

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

ROBERT MARTIN and KRISTIN
ARMSTRONG, individually and on behalf
Of all others similarly situated,

Plaintiffs,

v.

Case No: 6:14-cv-1290-ORL-31-KRS

GLOBAL MARKETING RESEARCH
SERVICES, INC., a Florida corporation,

Defendant.

_____ /

My name is Scott Ward Dutton, and I have been retained as an attorneys' fee expert by the Defendant, Global Marketing Research Services, Inc., a Florida Corporation ("GMRS" or "Global"). I have been requested to prepare opinions in this matter regarding attorneys' fees for Plaintiff's counsel, Stefan L. Coleman ("SC"), Steven L. Woodrow ("SW"), and Patrick H. Pelsuo ("PP") along with two other timekeepers whose initials appear on the timesheets as "RG" and "TS."

In order to develop my opinions, I reviewed the Plaintiff's Motion for Fees and timesheets, parts of the defense attorneys' file and the docket, filings by Plaintiffs and their "expert" and I also researched the bar websites, Westlaw, Lawyers.com, and the website of Plaintiffs' counsel. I have also researched, specifically, fee awards in Telephone Consumer Protection Act ("TCPA") cases. This is the type of information and materials typically relied upon in my field of expertise.

It should be noted that the timesheets of Plaintiff's counsel were not initially provided, and when they were provided they were attended by a request for confidentiality and non-disclosure. Normally I would have attached the excel timesheet with my reductions as an exhibit to my expert affidavit. Be that as it may, after reviewing the timesheets of the Plaintiffs' counsel I prepared reductions which may require some explanation.

In my preparation of reductions, I considered the factors set forth in Johnson v. Georgia Highway Exp., Inc., 488 F.2d 714, 717-19 (5th Cir. 1974) as follows:

- (1) *The time and labor required.*
- (2) *The novelty and difficulty of the questions.*
- (3) *The skill requisite to perform the legal service properly.*
- (4) *The preclusion of other employment by the attorney due to acceptance of the case.*
- (5) *The customary fee.*
- (6) *Whether the fee is fixed or contingent.*

- (7) *Time limitations imposed by the client or the circumstances.*
- (8) *The amount involved and the results obtained.*
- (9) *The experience, reputation, and ability of the attorneys.*
- (10) *The "undesirability" of the case.*
- (11) *The nature and length of the professional relationship with the client.* (12) *Awards in similar cases.*

By way of explanation, the timesheets reflect the timekeepers as:

- "SC" Stefan L. Coleman
- "SW" Steven L. Woodrow
- "PP" Patrick H. Pelsuo
- "RG"
- "TS"

The timesheets are also color coded by case and timekeeper as follows:

Thompson – yellow for Woodrow & Peluso firm

Zilveti – green for Woodrow & Peluso firm

Walsh/Martin/Armstrong/Thompson/Zilveti – orange for Coleman firm

Walsh/Martin/Armstrong – Woodrow & Peluso - blue

There are also certain "abbreviations" for the reductions found through the spreadsheet. They are as follows:

- ("xc"), excessive
- ("duplication"), duplicate tasks already performed or tasks already billed by another timekeeper or duplicative are
- ("fault") time billed was due to the fault or delay by the attorney or their client,
- ("fees") time billed was associated with litigating the amount of fees, not entitlement,
- ("interoffice") time billed for interoffice conferences between attorneys,
- ("ministerial") ministerial in nature such that they could have or should have been performed by ministerial or clerical staff,
- ("paralegal") work that could have or should have been performed by a legal assistant or paralegal,
- ("necessity") the task performed was either unnecessary or unnecessary at that juncture in the litigation,
- ("premature") the task was not necessary to be performed at that juncture in the litigation,
- ("scheduling") scheduling task that requires no legal skill,
- ("travel") time billed for travel time,
- ("vague") task performed is vaguely described so that the reader cannot determine was actually performed.

I also used "*" or "?" when there was a lack of clarity in the billing for various reasons. That does not mean the time is not necessarily uncollectable or "billable," but rather I was unable to validate the time either factually or "legally" for various reasons.

Lastly, the excel spreadsheet has a column for time billed and time allowed. My opinions are that the time allowed for each of the timekeepers is as follows:

PP – 83.35

RG- 13.2 (may be paralegal)

SC – 168.8

SW – 372.2

TS – 0 (may be a law clerk)