

DISTRICT COURT, JEFFERSON COUNTY, COLORADO 100 Jefferson County Parkway Golden, Colorado 80401-6002	
Plaintiff: WILLIAM MONTGOMERY v. Defendant: BEST BUY STORES, L.P.	DATE FILED June 3, 2025 1:21 PM CASE NUMBER: 2023CV226 ▲ COURT USE ONLY ▲ Case Number: 2023CV00226 Division: 06 Courtroom: 520
ORDER RE: DEFENDANT’S COMPUTATION OF ATTORNEY FEES	

THIS MATTER comes before the Court on Defendant Best Buy Stores’ computation of attorney fees. The Court, having reviewed the pleadings, the case file, the applicable law, and being otherwise fully advised, rules as follows:

I. BACKGROUND

Plaintiff William Montgomery filed his complaint on November 21, 2023, alleging that Defendant Best Buy committed false imprisonment, defamation per se, and assault when its employees briefly detained Plaintiff and accused him of stealing after Plaintiff left its Westminster store. Defendant filed a motion for summary judgment on July 25, 2024, seeking summary judgment on all of Plaintiff’s claims. The Court granted summary judgment for, among other things, Shopkeeper’s Privilege.

Defendant filed a motion for attorney fees on December 31, 2024. The Court granted Defendant’s motion and ordered Defendant to submit this computation of attorney fees. (Order re: Defendant’s Motion for Attorney Fees 03.18.2025.) Defendant seeks \$43,083.00 in total attorney fees.

II. LEGAL STANDARD

“An award of attorney fees must be reasonable.” Tallitsch v. Child Support Servs., Inc., 926 P.2d 143, 147 (Colo. App. 1996). “If a statute providing for a fee award does not provide a specific definition of ‘reasonableness,’ the amount of the award must be determined in light of all the circumstances, based upon the time and effort reasonably expended by the prevailing party’s attorney.” Id.

In assessing reasonableness of attorney fees, courts first calculate a lodestar amount “by multiplying the number of hours reasonably expended by a reasonable hourly fee.” Tallitsch, 926 P.2d at 148. A “court then has discretion to make upward or downward adjustments to the lodestar

amount based on factors set forth in Colo. RPC 1.5(a).” S. Colorado Orthopaedic Clinic Sports Med. & Arthritis Surgeons, P.C. v. Weinstein, 343 P.3d 1044, 1049 (Colo. App. 2014). Colorado Rule of Professional Conduct 1.5(a) contains a non-exhaustive list of factors that can be utilized to determine the reasonableness of fees.

III. ANALYSIS

The Court granted Defendant’s request for reasonable attorney fees on March 18, 2025. (Order re: Defendant’s Motion for Attorney Fees 03.18.2025.) Defendant now requests \$43,083.00 in attorney fees.

Defendant requests (1) \$22,685.50 for 76.9 hours of work by Lori K. Bell at \$295 per hour; (2) \$9,150.00 for 36.6 hours of work by Glenn D. Germany at \$250 per hour; (3) \$8,167.50 for 36.3 hours of work by Stephanie E. Boutsicaris at \$225 per hour; (4) \$1,980.00 for 7.2 hours of work by Mary B. Pucelik at \$275 per hour; and (5) \$1,100 for 11 hours of work by three paralegals at \$100 per hour. Defendant has provided a 2017 economic survey from the Colorado Bar Association (“CBA Survey”) for reference.

a. Reasonable Hourly Fees

i. *Mary B. Pucelik, Glenn D. Germany, and Stephanie E. Boutsicaris*

Defendant contends that \$275 per hour, \$250 per hour, and \$225 per hour are reasonable for private practitioners with 30-39 years of practicing law, 10-19 years of practicing law, and 5-9 years of practicing law respectively. The CBA Survey does support the contention that these are the average billing rates for Colorado attorneys with similar years of experience. (Defendant’s Exhibit B, CBA Survey at 37.)

However, the CBA Survey also shows that the average billing rate decreases slightly to \$225 per hour for law firms that have 10-19 attorneys, and also decreases to \$225 per hour for attorneys who primarily practice civil litigation. (Defendant’s Exhibit B, CBA Survey at 37, 38.) Additionally, the CBA Survey shows that attorneys located in Denver bill an average of \$250 per hour. (Id. at 37.)

In light of these circumstances, the Court finds that a reasonable hourly rate should be adjusted slightly downward, from \$275, \$250, and \$225, to \$250, \$230, and \$225. This adjustment takes into consideration not only the attorneys’ years of experience, but also field of practice, firm size, and geographic location.

Thus, the Court finds a reasonable hourly rate for Ms. Pucelik to be \$250, for Mr. Germany to be \$230, and for Ms. Boutsicaris to be \$225.

ii. *Lori K. Bell*

Defendant contends that \$295 per hour is a reasonable rate for a partner at a private firm in Colorado.

