1986 WL 9762
Only the Westlaw citation is currently available.

United States District Court, N.D. Illinois, Eastern Division.

ALLIANCE TO END REPRESSION, et al.,
v.
CITY OF CHICAGO, Defendant.

No. 74 C 3268. | Sept. 4, 1986.

Opinion

MEMORANDUM OPINION AND ORDER

SUSAN GETZENDANNER, District Judge:

***1** This civil rights action is before the court on the motion of plaintiffs for attorney's fees. Four separate petitions have been consolidated in this motion: a petition for 701.25 hours obtaining $357,500 in damages and a constitutional ruling on December 30, 1985; a petition for 28.75 hours monitoring the earlier judgment order; a petition for 76.75 hours in serial 17 file litigation; and a petition for 43.25 hours plus expenses of $740 in negotiating and litigating the above three petitions. Defendant City of Chicago objects to the requested hourly rate, to the number of hours on all but the serial 17 and monitoring litigation, and to the plaintiffs' request for a multiplier.

The starting point for attorneys' fees in a civil rights case like the present is to compensate the attorneys for all time reasonably expended in a matter based on the prevailing market rates in the relevant community. *Blum v. Stenson,* 465 U.S. 886, 892–94 (1984). The requested hourly rate is $165 per hour; defendant instead insists that $150 per hour is an appropriate rate. The evidence put forth by petitioner to justify a $165 per hour rate is 1) a national survey showing that the average rate for partners in antitrust firms is $159 three years ago; and 2) that petitioner's own market rate was held to be $150 per hour back in August 1984. Petitioner therefore argues that his rate should now be increased to $165 to adjust for inflation.

Petitioner's former argument, while not without merit, loses sight of the fact that partners billing at $159 per hour work on cases along with associates who bill at considerably lower rates with the result that the net fee per hour billed to the client is substantially less than the amount per hour billed by the partner. In this case, plaintiffs' attorney worked singlehandedly on the suit, and therefore is recovering a high hourly rate for work much of which could have been done at a lower rate. Since the rate is intended to simulate the results lawyers obtain with paying clients, *Henry v. Webermeier,* 738 F.2d 188, 195 (7th Cir.1984), $165 per hour is too high. The court notes further that $150 per hour is still on the high end of what attorneys in civil rights cases ask in this district. Thus, although plaintiffs' attorney has been receiving this fee for some time, the court finds $150 per hour to be an appropriate hourly rate.

The second issue is the number of hours. Defendant City does not object to the petition seeking 76.75 hours for the serial 17 file litigation or the petition seeking 28.75 hours for judgment order implementation. Defendant does contend, however, that the request for 701.25 hours should be limited to the 144.37 hours which were expended by the ACLU attorneys in achieving substantially similar monetary settlements for their clients in 1984, and that only 10 hours should be compensated for the number of hours spent negotiating fees. Defendant makes no objections to specific expenditures of time as unreasonable.

***2** In this case, the monetary levels for the settlement were set more or less in 1984. Defendant was unwilling to settle the cases on an individual by individual basis, and several plaintiffs were unwilling to accept a settlement which did not include a ruling on the constitutional issue. The desire for a ruling was not sparked by vexatiousness, but by the concern that absent an affirmative ruling, individual police officers would successfully claim immunity in spying cases and such unconstitutional conduct would go undeterred. Eventually the parties agreed to a procedure whereby stipulated facts would be presented to the court as on a motion for summary judgment, and the plaintiffs obtained a favorable ruling as to three of the five defendants who remained in the case at that time.

The case is therefore distinguishable from the *Spanish Action* case, where I found the plaintiffs' insistence on trial unreasonable due to the defendants' willingness to settle. In that case, the chief factor motivating trial—recovery of punitive damages—was an issue on which plaintiff didn't prevail. Here, the plaintiffs did obtain the desired ruling. Under these circumstances, the court finds that plaintiffs' attorney Richard Gutman should receive compensation for the full 701.25 hours spent in the primary case, and the 42.25 hours collectively spent preparing the three fee petitions. This time was expended over four years on behalf of 26 plaintiffs in a case of considerable complexity.

The court denies the request for a multiplier, however. The Supreme Court has indicated that multipliers are to be awarded only under exceptional circumstances. Plaintiffs claim such circumstances here due to the historic nature of this litigation, and the significance of the constitutional ruling. The court agrees that its ruling broke some new ground, and adopted a liberal reading of previous case law as urged by plaintiffs, but the briefs filed in support of the ruling did not make any representations that the question was truly novel or of first impression. Had the court felt it was departing from previous case law, it would not have ruled as it did. The court also finds that the historic significance of this litigation results chiefly from the injunctive relief obtained many years ago for which plaintiffs' counsel has already been compensated.

In denying this request, the court is aware that plaintiffs' counsel has foregone other income to pursue this action, but also notes that the overall fee even without a multiplier remains high in relation to what a paying client would have been required to pay, due to the lack of lower level people assisting and the unusually high number of hours spent on many tasks. While the number of hours is not so high that particular disallowances are called for, the number is too high to justify further amplification.

In conclusion, the court grants plaintiffs' petitions for fees in the following amounts: $11,512.50 for work on the serial 17 file litigation; $4,312.50 for judgment order implementation; $6,337.50 for work on the fee petitions; and $105,187.50 for work on the case-in-chief.

***3** It is so ordered.