UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ROBERT L. VAZZO, LMFT, etc., et al.,	)	
	)	
Plaintiffs,	)	
	)	Case No. 8:17-cv-2896-T-02AAS
v.	)	
	)	
CITY OF TAMPA, FLORIDA,	)	
	)	
Defendant.	)	
	)	

PLAINTIFF'S MOTION FOR ATTORNEY'S FEES AND NONTAXABLE EXPENSES AND SUPPORTING MEMORANDUM OF LAW

Plaintiffs ROBERT L. VAZZO, LMFT, individually and on behalf of his patients, and SOLI DEO GLORIA INTERNATIONAL, INC. d/b/a NEW HEARTS OUTREACH TAMPA BAY, individually and on behalf of its members, constituents, and clients, pursuant to 42 U.S.C. § 1988 and M.D. Fla. L.R. 4.18, and for the reasons set forth in their memorandum of law incorporated below, move the Court for an order awarding Plaintiffs $569,592.50 as and for reasonable attorney's fees and $18,235.85 in nontaxable expenses.[1]

[1] Contemporaneously herewith Plaintiffs file their Bill of Costs seeking $10,389.33 in taxable costs.

MEMORANDUM OF LAW

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INTRODUCTION

By virtue of the Court's Order (D.213, "MSJ Order") and Judgment (D.215) entered October 4, 2019, Plaintiffs prevailed in their challenge to the validity of the City of Tampa's Ordinance 2017-47 enacted on April 6, 2017, ostensibly banning so-called "conversion therapy" in Tampa. As prevailing parties, Plaintiffs are entitled to recover their costs, attorney's fees, and nontaxable expenses from the City under 42 U.S.C. § 1988.

Plaintiffs filed their Verified Complaint challenging the ordinance (D.1) on December 4, 2017, and filed their First Amended Verified Complaint (D.78, "FAVC") on June 12, 2018. In both complaints, each count arose out of and was based on the same operative fact—Tampa's enactment of the ordinance—and their prayer for relief in both pleadings comprised (a) a declaration that the ordinance is invalid, and (b) preliminary and permanent injunctive relief enjoining the City from enforcing the ordinance.

After briefing and a hearing on Plaintiffs' motion for preliminary injunction, the Magistrate issued a report and recommendation (D.149) concluding that Plaintiffs should prevail on the merits of their constitutional claims and that a preliminary injunction against the City's enforcement of the ordinance should issue. The parties subsequently submitted cross-motions for summary judgment (D.189, D.194). After briefing and a hearing on the summary judgment motions, the Court entered its MSJ Order and Judgment on October 4, 2019. In the MSJ Order, the Court granted Plaintiffs the relief they were seeking by striking the ordinance under the doctrine of implied preemption and permanently enjoining its enforcement. (MSJ Order 41.)

ARGUMENT

I. PLAINTIFFS ARE PREVAILING PARTIES ENTITLED TO ATTORNEYS' FEES FOR WORK ON ALL THEIR CLAIMS.

A. Plaintiffs Are Prevailing Parties Because They Obtained the Precise and Complete Relief They Sought and Fundamentally Altered the Legal Relationship Between the City and Themselves.

Under 42 U.S.C. § 1988, "the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs." 42 U.S.C. § 1988(b). While the language of the statute is discretionary, "[a] prevailing party should recover attorney's fees unless special circumstances render such an award unjust." *Riddell v. Nat'l Democratic Party*, 624 F.2d 539, 543 (5th Cir. 1980). A plaintiff may be considered a prevailing party if he obtains a "court-ordered 'change in the legal relationship between the plaintiff and the defendant.'" *Buckhannon Bd. and Care Home, Inc. v. West Virginia Dep't of Health & Human Res.*, 532 U.S. 598, 604 (2001) (quoting *Texas State Teachers Ass'n v. Garland Indep. Sch. Dist.*, 489 U.S. 782, 792 (1989)). "Plaintiffs may be considered prevailing parties for attorney's fee purposes if they succeed on **any significant issue** in litigation which achieves **some** of the benefit the party sought in bringing suit." *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983) (emphasis added); *see also Farrar v. Hobby*, 506 U.S. 103, 111 (1992). The Supreme Court has defined a prevailing party as one "in whose favor judgment is rendered, regardless of the amount of damages awarded." *Buckhannon*, 532 U.S. at 603 (quoting *Black's Law Dictionary* 1145 (7th ed. 1999)). "An enforceable judgment establishes a plaintiff as a prevailing party because the plaintiff has received at least some relief based upon the merits of a claim." *Utility Automation 2000, Inc. v. Choctawhatchee Elec. Co-op., Inc.*, 298 F.3d 1238, 1248 (11th Cir. 2002) (citing *Buckhannon*, 532 U.S. at 604).

