

**IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR COLLIER COUNTY, FLORIDA
CIVIL ACTION**

JULIANNA TRIKA,

Plaintiff,

Case No.: 11-2022-CA-000456-0001-XX

v.

**POOCHES OF NAPLES, INC. &
PET RETAILERS, INC.,**

Defendants.

FINAL JUDGMENT FOR ATTORNEY'S FEES

THIS CAUSE came before the Court on April 2, 2024 upon the Defendants' Motion to Determine Attorney's Fees, and the Court having reviewed the motion and record, heard arguments of counsel, and the Court having entered an Order on November 25, 2023, granting Defendants' Motion for Attorney's Fees on Plaintiff's claim under the Florida Civil Rights Act, § 7601.01 *et seq. Fla. Stat.* and otherwise being advised in the premises, it is hereupon ordered and adjudged as follows:

This Court also considered all of the factors and guidelines set forth in Florida Patient's Compensation Fund v. Rowe, 472 So.2d 1145 (Fla. 1985), as modified by Standard Guaranty v. Quanstrom, 555 So.2d 828 (Fla. 1990), and Rule 4-1.5 (B) of the Florida Bar Rules of Professional Conduct including:

- a. The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- b. The likelihood that the acceptance of the particular employment will preclude other employment by the lawyer;

- c. The fee customarily charged in the locality for similar legal services;
 - d. The amount involved and the results obtained;
 - e. The time limitations imposed by the client or by the circumstances;
 - f. The nature and length of the professional relationship with the client;
 - g. The experience, reputation, and ability of the lawyer or lawyers performing the services;
- and
- h. Whether the fee is fixed or contingent.

Defendants assert that 280.7 hours was devoted to this case for a total of \$110,665.60.¹ Defendants reduced this claimed amount by 10% across the board “in an abundance of caution” for a revised total of \$99,599. (Sarelson Declaration at ¶ 17).

Further, at the hearing on April 2, 2024 the parties agreed to exclude Defendants’ billing entry numbers 5, 7, 8, 9, 10, 12, 14, 18, and 24.² Defendants further agreed that entry numbers 54, 59 and 79 should be reduced by 50%. The Court reduced various entries by 50%, including entry numbers 75, 79, 80, 125, 132, 139, 140, 169, 174 and 177, and reduced entry number 109 from 1.5 hrs. to 1hr. and entry number. 178 from .3 hrs. to .1 hr.

A. Reasonable Hourly Rate.

The party who seeks the fees carries the burden of establishing the “market rate,” i.e., the rate charged in that community by lawyers of reasonably comparable skill, experience and reputation, for similar services. *Florida Patient’s Comp. Fund* at 1151. Evidence of hourly rates may be adduced through direct evidence of charges by lawyers under similar circumstances or by

¹ The Declaration of Matthew Sarelson dated March 29, 2024 asserts total attorney’s fees in the amount of \$120,665. However, at the hearing on April 2, 2024, Mr. Sarelson asserted that the correct amount is \$110,665.

² At the hearing on April 2, 2024, Plaintiff’s counsel submitted Defendants’ redacted billing records produced to Plaintiff on January 15, 2024 on which Plaintiff numbered the billing entries beginning with No. 1 for December 5, 2022 and ending with No. 184 for January 4, 2024. Defendants filed a Verified Motion to Determine Fees on March 29, 2024 [D.E. 269], which incorporated the same billing records, but eliminated multiple billing entries that were included on the January 4, 2024 billing production to Plaintiff, entry nos. 5, 58, 60, 61, 87, 88, 178, 179 and 180.

opinion evidence presented at the fee hearing. When setting an appropriate hourly rate, the court should consider rates customarily charged in the community. *Smith v. School Bd. of Palm Beach County*, 981 So. 2d (Fla. 4th DCA 2009).

Mr. Sarelson asserts that his regular hourly rate is \$850.00 per hour, but that he has discounted this rate to \$600.00 per hour for Defendants. (Sarelson Declaration at ¶ 7). Defendants' attorney fee expert, Suzanne Boy, testified this was a reasonable hourly rate in this case. However, the trial court is not bound by the testimony of the expert as to the amount of a reasonable attorney's fee, even though there was no opposing expert. While the opinion of an expert witness testifying on attorney's fees is persuasive, it is not binding on the court in determination of a reasonable fee. *Dade County v. Oolite Roch Co.*, 311 So. 2d 699 (Fla. 3d DCA 1975.)

