UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

ARTHUR DOE, *et al*.

Plaintiff,

v.

FITCH,[1] *et al*.,

Defendants.

Case No. 3:16-cv-00789 (CWR) (FKB)

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR AN AWARD OF ATTORNEYS' FEES AND COSTS

CENTER FOR CONSTITUTIONAL RIGHTS
666 Broadway, 7th Floor
New York, NY 10012
(212) 614-6478

LAW OFFICE OF ROBERT MCDUFF
767 North Congress Street
Jackson, MS 39202
(601) 259-8484

LAW OFFICE OF MATTHEW STRUGAR
2108 Cove Avenue
Los Angeles, CA 90039
(323) 739-2701

ATTORNEYS FOR PLAINTIFFS

[1] Lynn Fitch is substituted for former Attorney General Jim Hood. Fed. R. Civ. P. 25(d).

Plaintiffs Brenda Doe, Carol Doe, Diana Doe, and Elizabeth Doe obtained Partial Judgment in this action, attaining relief for them and more than 20 other similarly situated people. They now move this Court for an award of attorneys' fees and costs associated with their victory.

Facts

Thirteen years after the Supreme Court in *Lawrence v. Texas*, 539 U.S. 558 (2003) declared that statute that criminalized oral and anal sex violate the Due Process Clause of the Fourteenth Amendment, five Mississippians brought this suit challenging their inclusion on the Mississippi Sex Offender Registry for pre-*Lawrence* sodomy convictions.

One Plaintiff had a direct conviction under Mississippi's Unnatural Intercourse statute. The other four were Mississippi residents convicted of Louisiana's Crime Against Nature by Solicitation (CANS) law, La. R.S. §14:89(A)(2) or La. R.S. §14:89.2(A). Because Mississippi considered a CANS conviction to be the equivalent of a Mississippi Unnatural Intercourse conviction, the state required the four Plaintiffs convicted under CANS to register on the Mississippi Sex Offender Registry. *See* Miss. Code Ann. § 45-33-23(h)(xxi).

Counsel for Plaintiffs first approached the Mississippi Attorney General's office and tried to resolve the dispute without litigation. Declaration of Matthew Strugar ¶ 6; Declaration of Shayana Kadidal ¶¶ 4–8. After months of negotiations, it became clear that the parties would not reach a resolution without litigation. Strugar Decl. ¶ 6, Kadidal Decl. ¶¶ 8–9. Plaintiffs filed suit. Kadidal Decl. ¶¶ 9–10; ECF No. 1.

Believing their claims to involve disputes of law, not fact, Plaintiffs moved for summary judgment a month after filing their Complaint. Kadidal Decl. ¶ 11; ECF No. 15. After the State

asserted that it needed discovery, ECF No. 32, the Court denied the motion for summary judgment. Order, ECF No. 44; Kadidal Decl. ¶ 11. So the parties engaged in discovery. Kadidal Decl. ¶ 12.

In February 2018, during a settlement conference with Magistrate Judge Ball, the parties reached a tentative agreement to resolve the claims of the four Plaintiffs made to register for the Louisiana CANS convictions. Kadidal Decl. ¶ 13. The parties finalized the resolution over the following weeks. *Id*.

The resolution ran not only to those four Plaintiffs, but for all people made to register on the Mississippi Sex Offender Registry for a violation of Louisiana's CANS law—more than 20 other people. Agreed Order, ECF No. 103. On May 10, 2018, the Court entered Partial Judgment for those Plaintiffs. Partial Judgment, ECF No. 104.

On May 14, 2018, Plaintiffs, with Defendants' consent, moved to extend the deadline for Plaintiffs to move for attorneys' fees and costs associated with the Partial Judgment to 14 days after this Court entered Final Judgment. ECF No. 112. This Court granted that motion in a text-only Order on May 24, 2018.

This settlement, obtained more than two years after Plaintiffs' counsel first approached the Attorney General's office to attempt to avoid litigation, represented a complete victory not only for the CANS Plaintiffs but for all others similarly situated who had been forced to register for years because of CANS convictions. Kadidal Decl. ¶ 15. These individuals suffered under the requirement to register as sex offenders long after the case should have and could have been resolved. *Id*.