Here, it is beyond cavil that the Court entered summary judgment for Plaintiffs such that they received all the relief they sought. Plaintiffs prayed for a judgment that (a) declared Tampa's ordinance invalid, and (b) permanently enjoined the City from enforcing it. (FAVC 51.) This is precisely the relief the Court granted to Plaintiffs by its MSJ Order and Judgment. There can be no dispute that this is a material change in the legal relationship between the parties, *Buckhannon*, 532 U.S. at 604, and that an enforceable judgment establishes Plaintiffs as prevailing parties having "received at least some relief based upon the merits of a claim." *Utility Automation*, 298 F.3d at 1248. To be sure, a permanent injunction against enforcement of the ordinance is more than just "some relief;" it is complete relief, and forever alters the City's ability to enforce the ordinance against Plaintiffs. Plaintiffs are thus unquestionably prevailing parties under § 1988.

B. Plaintiffs Are Entitled to an Award of Fees for Work on All Their Claims Because Their Success on their Pendent State Claims Arose from the Same Nucleus of Operative Facts as Their Constitutional Claims, and the Court Passed on the Constitutional Questions.

1. A Party Prevailing on Its Pendent Claims in a § 1983 Action Is Still Entitled to Fees When the Court Declines to Address the Constitutional Claims.

The legislative history of § 1988 reveals that Congress intended a plaintiff prevailing on pendent claims to still receive an award of attorney's fees. Indeed,

> To the extent a plaintiff joins a claim under one of the statutes enumerated in [§ 1988] with a claim that does not allow attorney fees, that plaintiff, if it prevails on the non-fee claim, is entitled to a determination on the other claim for the purpose of awarding counsel fees. In some instances, however, the claim with fees may involve a constitutional question which the courts are reluctant to resolve if the non-constitutional claim is dispositive. In such cases, if the claim for which fees may be awarded meets the "substantiality" test, attorney's fees may be allowed even though the court declines to enter judgment for the plaintiff on that claim, **so long as the plaintiff prevails on the non-fee claim arising out of a "common nucleus of operative fact."**

H.R. Rep. No. 94-1558, 94th Cong., 2d Sess. 4 n.7 (1976) (emphasis added) (quoting *United Mine Workers v. Gibbs*, 383 U.S. 715, 725 (1966)) (other citations omitted).

Binding precedent cements that Plaintiffs here are prevailing parties entitled to attorney's fees because they prevailed on a dispositive pendent claim granting them the complete relief they sought. *See, e.g.*, *Maher v. Gagne*, 448 U.S. 122, 132 (1980) ("[C]learly Congress was not limited to awarding fees only when a constitutional or civil rights claim is actually decided. **We agree with the courts below that Congress was acting within its enforcement power in allowing the award of fees in a case in which the plaintiff prevails on a wholly statutory, non-civil-rights claim pendent to a substantial constitutional claim** . . . ." (emphasis added)); *Church of Scientology of Cal. v. Cazares*, 638 F.2d 1272, 1290 (5th Cir. 1981) ("[W]here a civil rights claim is made, a successful claimant may also collect fees concerning legal actions or counts which come from or arise out of the same 'nucleus of facts.'"); *id.* at 1291 ("Congress intended fees to be awarded where a pendent constitutional claim is involved, even if the statutory claim on which the plaintiff prevailed is one for which fees cannot be awarded under the Act." (quoting *Maher*, 448 U.S. at 132)).[2]

Numerous other circuits and courts have reached the same conclusion. *See, e.g., Reel v. Arkansas Dep't of Correction*, 672 F.2d 693, 697 (8th Cir. 1982) ("Courts have found that a person was a prevailing party in some instances in which the person was successful on a pendent nonconstitutional claim brought with a substantial constitutional claim. In order for recovery of attorney's fees to be permitted [on the nonconstitutional pendent claims] **the two claims must arise from the same nucleus of operative fact**." (emphasis added)); *Lund v. Affleck*, 587 F.2d 75,

[2] Decisions of the Fifth Circuit prior to October 1, 1981 are binding in the Eleventh Circuit. *See Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (en banc).

