State of Minnesota
Washington County

District Court
Tenth Judicial District
Court File Number: **82-CV-12-2797**
Case Type: Employment

Notice of Filing of Order

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Heidi Weber vs MINNESOTA SCHOOL OF BUSINESS, DBA Globe University

You are notified that an order was filed on February 11, 2014.

Order-Other

Dated: February 11, 2014

Annette Fritz, Court Administrator
By: Jill Price, Deputy
Washington County District Court
14949 - 62nd St. N; PO Box 3802
Stillwater MN 55082
651-430-6263

cc: MATTHEW E DAMON

A true and correct copy of this notice has been served by mail upon the parties herein at the last known address of each, pursuant to Minnesota Rules of Civil Procedure, Rule 77.04.

STATE OF MINNESOTA
COUNTY OF WASHINGTON

DISTRICT COURT
TENTH JUDICIAL DISTRICT

Heidi Weber,

Plaintiff,

vs.

Minnesota School of Business,
DBA Globe University,

Defendant.

File No. 82-CV-12-2797

ORDER

The above-entitled matter came on for hearing before the Honorable Tad Jude, Judge of District Court, on November 15, 2013, at the Washington County Courthouse in Stillwater, Minnesota.

Clayton D. Halunen, Esq. and Ross D. Stadheim, Esq., appeared on behalf of Plaintiff, who was also present. Matthew E. Damon, Veena A. Iyer, Esq., and Eric Magnuson, Esq., appeared on behalf of Defendant.

Plaintiff brought a motion for attorneys' fees and costs. Defendant brought motions for judgment as a matter of law and for a new trial or in the case a new trial is not granted a motion for remittitur. Plaintiff's motion for judgment as a matter of law was denied and the rest were taken under advisement by the Court.

Based upon the file, records, and proceedings herein, the Court makes the following:

ORDER

1. Defendant's motion for a new trial is hereby DENIED.
2. Defendant's motion for remittitur is hereby DENIED.
3. Plaintiff's motion for attorneys' fees and costs is hereby GRANTED in part DENIED in part.

4. The Washington County Court Administrator shall serve a true and correct copy of this Order by U.S. Mail upon counsel for the above-named parties. Such mailing shall constitute due and proper service of this Order for all purposes.

BY THE COURT:

Dated: FEBRUARY 11, 2014

Tad Jude
Judge of District Court

Pursuant to Rule 58, Rules of Civil Procedure, I hereby certify that the above Order constitutes the judgment of this court.
Date: 2/11/14 By: Annette R. Fitz, Court Administrator

MEMORANDUM OF LAW

Subsequent to the conclusion of the jury trial the parties brought several motions before the Court. Plaintiff brought a motion for attorneys' fees and costs. Defendant brought motions for judgment as a matter of law and in the alternative for a new trial or remittitur. The Court denied Defendant's motion for judgment as a matter of law and took the motions for attorneys' fees and costs and for a new trial or remittitur under advisement.

NEW TRIAL OR REMITTUR

Under Minn. R. Civ. P. 59.01, a new trial may be granted on several grounds, including:

(a) Irregularity in the proceeding of the court, referee, jury, or prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair trial;
(b) Misconduct of the jury or prevailing party;

(c and d omitted)

(e) Excessive or insufficient damages, appearing to have been given under the influence of passion or prejudice;
(f) Errors of law occurring at the trial, and objected to at the time or, if no objection need have been made pursuant to Rule 46 and 51, plainly assigned in the notice of the motion;
(g) The verdict, decision, or report is not justified by the evidence, or is contrary to the law[.]

Minn. R. Civ. P. 59.01.