The parties then litigated the remaining aspects of the case, which mainly focused on whether the Mississippi Unnatural Intercourse statute was unconstitutional. Both sides moved for

summary judgment. In an October 10, 2018 Order, this Court found "that the statute appears to be unconstitutional" and ordered a hearing "to determine whether [the sole remaining Plaintiff] must first seek relief in state court." Order, ECF No. 147, at 2. After holding that hearing and considering supplemental briefing from the parties, the Court stayed this case "pending a state court ruling determining whether [Plaintiff Arthur] Doe can vacate his conviction through state court remedies." Order, ECF No. 152, at 17.

Arthur Doe then sought and obtained relief through state court remedies. The State removed him from the Mississippi Sex Offender Registry. Plaintiffs will soon move to lift the stay and a move the Court to dismiss Arthur Doe's claims as moot and enter final judgment in this case.

Plaintiffs' counsel then sought to resolve the issue of attorneys' fees and costs related to the Partial Judgment with Defendants. Strugar Decl. ¶ 9; Kadidal Decl. ¶ 16. Because the parties could not resolve the issue, Plaintiffs Brenda Doe, Carol Doe, Diana Doe, and Elizabeth Doe now move this Court for an award of attorneys' fees and costs.

Argument

Under the Civil Rights Attorney's Fees Awards Act, 42 U.S.C. § 1988, plaintiffs in civil rights cases "should ordinarily recover an attorney's fee" whenever they prevail. *Hensley v. Eckerhart*, 461 U.S. 424, 429 (1983). The purpose of section 1988 is to "ensure effective access to the judicial process for persons with civil rights grievances." *Id*. at 429 (internal quotation marks omitted). This purpose will be achieved only if prevailing plaintiffs' counsel recover a fee "sufficient to induce a capable attorney to undertake the representation of a meritorious civil rights case." *Perdue v. Kenny A.*, 559 U.S. 542, 552 (2010).

In this circuit, courts apply a two-step method for determining a reasonable attorney's fee award. "First, the court calculates a 'lodestar' fee by multiplying the reasonable number of hours expended on the case by the reasonable hourly rates for the participating lawyers." *Migis v. Pearle Vision, Inc.*, 135 F.3d 1041, 1047 (5th Cir. 1998). The lodestar amount is presumed to be a reasonable fee. *Blum v. Stetson*, 465 U.S. 886, 897 (1984). Second, the court considers "whether the lodestar figure should be adjusted upward or downward depending on the circumstances of the case. In making a lodestar adjustment the court should look to twelve factors, known as the *Johnson* factors, after *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974)." *Migis*, 135 F.3d at 1047.

Unless prevailing plaintiffs' attorneys recover fees for "*all* hours reasonably expended on the litigation," victims of civil rights abuse will find it difficult to attract competent counsel. *Hensley*, 461 U.S. at 435 (emphasis added).

Although many of the *Johnson* factors would support an enhancement—especially the novelty and difficulty of the issues; the skill required to perform the legal services properly; preclusion of other employment; time limitations imposed by the circumstances; and the undesirability of the case, *see Johnson*, 488 F.2d at 717–19—Plaintiffs do not seek an enhancement. Instead, Plaintiffs ask the Court to consider these factors when determining a reasonable hourly rate for each attorney. *See Perdue*, 559 U.S. at 553 (explaining that "the quality of an attorney's performance" should be "reflected in the reasonable hourly rate" (internal quotation marks omitted)); *Perez v. Bruister*, 2015 WL 5712883, at *6 (S.D. Miss. Sept. 29, 2015) (Jordan, J.) (awarding rates of up to $700/hour and noting that "the hourly rates account for the nature of the representation and the characteristics of counsel"); *Davis v. Perry*, 991 F. Supp. 2d 809, 849 (W.D. Tex. 2014) (holding that an enhancement of the lodestar amount

is unnecessary where "the hourly rates are high enough to compensate for [the Johnson] factors"), *rev'd on other grounds sub nom. Davis v. Abbott*, 781 F.3d 207 (5th Cir. 2015).

