

STATE OF MAINE
KENNEBEC, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-21-131

HUMAN RIGHTS DEFENSE)
CENTER,)
)
Plaintiff,)
)
v.)
)
MAINE COUNTY COMMISSIONERS)
ASSOCIATION SELF-FUNDED RISK)
MANAGEMENT POOL,)
)
Defendant)

ORDER

Pursuant to M.R.Civ.P 54 and this Court’s December 1, 2022 Order, Plaintiff has moved for an award of \$140,327.63 in attorney fees and \$3,472.69 in costs and expenses. For the reasons, discussed below, Plaintiff’s motion is GRANTED, in part, with modifications as outlined below.

DISCUSSION

In this case, the court was called upon to resolve two related questions: whether Defendant, the Maine County Commissioners Association Self-Funded Risk Management Pool (“Risk Pool”) unlawfully withheld documents responsive to a Freedom of Access Act request made by Plaintiff Human Rights Defense Center; and, whether the refusal to produce these documents was made in bad faith.

In this court’s December 1, 2022, order, both of these questions were answered in the affirmative. This court was affirmed by the Law Court on August 22, 2023. Both this court and the Law Court concluded that the Risk Pool’s response constituted a bad-faith refusal. In addition, both this court and the Law Court acknowledged that this was the first application of the Freedom of Access Act attorney fee provision. The results in this case, therefore, served not only to clarify and enforce the law for the parties themselves

but also to provide guidance to all people in Maine who might hold, or might seek, public records.

After reviewing the submissions of the parties, cited cases, and recent federal cases from the District of Maine, the court finds the following hourly rates are reasonable, given the qualifications, skill, and experience of the attorneys:

Zachary L. Heiden: \$400

Carol Garvan: \$350

Anahita Sotoohi: \$220

Plaintiff seeks reimbursement for 317 hours of legal work, supported by detailed time records. The fact that this amount of time was required to resolve this matter is ridiculous. However, the blame for this rests squarely with the Defendant. Given the intransigence of the Defendant, and the public interest at stake, the number of hours expended was reasonable. The court also finds unpersuasive the quibbling advanced by the Defendant in opposition to the number of hours billed. In this court's view it is reasonable, considering the nature and tenure of this litigation, that the Plaintiff be reimbursed for the hours expended for the entire litigation and that more than one attorney may have participated in various aspects of this litigation.

Plaintiff seeks an additional and modest amount of \$3,472.69 in litigation costs and expenses. The court finds that this amount is a reasonable, and compensable, amount.

Finally, the Plaintiff seeks a 1.2 lodestar enhancement, based on their exceptional success litigating a precedent-setting public interest case. Fee enhancements are the exception rather than the rule and there is limited precedent for such enhancements in Maine State courts. Given the public interest involved in this case; the time and hours consumed before resolution; the difficulty of the case; the significance of the result; the

quality of the attorneys' services; and the limited precedent for such an award, the court finds that a 1.15 lodestar enhancement in this case is appropriate.

Due to the lengthy billing records in this case, and the fact that certain time entries have already been reduced for time spent on clerical tasks, the court is unable to calculate the total amount due with any confidence. Therefore, the Plaintiff is ORDERED to submit a calculation of the amount to be awarded based on the findings of this order, with a proposed order, within 21-days of the date of this order.

DATED: December 19, 2023



Daniel I. Billings, Justice
Maine Superior Court

Entered on the Docket: 12/21/2023

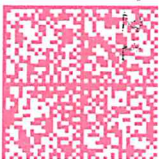
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