"Remittitur may be granted on the ground that an excessive verdict appears to have been given under the influence of passion and prejudice or on the ground that the damages are not justified by the evidence." *Kawpien v. Starr*, 400 N.W.2d 179, 184 (Minn. Ct. App. 1987) (citing *Busch v. Busch Constr., Inc.*, 262 N.W.2d 377, 400-01 (Minn. 1977)). It is within the district court's discretion to determine whether damages are excessive and whether the cure therefor is remittitur or a new trial. *Ray v. Miller Meester Adver., Inc.*, 664 N.W.2d 355, 368 (Minn. Ct. App. 2003), *aff'd* 684 N.W.2d 404 (Minn. 2004).

Defendant's claim a new trial or remittitur is warranted to rectify the impact of improper arguments and evidence that were introduced at the trial. Defendant specifically points to: (1) Testimony of former Network Dean of Business Jeanne St. Claire and Minnesota School of Business ("MSB") graduate Melissa Beck. Additionally, the Court's ruling preventing Defendants from questioning St. Claire about possible bias in being represented by Plaintiff's counsel's law firm. (2) The ruling allowing Shana Weiss Blegen, former Regional Director for MSB's Wisconsin campus, to testify only as a rebuttal witness. (3) Plaintiff's counsel's arguments for punitive damages in his closing. (4) The jury's damage ward was speculative and conjectural. (5) The jury's failure to properly consider the evidence, or lack of evidence concerning Plaintiff's mitigation and recoverable damages. (6) The Court's failure to instruct the jury on the essential elements of MWA. (7)The Court's instructions on issues that were not relevant, and instructions that were vague, unnecessary and confusing.

Testimony of Ms. St. Claire and Ms. Beck

Defendant claims that Ms. St. Claire's and Ms. Beck's testimony was wholly irrelevant and prejudicial. Essentially the same argument was brought before the court in Defendant's

Motion in Limine No. 1. At that time, after review of the briefs and arguments, the Court denied Defendant's motion.

Ms. St. Clair is a former Brooklyn Center campus instructor who later became a Network Dean of Business at the Woodbury cooperate office. Her employment at MSB overlapped Plaintiff's; she was likewise terminated and filed her own whistleblower claim. While they had different supervisors the decision to terminate them can ultimately be traced back to Provost David Metzen. St. Claire's testimony was admissible because it was probative of issues in Plaintiff's case.

Defendant contends that they were prejudiced because the Court did not allow it elicit testimony from St. Claire that she was represented by the same law firm as Plaintiff. The Court ruled that it was improper for Defendant to pursue this line of questioning, because Plaintiff would have been unduly prejudiced.

Ms. Beck's testimony was similarly addressed in Defendant's Motion in Limine No. 1. As then the Court now finds that Ms. Beck's testimony was relevant and not unfairly prejudicial. Ms. Beck's testimony was relevant because it showed that Plaintiff was acting in good faith in reporting to upper management at MSB. Ms. Beck was a student at the Sioux Falls, South Dakota, campus where Plaintiff had previously been employed by Defendant.

Testimony of Ms. Blegen

Defendant claims that Shana Weiss Blegen's testimony was wrongfully limited to testifying only as a rebuttal witness. In response to Plaintiff's Motion in Limine No. 1, the Court ruled that Ms. Blegen's testimony would be limited to rebuttal testimony because Defendant had failed to timely disclose her as a witness. Defendant claims since she was unable to testify as a fact witness she was not able to share how she was acquainted with Plaintiff, her interactions

with Plaintiff, and her communications with Hermann and Metzen about her concerns. Defendant argues that Ms. Blegen was not allowed to testify that she did not voice the bulk of her concerns to Hermann and Metzen until mid to late march, after Plaintiff's performance review was given by Lolita Keck. Both Hermann and Metzen testified at the trial and Defendant could have obtained testimony on that issue from them.

Plaintiff's Closing Argument

Defendant claims that Plaintiff's counsel improperly and prejudicially sought punitive damages during closing arguments. Prior to closing arguments Plaintiff's punitive damages motion was denied.