I. Plaintiffs Are Entitled to an Award of Reasonable Attorneys' Fees Through Obtaining Partial Judgment

Plaintiffs obtained judgment for four of the five Plaintiffs. As a result, they are prevailing parties under section 1988(b) and are entitled to an award of reasonable attorneys' fees and expenses. *Buckhannon Bd. & Care Home, Inc. v. W. Va. Dep't of Health & Human Res.*, 532 U.S. 598, 605 (2001) (enforceable judgments on the merits create prevailing-party status).

Plaintiffs' partial judgment resulted from a stipulated agreement and joint request to the Court to enter partial judgment for four of the Plaintiffs. *See* ECF No. 103. The stipulated agreement arose out a February 22, 2018, settlement conference. The Court entered partial judgment on May 10, 2018. ECF No. 104. Plaintiffs seeks fees and costs for work through February 2018. They do not seek fees for litigating the remaining aspects of the case after obtaining Partial Judgment (other than fees associated with bringing this motion).

For the reasons below, the fees and expenses that Plaintiffs request in this motion are reasonable.

A. Plaintiffs' Attorneys' Hourly Rates Are Reasonable

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. *Blum*, 465 U.S. at 895–96 n.11. "'[R]easonable fees' under § 1988 are to be calculated according to the prevailing market rates in the relevant community, regardless of whether plaintiff is represented by private or nonprofit counsel." *Id*. at 895 (footnote omitted). They should lead to "an award that *roughly* approximates the fee that the prevailing attorney would have received if he or she

had been representing a paying client who was billed by the hour in a comparable case." *Perdue*, 559 U.S. at 551.

1. Center for Constitutional Rights and Matthew Strugar Seek Downwardly Modified Home Market Rates

In general, the "relevant community" for determining prevailing market rates is the district in which the case was filed. *See McClain v. Lufkin Industries, Inc.*, 649 F.3d 374, 381 (5th Cir. 2011). When it is necessary, however, for plaintiffs to retain an attorney from outside the district to ensure that their interests are adequately represented in the lawsuit, the attorney's "home" jurisdiction is the relevant community. *Id*. at 383 ("[W]here out-of-district counsel are proven to be necessary to secure adequate representation for a civil rights plaintiff, the rates charged by that firm are the starting point for the lodestar calculation."). Thus, in *McClain*, the Fifth Circuit reversed a district court's decision to limit lawyers based in California to rates prevailing in the Eastern District of Texas where the record demonstrated that "no Texas attorneys were willing and able to assist in such a large case that might drag on for years without any guarantee of financial remuneration." *Id*. at 383 ("[T]he district court clearly erred in finding that local counsel were readily available to assist [plaintiffs' lead counsel], and it legally erred in suggesting that local community rates are always required when out-of-district counsel are employed.").

The essence of the *McClain* standard is whether Plaintiffs' choice to retain out-of-district counsel—here the Center for Constitutional Rights and the Law Office of Matthew Strugar—was reasonable when the decision was made. *See Arbor Hill Concerned Citizens Neighborhood Ass'n v. County of Albany*, 522 F.3d 182, 191 (2d Cir. 2008) ("[A] district court may use an out-of-district hourly rate . . . if it is clear that a reasonable, paying client would have paid those higher

rates."); *Mathur v. Board of Trs. of S. Ill. Univ.*, 317 F.3d 738, 744 (7th Cir. 2003) (holding that out-of-district rates should be used unless "there is reason to believe that services of equal quality were readily available at a lower charge or rate in the area where the services were rendered" and concluding that it was "reasonable" for plaintiff to choose out-of-district counsel (internal quotation marks omitted)); *In re Lopez*, 576 B.R. 84, 98–99 (Bankr. S.D. Tex. 2017) (holding that a plaintiff "may be entitled to its out-of-town rates if it was reasonable for [p]laintiff to hire [out-of-town counsel] in the first instance" and noting that a plaintiff is entitled to have its lawsuit "prosecuted by its chosen counsel"); *In re Rodriguez*, 517 B.R. 724, 733 (Bankr. S.D. Tex. 2014) (concluding that "it was reasonable to hire out-of-town counsel in this case").

