

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

HINA YOUNIS

v.

NAUMAN FAROOQI

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: CIVIL NO. CCB-07-1393
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MEMORANDUM

Now pending is the plaintiff’s petition for attorneys’ fees in this case involving the enforcement of an immigration Affidavit of Support form I-864 (“the affidavit”). The affidavit, which obligates the defendant to sponsor the plaintiff at 125 percent of the federal poverty level until his obligation expires by law, provides that a sponsor “may also be held liable for costs of collection, including attorney fees.” (*See* Affidavit, Def’s. Mot. for Summ. J. Ex. A at 6); *see also* 8 U.S.C. 1183a(c). For the reasons that follow, fees in the amount of \$8,200 and expenses in the amount of \$369.08 will be awarded.

The defendant raises two challenges to the award of attorneys’ fees. First, the defendant contends that plaintiff’s counsel failed to comply with local rules directing attorneys who plan to seek fees to furnish quarterly invoices to opposing counsel. *See* Local Rules, App. B, 1.c (D. Md. 2008). Defense counsel, however, does not suggest that any request for such statements was ever made.¹ *See id.* at 1.c n.3 (“Opposing counsel may not seek a denial or reduction of fees from the court if she did not first request that such statements be provided.”).

¹Plaintiff’s counsel contends that he provided billing information to the defendant in October 2008 and January 2009 despite that “[n]o demand was made by Defendant for statements of attorney’s fees.” (Petition for Fees ¶ 5.)

The defendant also contends that an award of attorneys' fees would serve only to disadvantage the plaintiff, because the defendant is already unable to afford his alimony payments to her and will be forced to seek further reductions in those payments in state court. The defendant's financial obligations arising out of his failure to abide by the affidavit, which failure was the basis for the underlying lawsuit and this petition, however, do not provide a compelling justification for denying this petition.

Turning to the appropriate fee award, this court has summarized a similar inquiry as follows:

The Supreme Court has held that "the proper first step in determining a reasonable attorney's fee is to multiply 'the number of hours reasonably expended on the litigation times a reasonable hourly rate.'" The resulting product is commonly known as the lodestar award. The Supreme Court has noted that most of the factors articulated by the United States Court of Appeals for the Fifth Circuit in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir.1974), are subsumed in the initial calculation of the "lodestar" award. *See Hensley v. Eckerhart*, 461 U.S. 424, 434 n. 9 (1983). Those factors have been adopted by the United States Court of Appeals for the Fourth Circuit. Consideration of those factors in arriving at the reasonable rate and reasonable number of hours expended ordinarily will produce a lodestar figure that results in fair compensation without further adjustment.

McCollum v. McDaniel, 136 F.Supp.2d 472, 478-79 (D. Md. 2001).

Before applying the factors, it is appropriate to describe briefly the events and issues involved in this case. The plaintiff filed suit on May 25, 2007, seeking to enforce the affidavit. In the original complaint, however, the plaintiff mislabeled the affidavit as "Form I-184" (Compl. ¶¶ 5, 11), and defendant sought to dismiss the complaint. The court denied that motion and permitted the plaintiff to amend her complaint. After discovery, cross-motions for summary judgment were filed. For reasons explained in the court's memorandum opinion issued February 10, 2009, the court granted the plaintiff's motion for summary judgment and denied the defendant's motion in an order issued March 24, 2009. A subsequent round of briefing addressed

damages, with the defendant successfully arguing that his financial obligation should be reduced due to the plaintiff's extended stay in her home country of Pakistan during the latter half of 2008. Accordingly, on April 10, 2009, the court ordered the defendant to reimburse the plaintiff in the amount of \$19,803.60. This petition for attorneys' fees followed.

Plaintiff's counsel requests a rate of \$250 per hour. Looking to the presumptive rates set in this court's Rules and Guidelines for Determining Attorneys' Fees, this hourly rate falls within the range of fees for lawyers admitted to the bar for nine to fourteen years, *see* Local Rules, App. B, 3.c (establishing a range of \$225-300), and is a reasonable rate.²

Turning to the hours, the plaintiff seeks compensation for 43.1 hours expended by her attorney, which are set forth in schedules attached to the papers. In considering the hours to award, the court has considered all the *Johnson* factors, most of which are subsumed in the rate and hour analysis. This includes the favorable result obtained by the plaintiff. In accordance with that review, the court deems that most of the charges are reasonable.

In light of plaintiff counsel's admitted error in drafting the original complaint (*see* Opp. to Mot. to Dismiss at 1), however, it is not reasonable to require the defendant to pay for the 8.8 hours spent reviewing, researching, and responding to the defendant's motion to dismiss and filing an amended complaint.³ Further, considering the defendant's successful motion to

²The plaintiff's attorney, John J. Condliffe, a partner at Shub-Condliffe, Condliffe & Silverstein, P.A., has been admitted to the bar for more than 14 years.

³The hours break down as follows: 1.1 hours on July 26, 2007 to download and review defendant's motion to dismiss; .4 hours on August 2, 2007 to research statute, regulations, and treatise; .8 hours on August 3, 2007 to draft response to motion; 6.2 hours on August 4, 2007 to research and complete opposition to motion to dismiss, and prepare motion for leave to amend and amended complaint; .3 hours on August 27, 2007 to review the court's order and re-diary case.

recalculate damages in light of the plaintiff's extended leave from the country during the latter half of 2008, the court deems it reasonable to reduce by approximately half, 1.5 hours, the 2.9 hours spent researching and responding to that motion.

Accordingly, the court will subtract these hours from the total, leaving 32.8 hours. At a rate of \$250 per hour, that amounts to an award of \$8,200 in attorneys' fees. Expenses in the amount of \$369.08 also will be awarded. A separate order follows.

May 13, 2009
Date

/s/
Catherine C. Blake
United States District Judge

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ORDER

For the reasons stated in the accompanying Memorandum, it is hereby **ORDERED** that:

1. the plaintiff's motion for attorney's fees and costs (docket entry no. 31) is

GRANTED; and

2. the plaintiff is awarded \$8,200 in fees and \$369.08 in costs for a total of \$8,569.08 to be paid by the defendant.

May 13, 2009
Date

/s/
Catherine C. Blake
United States District Judge