Punitive damages are generally a remedy imposed to punish the defendant from wrongdoing and to deter the defendant and others from engaging in similar conduct in the future. *See BMW of Am. Inc. v. Gore*, 517 U.S. 559, 568 (1996). Defendant argues that Plaintiff's counsel repeatedly made inappropriate and inflammatory arguments that encouraged the jury to punish Defendant.

Plaintiff's counsel's argument made references to deterring other for-profit schools and the general industry to which they belong. The jury had not received any evidence on this issue because at the outset of the trial the Court had excluded as irrelevant evidence regarding other career schools or for-profit institutions- in particular, media reports regarding congressional hearings on such schools, as well as an additional report about the practices of for-profit institutions in general.

Plaintiff's counsel also requested a damage award of $36 million and told the jury that it had the extraordinary power to hold Defendant accountable for what it did to the Plaintiff.

The record reflects that Plaintiff's counsel told the jury that this was not a punitive damages case so you cannot award damages to punish the defendant. He then went on to inform the jury that it could award damages to hold defendant accountable and could do so in the form of emotional distress to Plaintiff.

Defendant objected to Plaintiff's closing argument, stating that it was a punitive damages argument and therefore inappropriate. The Court responded by stating, "You know, I will instruct the jury to consider the arguments in the spirit of a closing argument, and anything said by the attorneys, of course, is not evidence." (T. 1286:8-11.) Following the completion of Plaintiff's attorney's closing argument the attorneys and the Court had an off-the-record discussion. After the discussion, the Court instructed the jury that "attorneys aim to do many things and of course this is not a punitive damages trial and you should disregard, you know, any statements that have to do with publicity or any type of punishment."

In addition to the curative instruction given by the Court, the Court's jury instructions regarding damages made it clear that the purpose of any damages awarded by the jury must have been to compensate the Plaintiff for any loss sustained as a result of Defendant's misconduct.

There is not any evidence that the jury awarded punitive damages. The amount awarded is within the compensatory damages sought by Plaintiff, and does not reflect an indication of a punitive damages supplement. The Court realized that any risk that Plaintiff's counsel's closing argument might incline the jury to award damages to punish the Defendant, as opposed to compensating Plaintiff, could be adequately countered by a curative instruction and jury instruction that punitive damages were not to be awarded. Given the Court's handling of this issue Defendant has not established prejudice, let alone substantial prejudice, that would warrant a new trial.

Damages

Defendant contends that the jury's damage award was remote and speculative. Plaintiff was awarded the following damages: past embarrassment and emotional distress- $36,000; loss of past wages and employment benefits- $168,977; future embarrassment and emotional distress- $36,000; and loss of future earning capacity and employment benefits- $154,000.

Under Minn. R. Civ. P. 59.01(g), a new trial may be granted where the evidence does not justify the amount of a verdict. *Lesewski v. Nielsen*, 95 N.W.2d 13, 16 (Minn. 1959); *Pulkrabek v. Johnson*, 418 N.W.2d 514, 515 (Minn. Ct. App. 1988), *review denied* (Minn. May 4, 1988). The evidence does not justify the amount of a verdict if the damages are remote, speculative, or conjectural. *Pietrzak v. Eggen*, 295 N.W.2d 504, 507 (Minn. 1980). "There is no general test of remote and speculative damages; therefore such matters usually should be left to the judgment of the [district] court." *Olson v. Artez*, 356 N.W.2d 178, 183 (Minn. Ct. App. 1984) (citing *Jackson v. Reiling*, 249 N.W.2d 896, 987 (Minn. 1977)).

