

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

CONSTANCE MCMILLEN

PLAINTIFF

v.

No. 1:10CV061-GHD-JAD

ITAWAMBA COUNTY SCHOOL
DISTRICT; TERESA MCNEECE, in her
official capacity as the Superintendent of
Itawamba County School District; TRAE
WIYGUL, in his official capacity as
Principal of Itawamba Agricultural High
School, and RICK MITCHELL, in his
official capacity as Assistant Principal of
Itawamba Agricultural High School

DEFENDANTS

ORDER ASSESSING AND AWARDING
ATTORNEY'S FEES AND EXPENSES

On July 20, 2010 the Court entered judgment pursuant to the Defendants' Offer of Judgment which was accepted by the Plaintiff by written notice dated July 19, 2010. This procedure was in accordance with that provided for by Federal Rule of Civil Procedure 68. Among other things the judgement provided that the Defendants would pay to the Plaintiff her reasonable attorney's fees as fixed by the Court in accordance with the Civil Rights Attorney's Fee Awards Act, 42 U.S.C. §1988 together with reasonable expenses.

The Plaintiffs filed their motion for attorney's fees and expenses together with several affidavits. The Defendants have responded to the motion by submission of their briefs and affidavits pertaining to this matter. The Court initially observes that even by Mississippi standards Itawamba

County, Mississippi is a small rural county. The Defendant, Itawamba County School District, likewise is a small school district situated in a sparsely populated rural county. The Court also observes that this matter was never adjudicated on the merits in this Court. The previous order of this Court addressed the matter of a preliminary injunction. It is specifically noted that the Defendants have never briefed or argued the constitutional issues raised by the pleadings in the case *sub judice*. The Court addresses the matter of the Plaintiff's motion for reasonable attorney's fees and expenses. In addressing the motion for reasonable attorney's fees the Court is guided by the factors discussed in the seminal case of *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974). The Court also specifically adheres to the principles and logic discussed in this Court's opinion in *Lipscomb v. Columbus Municipal Separate School District, et al.*, 261 F. Supp. 2d 626 (N.D. Miss. 2003).

Subsequent to a careful review of the submissions of the parties and in the application of applicable law the Court addresses the matter of a reasonable attorney's fee in the case *sub judice*. The Court determines a reasonable hourly rate and a reasonable expenditure of time in establishing *Lodestar* figures relative to this matter. The Court rules that attorneys Christine Sun, Norman Simon and Kristy Bennett shall be compensated at the rate of \$200.00 per hour for their services in this case. The associate attorneys Glick and Moff shall be compensated at the rate of \$150.00 per hour. The submitted rates of \$125.00 per hour for the associated Strock and \$95.00 per hour for the paralegal Thomas were found to be reasonable by the Court.

Taking into account travel time, redundant work and idle time in the courtroom the Court reduces the time request of the Plaintiff's attorneys by ten percent (10%) as to all attorneys and staff who worked on this matter.

Given the foregoing rulings by the Court the attorney's fees are computed as follows, to wit:

Attorney/Paralegal	Hourly Rate	Hours Worked	Lodestar Fee Total
Christine Sun	\$200.00	65.0	\$13,000.00
Norman Simon	\$200.00	34.5	\$ 6,900.00
Kristy Bennett	\$200.00	109.0	\$21,800.00
Joshua Glick	\$150.00	38.9	\$5,835.00
Jason Moff	\$150.00	87.7	\$13,155.00
Lee Strock	\$125.00	39.0	\$4,875.00
Nikita Thomas	\$95.00	17.9	\$1,700.50
TOTAL		392.0	\$67,265.50

The Court further finds that the expenses submitted by the Plaintiff's attorneys in the amount of \$14,440.00 appear to be reasonable and necessary. In making this judgment the Court notes that the Plaintiff's attorneys dined at fast food restaurants and utilized other accommodations and expenses which this Court deems to be reasonable in the premises.

Accordingly it is ordered that the Defendants shall pay to the Plaintiffs the total amount of \$67,265.50 in attorney's fees and \$14,400.00 in reasonable expenses pursuant to this Court's judgment of July 20, 2010.

It is further noted that the cost are assessed to the Defendants pursuant to the confession of judgment heretofore entered in this cause.

ORDERED AND ADJUDGED this the 25th day of October, 2010.



Senior United States District Judge