

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

CARVER MIDDLE SCHOOL
GAY-STRAIGHT ALLIANCE, et al.,

Plaintiffs,

v.

CASE NO. 5:13-cv-623-TJC-PRL

SCHOOL BOARD OF LAKE
COUNTY, FLORIDA,

Defendant.

**DEFENDANT SCHOOL BOARD OF LAKE COUNTY, FLORIDA'S RESPONSE TO
MOTION FOR ATTORNEY'S FEES**

On June 15, 2017, Plaintiffs, Carver Middle School Gay-Straight Alliance, et. al., filed a motion for attorney's fees and litigation costs for expenses incurred both in this Court at the trial level and at the appellate level before the Eleventh Circuit. (Doc. 111). For the following reasons, Defendant, School Board of Lake County, Florida, respectfully requests this Court deny Plaintiffs' requested fees as the figure presented is unreasonable. Defendant relies on the affidavit (Exhibit 1) of Robert E. Bonner ("Bonner"), an attorney with significant experience in civil rights litigation in the U.S. District Courts, as support for its arguments.

Attorney's Fees

As cited by Plaintiffs in their motion for attorney's fees, "a reasonable hourly rate is the prevailing market rate in the relevant legal community for similar services by lawyers of reasonably comparable skills, experience, and reputation." *Norman v. Hous. Auth. of City of Montgomery*, 836 F.2d 1292, 1299 (11th Cir. 1988) (citing *Blum v. Stenson*, 465 U.S. 886, 895-96 n. 11 (1984)). The applicant for attorney's fees "bears the burden of producing satisfactory

evidence that the requested rate is in line with prevailing market rates.” *Id.* As a preliminary matter, Defendant argues that Plaintiffs have failed to produce satisfactory evidence that the requested rates are reasonable within the relevant market. Plaintiffs note that the relevant market is the Middle District of Florida, Doc. 111 at 5, but due to the large geographic size of the Middle District, and the variety in size of legal markets within the Middle District, it is more appropriate to narrow the relevant market to the surrounding areas served by the Ocala Division.

As to the hours claimed by counsel, Defendant argues that inefficiencies and overlap with respect to activities conducted by the various attorneys for Plaintiffs created unnecessary and excessive hours billed in this case. First, Plaintiffs’ counsel had prior experience litigating on behalf of a gay-straight alliance club against a school board and therefore should not have needed to bill as many hours for this case. (Exhibit 1 at 5). Second, several attorneys billed for time devoted to intra-office communications with other attorneys for Plaintiffs. As argued on page 8 of Defendant’s objection to attorney’s fees in the appellate court, *Carver GSA v. Lake Cty. Sch. Bd.*, No. 15-14183 (11th Cir.), and further detailed in Exhibit 1, such communications are routinely classified as non-billable events by litigation guidelines and are therefore non-compensable. (Exhibit 1 at 6-7).

In the motion for attorney’s fees, Plaintiffs’ counsel argues that reasonable hourly rates in this case range from \$350 to \$450 per hour. These rates exceed a reasonable hourly rate for the Ocala Division of the Middle District of Florida. Defendant was unable to find a single case in the Ocala Division where the Court awarded fees under 42 U.S.C. § 1988 in excess of \$400 per hour during the past ten years. (Exhibit 1 at 4).¹ As a reference, Bonner typically bills governmental

¹ Magistrate Judge Lammens recently summarized decisions in the Middle District discussing the prevailing market rate. *Ranize v. Town of Lady Lake, Fla.*, No. 511-CV-646-OC-PRL, 2015 WL 1037047, at *4 (M.D. Fla. Mar. 10, 2015)(“See, e.g., *Delta RF Tech., Inc. v. RIIMIC, LLC*, No. 5:09-cv-373-Oc-10PRL (M.D.Fla. Nov. 4, 2013) 00242379 - 1

clients in civil rights matters between \$155 and 185 per hour, and private clients in civil rights matters \$250 per hour. (Exhibit 1 at 2). Even within the rest of the Middle District of Florida, awards for fees with an hourly rate at or above \$400 are rare and usually reserved for First Amendment cases, *see Troche v. City of Orlando*, No. 6:14-CV-419-ORL-22, 2015 WL 631380, at *4 (M.D. Fla. Feb. 13, 2015). Plaintiffs acknowledge they were unsuccessful on their First Amendment claim. (Doc. 111 at 8). Complex and highly specialized civil rights and employment litigation similarly involve awards at hourly rates significantly less than \$400 per hour. (Exhibit 1 at 13).

With respect to the number of hours requested, Defendant argues that activities such as intra-office communications, excessive deposition preparation, non-attorney clerical activities, and supervisory responsibilities (i.e. rewriting an appellate brief) are not recoverable. Inefficient efforts by attorneys, such as one attorney billing for essentially re-doing another attorney's work, created unnecessary redundancies that should not be rewarded with a grant of attorney's fees.

Accordingly, Defendant proposes the following modifications to each attorney's rate and recoverable hours for each attorney's work at both the trial court level and on appeal:

(awarding counsel a rate of \$350 per hour); *Raetano v. Burzynski*, No. 8:08-cv-200-T-17-EAJ, 2009 WL 691921 (M.D.Fla. Mar.13, 2009) (awarding counsel a rate of \$350 per hour); *Harty v. Bapuji*, No. 8:10-cv-2720-T-27TBM, 2012 WL 2044970 (M.D.Fla. May 17, 2012) (awarding counsel a rate of \$350 per hour). Moreover, \$500 per hour is substantially higher than rates awarded in the Middle District of Florida in First Amendment cases. *See Troche v. City of Orlando*, No. 6:14-CV-419-ORL-22, 2015 WL 631380, at *4 (M.D.Fla. Feb.13, 2015) (concluding a \$500 hourly rate was not reasonable and reducing rate to \$400); *Hodges v. Sch. Bd. of Orange Cnty., Fla.*, No. 6:11-CV-135-ORL-36, 2014 WL 6455436, at *7 (M.D.Fla. Nov.13, 2014) (awarding hourly rate of \$295 for work in First Amendment litigation); *Lindsey v. Howell*, No. 8:10-CV-01910-T-23, 2012 WL 6699593, at *3 (M.D.Fla. Nov.26, 2012) report and recommendation adopted, No. 8:10-CV-1910-T-23, 2012 WL 6699584 (M.D.Fla. Dec.26, 2012) (awarding hourly rate of \$160 to defendant's attorney in First Amendment action); *Am. Civil Liberties Union of Florida Inc. v. Dixie Cnty. Fla.*, No. 1:07-CV-00018-MP-GRJ, 2012 WL 384925, at *2 (N.D.Fla. Feb.6, 2012) report and recommendation adopted as modified, No. 1:07CV18-MP-GRJ, 2012 WL 1004372 (N.D.Fla. Mar.23, 2012) (awarding \$400 hourly rate to attorney with 29 years of experience, where Middle District of Florida was the relevant legal community); and *First Vagabonds Church of God v. City of Orlando, Fla.*, No. 606CV-1583-ORL-31KRS, 2008 WL 4877159, at *5 (M.D.Fla. Nov.12, 2008) (awarding \$400 hourly rate to attorney with 25 years of experience)."

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Attorney ²	Proposed Rate by Plaintiffs	Proposed Hours³ by Plaintiffs	Proposed Modified Rate by Defendant	Proposed Modified Hours by Defendant
Benjamin Stevenson	\$400	287.7 hours	\$300 - \$325	220 – 250 hours
Daniel Tilley	\$350	278.8 hours	\$150 - \$175	190 – 230 hours
Leslie Cooper	\$450	26.1 hours	\$300 - \$350	12 – 20 hours

Defendant relies on Exhibit 1, Bonner’s analysis as to the appropriate reductions for each attorney’s rate and recoverable hours, and incorporates it by reference to this response.

