fee request. In determining the reasonableness of a request for fees, the following factors are relevant:

1. The qualities of the advocate: his/her ability, training, education, experience, professional standing and skill;
2. The character of the work to be performed: its intricacy, importance, etc.;
3. The work actually performed: the skill, time and attention given to the work;
4. The result;
5. The billing rate: the court need not determine the reasonable hourly rate prevailing in the community for similar work; rather, the rate charged is the best indication of reasonableness in the particular case; however, if the opposing side sets forth reasons for objecting to the hourly rate, the court has the discretion to utilize a lower rate; and
6. The number of hours expended: generally, the successful party is entitled to a reasonable fee for items of service which, at the time rendered, would have been undertaken by a reasonable and prudent lawyer to advance his/her client's interests.

Schweiger v. China Doll Restaurant, 138 Ariz. 183, 187-88, 673 P.2d 927, 932 (App. 1983); *Schwartz v. Schwerin*, 85 Ariz. 242, 336 P.2d 144 (1959)).

Here, the Court concludes the fee request is supported by the quality of counsel, the nature and extent of the work performed, the result, and the hours worked. *See Decl. of Louis Lopez*. The work was not particularly complex, however, the work performed resulted in a judgment in favor of Defendants on the claims asserted against Defendants. The Defendants did not challenge the billing rate and Mr. Lopez' declaration confirms that the clients agreed to pay the rates charged which are consistent with the rates regularly charged by the firm. As to the block billing, the Court agrees that individual time entries are preferred but the billing in the case does not prevent the Court from evaluating the reasonableness of the fees or related time entries. Defendants have identified select entries that reference similar work performed by one or more individuals. The Court does not find the identified instances to be unreasonable given the circumstances of this case which required coordination between the lawyers, staff, the sheriff's office, and third parties, such as locksmiths. The Court does not conclude the time entries reflect double billing or excessive

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billing for legal research. Given the nature of the case, Plaintiffs engaged in a significant amount of work very early in the case.

IT IS ORDERED granting Plaintiffs' Application for Attorneys' Fees and Costs filed June 4, 2021 and awarding fees in the amount of \$59,182.50 and taxable costs in the amount of \$7,194.45. A separate judgment shall issue.

The Court has reviewed docket and did not locate a Notice of Lodging Form of Judgment. Plaintiffs shall lodge a form of judgment no later than **August 9, 2020**.