Here, as in *McClain*, it was necessary for Plaintiffs to retain out-of-district counsel to secure adequate representation. Plaintiffs were scattered throughout the state and, as pre-filing settlement discussions with the Attorney General's office made clear, this litigation would require a multi-year effort with no guarantee of victory or compensation. And the case involved seeking civil rights for people convicted of sex offenses—a highly charged issue that many lawyers in the State would prefer to avoid.

And the Center for Constitutional Rights had experience in this area that few other attorneys did. The Center litigated *Doe v. Jindall*, 851 F. Supp. 2d 995 (E.D. La. 2012), and *Doe v. Caldwell*, 913 F. Supp. 2d 262 (E.D. La. 2012)—successful challenges to Louisiana's registration requirement for Crime Against Nature by Solicitation statute. The Center's experience with those cases not only alerted them to the issues raised here but brought specialized expertise to this litigation unavailable not just in the Northern Division of the Southern District of Mississippi, but also anywhere else. Kadidal Decl. ¶¶ 3–7. With that

experience, Plaintiffs managed to litigate this case to resolution expending fewer hours in the litigation than other counsel would have been forced to spend.

It would have been difficult for Plaintiffs to retain counsel from within this district who were willing to represent sex offenders, possessed the necessary expertise to litigate the complex constitutional issues presented by the sex offender registration scheme for pre-*Lawrence* sodomy convictions, possessed the necessary time and resources, and could set aside other engagements for a case involving non-fee-paying clients that would take years to resolve. Declaration of Cliff Johnson ¶¶ 6–10.

As a result, it was necessary for Plaintiffs to retain out-of-district counsel with experience on this issue and the capacity to handle a large case on to ensure that they would be adequately represented. The starting point for Plaintiffs' out-of-district counsel should thus be their home rates.

Plaintiffs recognize that "even courts that concluded out-of-district counsel were necessary often affirmed reduced fees for those attorneys." *McClain*, 649 F.3d at 382. So while the '"home' rates should be considered as a starting point for calculating the lodestar amount . . . the district court retains discretion to adjust the lodestar." *Id*. To that end, Plaintiffs seek downward modifications from Plaintiffs' out-of-district counsel's home rates.

2. Center for Constitutional Rights' Modified New York City Rates Are Reasonable

The rate determination should consider the complexity of the issues raised in the case and the corresponding degree of expertise and experience required to litigate it successfully. *See Davis*, 991 F. Supp. 2d at 846 ("The reasonable hourly rate reflects the novelty and complexity of the issues, the special skill and experience of counsel, and the quality of representation.").

"The Supreme Court indicated in *Perdue* that the lodestar calculation should 'measure the attorney's true market value' and the attorney should be 'compensated at the rate that the attorney would receive in cases not governed by the federal fee-shifting statutes.'" *Id*. (quoting *Blum*, 559 U.S. at 554–55).[2]

The Center seeks rates that are roughly a 25% downward modification from their New York City home rates. The Center's modified home rates, set forth below, are reasonable and in accordance with these principles. Although the Center attorneys do not charge their clients by the hour, the rates sought by the Center attorneys are significant downward modifications to the prevailing rates in New York for similar services by lawyers of reasonably comparable skill, experience, and reputation. Kadidal Decl. ¶¶ 17–27.

Attorney or Paralegal	Home Rate	Requested Rate
Ghita Schwarz	$600	$450
Alexis Agathocleous	$600	$450
Shayana Kadidal	$700	$550
Stephanie Llanes	$400	$250
Claire Dailey	$150	$125

3. Matthew Strugar's Modified Los Angeles Rate Is Reasonable

Matthew Strugar's modified rate of $450 an hour is also reasonable. Mr. Strugar's Los Angeles, California rate is $725 an hour. This rate is within the average range of rates for comparable attorneys in the Los Angeles legal market. *See* Declaration of Carol Sobel ¶¶ 11–21; *see also* Strugar Decl. ¶ 12. The rate Mr. Strugar seeks is nearly a 40% downward departure from his Los Angeles home rate.

