

jury. On September 11, 2013, the jury returned a verdict in favor of Plaintiffs. Doc. 215 at 13-15. Plaintiffs now move for attorneys' fees and costs. Doc. 224.

II. Legal Standard

Under the FLSA, prevailing plaintiffs are entitled to reasonable expenses and attorneys' fees. *See* 29 U.S.C. § 216(b); *Black v. SettlePou, P.C.*, 732 F.3d 492, 502 (5th Cir. 2013). A plaintiff is "prevailing" if the party "succeeded on any significant claims affording it some of the relief sought." *Tex. State Teachers Ass'n v. Garland Indep. Sch. Dist.*, 489 U.S. 782, 791 (1989). The lodestar method is used to calculate the appropriate attorneys' fee award. *Saizan v. Delta Concrete Prods. Co.*, 448 F.3d 795, 799 (5th Cir. 2006). "The lodestar is calculated by multiplying the number of hours an attorney reasonably spent on the case by an appropriate hourly rate, which is the market rate in the community for [the] work. There is a strong presumption of the reasonableness of the lodestar amount." *Black*, 732 F.3d at 502 (citations omitted). "After calculating the lodestar, the court may decrease or enhance the amount based on the relative weights of the twelve factors set forth in [*Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974)]." *Saizan*, 448 F.3d at 800. However, "[t]he lodestar may not be adjusted due to a *Johnson* factor that was already taken into account during the initial calculation of the lodestar." *Black*, 732 F.3d at 502 (citing *Saizan*, 448 F.3d at 800).

III. Attorneys' Fees

Plaintiffs' counsel spent a total of 1346.79 hours prosecuting their case. Doc. 224-1 at 4; Doc. 224-2. Plaintiffs' lead counsel Charles Branham ("Branham") submitted an affidavit explaining that his firm exercised billing judgment prior to recording time to eliminate time for duplicative tasks or to reduce time for inefficient work. Doc. 221-1 at 4. Additionally, Braham noted that he reduced the amount of total fees requested to take into account time spent

prosecuting a claim on behalf of a plaintiff who subsequently retained separate counsel. Doc. 244-1 at 5. However, Defendants argue that the number of hours worked by Plaintiffs' counsel is unreasonable. Doc. 233 at 3-4. They specifically point to a two-month period during which Plaintiffs' counsel worked over five hundred hours. Doc. 233 at 4. Defendants also maintain that hours entered by Charles Branham and Todd Goldberg "seem to duplicate one another quite frequently when preparing for Plaintiffs' Motion for Summary Judgment."¹ Doc. 233 at 4.

After reviewing their billing records, the Court finds that the number of hours worked by Plaintiffs' counsel is not reasonable and necessary. The Court finds that the number of hours submitted is excessive in this case. While the case involved a number of plaintiffs, which would require additional work to gather the pertinent information, all Plaintiffs were in one of three categories of employees. The legal issues involved were the same for each category regardless of the number of plaintiffs in the category. Additionally, Plaintiffs' lead counsel states that approximately 50% of his time is spent on FLSA overtimes cases. Doc. 224-1 at 3. The 1346.79 hours claimed by Plaintiffs equals almost eight months of 40 hours per week dedicated to this case. The Court finds this is not reasonable or necessary. Plaintiffs' case was also complicated by the structure of the defendant companies and the relationship among the various Defendants and was also made more difficult by the obstructionist tactics of Defendants. However, none of this justified the 1346.79 hours of work on this case. Additionally, Plaintiffs' timesheets show billings for work on claims for which Plaintiffs did not prevail, such as an ADEA claim, a sexual harassment claim, and a motion for a temporary restraining order and temporary injunction. *See*

¹ Defendants also request that the Court disallow fees and costs for November 2, 2011 through January 5, 2012 because Plaintiffs failed to supplement a prior disclosure of attorneys' fees. Doc. 233 at 2. However, even assuming, *arguendo*, that Federal Rule of Civil Procedure 26 applied to the documentation of attorneys' fees, Defendants have failed to show that the billing statement submitted to Defendants on November 2, 2011 was a disclosure Rule 26(e) would require Plaintiffs to supplement. *See* Fed R. Civ. P. 26; Doc. 233 at 1-2. Thus, the Court will not disallow fees and costs for November 2, 2011 through January 5, 2012.