77 (1st Cir. 1978) (rejecting assertion that plaintiff was not entitled to recover fees under § 1988 having prevailed only on state law claims because "the s 1983 claim was substantial and the successful pendent claim arose from the same nucleus of facts"); *id.* ("Indeed, since courts often by-pass constitutional issues when a case can be disposed of on statutory grounds, it could well be unfair to attach controlling weight to the particular claim upon which relief is granted."); *Seals v. Quarterly Cnty. Court of Madison Cnty.*, 562 F.2d 390, (6th Cir. 1977) (holding plaintiff is entitled to fees when he prevails on pendent claim and court passes on constitutional claim); *Huffman v. Hart*, 576 F. Supp. 1234 (N.D. Ga. 1983) (recognizing distinction between plaintiff who prevails on pendent claim where the court passes on constitutional claim, where fees are permitted, and plaintiff who loses the constitutional claim and prevails on a pendent claim, where fees are not permitted).

2. Plaintiffs' Pendent Claims Arose out of the Same Nucleus of Operative Facts as Their Constitutional Claims.

Though Plaintiffs asserted multiple alternative theories of relief, "all roads lead to Rome." *Pillsbury Co., Inc. v. West Carrollton Parchment Co., Inc.*, 287 F. App'x 824, 828 (11th Cir. 2008). Though this Court's judgment "could have resulted from several variations in reasoning," *id.*, the ultimate destination and judgment Plaintiffs sought and received was invalidation and a permanent bar on enforcement of Tampa's ordinance. Plaintiffs' grounds for invalidation and permanent injunction were, alternatively, that the ordinance was unconstitutional under the United States and Florida Constitutions. Aside from specific pleading requirements, the essential operative fact was the City's enactment of the ordinance—i.e., the legal relationship between the City and Plaintiffs effected by the ordinance. Each count in Plaintiff's FAVC arose solely out of this common nucleus of fact. (*See* FAVC ¶¶ 179–195 (alleging the ordinance unconstitutional on its face and as-applied), ¶¶ 201–204) (same), ¶¶ 211–222 (same) ¶¶ 226–241 (same), ¶¶ 249–259 (same), ¶¶ 263–274

(alleging City had no authority to adopt and enforce the ordinance), ¶¶ 293–303 (alleging the ordinance violated various provisions of Florida statutory law).)

Indeed, Plaintiffs' primary challenge to the ordinance, among all counts, amounted to a facial challenge in which "the primary focus [*i.e.*, operative fact] by definition must be the text." *Adler v. Duval Cnty. Sch. Bd.*, 250 F.3d 1330, 1339 n.2 (11th Cir. 2001); *see also Planned Parenthood Sw. Ohio Region v. DeWine*, 696 F.3d 490, 501 (6th Cir. 2012) ("Statutory challenges will certainly all contain at least one common operative fact—the passage of the challenged law."). Here, the **only** salient and operative fact concerning Plaintiffs' claims was the City's enactment of the ordinance. Thus, there can be no doubt that all Plaintiffs' claims, including Plaintiffs' federal constitutional claims and pendent state law claims, arose out of the same common nucleus of operative fact, and that nucleus was the enactment of an illegal ordinance.

3. Plaintiffs Obtained Substantial and Complete Relief Through the Court's Permanent Injunction Against Enforcement of the Ordinance, and the Court Explicitly Passed on the Constitutional Questions Under the Doctrine of Constitutional Avoidance.

Plaintiffs sought judgment from this Court (a) declaring the ordinance invalid and (b) permanently enjoining its enforcement (FAVC at 51), and that is precisely the relief the Court ordered: "[T]he Court grants Plaintiffs' motion for summary judgment, Dkt. 194, on Count VI. **Tampa Ordinance 2017-37 is stricken under the doctrine of implied preemption. The Defendant is permanently enjoined from enforcing it**. **The Clerk is instructed to enter judgment for Plaintiffs.**" (MSJ Order 41 (emphasis added).)

