

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Luessenhop v. Clinton County

324 F. App'x 125 (2d Cir. 2009) · Decided May 8, 2009

SUMMARY

The Second Circuit affirmed the district court’s award of attorney’s fees under 42 U.S.C. § 1988(b) in an action brought by Elizabeth Luessenhop. The court upheld the hourly rate selected by the district court and its reduction of compensable hours, and rejected the plaintiff’s arguments concerning an evidentiary hearing and discovery of defense counsel’s billing rates.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Newman; Parker; Pooler
JURISDICTION	Federal
DECIDED	May 8, 2009
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff-appellant appealed the district court's award of attorney's fees under 42 U.S.C. § 1988(b), including the hourly rate, reduction of compensable hours, denial of an evidentiary hearing, and denial of discovery concerning defense counsel's billing rates.
STANDARD OF REVIEW	An award of attorney's fees is reviewed for abuse of discretion. A court abuses its discretion when its decision rests on an error of law or clearly erroneous factual finding, or when the decision cannot be located within the range of permissible decisions.
PRECEDENTIAL VALUE	Unpublished Second Circuit summary order; generally nonprecedential.
PARTIES	Elizabeth Luessenhop v. Clinton County

TOPICS

- attorney fees
- civil rights
- standard of review
- appellate procedure
- civil procedure

PRACTICE AREAS

- civil rights
- attorney fees
- appellate procedure
- remedies

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by setting the reasonable hourly attorney-fee rate at \$235 rather than \$260.
2. Whether the district court abused its discretion by reducing the compensable hours for the attorney-fee motion from 62 to 30.
3. Whether the district court was required to hold an evidentiary hearing on the fee application.
4. Whether the district court erred by denying discovery of defense attorneys' billing rates.

HOLDINGS

1. The district court did not abuse its discretion in determining that \$235 per hour was the reasonable hourly rate rather than the \$260 rate requested by plaintiff.
2. The district court reasonably reduced the compensable hours for the attorney-fee motion from 62 to 30.
3. The district court was not required to hold an evidentiary hearing because it had sufficient evidence to decide the fee application on the parties' submissions.
4. The district court did not abuse its discretion by denying discovery of defense attorneys' billing rates as dilatory and unnecessary.

KEY QUOTATIONS

“We review a district court’s award of attorney’s fees for abuse of discretion.” (125)

“A reasonable hourly rate is the ‘prevailing market rate,’ i.e., the rate ‘prevailing in the [relevant] community for similar services by lawyers of reasonably comparable skill, experience, and reputation.’” (125)

“A district court should reduce the number of hours included in the fee calculation if the claimed time is ‘excessive, redundant, or otherwise unnecessary.’” (127)

“For the foregoing reasons, we AFFIRM the judgment of the district court.” (127)

FACTUAL BACKGROUND

The dispute concerned the reasonable attorney's fees awarded to plaintiff under 42 U.S.C. § 1988(b). The district court determined that \$235 per hour, rather than the requested \$260 per hour, was the reasonable rate based on prior Northern District cases, attorney affidavits, and the record. It also reduced the hours claimed for preparing the fee motion from 62 to 30 because the claimed time was excessive in comparison with similar work and the reply repeated arguments from the initial brief.

PROCEDURAL HISTORY

The United States District Court for the Northern District of New York entered an order on March 28, 2008, reported at 558 F. Supp. 2d 247, awarding attorney's fees under 42 U.S.C. § 1988(b). The district court awarded fees using a \$235 hourly rate rather than the requested \$260 rate and reduced compensable time on the fee motion from 62 hours to 30 hours. It also denied an evidentiary hearing and discovery of defense attorneys' billing rates. The Second Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Darnet Realty Assocs. LLC v. 136 E. 56th St. Owners, Inc., 214 F.3d 79, 87 (2d Cir. 2000)
- Zervos v. Verizon New York, Inc., 252 F.3d 163, 169 (2d Cir. 2001)
- Farbotko v. Clinton County, 433 F.3d 204, 208-209 (2d Cir. 2005)
- Blum v. Stenson, 465 U.S. 886, 896 (1984)
- Arbor Hill Concerned Citizens Neighborhood Ass'n v. County of Albany, 522 F.3d 182 (2d Cir. 2008)
- Hensley v. Eckerhart, 461 U.S. 424, 434 (1983)
- Gierlinger v. Gleason, 160 F.3d 858, 876 (2d Cir. 1998)
- In re "Agent Orange" Prod. Liab. Litig., 517 F.3d 76, 103 (2d Cir. 2008)