Litigation Expenses

Plaintiffs argue that they are entitled to an award of all nontaxable litigation expenses pursuant to 42 U.S.C. § 1988, citing to the Eleventh Circuit case of *Dowdell v. City of Apopka*, Fla., 698 F.2d 1181, 1192 (11th Cir. 1983). As a preliminary matter, Defendant disagrees with Plaintiffs’ argument that all costs should be awarded, and notes that the case cited in Plaintiffs’ motion regarding an award for travel and postage expenses was pursuant to 28 U.S.C. § 1920, not 42 U.S.C. § 1988. *See* Doc. 111 at 17 (citing *Jean v. Nelson*, 863 F.2d 759, 778 (11th Cir. 1988)). Second, Defendant argues that some of Plaintiffs’ listed litigation expenses are more akin to overhead expenses and therefore should not be awarded. *See McClelland v. HSBC Retail Servs., Inc.*, No. 208-CV-708-FTM-29DNF, 2011 WL 32423, at *3 (M.D. Fla. Jan. 5, 2011).

Next, Plaintiffs may have eliminated the travel time associated with the litigation, but the costs incurred still are duplicative or unreasonable. For example, consider one isolated hearing on a preliminary injunction held on February 10, 2014. Both Mr. Tilley and Mr. Stevenson attended,

² Plaintiff included Nancy Abudu’s hourly rate and hours billed in its motion, but notes that it “eliminated all time expended by Nancy Abudu” from the calculation for compensation. (Doc. 111 at 9). Accordingly, neither the hourly rate nor hours billed for Nancy Abudu are discussed further.

³ “Proposed hours” represents the aggregate hours proposed per attorney for their combined services at the trial court level and on appeal.

with Mr. Tilley traveling from Miami and Mr. Stevenson from Pensacola. The hearing lasted one hour. (*See* Doc. 111-3 at 6, 16). Both attorneys billed for their attendance, but eliminated the time associated with travel. However, the expenses sought for travel for that one hearing total \$482.85. (Doc. 111-12). While one could argue that the ACLU could have assigned this case to a staff attorney in a closer office, such as Tampa or Jacksonville, the fact that two attorneys had to travel from opposite corners of the state to incur duplicative costs for a one-hour hearing is unreasonable. Defendant is not intending to show disrespect for either Mr. Tilley or Mr. Stevenson, or minimize their competency to handle this case; rather, the geographic distances they each had to travel and the expenses incurred to do so simply resulted in unreasonable expenses that should not be awarded.

Similarly, Plaintiffs' motion indicates that they exercised billing judgment by eliminating the attendance time by the non-participating attorney in each deposition taken on June 24-25, 2014, as well as all travel time. (Doc. 111 at 13). Once again, however, Plaintiffs still request the full amount for travel associated with those depositions, totaling a request of \$703.33 for expenses incurred June 22 through June 27. (Doc. 111-12 at 1-2). Given that they recognize the duplicative nature of the attendance of two attorneys and do not claim time for such, it stands to reason that a request for fees for both attorneys is excessive.

In short, Plaintiffs' request for nontaxable litigation expenses in the amount of \$6,325.73 (\$5,710.24 for expenses in the district court and \$615.49 for expenses in the appellate court) is inappropriate and unreasonable.

Comparison of Hours Spent by Each Party

Finally, Plaintiffs' motion highlights the fact that Defendant's counsel spent more time on this litigation, noting that as of February 2017, Defendant's counsel had billed more than 870 hours versus Plaintiffs' requested compensation for 594.4 hours. (Doc. 111 at 11). It is well established in federal and Florida state courts that the amount of time spent by one party versus another is not determinative of what is reasonable in any one given case. See *Kalzip, Inc. v. TL Hill Const., LLC*, No. 8:11-CV-01842-T-27, 2013 WL 3242400, at *2 n.6 (M.D. Fla. June 25, 2013); *Johnson v. Univ. College of the Univ. of Ala. in Birmingham*, 706 F.2d 1205, 1208 (11th Cir.1983) (hours needed by one side to prepare may differ substantially from that of opposing counsel, since the nature of the work may vary dramatically and the case may have far greater precedential value to one side than the other). In fact, the June 2017 issue of the Florida Bar Journal recently highlighted this very topic. Discussing the 2003 case of *HCA Health Services of Florida, Inc. v. Hillman*, the authors wrote:

The Second District [Court of Appeals] began its analysis by noting from a case two decades earlier that "the fees of a prevailing party cannot be predicated upon the fees of one's opponent." *Hillman*, 870 So.2d at 106 (citing *Stowe v. Walker Builders Supply, Inc.*, 431 So. 2d 180 (Fla. 2d DCA 1983)). The court noted multiple examples of the soundness of this rule, including that deposition preparation could take different amounts of time for each side; that one side's document preparation may take less time than another because the client shouldered more of the load; and that one side's client may have different reporting requirements or expectations. *Id.* at 106. For these reasons, not intended by the court to be an exhaustive list, the court recognized that two competent attorneys on opposite sides of a case routinely spend substantially different amounts of time working the same case. *Id.* The Second District continued by explaining that "the records of one's opponent are, at best, only marginally relevant to the general issue of determining an appropriate amount of attorney's fees to be awarded in a given case." *Id.* The court then recognized that an opponent's billing records would likely only be relevant in the rare event of a dispute over a particular billable event--for example, the length of time that the parties attended a mediation session. *Id.*

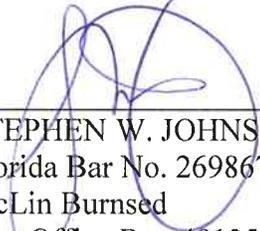
Jason S. Lambert & D. Michael Arendall, *You Spent How Much? Who Really Cares? Discovery and Evidentiary Value of an Opponent's Billing Records*, FLA. B.J., June 2017, at 10, 12. Therefore, Plaintiffs' arguments regarding the supposed inequity of attorney's fees billed by each party is irrelevant in determining the appropriate hours that should be awarded in this case.

CONCLUSION

Based on the prevailing market rates in the Middle District of Florida and the generally acceptable recoverable hours, a reasonable attorney's fee award would range between \$98,100 and \$135,250, and any award in excess of \$128,500 would be unreasonable and excessive.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the **18th** day of **July, 2017**, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send a notice of electronic filing to the following: Daniel B. Tilley at dtilley@aclufl.org, ACLU Foundation of Florida, Inc., Suite 340, 4500 Biscayne Blvd, Miami, FL 33137; Benjamin Stevenson, at bstevenson@aclufl.org, ACLU Foundation of Florida, Inc., P.O. Box 12723, Pensacola, FL 32591-2723; and Leslie Cooper at lcooper@aclu.org; American Civil Liberties Union Foundation, Inc., 18th Floor, 125 Broad Street, New York, NY 10004-2400.



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SCHOOL BOARD OF LAKE
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Exhibit 1

8. I have been Board Certified as a Civil Trial Lawyer by the Florida Bar since 1989. I am Board Certified as a Civil Trial Advocate by the National Board of Trial Advocacy.

9. I am an Advocate level member of the American Board of Trial Advocates (ABOTA); the Trial Lawyers Section of the Florida Bar; the Claims and Litigation Management Alliance (CLM), the Florida Defense Lawyers Association (President 2016-2017; President-Elect 2015-2016; Secretary-Treasurer 2014-2015; Board of Directors 2008-2012), the Florida Association of Police Attorneys and the Florida Municipal Attorneys Association. I am "AV" rated by Martindale-Hubbell. My curriculum vitae is attached hereto as Exhibit A.