Defendant first argues that Plaintiff failed to fulfill her duty to mitigate damages. Generally, Plaintiffs have an obligation to take reasonable measures to mitigate damages. *See Cnty. Of Blue Earth v. Wingen*, 684 N.W.2d 919, 924 (Minn. Ct. App. 2004); *Deutz-Allis Credit Corp. v. Jensen*, 458 N.W.2d 163, 166 (Minn. Ct. App. 1990). If a wrongfully discharged employee fails to make a reasonable effort to pursue or unreasonably declines to accept other employment, the employee is prevented from recovering the full amount of the salary. *Soules v. Indep. Sch. Dist. No. 518*, 258 N.W.2d 103, 106 (Minn. 1977). "Generally, a claimant forfeits his or her right to recover back pay from the employer from the time he or she declines a job substantially equivalent to the lost one." *Anderson v. Hunter, Keith, Marshall & Co.*, 417 N.W.2d 619, 231-32 (Minn. 1988).

Plaintiff provided testimony and produced documents at trial establishing her efforts to find "substantially equivalent work." Plaintiff had further testified that her job search was handicapped as a result of what had happened with Defendant and that she believed she would never get a job in education in this area. (T. 299-300; *See also* T. 274). She also testified about the effect the emotional distress had on her ability to work and search for a job. (T. 271-72). Plaintiff managed to find work, not to the same level as her previous employment, for a period of time after termination.

Defendant claims because of Plaintiff's voluntary resignation from a medical assistant position at Metro Urology she is not entitled to damages for loss of past wages and employment benefits. Or in the alternative, if the Court finds she is entitled to damages for loss of past wages and employment benefits, she should only be entitled to the total of her past wages and benefits minus her mitigation efforts, which Defendant claims is approximately $93,751.21. Plaintiff explained her decision to leave Metro Urology at the hearing. A jury could reasonably have accepted Plaintiff's testimony that the position at Metro Urology was not "substantially equivalent work" to her previous position at MSB.

The amount of past damages awarded by the jury is well within the discretion of the jury. The actual amount awarded are supported by the evidence offered at the trial and lower than what was asked for by the Plaintiff. Additionally, the jury may have properly considered the loss of educational benefits as part of Plaintiff's past damages. In this case the educational benefits were part of her compensation at MSB.

The jury was within their discretion in awarding future damages. Plaintiff testified that the situation with her termination at MSB and this trial made it difficult if not impossible for her

to find teaching employment in this area. It is not the Court's role to substitute its judgment for that of the jury with respect to findings of fact.

Jury Instructions

During the proceedings the Court heard numerous arguments from both of the parties concerning the jury instructions and special verdict forms. After several of such meetings and reading the proposed instructions and verdict forms from each party the Court ruled on what would be used for the final jury instructions and special verdict forms.

Defendant argues that they are entitled to a new trial because (1) the Court did not utilize Defendant's proposed jury instruction- or its special verdict questions- for Plaintiff's Minnesota Whistleblower Act ("MWA") claim; (2) the Court utilized Plaintiff's requested jury instruction that a plaintiff need only show that a law is "implicated" by her reports; and (3) the Court did not utilize Defendant's requested instruction regarding educational benefits.

Defendant had proposed jury instructions for finding liability under the MWA. Instead the Court decided to go with the standard CIV JIGs, along with the corresponding special verdict form. The Court is hesitant to deviate from the established jury instructions when they adequately cover the issues at hand.

The MWA does not require that a report for purposes of the MWA include particularized facts. The jury instructions and special verdict form adequately covered the MWA law as it existed at the time Plaintiff commenced her action, that an employee claiming MWA protection needs to establish that her purpose in reporting the alleged statutory violations was to expose illegal conduct. The MWA does not require that an employee seeking protection under the MWA be able to identity, at the time of the whistleblower report, the specific state or federal statute or rule that is violated.

Conclusion

An error requiring a new trial or remittitur has not been established, much less a prejudicial error. Accordingly, Defendant's motion for a new trial or remittitur is denied.

ATTORNEYS'FEES, COSTS AND DISBURSMENTS

Plaintiff brought this motion pursuant to Minn. Stat. § 181.935 awarding Plaintiff attorney's fees, costs and disbursements based upon the Jury Verdict dated August 15, 2013, finding Plaintiff the prevailing party in her case against Defendant for violations of Minn. Stat. § 181.932 pursuant to Minn. Gen. R. Dist. Ct. Prac. 119.

