STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS FOR THE FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	
PAUL VERNON COFFMAN, JR., PLAINTIFF,	)	Civil Action No. 2021-CP-07-01217
VS.	)	**ORDER RECONSIDERING ATTORNEYS' FEES AND COSTS**
TOWN OF PORT ROYAL AND KIMBERLY CARTER, DEFENDANTS.	)	

This matter is before the Court on Plaintiff's Motion for Reconsideration of this court's Order granting Plaintiff an attorney fee award in the amount of $33,333.33 (ECF 01.15.25). Upon careful consideration, the Court finds that it's prior award was an abuse of discretion. As a result, the Court grants the Plaintiff's motion and reconsiders the amount of fees awarded, in accordance with controlling case law and jurisprudence and the record before the court, as fully set forth below.

FACTUAL AND PROCEDURAL HISTORY

The above-captioned case arose from an unlawful arrest following an incident that took place at the Sands Beach Boat Landing, in Port Royal, South Carolina on July 6, 2019, and the subsequent investigation conducted by the Port Royal Police Department. After an on-scene investigation and a subsequent internal review of the case by a member of Port Royal Police Department's command staff which found there was no probable cause to arrest, the Plaintiff was eventually arrested by an officer employed by the Port Royal Police Department. The criminal charge for assault and battery third degree against Plaintiff Paul Coffman remained pending for

many months until it was dismissed on March 13, 2020, by the prosecuting attorney for the Town of Port Royal.

On July 2, 2021, Plaintiff Paul Coffman (Coffman) filed this lawsuit in the Beaufort County Court of Common Pleas against Defendants Town of Port Royal (Town), Kimberly Carter (Carter), Joshua Smith, and various other Town officers, in their individual and official capacities. (ECF 07.02.2021). The Defendants subsequently attempted, but ultimately failed, to remove this case to Federal Court on October 13, 2021. (ECF 10.13.2021). The case was remanded to the Beaufort County Court of Common Pleas and all parties were given notice of the remand on January 14, 2022. (ECF 01.14.2022). In his Answer, Joshua Smith asserted a counterclaim for battery against Coffman. (ECF 03.16.22).

The Plaintiff's Amended Complaint, among other things, alleged the following against Defendants Town of Port Royal, Chief Alan Beach, Investigator Kimberly Carter, Captain John Griffith, and Deputy Chief Ron Wekenmann:

1. Claims under 42 U.S.C. §1983 for violations of the Fourth and Fourteenth Amendments, to include malicious prosecution and unlawful seizure claims, against Chief Alan Beach, Investigator Kimberly Carter, Capt. John Griffith, and Deputy Chief Ron Wekenmann in their individual capacity; and
2. Negligence/Gross Negligence claims against the Town for failure to adequately hire, train, supervise, and monitor Defendants Kimberly Carter, John Griffith, and Ron Wekenmann as well as false arrest and malicious prosecution.
3. Loss of Consortium claim against the Town.

(ECF 09.12.2023).

By stipulation of the parties, both the Plaintiff and Joshua Smith agreed to mutually dismiss

the claims between them. (ECF 10.20.2023). In the course of discovery and after taking the 30(b)(6) deposition of the Town of Port Royal, Paul Coffman, and Stephanie Coffman, the Defendants filed dual motions to dismiss and motions for summary judgment (ECF 12.12.2023) on behalf of all Defendants. After taking the video recorded deposition of Defendant Carter on January 19, 2024, the Defendants filed their memorandum in support of their collective motion to dismiss and motion for summary judgment (ECF 02.23.2024), which also raised an affirmative defense of qualified immunity on behalf of the individually named Defendants. After the Plaintiff filed his respective replies and a hearing on the merits, the Defendants' motions were denied, except for the Plaintiff's state law claims for false arrest and loss of consortium, which were dismissed. The individual Defendant's motion for summary judgment on the federal claims under 42 U.S.C. § 1983 based on qualified immunity was likewise denied. Prior to trial, the Parties conducted additional discovery, which included the video recorded depositions of Joshua Smith and Brittany Smith. The video recorded depositions of Defendant Carter, Joshua Smith, and Brittany Smith were later admitted in evidence and published to the jury at trial with the mutual consent of the Parties.