10. For the bulk of my career as an attorney, a significant portion of my practice has involved the legal representation of parties in civil rights litigation. The majority of that representation is before the United States District Courts. I am familiar with the hourly rates charged by attorneys in civil rights litigation throughout the Middle District of Florida, including Ocala. More importantly, I am also familiar with the hourly rates awarded by the United States District Courts in Florida under 42 U.S.C. § 1988.

11. I have actively represented both plaintiffs and defendants in more than one hundred and ten (110) cases in the United States District Courts located in Florida. My billing rate for governmental clients in civil rights matters ranges between \$155 per hour and \$185 per hour. My billing rate for private clients in civil rights matters is \$250 per hour.

12. During my legal career, I have tried over eighty (80) civil cases to jury verdict. I have tried a total of eighteen (18) civil rights cases before juries in the Fort Pierce

Division of the United States District Court for the Southern District of Florida; the Orlando Division of the United States District Court for the Middle District of Florida, the Jacksonville Division of the United States District Court for the Middle District of Florida, and the Ocala Division of the United States District Court for the Middle District of Florida. I have also tried civil rights cases brought under 42 U.S.C. § 1983 in the Circuit Court of the Ninth Judicial Circuit, in and for Orange County, Florida.

13. During my legal career, I have defended numerous parties in the United States District Courts in litigation brought under 42 U.S.C. § 1983. On rare occasions I have also represented plaintiffs in the United States District Courts.

14. Many of my clients require the preparation of litigation budgets within thirty (30) days of the receipt of an assignment. The preparation of an accurate litigation budget requires a thorough analysis of the issues and evidence in the case, litigation strategies, contemplated discovery, the potential length of trial, the time involved in trial preparation and the time set aside for trial. I have prepared hundreds of litigation budgets during the course of my legal career.

15. In rendering these opinions, I have reviewed the pleadings in the case of *Carver Middle School Gay-Straight Alliance v. School Board of Lake County, Florida*; Case # 5:13-cv-00623-WTH-PRL, with particular attention to the motion for attorney's fees and supporting documents. I have also reviewed the docket sheet in the case of *Carver Middle School Gay-Straight Alliance v. School Board of Lake County, Florida*; Case # 5:13-cv-00623-WTH-PRL. I have also reviewed the motion for appellate attorney's fees filed in *Carver Middle School Gay-Straight Alliance v. School Board of Lake County,*

Florida; Case # 15-14183. I have reviewed the attorney time records submitted by counsel for the Plaintiffs in the case of *Carver Middle School Gay-Straight Alliance v. School Board of Lake County, Florida*; Case # 5:13-cv-00623-WTH-PRL and in *Carver Middle School Gay-Straight Alliance v. School Board of Lake County, Florida*; Case # 15-14183. I have also conducted PACER searches regarding Mr. Stevenson, Mr. Tilley, Ms. Abudu and Ms. Cooper and have reviewed the docket sheets in all civil rights cases in which they entered appearances in the United States District Court for the Middle District of Florida; the United States District Court for the Northern District of Florida; and the United States District Court for the Southern District of Florida during the past ten (10) years. I also conducted a Westlaw search for orders issued by the Ocala Division of the United States District Court for the Middle District of Florida awarding attorney's fees during the past ten (10) years. I was unable to find a single case in which Mr. Stevenson, Mr. Tilley, Ms. Abudu or Ms. Cooper were was awarded attorney's fees under 42 U.S.C. § 1988 during the last ten (10) years in the United States District Court for the Middle District of Florida, the United States District Court for the Southern District of Florida, or the United States District Court for the Northern District of Florida. I was unable to find a single case on Westlaw in which the Ocala Division of the United States District Court for the Middle District of Florida awarded an attorney's fee under 42 U.S.C. § 1988 in excess of \$400 per hour during the past ten (10) years.

16. In rendering my opinions in this case, I have considered the issues and evidence in the case, litigation strategies, contemplated and actual discovery, the amount of time involved in trial preparation and the time set aside for trial. In reaching an opinion

regarding a reasonable attorney's fee, I have also considered the time and labor involved; the novelty and difficulty of the questions presented; the skill requisite to perform the legal services properly; the preclusion of other employment by the attorney due to this case; the customary fee; whether fee is fixed or contingent; time limitations; the amount involved and results obtained; the experience, reputation, and ability of counsel; the undesirability of the case; the nature and length of the professional relationship with the client; and awards in similar cases.

17. Based on my review, it is my opinion that the hourly rates for attorney fees sought by counsel for the Plaintiffs and the hours claimed by counsel for the Plaintiffs are excessive. In particular, there was a great deal of inefficiency and overlap with respect to the activities of counsel for the plaintiff. This was not the first lawsuit brought against a school board by counsel for the plaintiff on behalf of a gay-straight alliance club. To the contrary, counsel for the plaintiff had previously represented similar gay-straight alliance clubs in *B.N.S. v. School Board of Lake County*, Case # 5:13-cv-00205-ACC-PRL *Vanguard High School Gay-Straight Alliance et al v. Yancey et al*, Case # 5:12-cv-00268-MMH-PRL. Nonetheless, despite the extensive experience with previous cases of a similar nature, incredible amounts of time and effort were devoted to the preparation of pleadings and research of legal issues that should have been familiar to counsel before embarking on this litigation.

18. With regard to the request for fees, I will first comment regarding the fees requested by Benjamin Stevenson, Esq. In that regard, I note that Mr. Stevenson requests an hourly rate of \$400. It is my opinion that this hourly rate in the context of a First

Amendment lawsuit and/or an action under the Equal Access Act is excessive. Mr. Stevenson has been a member of the Florida Bar since 2002. He is not board-certified in any area of practice. Although I am familiar with and was able to find cases in which hourly rates of \$400 per hour were awarded by this court, I note that those awards are reserved for complicated cases involving counsel who are far more experienced in civil rights litigation than Mr. Stevenson. Under the circumstances, it is my opinion that a reasonable hourly rate for Mr. Stevenson would range between \$300 per hour and \$325 per hour.

19. I further note that Mr. Stevenson is requesting to be awarded fees for 239.0 hours of legal services at the trial court level and 48.7 hours on appeal. In my opinion, the hours requested are also excessive. In reviewing the time records of Mr. Stevenson, it is apparent that he is requesting, *inter alia*, to be awarded time devoted to intra-office communications with the other attorneys for the plaintiff. As reflected in Exhibit B attached hereto, 22.2 hours of Mr. Stevenson's time were devoted to intra-office communications and conferences with other counsel for the plaintiff along with email communications with other counsel for the plaintiff. Absolutely none of my private clients or governmental clients pay for intra-office conferences or intra-office communications. In fact, most litigation guidelines mandate that one primary attorney will be assigned to handle each case unless specific circumstances warrant otherwise. Additionally, most litigation guidelines mandate that in-firm communications, consultations or conferences among multiple attorneys are not considered a "billable

event.” It is therefore my opinion that the time devoted by Mr. Stevenson to intra-office communications is non-compensable.

20. With respect to Mr. Stevenson’s time, I further note that 4.7 hours of his time was discreetly devoted to the pursuit of unsuccessful legal theories pertaining to the First Amendment claim. The time devoted to pursuit of the unsuccessful First Amendment claim and Motion for Preliminary Injunction is reflected in Exhibit C attached hereto. It is my opinion that this time is also not recoverable. Mr. Stevenson also devoted 8.6 hours to non-attorney clerical activities, as reflected in Exhibit D attached hereto. It is my opinion that this time is also not recoverable.

