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District Court Reduces Attorney's Fee Expense Award by \$53,809.53 Due to Unreasonable Litigation Expenses

In a recent case, the United States District Court for the Western District of Washington reduced the attorney's fee award of a prevailing party under Washington's Freedom from Discrimination law (RCW 4.9.60.030(2)). The prevailing party sought to receive a fee award for litigation expenses equaling \$70,041.85. Under Washington Law, "a party requesting legal fees must establish that the amount of fees requested is reasonable." The court found that many of the expenses requested did not meet the reasonableness standard and the award was reduced to \$16,232.32, a 76% reduction.

First, the court examined the client expenses requested within the fee award. The court stated that, "a motion for attorney's fees is to recoup fees and counsel's expenses of litigation," and that personal expenses, such as meals, parking and mileage "incurred by the plaintiff as an individual" are not reimbursable. Furthermore, the court held that a chair purchased by the attorney does not count as a litigation expense because the chair would be kept by the attorney for their personal use.

Second, the court evaluated whether the mileage reimbursement sought by the attorney was necessary. The court found that in many instances the attorney sought reimbursement for unnecessary mileage. Under 28 U.S.C.A §1821, witnesses are entitled to be reimbursed for their mileage expenses for traveling to court. However, this entitlement does not apply to attorneys and their staff. One instance in which the court found the mileage unnecessary was when the attorney charged for 18 miles to meet a witness, and 146 miles for the return. The court found this to be excessive and warranted the exclusion of the requested mileage from the award.

Third, the court examined expenses that were deemed to be overhead or unreasonable. The court found that the attorney sought reimbursement for overhead expense items such as "postage, binder tabs, and parking." Because these items are a cost of running a law firm, the court stated that it does not believe that "the court should pay the expenses of counsel for coming to work."

PARALEGAL FEES ARE PROPER EXPENSES OF LITIGATION, BUT SHOULD BE CONSIDERED AN EXPENSE AND NOT REIMBURSABLE ATTORNEY'S FEES.

Furthermore, the court found the \$9.95 “miscellaneous expense” for a “Starbucks meeting” to be unreasonable because “an expensive latte is not an expense of litigation.” Therefore, the court excluded these expenses from the attorney fee award.

Finally, the court examined the paralegal billing rate. The prevailing attorney sought \$6,820 in paralegal fees. The court found that paralegal fees are proper expenses of litigation, but should be considered an expense and not a part of reimbursable attorney’s fees. Furthermore, the court found the \$125-150 hourly rate of the paralegal to be unreasonable and unsupported by evidence. Therefore, the court reduced the hourly rate of the paralegal to \$21.63 per hour, the actual hourly rate paid by the attorney.

Implications for Legal Billing: This case highlights the importance of attorneys only charging for expenses that are reasonable costs of litigation. A court will often reduce an attorney fee award because the expense sought to be reimbursed is considered overhead or unreasonable and is therefore not reimbursable.

Additionally, the court will not reimburse for paralegal work that is billed at a high rate if that rate is unsupported by evidence. If the court does not find convincing evidence for an award of a high rate for a paralegal, it will reduce the award to what is found reasonable within the geographic and practice area.

*Castellano v. Charter Commc'ns, LLC, C12-5845 RJB, 2014 WL 1569242 (W.D. Wash. Apr. 17, 2014). Full copies of court decisions may be available through counsel or through various internet or paid services.

By Nicole Della Ragione

Sterling Analytics is a consulting and advisory firm that helps companies reduce their legal expenses. Our proven methodologies are based on legal precedent, guidelines and ethical standards that compel law firms to significantly modify improper billing practices. Although our clients come from a broad range of industries with different legal budgets, they share a concern about their legal expenses and are looking for solutions to manage outside counsel while maintaining the highest service level standards. We are able to audit legal fees based on our extensive database of proprietary benchmark data and our solid understanding of traditional legal practices. Our process is fair, independent, cost effective and maintains attorney-client privilege. We are able to measure the extent to which our clients' legal expenses exceed industry standards, and will manage the negotiation and recovery of excessive fees. To institutionalize cost controls, we assist clients by installing systems and protocols that monitor billing activity and catch improper practices.

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