[2] The retroactive application of reasonable current rates is appropriate to "compensat[e]" for the fact that "payment of fees will generally not come until the end of the case, if at all." *Perdue*, 559 U.S. at 556.

The modified rate of $450 that he seeks is lower than the rate awarded in a 2019 fee order Mr. Strugar received in Des Moines, Iowa, *Animal Legal Def. Fund v. Reynolds*, 385 F. Supp. 3d 840, 847 (S.D. Iowa 2019) ($475 and hour in 2019), and lower than the rates approved by Los Angeles courts for Mr. Strugar's work more than decade ago. *See Johnson, et al. v. County of Los Angeles, et al.*, Case No. CV 08-3515 DDP (JTLx), ECF Nos. 215-1 (detailing $525 rate in 2010 and basis of rate) & 219 (order granting full requested lodestar); *Californians Living Independent and Free, et al., v. City of Los Angeles, et al.*, Case No. CV09-287 CBM (RZx), Dkt. No. 255, Order Granting Plaintiffs' Application for Reasonable Attorneys' Fees and Costs, at 6-7 ($525 rate in 2010).

4. Robert McDuff and Jake Howard's Local Rates Are Reasonable

The rate sought by Mr. McDuff and Mr. Howard are in line with the prevailing rates in Jackson for similar services by lawyers of reasonably comparable skill, experience, and reputation during the relevant period. *See* Declaration of Rob McDuff ¶ 6–8; Johnson Decl. ¶ 11–12. As explained in Mr. McDuff's declaration, he charges $500 per hour to fee-paying clients who can afford it, although he sometimes charges less, and also often takes on pro bono, contingency fee, and appointed cases. The $450 rate he seeks here, as well as the $400 Mr. Howard seeks, is well within the market range. McDuff Decl. ¶¶ 6–8; Johnson Decl. ¶¶ 11–12.

A $450 hourly rate for Mr. McDuff is within the market range cited in *Perez v. Bruister* for partners in regional firms. 2015 WL 5712883, at *6 (noting that six years ago, average partner rates at regional firms were $392/hour and the average of the highest rates charged by the firms was $540/hour). And this Court approved a $450 hourly rate for Mr. McDuff earlier this year. *Thomas v. Reeves*, No. 3:18-CV-441-CWR-FKB, 2021 U.S. Dist. LEXIS 26320, at *13 (S.D. Miss. Feb. 11, 2021)

B. The Hours Plaintiffs' Attorneys Expended Are Reasonable

Plaintiffs are entitled to compensation for all time "reasonably expended on the litigation." *Webb v. Bd. of Educ. of Dyer Cty.*, 471 U.S. 234, 242 (1985); *see also Hensley*, 461 U.S. at 440 (explaining that there is a presumption that the prevailing party will be compensated for all hours reasonably expended by its attorneys). Time is reasonably expended when it is "useful and of a type ordinarily necessary to secure the final result obtained from the litigation." *Pennsylvania v. Delaware Valley Citizens' Council for Clean Air*, 478 U.S. 546, 561 (1986) (internal citation and quotations omitted).

The party seeking fees must provide proof "sufficient for the court to verify that the applicant has met its burden of establishing an entitlement to a specific award." *Gagnon v. United Technisource, Inc.*, 607 F.3d 1036, 1044 (5th Cir. 2010). But "the Court should not act as [a] 'green-eyeshade accountant[]', as '[t]he essential goal in shifting fees (to either party) is to do rough justice, not to achieve auditing perfection.'" *Idom v. Natchez-Adams Sch. Dist.*, No. 5:14-CV-38-DCB-MTP, 2016 WL 320954, at *3 (S.D. Miss. Jan. 25, 2016) (quoting *Fox v. Vice*, 563 U.S. 826, 838 (2011)).