21. Mr. Stevenson and the other attorneys for the plaintiff also devoted excessive time to deposition preparation. In that regard, Mr. Stevenson expended 12.2 hours preparing for the deposition of a Rule 30(b)(6) corporate representative. He also expended 4.7 hours preparing for the deposition of Dr. Moxley. The time devoted by counsel for the plaintiff with respect to deposition preparation is reflected in Exhibit E attached hereto.

22. With respect to Mr. Stevenson’s time expended on the appeal, I note that he is claiming a total of 48.7 net hours, following a “discount” for eliminated hours. Nonetheless, much of the time expended by Mr. Stevenson on appeal arose out of his efforts in supervising Mr. Tilley and extensively rewriting the appellate brief. In that regard, Mr. Stevenson is claiming a total of 13.9 hours for revising and editing the brief written by Mr. Tilley. This time should not be compensable. The time devoted to preparation of the initial appellate brief is reflected in Exhibit F attached hereto.

23. As discussed in further detail below, there was also a great deal of overlap between the activities performed by Mr. Stevenson and the activities performed by co-counsel for the plaintiffs. As such, based upon my education, training and experience, it is my opinion that a reasonable number of hours for Mr. Stevenson at the trial court level and on appeal would range between 220 hours and 250 hours.

24. With respect to the fees requested by Daniel Tilley, Esq., I note that Mr. Tilley is requesting an hourly rate of \$350 for 207.5 net hours of legal services at the trial court level and 71.3 hours on appeal. It is my opinion that the hourly rate requested by Mr. Tilley is excessive. In my opinion, the hours requested are also excessive.

25. This was not a complicated case and Mr. Tilley is not an experienced attorney. Mr. Tilley was admitted to the District of Columbia Bar in 2011 and was admitted to the Florida Bar in 2013. Mr. Tilley is not board-certified in any area of practice. In light of Mr. Tilley experience and abilities, and consistent with previous attorney's fee awards by this court, it is my opinion that an hourly rate of \$150 per hour to \$175 per hour would be appropriate for Mr. Tilley. In fact, this would be consistent with the hourly rates awarded by the Jacksonville Division of the United States District Court for the Middle District of Florida for an attorney of similar experience and abilities in the case of *Church of Our Savior, Plaintiff, v. City of Jacksonville Beach, Defendant*, Case No. 3:13-cv-01346-TJC-JBT [Dkt. 188].

26. With respect to the hours requested by Mr. Tilley, Exhibit B reflects that 19.9 hours on the part of Mr. Tilley were the result of intra-office communications, consultations or conferences among multiple attorneys. As discussed above, these

conferences not considered by paying customers to be a “billable event.” I have never charged for these conferences in 35 years of practice and I would certainly not expect a paying customer to pay for them. As such, it is my opinion that the 19.9 hours claimed by Mr. Tilley for communication with co-counsel is not recoverable.

27. With respect to Mr. Tilley’s time, I further note that 25.4 hours of his time was discreetly devoted to the pursuit of unsuccessful legal theories pertaining to the First Amendment claim and the Motion for Preliminary Injunction. The time devoted to pursuit of the unsuccessful First Amendment and Motion for Preliminary Injunction is reflected in Exhibit C attached hereto. It is my opinion that this time is not recoverable.

28. There was also a great deal of overlap between the activities performed by Mr. Tilley and the activities performed by co-counsel for the plaintiffs. Mr. Tilley is claiming 15.8 hours with respect to the preparation of the plaintiff’s motion for summary judgment. Mr. Stevenson then claims 10.8 hours for reviewing, revising and editing the motion for summary judgment, while Ms. Cooper claims an additional 8.3 hours for reviewing, revising and editing Mr. Tilley’s motion for summary judgment. Similarly, with respect to the appeal to the 11th Circuit, Mr. Tilley is claiming 25.2 hours for drafting the initial brief, while Mr. Stevenson is claiming 14.8 hours for revising and editing the brief and Ms. Cooper is claiming an additional 4.7 hours for revising the brief. In other words, there was nearly as much time spent revising and correcting Mr. Tilley’s work as there was for Mr. Tilley to do the work in the first place. This is inconceivable and should be substantially reduced. Mr. Tilley also expended extensive and unnecessary time preparing for the appellate oral argument, claiming 17.9 hours in preparation for that

event. This is also excessive and should be substantially reduced. As such, based upon my education, training and experience, it is my opinion that a reasonable total number of hours for Mr. Tilley at the trial court level and on appeal would range between 190 hours and 230 hours. The time devoted by counsel for the plaintiff to the motion for summary judgment is reflected in Exhibit H attached hereto. The time devoted by counsel for the plaintiff to the initial appellate brief is reflected in Exhibit F attached hereto. The time devoted by counsel for the plaintiff to preparation for the appellate oral argument is reflected in Exhibit G attached hereto.

29. With respect to the fees requested by Ms. Cooper, I note that she is requesting 17.4 hours of time at an hourly rate of \$450 for her services at the trial court level and 8.7 hours at an hourly rate of \$450 for her services at the appellate level. Ms. Cooper is not a member of the Florida Bar. She was admitted to practice in the state of New York in 1996. Ms. Cooper is not board certified in any area of practice. In light of similar fee awards made by the United States District Court for the Middle District of Florida to attorneys of similar skill, ability and experience, it is my opinion that Ms. Cooper would be entitled to an hourly rate between \$300 per hour and \$350 per hour. This opinion is based on my knowledge of the court awards for attorney's fees for attorneys with similar experience and ability in the United States District Court for the Middle District of Florida, including the Ocala Division of the United States District Court for the Middle District of Florida.

30. With respect to the hours claimed by Ms. Cooper at the trial court level, I note that a minimum of 8.3 hours of Ms. Cooper's time were devoted to revising the

motion for summary judgment have to by Mr. Tilley. It is my opinion that the time devoted to supervising Mr. Tilley and revising his motion for summary judgment is either non-compensable or should be severely discounted. The time devoted by counsel for the plaintiff to the motion for summary judgment is reflected in Exhibit H attached hereto.

31. With respect to the hours claimed by Ms. Cooper on appeal, I note that 6.1 hours were devoted to revising and editing the brief that was written by Mr. Stevenson and Mr. Tilley. Although a certain amount of collaboration may be expected in the preparation of appellate briefs, it is my opinion that the time devoted to the preparation of the briefs in this case is excessive. Moreover, is my opinion that Ms. Cooper should not be compensated for supervising the attorneys involved in the hands-on preparation of the brief. As such, it is my opinion that the 6.1 hours claimed by Ms. Cooper for revising and editing the appellate briefs is either or should be severely discounted non-compensable. The time devoted by counsel for the plaintiff to the initial appellate brief is reflected in Exhibit F attached hereto.

32. Based upon my education, training and experience, it is my opinion that a reasonable number of hours for Ms. Cooper at the trial court level and on appeal would range between 12 hours and 20 hours.