That Plaintiffs received their complete relief through the vehicle of state law claims pendent to their federal constitutional claims does not alter their status as prevailing parties entitled to attorney's fees under § 1988 because the Court unequivocally stated it passed on Plaintiffs' constitutional claims under the doctrine of constitutional avoidance. (MSJ Order 2, 8.) This is a

dispositive fact because "Congress intended fees to be awarded where a pendent constitutional claim is involved, even if the . . . claim on which the plaintiff prevailed is one for which fees cannot be awarded under the Act." *Church of Scientology*, 638 F.2d at 1291 (quoting *Maher*, 448 U.S. at 132).; *see also Kimbrough v. Arkansas Activities Ass'n*, 574 F.2d 423, 427 (8th Cir. 1978) (holding where plaintiff prevails on pendent claim but court passes on constitutional claim, award of attorney's fees under Section 1988 is justified and consistent with Congressional intent); *Club Madonna, Inc. v. City of Miami Beach*, No. 13-23762-CIV-LEONARD/GOODMAN, 2015 WL 5559894, *6–8 (S.D. Fla. Sept. 22, 2015) (holding that party prevailing on pendent claim where constitutional claim not adjudicated entitled to prevailing party status and fees). Indeed, because this Court expressly and unequivocally passed on the constitutional claims under the doctrine of constitutional avoidance, binding precedent dictates that Plaintiffs are entitled to attorney's fees for prevailing on their pendent claim.

Moreover, because all of Plaintiffs' claims arise from the same nucleus of operative fact, Plaintiffs are entitled to fees for their work on all their claims. *See, e.g.*, *Church of Scientology*, 638 F.2d at 1291 (recognizing difficulty of apportioning fees where claims arise out of same nucleus of operative fact and holding that award of fees for entire litigation was appropriate); *see also Zabkowicz v. West Bend Co.*, 789 F.2d 540, 550 (7th Cir. 1986) (holding where claims arise out of same nucleus of operative fact, prevailing plaintiff is entitled to fees on entire complaint, even if some claims were unsuccessful); *Club Madonna*, 2015 WL 5559894, at *7 (same). As the Supreme Court observed,

> Where a plaintiff has obtained excellent results, his attorney should recover a fully compensatory fee. Normally this will encompass all hours reasonably expended on the litigation, and indeed in some cases of exceptional success an enhanced award may be justified. In these circumstances the fee award should not be reduced simply because the plaintiff failed to prevail on every contention raised in

> the lawsuit. Litigants in good faith may raise alternative legal grounds for a desired outcome, and the court's rejection of or failure to reach certain grounds is not a sufficient reason for reducing a fee. The result is what matters.

Hensley v. Eckerhart, 461 U.S. 424, 435 (1983) (citation and footnote omitted).

II. THE HOURS WORKED, HOURLY RATES, AND EXPENSES INCURRED ARE REASONABLE.

A. Plaintiffs' Attorney's Fees are Calculated Using the Lodestar Method and are Therefore Presumed Reasonable.

"The most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate." *Hensley*, 461 U.S. at 433. The product of this multiplication constitutes the "lodestar" amount. *Pennsylvania v. Delaware Valley Citizens' Council for Clean Air*, 478 U.S. 546, 563 (1985). "A 'strong presumption' exists that the lodestar figure represents a 'reasonable fee.'" *Id.* at 351 (quoting *Delaware Valley Citizens*, 478 U.S. at 351); *see also City of Burlington v. Dague*, 505 U.S. 557, 562 (1992) ("**We have established a strong presumption that the lodestar represents the 'reasonable' fee.**'" (emphasis added)). *See also Resolution Trust Corp. v. Hallmark Builders, Inc.*, 996 F.3d 1144, 1150 (11th Cir. 1993) ("A lodestar figure that is based upon a reasonable number of hours spent on a case multiplied by a reasonable hourly rate is itself strongly presumed to be reasonable."); *Goldames v. N&D Inv. Corp.*, 432 F. App'x 801, 806 (11th Cir. 2011) (same). Here, Plaintiffs have based their requested attorney's fees on the lodestar method, and they are therefore presumed reasonable as calculated.

In support of their requested fees, Plaintiffs have provided detailed time entries, personally and contemporaneously recorded by their attorneys and legal staff, which detail the specific tasks performed by each timekeeper. That detailed record (the "Time Report") is attached as Exhibit A to the Declaration of Horatio G. Mihet in Support of Plaintiffs' Motion for Attorney's Fees and

Nontaxable Expenses ("Mihet Declaration"), filed contemporaneously herewith. Plaintiffs' requested lodestar fees can be summarized as follows:

ATTORNEY		HOURS	RATE	AMOUNT
Daniel J. Schmid	DJS	578.00	$300.00	$173,400.00
Mary E. McAlister	MEM	60.70	$375.00	$22,762.50
Roger K. Gannam	RKG	537.10	$425.00	$228,267.50
Horatio G. Mihet	HGM	312.50	$425.00	$132,812.50
Mathew D. Staver	MDS	23.20	$500.00	$11,600.00
Paralegal	LGA	7.50	$100.00	$750.00
TOTALS:		**1,519.00**		**$569,592.50**

(Mihet Decl. ¶ 26.)

