

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

MICHELLE MARSALISI, ET AL., :
Plaintiffs :
 :
 :
v. : 3:00-CV-606 (EBB)
 :
 :
CITY OF STAMFORD, :
Defendant :

RULING ON MOTION FOR AWARD OF ATTORNEYS' FEES

INTRODUCTION

Plaintiffs in this action move, pursuant to 42 U.S.C. Section 1988, for attorneys' fees and costs, asserting that they are the "prevailing party" under that statute in litigation against the City of Stamford.

STATEMENT OF FACTS

The Court sets forth only those facts deemed necessary to an understanding of the issues raised in, and decision rendered on, this Motion.

Plaintiffs are students in either private or parochial schools within the school district of the City of Stamford. They brought this action under 42 U.S.C. Section 1983 to challenge the constitutionality of Stamford ordinance 921. That ordinance created paid job positions for student interns but limited these positions to "students who are enrolled in the City of Stamford school system."

After the Plaintiffs moved for a preliminary injunction to prevent the implementation and enforcement of this ordinance, the City of Stamford submitted a revised ordinance to the Stamford Board of Representatives. On August 22, 2000, ordinance 921 was repealed by the enactment of ordinance 940 which provides that the student intern positions are now open to all "students who are enrolled in any high school in the City of Stamford that participates in the School-to-Career program and who have complied with the course requirements of the State Commissioner of Education as set forth in C.G.S. § 10-20a for the School-to-Career program" ^{1/} Plaintiffs' schools are in compliance with this statute.

Ordinance 940 is constitutionally correct, as it is neutral on its face and does not discriminate against students who are enrolled in private or parochial schools within the school district of the City of Stamford who participate in the state-funded School-to Career program.

LEGAL ANALYSIS

The Civil Rights Act of 1991 provides, in pertinent part, that in any action or proceeding thereunder "[t]he court, in its discretion, may allow the prevailing party . . . a reasonable attorney's fees as part of the costs . . ." 42 U.S.C. § 1988 (b), as amended Pub. L. 104-317, Title III, § 309(b), October 19,

^{1/} The School-to Career program is state-funded.

1996, 110 Stat. 3853. Plaintiffs contend that they are a "prevailing party" within the meaning of this statute, along with precedential case law interpreting the statute.

The Supreme Court has instructed that success on any significant issue in a case which achieves "some of the benefit" sought by a plaintiff is sufficient to cross "the threshold to a fee award of some kind." Texas State Teachers Ass'n v. Garland Indep. Sch. Dist., 489 U.S. 782, 791-92 (1989). The "touchstone inquiry" in determining whether the threshold has been crossed is whether, during the course of the litigation, there occurred a "material alteration of the legal relationship of the parties which Congress sought to promote in the fee statute." *Id.* at 792-93. "In short, [plaintiffs] 'prevail' when actual relief on the merits of [their] claim materially alters the legal relationship between the parties by modifying the defendant's behavior in a way that directly benefits the plaintiff[s]." Farrar v. Hobby, 506 U.S. 103, 111-12 (1992).

Further, a plaintiff involved in litigation which is ultimately resolved by settlement may still be entitled to an award of attorneys' fees. See Mahar v. Gagne, 448 U.S. 122, 129 (1980)(in section 1988 case, "[t]he fact that [plaintiffs] prevailed through a settlement rather through litigation does not weaken [plaintiffs'] claim to fees"). See also Koster v. Perales, 903 F.2d 131, 134-35(1990)(holding plaintiffs eligible

as prevailing parties when parties entered a settlement agreement which granted plaintiffs all of the relief they sought).

An application of these principles to this case is not difficult. Inasmuch as Plaintiffs secured **all** of the relief they sought from Defendant, in the form of the repeal of ordinance 921 and the enactment of ordinance 940, it is beyond cavil that they are "prevailing parties" within the meaning of Section 1988.

The Court now turns to the reasonableness of the attorneys' fees requested. Although the Court finds that the hourly rates requested are more than reasonable, the Court finds that some of the hours spent were excessive. The following hours are to be decreased: legal and factual research, from 23.3 hours to 15 hours, and preparation for the hearing from 30.1 hours to 15 hours. Accordingly, the total attorneys' fees awarded is \$22,572.

The costs are also to be slightly disallowed as follows: lexis research, from \$992.15 to \$500, and telephone and telecopy, from \$221 to \$50. Hence, the total award of costs is \$2,389.85.

CONCLUSION

The Motion for Award of Attorneys' Fees [Doc. No. 16] is GRANTED IN PART AND DENIED IN PART. The total award to Plaintiffs' counsel is \$24,961.85. Defendant shall pay this amount to Plaintiffs' counsel on or before December 15, 2000. Although the Court believes that this case should now be closed,

should either party disagree with that belief and feel that there are still outstanding issues to be decided, they shall notify the Court on or before December 1, 2000.

SO ORDERED

ELLEN BREE BURNS

SENIOR UNITED STATES DISTRICT JUDGE

Dated at New Haven, Connecticut this ____ day of November, 2000.