This matter was tried before a jury on June 17, 2024 through June 21, 2024. During the trial, Defendants Chief Alan Beach, Captain John Griffith, and Deputy Chief Ron Wekenmann were dismissed from the case. The jury returned a verdict for the Plaintiff and awarded the Plaintiff One Hundred Thousand ($100,000.00) Dollars against Carter on federal claims under 42 U.S.C. § 1983 for unlawful seizure and malicious prosecution (which included a punitive damages award of $40,000) and Two Hundred Fifty Thousand ($250,000.00) Dollars against the Town for state law claims of negligence and malicious prosecution**.** On July 10, 2024, the Clerk entered judgment in favor of the Plaintiff pursuant to the jury verdict.

Coffman subsequently filed a motion for attorneys' fees and costs pursuant to 42 U.S.C. § 1988.[1] (ECF 07.01.2024). Defendants filed a response in opposition to the motion (ECF 12.10.2024). Coffman filed a reply in support of the motion (ECF 12.23.2024). A hearing was held on December 11, 2024.

Following the hearing, this court granted the Plaintiff's Motion for Attorneys' Fees and Costs, awarding $33,333.33 as well as costs. (ECF 01.15.2024). Thereafter, Plaintiff submitted a motion for reconsideration of the attorneys' fees award (ECF 01.27.2024).[2] Defendants did not file a response.

LEGAL STANDARD

The general rule of litigation is that each party must pay its own attorneys' fees and expenses. See *Hensley v. Eckerhart*, 461 U.S. 424, 429 (1983). However, Congress created an exception when it enacted the Civil Rights Attorney's Fees Awards Act of 1976, 42 U.S.C. § 1988 (Section 1988). *Id*. Section 1988 authorizes district courts to award reasonable attorneys' fees to prevailing parties "to induce a capable attorney to undertake the representation of a meritorious civil rights case." *Perdue v. Kenney*, 559 U.S. 542, 552 (2010). The aim of Section 1988 is to enforce civil rights, not "'to improve the financial lot of attorneys.'" *Id*. (quoting *Penn. v. Del. Valley Citizen's Couns. For Clean Air*, 478 U.S. 546, 565 (1986)). "The essential goal in shifting fees . . . is to do rough justice, not to achieve auditing perfection. [] [T]rial courts may [consider] their overall sense of a suit[] and may use estimates in calculating and allocating an attorney's

[1] Including documentation of billing records, itemized by each attorney; Affidavits from Thad L. Myers, Jeremiah J. Shellenberg, Joshua P. Golson, and Grady L. Patterson (Plaintiff's Counsel); Affidavits from Keith M. Babcock, Joel S. Hughes, and Neal M. Lourie; a Combined Timesheet and documentation of costs.

[2] A motion under Rule 59(e) has long been viewed as a 'motion for reconsideration' despite the absence of those words from the rule. *Elam v. S.C. Dep't. of Transp.* 361 S.C. 9, 21-22, 602 S.E.2d 772, 778-79 (2004).

time." *Fox v. Vice*, 563 U.S. 826, 838 (2011) (citing *Hensley*, 461 U.S. at 437). Attorneys should exclude "hours that are excessive, redundant, or otherwise unnecessary" to reflect the number of hours that would properly be billed to the client. *Hensley*, 461 U.S. at 434. The court may not simply accept as reasonable the number of hours reported by counsel. *Alexander S. By and Through Bowers v. Boyd*, 929 F. Supp. 925, 938 (D.S.C. 1995) (citing *Espinoza v. Hillwood Sq. Mut. Ass'n*, 532 F. Supp. 440, 446 (E.D. Va. 1982)). In seeking attorney's fees under Section 1988, attorneys are under a duty to minimize expenses. *Child Evangelism Fellowship of S.C. v. Anderson Sch. Dist.* 5, C/A No. 8:04-1866-HMH, 2007 WL 1302692, at *4 (D.S.C. May 2, 2007) (citing *Trimper v. City of Norfolk*, Va., 58 F.3d 68, 76 (4th Cir. 1995)). "In the private sector, 'billing judgment' is an important component of fee setting. It is no less important here. Hours that are not properly billed to one's client also are not properly billed to one's adversary pursuant to [Section 1988.]" *Hensley*, 461 U.S. at 434 (quoting *Copeland v. Marshall*, 641 F.2d 880, 891 (1980) (en banc) (emphasis in original)).