All of Plaintiffs' counsel's time was reasonably spent to achieve the eventual result. Plaintiffs' counsel first engaged in lengthy pre-filing negotiations with the Mississippi Attorney General's office to try to resolve this dispute without litigation. Strugar Decl. ¶ 16; Kadidal Decl. ¶¶ 6–7. When they failed, Plaintiffs brought this case. Strugar Decl. ¶ 16; Kadidal Decl. ¶¶ 7–8. Plaintiffs then sought to resolve the case without incurring the significant fees associated with discovery by moving for summary judgment right after Defendants answered. But Defendants wanted to engage in discovery, so Plaintiffs engaged in discovery. At *every stage*, Plaintiffs tried to resolve the case with less work, but Defendants demanded more. "The government cannot

litigate tenaciously and then be heard to complain about the time necessarily spent by the plaintiff in response.'" *City of Riverside v. Ribera*, 477 U.S. 561, 580 n.11 (1986).

Plaintiffs have provided contemporaneously recorded time records with sufficient detail of what was done on each entry. *See Hensley*, 461 U.S. at 436 n.12 ("Plaintiff's counsel, of course, is not required to record in great detail how each minute of his time was expended. But at least counsel should identify the general subject matter of his time expenditures.").

Plaintiffs' counsel litigated this case efficiently and without unnecessary duplication of effort. As detailed above, the Center has experience challenging a similar registration scheme in another district in this Circuit. By using lawyers with expertise on the novel and complex issues involved in this litigation, Plaintiffs avoided billing many hours that would have been involved had they used less experienced counsel.

The attorneys on this case worked collaboratively and did not engage in excessive or duplicative work. *See* Strugar Decl. ¶ 6. One attorney took the lead in drafting each brief or sections of each brief and the others reviewed, revised, and strategized around that initial work. Because Plaintiffs' attorneys had to engage in an incredible amount of strategizing, legal research and analysis, drafting, editing, and communication to litigate this case, all Plaintiffs' attorneys were involved in most of the briefing. But the work was not excessive, duplicative, or redundant. To the contrary, the work product was invariably improved, making for a more effective and straight forward presentation of issues and arguments. These improvements, in turn, led to a clearer and more streamlined process for the Court and all the parties.

Counsel for Plaintiffs also exercised billing judgment to eliminate the possibility of billing for duplicative or unproductive time. *See Copeland v. Marshall*, 641 F.2d 880, 891 (D.C. Cir. 1980) (en banc) ("'billing judgment' is an important component of fee setting . . . no less" so

in § 1988 cases). In addition, the attorneys and paralegal at Center for Constitutional Rights made an across-the-board 10% reduction from their time to account for any time that might be attributed to duplication of effort.[3] Kadidal Decl. ¶ 27.

The hours expended by Plaintiffs' counsel on this litigation were reasonable and necessary to achieve the outcome. Any arguments by the State to the contrary should be rejected, particularly line-item attacks on the billings with the luxury of time and hindsight and a lack of perspective on the realities of what it took to succeed in this case.

II. Plaintiffs Are Entitled to an Award of Reasonable Litigation Expenses

Under Section 1988(b), prevailing parties are entitled to compensation for reasonable litigation expenses that are not taxable under 28 U.S.C. § 1920. *Associated Builders & Contractors of La., Inc. v. Orleans Par. Sch. Bd.*, 919 F.2d 374, 380 (5th Cir. 1990). These nontaxable expenses are "costs normally charged to a fee-paying client," including "charges for photocopying, paralegal assistance, travel, and telephone." *Id.*; *Auto Parts Mfg. Miss. Inc. v. King Constr. of Houston*, LLC, 258 F. Supp. 3d 740, 758–59 (N.D. Miss. 2017) (awarding expenses of postage and messenger services, online legal research, transportation, court reporter and videographer fees, and meals).

Exhibit F to the Kadidal declaration sets forth the total amount of nontaxable expenses for which Plaintiffs are seeking reimbursement. All the expenses represented in the chart are expenses that attorneys would normally pass on to fee-paying clients.

[3] Consistent with this district's practice, Plaintiffs' counsel also billed travel at only half their requested hourly rate.

