

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 76-6086-CIV-HOEVELER

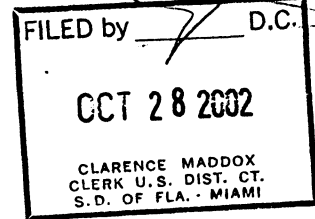
OLLIE CARRUTHERS, et.al.,

Plaintiffs,

v.

KEN JENNE, et.al.,

Defendants.



ORDER ON ATTORNEY'S FEES

THIS CAUSE comes before the Court upon the Plaintiffs' Motion For Payment of Attorney's Fees And Request For Expedited Procedure, filed February 15, 2002. A Hearing was held on February 27, 2002, during which the Court heard the parties' arguments concerning the effect of the Prison Litigation Reform Act on Plaintiffs' right to attorney's fees. The Court subsequently held in an Order dated June 24, 2002 that the Plaintiffs are entitled to continued attorney and monitoring fees, subject to the reasonableness requirements of the PLRA. See Order at 12. The Court directed the Special Master, Professor Howard Messing, to prepare a Report & Recommendation regarding what fees are reasonable, in light of the Order and the relevant PLRA limitations. Id.

On August 25, 2002, the Special Master delivered to the Court a Report & Recommendation ("Report"), which is hereby deemed filed as of the date of this Order. The Report makes recommendations to the Court with respect to the two components of the calculation of fees: the hourly rate and claimed number of hours. These recommendations are consistent with statutory authority governing attorney's fees for counsel enforcing relief

ordered for violations of prisoners' civil rights.

Mr. Cloney's hourly rate is governed by the PLRA, 42 U.S.C. § 1997e; 42 U.S.C. § 1988; and 18 U.S.C. § 3006A. Pursuant to 42 U.S.C. § 1988, the Court has discretion to award a reasonable attorney's fee to the prevailing party. See 42 U.S.C. § 1988(b). Attorney's fees otherwise authorized under Section 1988 are restricted, however, by the PLRA. Under the PLRA, in suits by prisoners, attorney's fees directly and reasonably incurred in enforcing court-ordered relief may be awarded, at an hourly rate of no more than "150 percent of the hourly rate established under section 3006A of Title 18." 42 U.S.C. § 1997e(d)(1)(B)(ii) and (d)(3).

Section 3006A directs the Judicial Conference to set the maximum hourly rates for payment of court-appointed counsel. See 18 U.S.C. § 3006A(d)(1). The Judicial Conference has established \$113 per hour as the hourly rate for all districts for both in- and out-of-court work. See Report of the Proceedings of the Judicial Conference of the United States, September 19, 2000. See also Webb v. Ada, 285 F.3d 829 (9th Cir. 2002); Ilick v. Miller, 68 F.Supp 2d 1169 (D. Nev. 1999). The Special Master's Report recommends that Plaintiff's counsel Christopher Cloney be compensated at an hourly rate of \$169.50, or 150% of \$113.00. The Court therefore agrees with the Special Master's assessment of the appropriate hourly rate for compensation Mr. Cloney.

The Report also outlines a suggested procedure for determining the reasonableness of Mr. Cloney's bills:

I propose that this Honorable Court direct that Mr. Cloney submit his Fee Statements to the Defendants each month and that the Defendants review said statements within fifteen days. If the Defendants object to all or part of Mr. Cloney's submission and the parties can not agree after meeting with me, I will prepare an expedited Report and Recommendation on the reasonableness of such bill in accord with this Honorable Court's Order.

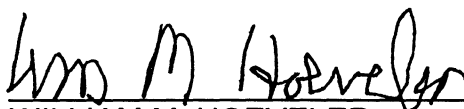
See Report at 2. The Court finds this a favorable solution, and adopts it accordingly. The Court also concurs with the Special Master's judgment that the compensation of Mr. Tiedeberg, Federal Court Liaison, be increased to \$100.00 an hour from the \$75.00 per hour he has received since July 1994.

Therefore having considered the motion and having been advised in the premises, it is ORDER AND ADJUDGED that:

1. The Special Master's Report and Recommendation is hereby adopted;
2. Accordingly, Mr. Cloney shall be compensated for his work at an hourly rate of \$169.50;
3. Mr. Cloney shall submit his Fee Statements to the Defendants each month;
4. Defendants shall review said statements within fifteen (15) days;
5. If the Defendants object to all or part of Mr. Cloney's submission and the parties can not agree after meeting with the Special Master, the Special Master shall prepare an expedited Report and Recommendation to the Court on the reasonableness of such bill, for the Court's ruling; and
6. Mr. Tiederberg's hourly rate is hereby increased to \$100.00 per hour.

The Court follows the Special Master in reserving judgment with respect to fees, if any, for other attorneys for the Plaintiff Class until after the Evidentiary Hearing on Defendant's Motion for Termination.

DONE AND ORDERED, in Chambers in Miami this th 25 day of October 2002.



WILLIAM M. HOEVELER
UNITED STATES DISTRICT COURT JUDGE