B. The Hourly Rates Requested Are Reasonable in The Relevant Market.

"Reasonable hourly rates are determined by comparing attorney's requested rates with the 'prevailing market rates in the relevant community.'" *Galdames v. N & D Inc. Corp.*, 432 F. App'x 801, 807 (11th Cir. 2011) (quoting *Blum v. Stenson*, 465 U.S. 886, 895 (1984)); *see also Duckworth v. Whisenant*, 97 F.3d 1393, 1396 (11th Cir. 1996) (evidence to establish the reasonableness of the requested rate may be based on declarations from attorneys with knowledge of the relevant community); *Norman v. Housing Auth. of City of Montgomery*, 836 F.2d 1292, 1299 (11tth Cir. 1988) (same). "A reasonable hourly rate is the prevailing market rate in the relevant legal community for similar services by lawyers of reasonably comparable skill, experience, and reputation." *Norman*, 836 F.2d at 1299.

As shown in the Mihet Declaration, most of Plaintiffs' attorneys in this case live and work in the Middle District of Florida. (Mihet Decl. ¶¶ 18, 20.) Courts in this district, however, have recognized that where experienced and specialized practitioners are involved, the relevant legal community is defined by the skill and experience of the attorneys, wherever they are located. *See,*

e.g., Fields v. Corizon Health, Inc., No. 2:09-cv-529-FtM-29DNF, 2012 WL 162121, at *3 (M.D. Fla. Jan. 19, 2012) (awarding fees for experienced, out-of-town civil rights counsel at requested rates based on scarcity of experienced local counsel and testimony that reasonable hourly rates for comparable counsel ranged (almost eight years ago) from $250 to $800); *American Atheists, Inc. v. City of Starke*, 509 F. Supp. 2d 1221, 1226 (M.D. Fla. 2007) (awarding (over twelve years ago) fees for experienced South Florida civil rights counsel at hourly rates ranging from $250 to $350); *see also Lehman Bros. Holdings. v. Key Fin. Corp.*, No. 8:09-CV-623-T-17EAJ, 2011 WL 3879499, *4(M.D. Fla. Aug.12, 2011) (awarding (over eight years ago) fees at hourly rates ranging from $269.10 to $639.00 for attorneys from Tampa, Denver, and New York City). The adjacent Northern District of Florida has recognized the same principle. *See, e.g., B-K Cypress Log Homes Inc. v. Auto-Owners Ins. Co.*, No. 1:09cv211-MP-GRJ, 2011 WL 6151507 (N.D. Fla. Nov. 1, 2011) (Gainesville Division) (report and recommendation awarding (eight years ago) fees including $450 and $475 per hour for experienced, specialized Miami-based attorney), *adopted by* 2011 WL 6152082 (N.D. Fla. Dec. 12, 2011).

This principle is further reinforced by Plaintiffs' declarant Daniel Woodring, an experienced constitutional attorney, who testifies, "The relevant market for competent and experienced counsel to handle such cases extends beyond the Middle District of Florida and includes counsel from other federal districts within Florida and counsel with national practices, often affiliated with national public interest law firms." (Declaration of Daniel Woodring in Support of Plaintiffs' Motion for Attorney's Fees and Nontaxable Expenses ("Woodring Declaration") ¶ 12.)

Based on his extensive experience in complex constitutional litigation, Mr. Woodring also testifies,

> I have reviewed the experience of the attorneys and paralegal involved in this case, as represented in the declaration of Horatio G. Mihet, covering the experience of Mathew D. Staver, Horatio G. Mihet, Roger K. Gannam, Mary E. McAlister, Daniel Schmid, and Jill Schmid. An hourly rate of $500 for Mr. Staver, $425 for Mr. Mihet, $375 for Mrs. McAlister, and $300 for Mr. Schmid, in the Middle District of Florida market, is reasonable for attorneys of comparable experience. An hourly rate of $100 for paralegal assistance in the Middle District of Florida legal market is reasonable for paralegals of comparable experience.