Both Mr. Sarelson and Ms. Boy testified that they were not aware of any court-ordered fee awards with a \$600.00 hourly rate in similar employment cases in the Twentieth Judicial Circuit. There is no other evidence that the reasonable hourly rate charged in this community for similar services as in this case is \$600.00. Ms. Boy, who is Florida Bar Board Certified in Labor and Employment Law, testified that her hourly rate is \$400.00. She has been a practicing attorney for 17 years, just 2 years less than Mr. Sarelson, who is not board certified in labor and employment law. Accordingly, the Court finds that a reasonable hourly rate for Mr. Sarelson in this case is \$400.00.

B. Block Billing.

Block billing is a disfavored practice calling for a reduction in fees. The practice of “lumping together multiple tasks into a single entry of time without separating the tasks into individual blocks or elaborating on the amount of time each task took.” *Chavez v Mercantil Commercebank, N.A.*, 2015 WL 136388 (S.D. Fla. Jan. 9, 2015). Block billing also impedes the analysis of whether there was unreasonable duplication of work by attorneys.

This practice makes it difficult, if not impossible to determine the reasonableness of the time spent on a particular task. *See Kearney v. Auto-Owners Ins. Co.*, 713 F. Supp. 2d 1369 (M.D. Fla. 2010). Most of Defendants' billing entries are block billing. On this basis, the Court therefore finds that Defendants' claimed attorney's fees must be reduced more than the 10% Mr. Sarelson initially included in his reduced request.

C. Duplicative Work.

As a general rule, duplicative time charged by multiple attorneys and staff working on the case is usually not compensable and should not be awarded. *N. Dade Church of God, Inc. v. JM Statewide, Inc.*, 851 So. 2d 194 (Fla. 3d DCA 2003). The court must consider the possibility of duplicate effort arising from multiple attorneys, and fees should be adjusted and hours reduced or eliminated to reflect duplications of services. *Brevard County v. Canaveral Prop., Inc.*, 696 So. 2d 1244 (Fla. 5th DCA 1997). Many of Defendants' billing entries reflect duplicative work done by another attorney, mostly by Mr. Roth. The Court reviewed all the time records introduced by the Defendants and finds that Defendants' claimed attorney's fees must be significantly reduced on this basis and has made those adjustments in its final calculations.

D. Administrative/Ministerial Work.

Excessive time spent on simple administrative or ministerial tasks such as reviewing documents or filing notices of appearance is non-compensable. *N. Dade Church of God*, 851 So. 2d at 196. Many of Defendants' billing entries reflect time billed for reviewing documents and other ministerial tasks. The Court therefore finds that Defendants' claimed attorney's fees must be reduced on this basis.

E. Expert Fees.

A trial court may tax, as costs, an expert witness fee for a lawyer who testifies as an expert as to reasonable fees. In this case Ms. Boy testified that she spent minimal time reviewing Defendants' file, and her testimony at the fee hearing was brief. On this basis the Court concludes that Defendants are entitled to an award of expert witness fee costs. She testified that her hourly fee is \$400.00 and the Defendant is requesting 5.1 hours which the Court awards for a total of \$2040.00.

Conclusion

1. The Court finds that a reasonable hourly rate for Mr. Sarelson is \$400.00 per hour and the reasonable number of hours he expended on this case is 88.7.
2. The Court finds that a reasonable hourly rate for Mr. Stoner is \$300.00 per hour and the reasonable number of hours he expended on this case is 4.6.
3. The Court finds that a reasonable hourly rate for Mr. Roth is \$300.00 per hour and the reasonable number of hours he expended on this case is 45.6.
4. Applying the hours by the reasonable hourly rates provides the following Lodestar amounts:

Matthew Sarelson $400 \times 88.7 = \$35,480.00$

Jacob Roth $300 \times 45.6 = \$13,680.00$

Zachary Stoner $300 \times 4.6 = \$1,380.00$
5. The Court finds that an award of reasonable attorney's fees to Defendants shall be in the amount of \$50,540.00.
6. The Court finds that Defendants are entitled to an award of expert witness costs in the amount of \$2040.00.

It is **ORDERED AND ADJUDGED** that the Defendants, Pooches of Naples, Inc. & Pet Retailers, Inc., recover from the Plaintiff, Julianna Trika, whose last known address is 5734 Mango Circle, Naples, FL 34110 and whose last four digits of Social Security are 5910 the sum of \$50,540.00 for attorney's fees and the sum of \$2040.00 for cost of the Defendants' expert attorney's fees making a total of \$52,580.00 that shall bear interest at 9.34 % per year for which let execution issue.

DONE and **ORDERED** in Naples, Florida this 16th day of May, 2024.



eSigned by Brodie, Lauren L in 11-2022-CA-000456-0001-XX 05/16/2024 11:41:39 QM74Y25C

Honorable Lauren L. Brodie
Circuit Court Judge

CC: All counsel of record via e-portal.