33. As discussed above, the prevailing market rate is lower than proposed hourly rates requested by counsel for the Plaintiffs in this matter. *See, e.g., Delta RF Tech., Inc. v. RIIMIC, LLC*, No. 5:09-cv-373-OC-10PRL (M.D.Fla. Nov. 4, 2013) (awarding counsel a rate of \$350 per hour); *Hazleton v. City of Orlando*, No. 6:10-cv-342-Orl-36DAB, 2013 WL 5952427 (M.D.Fla. Nov. 4, 2013) (awarding experienced

counsel a rate of \$300 per hour in excessive force litigation); *Raetano v. Burzynski*, No. 8:08-cv-200-T-17-EAJ, 2009 WL 691921 (M.D.Fla. Mar.13, 2009) (awarding counsel a rate of \$350 per hour); *Harty v. Bapuji*, No. 8:10-cv-2720-T-27TBM, 2012 WL 2044970 (M.D.Fla. May 17, 2012) (awarding counsel a rate of \$350 per hour). Although rates of \$400 per hour are occasionally awarded in the Middle District of Florida, such awards are usually limited to First Amendment cases. *See Troche v. City of Orlando*, No. 6:14-CV-419-ORL-22, 2015 WL 631380, at *4 (M.D.Fla. Feb.13, 2015) (concluding a \$500 hourly rate was not reasonable and reducing rate to \$400); *Am. Civil Liberties Union of Florida Inc. v. Dixie Cnty. Fla.*, No. 1:07-CV-00018-MP-GRJ, 2012 WL 384925, at *2 (N.D.Fla. Feb.6, 2012) report and recommendation adopted as modified, No. 1:07CV18-MP-GRJ, 2012 WL 1004372 (N.D.Fla. Mar.23, 2012) (awarding \$400 hourly rate to attorney with 29 years of experience, where Middle District of Florida was the relevant legal community); and *First Vagabonds Church of God v. City of Orlando, Fla.*, No. 606CV-1583-ORL-31KRS, 2008 WL 4877159, at *5 (M.D.Fla. Nov.12, 2008) (awarding \$400 hourly rate to attorney with 25 years of experience). Nonetheless, an award of \$400 per hour is not the norm, even in First Amendment litigation. *See, e.g., Hodges v. Sch. Bd. of Orange Cnty., Fla.*, No. 6:11-CV-135-ORL-36, 2014 WL 6455436, at *7 (M.D.Fla. Nov.13, 2014) (awarding hourly rate of \$295 for work in First Amendment litigation); *Lindsey v. Howell*, No. 8:10-CV-01910-T-23, 2012 WL 6699593, at *3 (M.D.Fla. Nov.26, 2012) report and recommendation adopted, No. 8:10-CV-1910-T-23, 2012 WL 6699584 (M.D.Fla. Dec.26, 2012) (awarding hourly rate of \$160 to defendant's attorney in First Amendment action).

34. Even complex and highly specialized areas of civil rights litigation, such as claims under the Religious Land Use and Institutionalized Persons Act (RLUIPA), have resulted in hourly awards of attorney's fees significantly less than the rate requested by counsel for the plaintiff in this matter. In *Church of Our Savior v. City of Jacksonville Beach*, 108 F.Supp.3d 1259 (M.D. Fla, 2015), the court awarded hourly rates of \$325 and \$225 to experienced litigators in a hotly contested RLUIPA action.

35. Court ordered attorneys fee awards at hourly rates significantly less than \$400 per hour are also the norm in complex federal employment litigation. *See, e.g., Comprehensive Care Corp. v. Katzman*, No. 8:09-cv-1375-T-24TBM, 2011 WL 2938268, at *2-*3 (M.D.Fla. July 21, 2011) (finding reasonable \$300.00 hourly rate for an attorney with over ten years of experience, \$200.00 hourly rate for an attorney with four to nine years of experience, \$150.00 hourly rate for an attorney with less than four years of experience, and \$200.00 hourly rate for an attorney with an unknown level of experience for a case involving claims for breach of contract and indemnification); *Johnson v. Potter*, No. 8:08-cv-1279-T-24TGW, 2011 WL 672347, at *2-*3 (M.D.Fla. Feb.17, 2011) (finding hourly rates ranging from \$200.00 to \$350.00 reasonable for work performed by attorneys with various levels of experience in a case involving claims brought under Title VII and the FMLA); *Fielder v. Shinseki*, No. 8:07-cv-1524-T-TBM, 2010 WL 1708621, at *2-*3 (M.D.Fla. April 26, 2010) (finding that trial counsel typically billed \$300.00 to \$400.00 per hour for Title VII matters and concluding that an hourly rate of \$350.00 per hour was reasonable for two attorneys with over thirty years of experience). Further, in *Dail v. George A. Arab Inc.*, another Fair Labor Standards Act

case, the Court awarded the lead counsel an hourly rate of \$350.00 and a third-year attorney an hourly rate of \$250.00 but explicitly noted that those rates appeared to “exceed the reasonable hourly rate in the Orlando market for similar work performed by attorneys with similar qualifications and experience[.]” 391 F.Supp.2d 1142, 1147 (M.D.Fla.2005).

36. Based upon my education, training and experience, and in light of my knowledge of the reasonable hourly rates awarded in the United States District Court for the Middle District of Florida, it is my opinion that a reasonable attorney’s fee award for Mr. Stevenson would range between \$66,000.00 (220 hours at \$300 per hour) and \$81,250.00 (250 hours at \$325 per hour). It is my further opinion that a reasonable attorney’s fee award for Mr. Tilley would range between \$28,500.00 (190 hours at \$150 per hour) and \$40,250.00 (230 hours at \$175 per hour). It is my further opinion that a reasonable fee award for Ms. Cooper would range between \$3,600.00 (12 hours at \$300 per hour) and \$7,000.00 (20 hours at \$350 per hour). Taking into consideration the awards on behalf of Mr. Stevenson, Mr. Tilley and Ms. Cooper, it is my opinion that a total reasonable award of attorney’s fees would range between \$98,100.00 and \$135,250.00. Any award in excess of \$128,500.00 would be unreasonable and excessive.

FURTHER AFFIANT SAYETH NAUGHT.



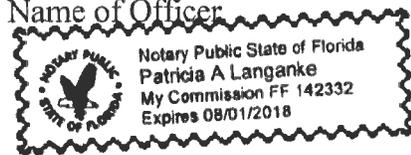
ROBERT E. BONNER

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

The foregoing instrument was acknowledged before me this 11th day of July, 2017, by Robert E. Bonner, who is personally known to me or who has produced _____ as identification.

Patricia A. Langanke
Signature of Officer

Name of Officer



**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

CARVER MIDDLE SCHOOL
GAY-STRAIGHT ALLIANCE, et al.,

Plaintiffs,

v.

CASE NO. 5:13-cv-623-TJC-PRL

SCHOOL BOARD OF LAKE
COUNTY, FLORIDA,

Defendant.

Exhibit 1-A

**ROBERT E. BONNER
MEIER, BONNER, MUSZYNSKI O'DELL & HARVEY, P.A.
260 WEKIVA SPRINGS RD.
SUITE 2000
LONGWOOD, FL 32779**

EDUCATION:

The Ohio State University, B.A., Social Science, 1976
University of Florida, J.D., with honors, 1981
Member, Board of Editors, Appellate Advocacy, University of Florida
1980-1981
Phi Delta Phi (Magister, 1981)

TEACHING:

Instructor, Legal Writing, University of Florida, 1981

AUTHOR:

"Protecting Work Product from Discovery," Trial Advocate Quarterly,
April 1989

"Defense of Law Enforcement Agencies and Officers-An Ethical
Nightmare," Trial Advocate Quarterly, October 2012

EMPLOYMENT:

Managing Shareholder and founding member, Meier, Bonner,
Muszynski, O'Dell & Harvey, P.A., 1997-present. Civil trial practice
with emphasis on representing local governments, law enforcement
agencies, individual law enforcement officers and elected officials in a
variety of civil matters in both state and Federal courts.

Member, Eubanks, Hilyard, Rumbley, Meier & Lengauer, P.A., 1981-
1997. Civil trial practice with emphasis on personal injury litigation,
including representation of self-insured entities, insurance carriers and
their insureds.

