

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

PEOPLE FOR THE ETHICAL	)	
TREATMENT OF ANIMALS, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:17-cv-00186-RLY-DML
	)	
WILDLIFE IN NEED AND WILDLIFE IN	)	
DEED, INC.,	)	
TIMOTHY L. STARK,	)	
MELISA D. STARK,	)	
JEFFREY L. LOWE,	)	
	)	
Defendants.	)	

Order on Motion for Attorneys’ Fees Against Defendant Lowe

The court’s June 30, 2020 Order on Plaintiff’s Motion to Compel as to Defendant Lowe (Dkt. 362) granted the plaintiff’s request for fees in bringing its motion to compel at Dkt. 343 and directed the plaintiff to file a fee petition. Plaintiff People for the Ethical Treatment of Animals, Inc. filed its motion for fees; Mr. Lowe did not respond to it. PETA seeks an award of fees in the amount of \$2,539.05.

A reasonable fee is determined by multiplying (1) a reasonable rate by (2) the number of hours reasonably expended. *E.g., Mathur v. Board of Trustees*, 317 F.3d 738, 742 (7<sup>th</sup> Cir. 2003).

Reasonable Hourly Rate

A reasonable hourly rate presumptively is that rate an attorney actually bills to, and receives from, paying clients, whether or not the attorney practices within the local geographic community in which the case is being litigated. *Id.* at 744.

This presumption does not apply to an attorney who does not have a market rate because, for example, he or she does not routinely charge or receive payment via an hourly rate structure. *Id.* at 743. In that situation, the court may determine a reasonable hourly rate based on the rates that similarly experienced attorneys charge and receive for similar work. *Id.*

PETA's fee petition seeks fees for the work of two lawyers, one employed by its outside counsel and one in-house PETA lawyer. It has shown that the hourly rates requested for counsel's work are reasonable. Outside counsel's rate is discounted from that usually charged and paid by clients for his work. For the in-house lawyer who does not have a market rate, the rate requested (\$250/hour) is based on his years of practice. Because PETA has provided sufficient and uncontradicted evidence of the reasonableness of the hourly rates, the court will use the requested rates.

#### Reasonable Hours Expended

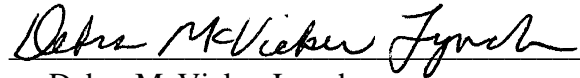
PETA seeks reimbursement for 7.8 hours of work by in-house counsel and 1.1 hours by outside counsel. At the approved hourly rates, the total award would be \$2,539.05. Because Mr. Lowe did not respond to the fee motion, he has not suggested that any work performed by the attorneys was not reasonably performed or was somehow excessive or redundant. In addition, the court determines that a total award of \$2,539.05 as attorneys' fees in bringing the subject motion to compel is reasonable in light of the work reflected in the motion to compel.

**Conclusion**

For the foregoing reasons, the court GRANTS PETA's motion for fees (Dkt. 375). The court AWARDS under Rule 37 attorneys' fees to PETA, and against defendant Jeffrey L. Lowe, in the amount of **\$2,539.05**.

So ORDERED.

Dated: October 1, 2020



Debra McVicker Lynch  
United States Magistrate Judge  
Southern District of Indiana

Distribution:

All ECF-registered counsel of record by email through the court's ECF system

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