The MWA provides:

> (a) In addition to any remedies otherwise provided by law, an employee injured by a violation of section 181.932 may bring a civil action to recover any and all damages recoverable at law, together with costs and disbursements, including reasonable attorney's fees, and may receive such injunctive and other equitable relief as determined by the court.

Minn. Stat. § 181.935. Plaintiff must establish the basis for recovery of attorneys' fees, the calculation of the award sought, and the appropriateness of that calculation under applicable law. *See* Minn. Gen. R. Dist. Ct. Prac. 119.04. At all times, "the fee applicant bears the burden of establishing entitlement to an award and documenting the appropriate hours expended and hourly rates." *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983).

When determining an award of attorney's fees Minnesota courts have followed the "lodestar method" developed by the United States Supreme Court. *Milner v. Farmers Ins. Exch.*, 748 N.W.2d 608, 620-21 (Minn. 2008); *Specialized Tours, Inc. v. Hagen*, 392 N.W.2d 520, 542 (Minn. 1986) (adopting procedure set forth by the Supreme Court in *Hensley*, 461 U.S. at 433.) When determining this amount it "requires the court to determine the number of hours 'reasonably expended' on the litigation" and then to multiply those hours by a "'a reasonable

hourly rate.'" *Anderson v. Hunter, Keith, Marshall & Co.*, 417 N.W.2d 619, 628 (Minn. 1988) (quoting *Hensley*, 461 U.S. at 433). When determining the reasonableness of the hours and the hourly rates, the district court considers "all relevant circumstances," which include the time and labor required; the nature and difficulty of the case; the amount involved and the results obtained; the customary fees charged for similar legal services; counsel's experience, reputation, and ability; and the fee arraignment existing between counsel and the client. *State v. Paulson*, 188 N.W.2d 424, 426 (Minn. 1971). The Eighth Circuit has defined "reasonable rate" as "an hourly amount to which attorneys of like skill in the area would typically be entitled for a given type of work on the basis of an hourly rate of compensation." *Jorstad v. IDS Realty Trust*, 643 F.2d 1305, 1313 (8th Cir. 1980) (citing *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 471 (2d Cir. 1974)). "When the reasonableness of the requested attorneys' fees is challenged, the district court must 'provide a concise but clear explanation of its reasons for the fee award.'" *Milner*, 748 N.W.2d at 621 (quoting *Anderson*, 417 N.W.2d at 629-30).

Plaintiff seeks attorneys' fees in the amount of $614,607.50 and costs and disbursements in the amount of $9,343.05, for a total award of $623,950.55. Defendant raised several objections to the amount of attorneys' fees and cost and disbursements.

Counsel's Hours

Defendant first raises that Plaintiff included hours for unsuccessful claims, motions, and activities unrelated to the litigation. Before submitting a fee petition, "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 ethically is obligated to exclude such hours from his fee submission." *Anderson*, 417 N.W.2d at 629.

A plaintiff is not entitled to attorneys' fees for hours spent on unsuccessful claims or on successful claims for which attorneys' fees are not available. *See Baufield v. Safelite Glass Corp.*, 831 F. Supp. 713, 716 (D. Minn. 1993). In the initial pleadings, Plaintiff asserted four claims, only one, the MWA, which allowed for attorneys' fees. Defendant further contends that while Plaintiff claims they have eliminated hours for claims that were voluntarily dismissed they have not met the burden of proving that they have, in fact, eliminated these hours.

> When a plaintiff has prevailed on some claims but not on others, the plaintiff may be compensated for time spent on unsuccessful claims that were related to his successful claims, but not for time spent on unsuccessful claims that were 'distinct in all respects from his successful claims.' Claims are related, and hence deserving of compensation, if they 'involve a common core of facts' or are 'based on related legal theories.