BAR ADMISSIONS:

Admitted to Florida Bar, 1981; U.S. District Court, Middle District of Florida, 1981; U.S. District Court, Southern District of Florida, 2008; U.S. District Court, Northern District of Florida, 2016; U.S. Court of Appeals, Eleventh Circuit, 1982; U.S. Supreme Court, 1989.

PROFESSIONAL CERTIFICATION:

Board Certified Civil Trial Lawyer, Florida Bar Board of Legal Specialization and Education since 1989.

MEMBERSHIPS:

ABOTA; the Florida Bar-Trial Lawyers Section; Florida Defense Lawyers Association (President 2016-2017; President-Elect 2015-2016; Secretary-Treasurer 2014-2015; Board of Directors 2008-2012); Defense Research Institute (DRI); Claims and Litigation Management Alliance; Florida Municipal Attorneys Association; Florida Association of Police Attorneys; Seminole County Bar Association.

PRESENTATIONS:

The Quagmire of Closing Argument: How to Recognize, Anticipate and Defend Improper Tactics. Webinar Presentation for the the Florida Defense Lawyers Association. April 6, 2017.

The Quagmire of Closing Argument: How to Recognize, Anticipate and Defend Improper Tactics. Presentation at the Florida Defense Lawyers Winter Meeting. Big Sky Resort, Montana. January 2017.

Federal Court Survival Guide. Presentation at the Florida Defense Lawyers Association Advanced Litigation Boot Camp. Longwood, Florida. October 2016.

Surviving and Thriving in Federal Court. Presentation at the Florida Defense Lawyers Association Winter Meeting. Big Sky Resort, Montana. January 2016.

Embracing the Reptile: Using Reptile Tactics for a Successful Defense. Presentation at the Florida Defense Lawyers Association Advanced Litigation Boot Camp. Longwood, Florida. October 2015.

Excluding Expert Opinion Testimony under Daubert. Presentation at the Florida Defense Lawyers Association Advanced Litigation Boot Camp. Longwood, Florida. October 2015.

Effective Use of Daubert Motions to Exclude Expert Testimony. Webinar Presentation for the the Florida Defense Lawyers Association. June 18, 2015.

Social Media in Civil Litigation: A Practical Perspective. Presentation for the Claims & Litigation Management Alliance. Orlando, Florida. March 2015.

Federal Court Survival Guide. Presentation at the Florida Defense Lawyers Association Advanced Litigation Boot Camp. Longwood, Florida. October 2014.

Strategic Use of Motions in Limine. Presentation at the Florida Liability Claims Conference. Walt Disney World Contemporary Resort. June 2014.

Joint Representation of Law Enforcement Agencies and Officers: An Ethical Nightmare. Presentation at the Florida Liability Claims Conference. Walt Disney World Contemporary Resort. June 2014.

Joint Representation of Law Enforcement Agencies and Officers: An Ethical Nightmare. Presentation at the Florida Association of Police Attorneys Winter Meeting. Orlando, Florida. January 2014.

Effective Use of Daubert Motions and Motions in Limine. Presentation at the Florida Defense Lawyers Association Advanced Litigation Boot Camp. Longwood, Florida. November 2013.

Strategic Use of Motions in Limine. Presentation at the Florida Defense Lawyers Association Winter Meeting. Big Sky, Montana. January 2013.

Initial Case Workup – Doing Your Homework. Presentation at the Florida Defense Lawyers Association Young Lawyers Boot Camp. Longwood, Florida. March 2012.

Recent Legal Developments and Best Strategies for Removal to Federal Court. Presentation at the Florida Defense Lawyers Association Winter Meeting. Big Sky, Montana. January 2011.

Initial Case Workup – Doing Your Homework. Presentation at the Florida Defense Lawyers Association Young Lawyers Boot Camp. Longwood, Florida. November 2010.

Exclusion of Experts in the 11th Circuit. Presentation at the Florida Defense Lawyers Association Winter Meeting. Big Sky, Montana. January 2010.

Motions in Limine and Trial Objections. Presentation at the Florida Defense Lawyers Association Winter Meeting. Park City, Utah. January 2006.

Ethical Considerations Regarding Multiple Representation. Presentation at Police Misconduct in Florida. Orlando, Florida December 2005.

Shocking Developments: Excessive Force Claims Arising Out of the Use of Tasers. Presentation at the Florida Defense Lawyers Association Winter Meeting. Steamboat Springs, Colorado. January 2005.

Defense and Prevention of Law Enforcement Claims. Presentation at the Florida Liability Claims Conference. Walt Disney World Contemporary Resort. June 2004.

Defending Police Liability Claims: The Law, Practical Considerations and Sovereign Immunity. Presentation at the Florida Defense Lawyers Association Winter Meeting. Steamboat Springs, Colorado. January 2004.

Premises Liability for Criminal Acts. Presentation at the Florida Defense Lawyers Association Winter Meeting. Snowmass, Colorado. January 2000.

Successful Defense of Wrongful Death Actions. Presentation at the Florida Defense Lawyers Association Winter Meeting. Snowmass, Colorado. January 1999.

Defense Planning for the Wrongful Death Case. Presentation at Trying the Wrongful Death Case in Florida: Strategies in Preparation and Valuation. Orlando, Florida. March 1997.

UM Claims: A Practical Perspective. Presentation at Recent Developments in Insurance Law. Orlando, Florida. March 1994.

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

CARVER MIDDLE SCHOOL
GAY-STRAIGHT ALLIANCE, et al.,

Plaintiffs,

v.

CASE NO. 5:13-cv-623-TJC-PRL

SCHOOL BOARD OF LAKE
COUNTY, FLORIDA,

Defendant.

Exhibit 1-B

Communications Activities between Plaintiff Attorneys

Date	Stevenson	Tilley	Abudu	Cooper
09/11/2013	Telephone conference with Tilley regarding status of GSA application 0.1			
09/13/2013		Telephone conference with Stevenson regarding preparation of club application 0.2		
09/13/2013		Telephone conference with Stevenson regarding curriculum related nature of clubs 0.5		
09/23/2013	Telephone conference with Tilley regarding meaning of "curricular" 0.5	Telephone conference with Stevenson regarding curriculum 0.5		
10/02/2013		Telephone conference with Stevenson regarding club application 0.5		
11/06/2013		Telephone conference with Stevenson regarding application 0.1		
12/05/2013	Telephone conference with Tilley regarding methods to establish forum 0.3	Telephone call with Stevenson regarding lack of clubs at school 0.3		

Attorney Communications Activities

12/05/2013		Email correspondence to Cooper and Stevenson regarding issue of clubs under EAA 0.1		
12/05/2013		Telephone call with Cooper regarding lack of clubs at school 0.1		
12/05/2013		Telephone call with Cooper regarding whether student government is curricular 0.2		
12/05/2013		Telephone call with Stevenson regarding how to respond to Johnson's email 0.2		
12/06/2013		Telephone call with Stevenson regarding need for club applications and definition of curricular 0.2		
12/06/2013		Telephone call with Stevenson regarding timing for filing complaint 0.1		
12/10/2013		Telephone call with Stevenson regarding interpretation of		

Attorney Communications Activities

		school board minutes 0.2		
12/11/2013		Telephone call with Stevenson regarding whether to drop superintendent as defendant 0.1		
12/12/2013		Telephone call with Stevenson regarding logistics of filing, etc. 0.2		
12/12/2013		Email correspondence with Cooper regarding update on other clubs at school 0.1		
12/13/2013		Discuss Stevenson's edits with Stevenson 0.1		
12/13/2013		Telephone conference with Stevenson regarding edits to complaint 0.2		
12/13/2013		Telephone call with Cooper regarding interpretation of club policy 0.1		
12/17/2013		Email correspondence with Cooper and Stevenson regarding Colorado decision 0.2		

