

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

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BEVERLY TSOMBANIDIS, OXFORD HOUSE,;
INC., and JOHN DOES ONE THROUGH :
SEVEN (Current and prospective
residents of 421 Platt Avenue;
West Haven, Connecticut). :
:
Plaintiffs, :
:
-against- : **3: 98 CV 1316 (GLG)**
:
:
CITY OF WEST HAVEN, CONNECTICUT, :
FIRST FIRE DISTRICT OF THE CITY :
OF WEST HAVEN, :
:
Defendants. :
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Plaintiffs have moved [**Doc. # 183**] to amend this Court's Ruling of June 18, 2002, on Plaintiffs' Application for Attorneys' Fees and Costs. Plaintiffs' counsel now advise the Court that they were on a contingent fee arrangement throughout this litigation and that the payments they received were simply payments for costs. This information was not provided to the Court or to the other parties, as it should have been, when plaintiffs filed their initial application for fees. Nevertheless, the contingent fee contract does not change the Court's opinion as to a reasonable fee award in this case. Moreover, plaintiffs' current motion is unopposed.

Consequently, plaintiffs' motion to amend is GRANTED, and our decision is amended *nunc pro tunc* as follows:

On page 12, paragraph 2, following the sentence "Based on this authority, we reject the Fire District's attempt to limit our determination of a reasonable rate to those rates historically charged by plaintiffs' counsel over the four-year course of this litigation," the rest of the page is deleted and the following is substituted therefor:

"In the instant case, there has been a delay in counsel's receipt of fees since counsel were not paid (except for expenses), as they were handling this case on a contingent fee basis. The contingent fee arrangement also allowed for payment of usual fees based on time expended, if greater. We find that calculating counsel's fee on a time-expended basis produces a greater fee award than the contingent fee. Therefore, we must calculate the appropriate lodestar based upon the number of hours reasonably expended and reasonable hourly rates. In so doing, we are cognizant of the Second Circuit's admonition that we should exercise moderation in our award of attorneys' fees to avoid a windfall award, which could result by awarding . . ."

On page 16, the first sentence of the last full paragraph is changed to read as follows:

"The Court notes that Attorney Poston's requested hourly rate is significantly higher than her billing rates through the completion of the trial."

In all other respects, the Court's Decision of June 18, 2002, remains the same.

SO ORDERED.

Date: August 6, 2002.
Waterbury, Connecticut.

GERARD L. GOETTEL

United States District Judge