Emery v. Hunt, 272 F.3d 1042, 1046 (8th Cir. 2001); *See Jenkins v. Missouri*, 127 F.3d 709, 716 (8th Cir. 1997).

Plaintiff contends that her unsuccessful claims are interrelated to the MWA claim and why she was terminated. Additionally, Plaintiff has certified that she that she has removed the time spent on specific legal arguments related to her unsuccessful claims. The Court reduces the fee request by $25,000 in recognition of unsuccessful claims litigated by Plaintiff unrelated to the MWA claim.

Defendant next asks the court to reduce fees and time that Plaintiff spent on pleadings that were not filed and motions on which they did not prevail. They point out unsuccessful motions in limine and unsuccessful motion to amend the complaint to add punitive damages.

Plaintiff filed two motions in limine, one of which was successful and the other was denied. Defendant filed nine motions in limine of which Plaintiff responded too. Even though the parties eventually reached a stipulation on several of the motions in limine Plaintiff still had to respond, in writing, or risk waiving her rights to argue against them. In regards to the punitive

damages motion, Plaintiff claims it was interrelated to her main MWA claim and is therefore compensable. The court reduces the fee request by $10,000 in recognition of the unsuccessful motion in limine and request for punitive damages filed by the Plaintiff.

Plaintiff removed the request entry for media relations in their request for attorneys' fees. Defendant claims additional hours were spent on work that was unnecessary for the litigation. Besides media relations Defendant claims those include hours for interviewing and obtaining affidavits from witnesses who had no connection to Plaintiff's case, and belatedly supplementing discovery in response to deficiency letters. Plaintiff claims that they had to answer the supplemental discovery request or possibly face a motion to compel. The witnesses interviewed were done so to corroborate Plaintiff's claim. The Court finds that the supplemental discovery and interviewing and affidavits of potential witnesses are all necessary parts of the litigation and connected to Plaintiff's underlying claim.

Defendant also claims that Plaintiff spent excessive hours on this matter, particularly on their response to Defendant's motion for summary judgment. Plaintiff claims to have spent 208.6 hours working on their response to Defendant's motion for summary judgment. Defendant claims it only took them 118.6 hours to prepare its opening memorandum in support of its motion for summary judgment. Responding to a motion for summary judgment often requires more work and hours because one must successfully defend or have their case dismissed. Defendant also claims that Plaintiff did not use staff efficiently and that an attorney, Mr. Stadheim was doing work that could have been performed by a paralegal or a legal assistant. Plaintiff contends that these were tasks that were appropriate for an attorney to perform and was essentially in preparing for the case. While this type of work may in some instances be

performed by a paralegal or legal assistant it is within the discretion of the each respective attorney or firm.

Plaintiff removed 31.00 hours that Sarah Yurk spent related to compiling trial notebooks for Plaintiff's counsel.

Accordingly, within its discretion the Court believes it is reasonable and necessary to reduce the amount of fees requested by $25,000.00 to account for unrelated and unsuccessful claims made by Plaintiff.

Ross Stadheim's Hourly Rate

Prevailing attorneys have the burden to justify the reasonableness of the requested rate or rates and must show that the requested rates are reasonable as compared to other rates in the community:

> To inform and assist the court in the exercise of its discretion, the burden is on the fee applicant to produce satisfactory evidence- in addition to the attorney's own affidavits- that the requested rates are in line with those prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation.

Blum v. Stenson, 465 U.S. 886, 895 n.11 (1984). A reasonable rate is based on the prevailing market rates in the community for similar services by lawyers of comparable skill and experience. *See Id.* at 896; Hensley, 461 U.S. at 447; *Shepard v. City of St. Paul*, 380 N.W.2d 140, 143-44 (Minn. Ct. App. 1985). When determining a reasonable rate the Court must also consider the specifics of the case and the attorney's practice.