Attorney Communications Activities

01/30/2014		Telephone call with Cooper regarding responses to complaint 0.3		
02/03/2014	Telephone conference with Tilley regarding First Amendment and EAA interpretations of curricular 0.6			
03/20/2014		Discuss issues regarding anticipated discovery and related problems with Cooper and Stevenson 1.5		
03/31/2014	Telephone conference with Tilley regarding written discovery requests 0.3			
04/01/2014		Telephone call with Stevenson regarding expert disclosures 0.2		
04/03/2014	Telephone conference with Tilley regarding necessary depositions 0.4			
05/01/2014	Email exchange with Tilley regarding burden of discovery 0.3			
05/06/2014	Telephone conference			

Attorney Communications Activities

	with Tilley regarding discovery 2.3			
05/09/2014	Telephone conference with Tilley regarding how to make email request more reasonable 0.2			
05/28/2014	Telephone conference with Tilley regarding discovery plan 2.1			
06/17/2014		Telephone conversation with Cooper regarding deposition outlines 1.4		
06/20/2014	Telephone conference with Tilley regarding school board's objections to depositions 0.4			
07/09/2014	Telephone conference with Tilley, Cooper and Chen regarding motion in limine, motion for summary judgment and evidence from depositions 0.9			
07/23/2014		Call with Cooper regarding experts 0.2		
08/06/2014		Review Cooper comments and respond		

Attorney Communications Activities

		to Cooper and Stevenson 0.3		
08/26/2014	Telephone conference with Tilley and Cooper 0.5			
09/05/2014	Telephone conference with Tilley 0.2	Telephone conference with Stevenson regarding response to defendant's discovery 0.5		
09/15/2014		Telephone conversation with Stevenson regarding potential reply, oral argument, etc. 0.3		
09/16/2014		Telephone conversation with Cooper regarding reply 0.3		
10/08/2014	Telephone conference with Tilley regarding school board's request to amend response to summary judgment 0.2	Telephone conference with Stevenson regarding defendant's motion for leave to file reply 0.2		
10/30/2014		Telephone call with Cooper regarding discussion before drafting pleading 0.6		Telephone call with Tilley regarding reply 0.5
11/17/2014		Telephone call with Stevenson regarding		

Attorney Communications Activities

		calling chambers 0.1		
11/20/2014		Telephone call with Stevenson regarding discovery hearing 0.2		
11/21/2014		Email correspondence with Cooper and Stevenson regarding discovery hearing 0.1		
11/24/2014	Telephone conference with Tilley regarding Nguyen as expert 1.0			
01/21/2015	Prepare correspondence to Tilley regarding need to depose Dr. Nguyen 1.5			
01/29/2015	Telephone conference with Tilley regarding trial 0.2	Telephone call with Stevenson regarding trial preparation 0.2		
02/02/2015		Telephone call with Cooper and Stevenson regarding pretrial conference 1.2		
02/04/2015	Telephone conference with Tilley regarding trial strategy 0.5	Telephone call with Stevenson regarding preparation for pre-conference 0.5		
02/04/2015	Telephone conference with Tilley regarding pretrial conference 0.5	Post pre-trial conference Telephone call with Stevenson		

Attorney Communications Activities

		regarding next steps 0.6		
02/09/2015	Telephone conference with Tilley regarding pretrial stipulations 0.6			
02/10/2015		Telephone call with Stevenson and Cooper regarding pretrial statement 0.9		
02/11/2015	Telephone conference with Tilley regarding trial preparation 0.3			
02/13/2015	Telephone conference with Tilley regarding pretrial conference 2.1			
02/23/2015	Telephone conference with Tilley regarding trial preparations 1.2	Telephone call with Stevenson regarding trial 1.1		
08/31/2015		Call with Stevenson regarding appeal and bill of costs 0.4		
09/16/2015	Telephone conference with Tilley regarding GSA 0.3			
10/14/2015	Telephone conference with Tilley regarding bill of costs 0.4			
12/14/2016		Call with Stevenson to discuss fees 0.5		
12/16/2016	Telephone conference			

Attorney Communications Activities

	with Tilley and Abudu regarding settlement and compromise of the demand 0.5			
01/10/2017		Telephone call with Stevenson to discuss fees 0.6		
01/12/2017	Telephone conference with Tilley regarding path to settlement 1.3	Telephone call was Stevenson to discuss club application and settlement 1.3		
01/18/2017	Telephone conference with Tilley regarding resolution of case we want court to adopt 0.5			
01/19/2017	Telephone conference with Tilley and Cooper regarding status conference 0.5			
01/19/2017	Telephone conference			

Attorney Communications Activities

	with Tilley regarding status conference order 0.4			
02/07/2017	Telephone conference with Tilley regarding nominal damages 0.4	Telephone call with Stevenson regarding nominal damages 0.4		
02/15/2017	Telephone conference with Tilley regarding partial summary judgment 0.5			
02/16/2017	Telephone conference with Tilley regarding private cause of action 0.2			
TOTAL	22.2	19.9		0.5

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

CARVER MIDDLE SCHOOL
GAY-STRAIGHT ALLIANCE, et al.,

Plaintiffs,

v.

CASE NO. 5:13-cv-623-TJC-PRL

SCHOOL BOARD OF LAKE
COUNTY, FLORIDA,

Defendant.

Exhibit 1-C

Unsuccessful Legal Theories

Date	Stevenson	Tilley	Abudu	Cooper
12/05/2013		Review email discussion of First Amendment claims 0.1		
12/10/2013		Beginning draft of preliminary injunction motion using template from Vanguard GSA case 0.5		
12/10/2013		Call with HF to ask about clubs at school, GSA with respect to motion for preliminary injunction 0.2		
12/10/2013		Begin draft of pulmonary injunction motion using template from Vanguard GSA case 0.5		
12/10/2013		Drafting preliminary injunction motion 0.5		
12/10/2013		Review high school club apps sent by SJ's assistant with respect to motion for preliminary injunction 0.3		
12/11/2013		Finish first draft of facts section on preliminary injunction motion 0.9		

Unsuccessful Legal Theories

12/12/2013		Drafting preliminary injunction motion-part of EAA claim 1.0		
12/12/2013		Email to SJ regarding extended delay in sending the club apps with respect to motion for appointment area injunction 0.1		
12/12/2013		Email with Cooper re update on other clubs at school with respect to motion for preliminary injunction 0.1		
12/12/2013		Texting with HF reJunior national honor society with respect to motion for preliminary injunction 0.1		
12/13/2013		Follow-up with SJ re need for middle school club apps with respect to motion for preliminary injunction 0.1		
12/13/2013		Reviewed middle school club applications sent by SJ's assistant with		

Unsuccessful Legal Theories

		respect to motion for preliminary injunction 0.2		
12/15/2013		Review LC's comments and edit preliminary injunction motion based on those comments 0.1		
12/16/2013		Draft HF declaration with respect to motion for preliminary injunction 0.2		
12/16/2013		Edited HF's declaration based on Stevenson's comments with respect to motion for preliminary injunction 0.2		
12/16/2013		Edited preliminary injunction motion 2.3		
12/16/2013		Reviewed middle school club applications and took notes on club approvals relevant to complaint with respect to motion for preliminary injunction 0.6		
12/16/2013		Call with Jim Faughnan regarding		