The CBA Survey supports the contention that \$290 per hour is the average billing rate for a partner at a private firm in Colorado with 20-29 years of practicing law. (Defendant's Exhibit B, CBA Survey at 64.) However, for the reasons explained above, the Court finds it appropriate to adjust slightly downward in consideration of the field of practice, firm size, and geographic location. Accordingly, the Court finds a reasonable hourly rate for Ms. Bell to be \$270 per hour.

iii. *Paralegals*

Defendant contends that \$100 per hour is a reasonable market rate for a paralegal.

Three paralegals worked on this case: Katie Salazar, Jaime Gress, and Abigail Spohn. Defendant does not say how many years of experience any of these paralegals have. As such, the Court will use the average billing rate for paralegals with less than one year of experience. In Denver, the average billing rate for paralegals with less than one year of experience is \$90. (Defendant's Exhibit B, CBA Survey at 85.)

Accordingly, the Court finds a reasonable hourly rate for Ms. Salazar, Ms. Gress, and Ms. Spohn to be \$90 per hour.

b. Hours Reasonably Expended

Defendant contends the attorneys and paralegals involved this action spent a total of 168 hours working on this case, including roughly 77 hours by an equity partner in the firm.

The Court has discretion to adjust the reasonable hours expended based on the complexity of the case. Payan v. Nash Finch Co., 310 P.3d 212, 220-222 (Colo. App 2012). One factor to consider when determining a reasonable fee award is "the novelty and difficulty of the questions involved." Colo. RPC 1.5(a)(1).

Although the Court acknowledges Plaintiff's litigiousness, this case was a relatively straightforward tort case against a pro se plaintiff that was dismissed on summary judgment. The questions involved were not particularly novel, complex, nor difficult. Additionally, Plaintiff has brought substantially this same case repeatedly, several of which have already been dismissed on summary judgment, which Defendant is aware of. (Defendant's Motion for Summary Judgment Exhibits A-K.) This shows a substantial lack of novelty in the present case.

The Court finds the lack of complexity and lack of novelty present in the case to require a downward adjustment in the hours reasonably expended. The Court finds a reduction of 10% in the hours expended to be appropriate.

Accordingly, the Court finds hours reasonably expended for Ms. Bell to be 69.2; for Mr. Germany to be 32.9; for Ms. Boutsicaris to be 32.7; for Ms. Pucelik to be 6.5; and for the paralegals combined to be 9.9.

c. Lodestar Amount

With the adjusted number of hours reasonably expended multiplied by the adjusted reasonable hourly fees, the lodestar amount calculated by the Court is \$36,124.50.

Once the lodestar amount is determined, that amount may be adjusted upward or downward by application of factors such as “the amount in controversy, the length of time required to represent the client effectively, the complexity of the case, the value of the legal services to the client, and awards in similar cases.” Tallitsch, 926 P.2d at 147. Courts may also consider factors such as public importance and degree of success achieved. Payan, 310 P.3d at 217.

Looking at these factors, the Court finds no further adjustment to be necessary.

1. Complexity

The Court has already made reductions based on the lack of complexity of the case, *supra*. See Payan, 310 P.3d at 220 (ruling that reductions for complexity should be addressed in the court’s determination of the reasonable number of hours expended in calculating the lodestar amount, rather than after the lodestar amount has been calculated.)

2. Amount in Controversy

The amount in controversy purported to be over \$100,000.00, although such recovery was highly doubtful. Regardless, this is not low enough to warrant an adjustment downward nor high enough to warrant an adjustment upward.

3. Length of Time

This case was active from November 21, 2023 through November 19, 2024, when it was dismissed on summary judgment. This is not a particularly long or particularly short case warranting adjustment in either direction.

4. Degree of Success Achieved

Defendant achieved judgment in its favor on all claims in summary judgment. This success supports allowing a full recovery of the adjusted amount.

5. Public Importance

This case is of some public importance. Plaintiff has repeatedly filed nearly identical lawsuits, including this one, on the same or similar allegations. Thus, a downward adjustment is not warranted, and a significant award hopefully dissuades Plaintiff from further vexatious lawsuits. However, this case is not of great public importance, and as such neither is an upward adjustment warranted. See *cf.* Payan, 310 P.3d at 223 (citing Shakopee Mdewakanton Sioux Cmty. v. City of Prior Lake, 771 F.2d 1153, 1160 (8th Cir. 1985) (“In rare circumstances the district court can increase a fee award because of the quality of the work performed or the great public

importance of the case.”))

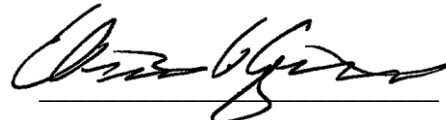
Based on these factors, the Court finds no adjustment to be necessary and finds the lodestar amount of \$36,124.50 to be reasonable.

IV. CONCLUSION

For the reasons discussed above, Defendant is awarded attorney fees in its favor and against Plaintiff in the amount of \$36,124.50.

Done in Golden, Colorado this 3rd day of June, 2025.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Chris Zenisek", written over a horizontal line.

Christopher C. Zenisek
District Court Judge