Minute Order Form (rev. 4/97)

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Marvin Aspen	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	66 C 1459	DATE	9/14/1998
CASE TITLE	Gautreaux vs. CHA		

MOTION: [In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

DOCKET ENTRY:

(1) ☐ Filed motion of [use listing in "Motion" box above.]

(2) ☐ Brief in support of motion due ______.

(3) ☐ Answer brief to motion due______. Reply to answer brief due______.

(4) ☐ Ruling/Hearing on ______ set for ______ at ______.

(5) ☐ Status hearing[held/continued to] [set for/re-set for] on ______ set for ______ at ______.

(6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on ______ set for ______ at ______.

(7) ☐ Trial[set for/re-set for] on ______ at ______.

(8) ☐ [Bench/Jury trial] [Hearing] held/continued to ______ at ______.

(9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] ☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).

(10) ■ [Other docket entry] Plaintiffs' motion for attorneys fees pursuant to 42 USC 1988 (0-1) is granted in part and denied in part, and the CHA is ordered to pay the plaintiffs' attorneys $1,158,345.30 within one month of this decision whether or not it is appealed.

(11) ■ [For further detail see order on the reverse side of the original minute order.]

	No notices required, advised in open court.		number of notices	Document Number
	No notices required.			
	Notices mailed by judge's staff.		date docketed	
✓	Notified counsel by telephone.			
	Docketing to mail notices.		docketing deputy initials	
	Mail AO 450 form.			
	Copy to judge/magistrate judge.		date mailed notice	
GL	courtroom deputy's initials	Date/time received in central Clerk's Office	mailing deputy initials	

FILED ... SEP 14 ...

(Reserved for use by the Court)

ORDER

Now before us is the plaintiffs' motion for attorneys fees pursuant to 42 U.S.C. § 1988 for the period of Jan. 3, 1984, to Aug. 8, 1997. In a joint statement prepared after considerable discussions between the parties, the plaintiffs reported a lodestar calculation of $1,158,345.83 and asked for a 10% "exceptional success" multiplier, for a total of $1,274,179.83. The CHA objects to $97,230.00 attributable to time spent by the plaintiffs' attorneys monitoring the private managers of the scattered-site program, and to the use of a multiplier, instead arguing that we should discount the fees by 10%. Thus, the CHA's position is that we should award no more than $955,003.77.

Neither of the CHA's proposed reductions have merit. The turnover of the scattered-site program was pursuant to an agreement between the CHA and the plaintiffs, and the terms of that agreement state that the plaintiffs agreed to give the CHA $9.5 million in funding from HUD so that the CHA could repair certain units and then turn management of those units over to private managers. This makes clear that the turnover was a joint project between the parties, regardless of whether or not, as the CHA claims, it would have privatized management of those units without the agreement and the $9.5 million. It is true, as the CHA argues, that the judgment order in this case does not require privatization, but the plaintiffs argue (without a direct response from the CHA) that the privatization helped promote community acceptance of the scattered site units, which aided the Receiver and the goal of desegregation itself. We agree, and we see no reason to penalize the plaintiffs' attorneys for the time they spent ensuring that the *Gautreaux* program would be a success.

The basis for the CHA's proposed 10% fee reduction is "its carefully considered estimate of additional non-compensable hours which are likely to have been incorrectly included in Plaintiffs' petition, but which are unknowable because of the vagueness of entries and the exceptionally large amount of time covered by the petition." CHA Br. at 7. We cannot approve a reduction on this basis. This is not a case where the CHA has sampled the fee record, found errors, and extrapolated those results, as in *Evans v. City of Evanston*, 941 F.2d 473, 476-77 (7th Cir. 1991), cited by the CHA. The CHA offers no reason for the reduction except its bare conclusion that there *must* be non-compensable time reported in the plaintiffs' attorneys' fee report; describing this stab-in-the-dark guesstimate as "carefully considered," moreover, adds nothing to it.

We must also deny the plaintiffs' request for an "exceptional success" multiplier. It is not clear what justifies such a multiplier – or if one is available at all, *see In re Burlington Northern, Inc. Emp. Practices Litig.*, 810 F.2d 601, 607-08 (7th Cir. 1986) – but we do know what does not justify one: "[t]he novelty and complexity of the issues," "the experience and special skill of the attorney," "the 'results obtained,'" or "the number of persons benefitted." *Blum v. Stenson*, 465 U.S. 886, 898-900 & n.16 (1984). It was the plaintiffs' burden to prove that without an enhancement the fee would be unreasonable, *see id.* at 898, and the only reasons they gave in support of the enhancement fall into the off-limits *Blum* categories listed above, a deficiency which is reinforced by the Supreme Court's later decision in *Pennsylvania v. Delaware Valley Citizens' Council for Clean Air*, 478 U.S. 546 (1986).

Neither of the two main cases relied on by the plaintiffs are persuasive. One, *Liberles v. Daniel*, 619 F. Supp. 1016 (N.D. Ill. 1985), was decided prior to *Delaware Valley*. The other, *Shakman v. Democratic Org. of Cook County*, 677 F. Supp. 933 (N.D. Ill. 1987), is distinguishable because the court there ultimately relied on a comparison of the lodestar fee in that case to fees awarded in cases with similar economic benefits, and the plaintiffs have not shown us any evidence or reported decisions concerning cases similar to this one in which a higher fee was awarded. We thus have no reason to think that the lodestar calculation yielded an unreasonably low fee.

Plaintiffs' motion is granted in part and denied in part, and the CHA is ordered to pay the plaintiffs' attorneys $1,158,345.30 within one month of this decision whether or not it is appealed. It is so ordered.