Unsuccessful Legal Theories

		having HF review and sign the declaration with respect to motion for preliminary injunction 0.1		
12/17/2013		Edited preliminary injunction motion 0.2		
12/17/2013		Reviewed club applications a 2 nd time re FCA with respect to motion for preliminary injunction 0.2		
01/09/2014		Edited preliminary injunction motion 1.3		
01/10/2014	Revised motion for preliminary injunction 2.1			
01/13/2014		Edited preliminary injunction motion 3.1		
01/14/2014		Edited preliminary injunction motion 3.6		
01/31/2014				Reviewing preliminary injunction brief 2.5
02/03/2014		Review and analyze defendants response to motion for preliminary injunction 0.8		
02/03/2014		Preparing for moot with respect to preliminary injunction		

Unsuccessful Legal Theories

		0.4		
02/03/2014		Reviewed and analyze defendants response to motion for preliminary injunction 0.8		
02/04/2014		Preliminary injunction hearing moot prep: created outline 0.6		
02/04/2014		Preliminary injunction hearing moot prep: security bond 0.4		
02/05/2014		Finish preparations for moot on preliminary injunction hearing 1.8		
02/05/2014		Moot on preliminary injunction hearing and debrief 1.4		
02/10/2014	Prepare for hearing on motion for preliminary injunction 0.9			
02/10/2014	Attend hearing on motion for preliminary injunction 1.0	Preliminary injunction hearing 1.0		
02/10/2014	Transition time to and from hearing on plaintiff's motion for preliminary injunction 0.7			
11/24/2014		Edit response to MSJ (First Amendment		

Unsuccessful Legal Theories

		section) 1.8		
TOTAL	4.7	25.4		2.5

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

CARVER MIDDLE SCHOOL
GAY-STRAIGHT ALLIANCE, et al.,

Plaintiffs,

v.

CASE NO. 5:13-cv-623-TJC-PRL

SCHOOL BOARD OF LAKE
COUNTY, FLORIDA,

Defendant.

Exhibit 1-D

Clerical Activities by Attorneys

Date	Stevenson	Tilley	Abudu	Cooper
06/11/2014	Prepare notice of taking deposition of rule 30(b)(6) witness 0.5			
06/12/2014	Continue drafting notice of deposition of rule 30(b)(6) witness 2.1			
09/19/2014	Drafted notice of depositions 0.2			
09/26/2014	Draft amended notice of depositions 0.2			
02/13/2017	Correlate attorney time records to share with opposing counsel 2.5			
02/17/2017	review of attorney fees and costs in District Court 3.1			
Total	8.6			

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

CARVER MIDDLE SCHOOL
GAY-STRAIGHT ALLIANCE, et al.,

Plaintiffs,

v.

CASE NO. 5:13-cv-623-TJC-PRL

SCHOOL BOARD OF LAKE
COUNTY, FLORIDA,

Defendant.

Exhibit 1-E

Excessive Billing - Deposition Preparation

Date	Stevenson	Tilley	Abudu	Cooper
06/10/2014		Draft deposition outlines 1.6		
06/11/2014	Prepare for deposition of superintendent and rule 30(b)(6) witness 2.1	Draft deposition outlines 1.3		
06/13/2014		Deposition outlines 0.6		
06/15/2014		Draft deposition outline for Cole 1.7		
06/17/2014		phone call with Cooper regarding deposition outlines 1.5		
06/18/2014		Draft deposition outlines 1.0		
06/20/2014	Prepare for deposition of rule 30(b)(6) witness 3.7			
06/21/2014	Continued preparation for deposition of rule 30(b)(6) witness 3.1			
06/22/2014	Finish outline for deposition of rule 30(b)(6) witness 1.0	Draft deposition outline 0.6		
06/23/2014	Assist with preparation for depositions of Haugabrook, Forbes, Wright and Cunningham 1.0			

Excessive Billing - Deposition Preparation

06/23/2014	Assist Tilley with preparation for depositions of Haugabrook, Forbes, Wright and Cunningham 2.3			
06/24/2014	Solo preparation for depositions of Haugabrook, Forbes, Wright and Cunningham 1.8			
06/24/2014	Prepare for rule 30(b)(6) deposition 2.3			
09/26/2014	Prepare for deposition of Moxley as expert 1.2			
09/26/2014	Prepare for deposition of rule 30(b)(6) witness regarding federal financial assistance 0.7			
09/29/2014	Continued preparation for deposition of Moxley as expert 2.3			
09/30/2014	Continued preparation for deposition of Moxley as expert 1.2			
Total				

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

CARVER MIDDLE SCHOOL
GAY-STRAIGHT ALLIANCE, et al.,

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v.

CASE NO. 5:13-cv-623-TJC-PRL

SCHOOL BOARD OF LAKE
COUNTY, FLORIDA,

Defendant.

Exhibit 1-F

Excessive Billing - Appeal to 11th Circuit - Initial Brief

Date	Stevenson	Tilley	Abudu	Cooper
09/24/2015		11 th circuit brief - draft statement of issues and intro to statement of case; research and draft part of ripeness section 3.8		
09/28/2015		11 th circuit brief - finish research and drafting ripeness; draft mootness and equal access issues 4.8		
09/28/2015		11 th circuit brief - finish equal access and standards of review 2.7		
09/30/2015		Finish initial draft of appellant's brief 2.7		
10/01/2015	draft initial brief/revise statement of facts 3.1			
10/02/2015	draft initial brief/revise argument on ripeness 4.2			
10/05/2015	draft initial brief/revise argument on equal access 2.4			
10/05/2015	draft initial brief/revise argument on mootness 3.0			
10/12/2015		Review Stevenson		

Excessive Billing - Appeal to 11th Circuit - Initial Brief

		edits to brief 0.8		
10/16/2015		Go through Stevenson edits and draft new version of brief 0.3		
10/17/2015		Draft appellate brief 0.3		
10/18/2015		Draft appellate brief 0.2		
10/19/2015				Revising appeal brief 2.6
10/20/2015		Draft appellate brief based on Cooper's edits 3.5		
10/21/2015	draft summary of argument 0.9			
10/22/2015				Revising appeal brief 2.1
10/25/2015			Review/edit/comments to initial brief 0.4	
10/26/2015	Edit initial brief for clarity and persuasiveness 1.2	Draft/revise brief 3.7		
10/27/2015		Draft and finalize brief 2.7		
Total	13.9	25.2	0.4	4.7

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

CARVER MIDDLE SCHOOL
GAY-STRAIGHT ALLIANCE, et al.,

Plaintiffs,

v.

CASE NO. 5:13-cv-623-TJC-PRL

SCHOOL BOARD OF LAKE
COUNTY, FLORIDA,

Defendant.

Exhibit 1-G

Excessive Billing - Oral Argument Preparation

Date	Stevenson	Tilley	Abudu	Cooper
09/02/2016		Prepare for left circuit oral argument 3.9		
09/06/2016		Continue preparing for oral argument 5.1		
09/07/2016		Continue preparing for oral argument - ripeness, mootness and EAA arguments 1.1		
09/07/2016		Moot argument to prepare for 11 th circuit oral argument 1.3		
09/12/2016		Continue preparing for oral argument - research on implied right of action and nominal damages under EAA 1.1		
09/12/2016		Continue preparing for oral argument - research on mootness 0.6		
09/13/2016		Continue preparing for oral argument - research on references to siblings and Janine's deposition (related to mootness argument) 0.3		
09/14/2016		Continue preparation		

Excessive Billing - Oral Argument Preparation

		for oral argument 4.2		
09/15/2016		Continue preparation for oral argument-final run through 0.3		
Total		17.9		