(Woodring Decl. ¶ 15.) Mr. Woodring further testifies,

> [In] the Middle District of Florida . . . attorneys of my experience will bill in excess of $500 per hour to litigate a complex First Amendment case. . . .
>
> From 2014-2107, in the case of *McCall v. Scott*, a case raising significant constitutional issues, I led an attorney litigation team including attorneys from Kirkland & Ellis, White & Case and Holland & Knight. The actual rates billed in that case for attorneys on my team ranged from my hourly rate of $365, to over $1000 for a Kirkland & Ellis partner.

(Woodring Decl. ¶¶ 13–14.)

Mr. Mihet's Declaration also establishes the reasonableness of the hourly rates requested, based on the skill and experience of Plaintiffs' legal team, and also on the undesirability of taking on contingency fee litigation on behalf of political and cultural dissenters. (Mihet Decl. ¶¶ 20–25.) Thus, both of Plaintiffs' declarants, and this Court's decisions, establish that Plaintiffs' requested rates are reasonable in the relevant market.

C. The Time Expended by Plaintiffs' Counsel Was Reasonable and Reflects the Exercise of Considerable Billing Judgment.

"Counsel for the prevailing party should make a good faith effort to exclude from a fee request hours that are excessive, redundant, or otherwise unnecessary, just as a lawyer in private practice is ethically obligated to exclude such hours from his fee submission." *Hensley*, 461 U.S. at 434; *see also Resolution Trust Corp. v. Hallmark Builders, Inc*., 996 F.2d d1144, 1149 (11th

Cir. 1993) (noting that attorneys seeking fees should exercise billing judgment prior to submitting their request). But, "where a [l]itigant has obtained excellent results, his attorney should recover a fully compensatory fee. Normally this will encompass **all hours reasonably expended on the litigation**." *Hensley*, 461 U.S. at 434 (emphasis added). Recovery for all hours is particularly appropriate where, as here, a party has obtained an excellent result concerning the relief he sought. *See, e.g.*, *id.* at 436 ("the most critical factor . . . is the degree of success obtained"); *Farrar v. Hobby*, 506 U.S. 103, 114 (1992) (same); *Albright v. Good Shepherd Hosp.*, 901 F.2d 438, 440 (5th Cir. 1990) ("Plaintiffs obtaining excellent results are entitled to recover full compensation, even if they do not prevail on every contention.").

Here, the time expended by Plaintiffs' counsel is reasonable and reflects the exercise of considerable billing judgment. As explained in the Mihet Declaration, this case was actively and vigorously litigated, but Plaintiffs' counsel nonetheless took care to keep fees and costs down. (Mihet Decl. ¶¶ 10–12.) Furthermore, Plaintiffs' requested fees reflect the exercise of considerable billing judgment, resulting in the exclusion of **144.40 hours of attorney time**, **66.00 hours of paralegal time**, and **60.00 hours of law clerk time**, for a total of **275.20 hours** of work actually performed, at a value of **$60,910.00**, but NOT included in Plaintiffs' request for reimbursement. Mihet Decl. ¶¶ 16, 17.) Given the excellent results achieved by Plaintiffs and the quality of advocacy performed by Plaintiffs' counsel, the amount of time invested by Plaintiffs' counsel was reasonable and necessary, and is fully compensable. (Mihet Decl. ¶ 15.)

D. The Nontaxable Expenses Incurred Are Reasonable.

Section 1988 allows the recovery of all reasonable litigation expenses except routine overhead. *See Dowdell v. City of* Apopka, 698 F.2d 1181, 1192 (11th Cir. 1983). And the standard for reasonableness "is to be given a liberal interpretation." *Id.* As shown in the Mihet Declaration, all expenses incurred by Plaintiffs are reasonable under this standard. (Mihet Decl. ¶ 28.)

CONCLUSION

For all of the foregoing reasons, the Court should grant Plaintiffs' motion and award Plaintiffs $569,592.50 for attorney's fees and $18,235.85 in nontaxable expenses, together with $10,389.33 in taxable costs as separately submitted to the Court in Plaintiffs' Bill of Costs.

Respectfully submitted,

/s/ Roger K. Gannam
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CERTIFICATE OF SERVICE

I hereby certify that on this November 1, 2019, I caused a true and correct copy of the foregoing to be filed electronically with the Court's CM/ECF system. Service upon all counsel of record will be effectuated by the Court's electronic notification system.

/s/ Roger K. Gannam
Roger K. Gannam
Attorney for Plaintiffs