III. Plaintiffs' Lodestar for the Merits Portion of the Litigation

After exercising billing judgment, counsel's lodestar and costs on the merits litigation consists of the following:

Timekeeper	Hours	Rate	Unadjusted Lodestar	Across-the-Board 10% Writedown for the Center	Total
Ghita Schwarz	332.6	$450	$149,670.00	$14,967.00	$134,703.00
Travel	46.3	$225	$10,417.50	$1,041.75	$9,375.75
Alexis Agathocleous	110.8	$450	$49,860.00	$4,986.00	$44,874.00
Travel	31.3	$225	$7,042.50	$704.25	$6,338.25
Shayana Kadidal	51	$550	$28,050.00	$2,805.00	$25,245.00
Stephanie Llanes	125.5	$250	$31,375.00	$3,137.50	$28,237.50
Travel	17	$125	$2,125.00	$212.50	$1,912.50
Claire Dailey	72.5	$125	$9,062.50	$906.25	$8,156.25
Matthew Strugar	234.1	$450	$105,345.00		$105,345
Travel	44.4	$225	$9,990.00		$9,990
Rob McDuff	12.7	$450	$5,715.00		$5,715
Jake Howard	11.2	$400	$4,480.00		$4,480
Lodestar Total	**1089.4**		**$413,132.50**	**($28,760.25)**	**$384,372.25**
Costs					$11,318.83
TOTAL					**$395,691.08**

IV. Plaintiffs Are Entitled to Fees for Litigating This Motion

Plaintiffs are also entitled to fees incurred in bringing this fee motion. *Volk v. Gonzalez*, 262 F.3d 528, 536 (5th Cir. 2001) ("it is well settled that fees-on-fees are recoverable under § 1988").

Plaintiffs sought to avoid the fees incurred by bringing this motion by presenting the State with its lodestar to through the February 2018 settlement conference and offering to settle or stipulate to a negotiated amount. Strugar Decl. ¶ 15. Despite telling Plaintiffs' counsel it would respond to the offer, months passed with no response from the State. *Id.*

Plaintiffs have incurred $23,835.00 in fees to date on this motion. Strugar Decl. ¶ 14 (compiling attorney time on fee motion).

Counsel will document the time spent on the reply briefing and apprise the Court with the updated lodestar in its reply brief.

Conclusion

It is essential that Plaintiffs' counsel be fully compensated where, as here, their clients prevailed in vindicating important constitutional rights. They have a right to recover fees and costs through obtaining partial judgment as a matter of law and principle. Plaintiffs are working class Mississippi residents who could not have afforded quality legal representation. Without compensation in the form of fee-shifting, competent attorneys cannot and will not take important cases civil rights cases like this one.

For these reasons, Plaintiffs respectfully request that the Court award Plaintiffs' counsel these fees and costs:

Merits Fees:	$403,452.25
Costs:	$11,318.83
Fees for work on Fee Motion (to date):	$23,8235.00
Total to Date:	**$419,526.08**

Respectfully submitted this 10th day of December, 2021,

CENTER FOR CONSTITUTIONAL RIGHTS

By: /s/ Shayana Kadidal
Shayana Kadidal
pro hac vice
666 Broadway, 7th Floor
New York, NY 10012
Tel: (212) 614-6445
Fax: (212) 614-6499
shanek@ccrjustice.org

LAW OFFICE OF ROBERT MCDUFF

By: /s/ Robert B. McDuff
Robert B. McDuff
Bar No. 2532
767 North Congress Street
Jackson, Mississippi 39202
Tel: (601) 259-8484

LAW OFFICE OF MATTHEW STRUGAR

By: /s/ Matthew Strugar
Matthew Strugar
pro hac vice
3435 Wilshire Blvd., Suite 2910

Los Angeles, CA 90010
Tel: (323) 696-2299
matthew@matthewstrugar.com

CERTIFICATE OF SERVICE

This is to certify that on this day I, Matthew Strugar, Counsel for Plaintiffs, electronically filed the foregoing document with the Clerk of the Court using the ECF system which sent notice of such filing to the following:

WILSON MINOR, MSB No. 102663
Special Assistant Attorney General
State of Mississippi
Office of the Attorney General
Post Office Box 220
Jackson, MS 39205
wmino@ago.state.ms.us

ATTORNEY FOR DEFENDANTS

THIS, the 10th day of December, 2021.

/s/Matthew Strugar_____
Matthew Strugar