Plaintiff's petition asserts an hourly rate of $375 per hour for attorney Ross Stadheim, a 2011 law school graduate. He seeks reimbursement for 628.90 hours on the case, with an amount of $235,837.50. By comparison, Defendant's law firm in this matter, Nilan Johnson Lewis PA, charges it clients a standard rate of $210 per hour for a first-year associate's work and $230-235

per hour for a third-year associate's work. Defendant claims his rate is also high when compared to the rates used by other law firms in the Minneapolis and St. Paul area. Defendant submitted affidavits from attorneys who represent defendants in employment matters. Plaintiff also submitted affidavits from local attorneys with similar experience to support their request for fees.

Contingency is a factor in determining the reasonableness of attorney's fees. Courts must take "into account any contingency factor" where plaintiff's counsel assumes a "high risk of loss," and courts see fit to reward such gambles. *Brissette v. Heckler*, 784 F.2d 864, 865-66 (8th Cir. 1986). The court recognizes that attorneys with contingency practices often charge higher rates.

Having taken all of the above into consideration, the Court does find Ross Stadheim's fees to be excessive. Therefore, the Court will reduce Mr. Stadheim's hourly rate to $250. The Court believes this takes into consideration the market rate for the area and the fact that he is engaged in a contingency type of case. Mr. Stadheim is seeking reimbursement for 628.90 hours of work (as the Court did not find this number to be unreasonable). For 628.90 hours of work at a reasonable hourly rate of $250, Mr. Stadheim is to be compensated $157,225.00.

Costs

Plaintiff has amended their claim for costs that they seek in connection with litigating this case, to $9,343.05. As the moving party, Plaintiff's attorneys have the burden of proving that their disbursement requests are reasonable and necessary.

Plaintiff removed the request for costs for meals from their amended time sheet. Additionally, Plaintiff agreed to pay for half of the cost of mediation and likewise removed that request from their amended time sheet.

Plaintiff seeks $349.68 in reimbursement for mileage and parking. In their reply memorandum Plaintiff outlined and clarified what each entry was for and how it was related to the litigation of this case. The Court finds that the mileage and parking were directly connected to the litigation of this case and Plaintiff should be reimbursed.

Plaintiff seeks to recover approximately $2,097 in court filing fees. Defendant asks the Court to deny their motion for these costs or in the alternative to reduce the claimed expenses for filing fees. MNCIS shows that Plaintiff's attorneys have incurred $1,744 in court filing fees, a difference of $353. In addition, Defendant contends that Plaintiff should not be awarded filing fees for motions they did not prevail on, such as Plaintiff's Motion in Limine 1 ($102), move to amend the complaint for punitive damages ($102). The Court is inclined to follow their receipts and records of filing fees, therefore Plaintiff shall be entitled to a reimbursement of $1,744 in court filing fees.

The witness fee of $322.22 for "588 Miles x.565" and $150.00 for 10 hours x $15/Hour" are for Ms. Beck's travel time from Sioux Falls, South Dakota to Minneapolis, Minnesota to testify at the trial. These expenses include ground travel and reasonable payment for her time. To determine the rate of travel expense Plaintiff's counsel used the Internal Revenue Service's "Standard Mileage Rates for 2013," to calculate her mileage. Ms. Becks hourly rate as a paralegal is $15.00 per hour, and she missed 10 hours of work. It is within the Court's discretion to award these costs as it deems reasonable. The Court finds that Ms. Beck should be reasonably compensated for her time and travel and finds the $482.22 requested to be reasonable.

Conclusion

Plaintiff has requested attorneys' fees in the amount of $614,607.50 and costs and disbursements in the amount of $9,343.05, for a total award of $623,950.55. As outlined above

the Court has largely agreed with Plaintiff's claims for fees and costs but has made some deductions where it deems necessary and reasonable. Accordingly, Plaintiff is awarded attorney fees in the amount of $500,995.00 and costs and disbursements in the amount of $8,990.05 for a total award of $509,985.05.