Doc. 224-2 at 2. As Plaintiffs did not prevail on these issues, they are not entitled to recover for work on these claims. Lastly, it appears there is some duplication of effort among the attorneys. *See generally* Doc. 224-2. For these reasons, the Court finds that, still taking into account the difficulties of this case, reducing the hours by 10% is fair and proper.

Plaintiffs also request that attorneys Branham and Jeffery Goldfarb be compensated at an hourly rate of \$475, that attorneys Todd Goldberg and Corinna Chandler be compensated at an hourly rate of \$350, and that paralegals Barb Nicholas, Nancy Galloway, and Danielle Littleton be compensated at an hourly rate of \$100. Doc. 224-1 at 4. Defendants have not objected to Plaintiffs' requested hourly rate. *See* Doc. 233. The Court finds that the hourly rates requested by Plaintiffs are reasonable for this locality. *See, e.g., Primrose Operating Co. v. Nat'l Am. Ins. Co.*, 382 F.3d 546, 562 (5th Cir. 2004) (“[T]rial courts are considered experts as to the reasonableness of attorney’s fees.”).

Thus, the lodestar should be altered to reflect the reduction in hours. However, the Court does not find it necessary to otherwise adjust attorneys’ fees based on the *Johnson* factors. Therefore, Plaintiffs are entitled to an attorneys’ fee award of \$433,874.24.

IV. Costs

Plaintiffs seek an award of \$20,794.97 for costs associated with the prosecution of the case. Doc. 224 at 9. “The ‘Supreme Court has indicated that federal courts may only award those costs articulated in [29 U.S.C. §] 1920 absent explicit statutory or contractual authorization to the contrary.’” *Gagnon v. United Technisource, Inc.*, 607 F.3d 1036, 1045 (5th Cir. 2010) (quoting *Cook Children’s Med. Ctr. v. New England PPO Plan of Gen. Consolidation Mgmt. Inc.*, 491 F.3d 266, 274 (5th Cir. 2007)). A number of the costs Plaintiffs seek recovery for are

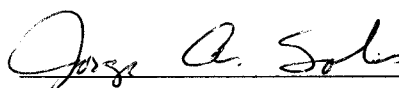
not articulated in § 1920.² Specifically, postage, retainers, lunches, and mediation fees are not articulated in § 1920. *See* 29 U.S.C. § 1920. Because Plaintiffs have not shown how the costs they seek that are not articulated in § 1920 fall within the costs-award provision of the FLSA, the Court will not award such costs. *See Gagnon*, 607 F.3d at 1045 (finding that a trial court abused its discretion by awarding FLSA costs not contemplated in § 1920 and failing to provide any other statutory or contractual authorization for the costs). Therefore, the Court finds that Plaintiffs can recover for transcript and copy fees, which the Court finds were necessarily obtained for use in the case. Thus, the Court finds that Plaintiffs are entitled to an award of costs in the amount of \$12,471.01.

V. Conclusion

For the foregoing reasons, the Court GRANTS Plaintiffs' Motion. Specifically, the Court awards Plaintiffs \$12,471.01 in costs and awards Plaintiffs \$433,874.24 in attorneys' fees.

IT IS SO ORDERED.

Signed this 9th day of April, 2014.



JORGE A. SOLIS
UNITED STATES DISTRICT JUDGE

² Under § 1920, a plaintiff may recover for (1) fees of the clerk and marshal; (2) fees for printed or electronically recorded transcripts necessarily obtained for use in the case; (3) fees and disbursements for printing and witnesses; (4) fees for exemplification and the costs of making copies of any materials where the copies are necessarily obtained for use in the case; (5) docket fees under 29 U.S.C. 1923; and (6) compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under 29 U.S.C. § 1828. 29 U.S.C. § 1920.