To determine a reasonable fee award, courts should also draw on their knowledge of the case and their own litigation experience. *Brown v. Lexington County*, C/A No. 3:17-cv-01426-SAL, at *21 (D.S.C. Sept. 29, 2023) (citing *Route Triple Seven Ltd. Partnership v. Total Hockey*, Inc., 127 F. Supp. 3d 607, 621 (E.D. Va. 2015)). An award of attorneys' fees is reviewed for abuse of discretion. *Doe v. Kidd*, 656 F. App'x 643 (4th Cir. 2016) (citing *Brodziak v. Runyon*, 145 F.3d 194, 196 (4th Cir. 1998)).

DISCUSSION

After he secured a jury verdict in his favor, neither party disputes that the Plaintiff is the prevailing party.[3] As the prevailing party, the Plaintiff is entitled to both an award of attorneys'

[3] *See S-1 & S-2 By & Through P-1 & P-2 v. State Bd. of Educ. of N. Carolina*, 21 F.3d 49, 51 (4th

fees as well as costs under 42 U.S.C. § 1988. As the prevailing party, the Plaintiff filed his motion for attorneys' fees and requested an award of $410,792.50. (ECF 07.1.2024).

"The purpose of § 1988 is to ensure effective access to the judicial process for persons with civil rights grievances. Accordingly, a prevailing plaintiff should ordinarily recover an attorney's fee unless special circumstances would render such an award unjust." *Hensley v. Eckerhart*, 461 U.S. 424, 429 (1983). The Fourth Circuit describes a district court's discretion in finding such "special circumstances" in a case as "narrowly circumscribed." *Brandon v. Guilford Cnty. Bd. of Elections*, 921 F.3d 194, 201 (4th Cir. 2019). The "special circumstances" exception is inapplicable here.

At the outset, the Court must address whether the Plaintiff's fee request is specific enough to allow for appropriate judicial review. The Supreme Court requires that a "party seeking an award of fees should submit evidence supporting the hours worked and rates claimed." *Hensley v. Eckerhart*, 461 U.S. 424, 434 (1983). The Plaintiff provided the court with a detailed and itemized summary of the hours and fees claimed by each attorney in both the Plaintiff's motion for attorney fees and memorandum in support. (ECF 07.01.2024). The Plaintiff's fee request contains one hundred forty-one (141) entries presented chronologically from August 20, 2020, to June 27, 2024. The entries were further provided to the court in a combined timesheet, which compiled the billing records of four (4) attorneys and two (2) paralegals into a single document for the Court's added benefit. (ECF 07.01.2024, Ex. 4).[4] The Court has reviewed the entries and concludes they are sufficiently specific to allow for appropriate judicial review.

Cir. 1994) ("A person may not be a 'prevailing party' plaintiff under 42 U.S.C. § 1988 except by virtue of having obtained an enforceable judgment, consent decree, or settlement giving some of the legal relief sought in a § 1983 action." (quoting *Farrar v. Hobby*, 506 U.S. 103 (1992)).

[4] The manner and presentation of the Plaintiff's motion for attorneys' fees, in addition to the respective affidavits of counsel and other supporting documentation, was offered in similar fashion

ATTORNEY FEES

The calculation of an attorneys' fee award is a three-step process. *McAfee v. Boczar*, 738 F.3d 81, 88 (4th Cir. 2013). "First, the court must 'determine the lodestar figure by multiplying the number of reasonable hours expended times a reasonable rate.'" *Id.* (quoting *Robinson v. Equifax Info. Servs.*, LLC, 560 F.3d 235, 243 (4th Cir. 2009)). We determine reasonable hours and reasonable rates by applying "the factors set forth in *Johnson* [*v. Ga. Highway Express, Inc.*, 488 F.2d 714, 718 (5th Cir. 1974).]" *Id.* (citing *Robinson*, 560 F.3d at 243–44.) Second, "the court must 'subtract fees for hours spent on unsuccessful claims unrelated to successful ones.'" *Id.* (quoting *Robinson*, 560 F.3d at 244). The final step is to "award 'some percentage of the remaining amount, depending on the degree of success enjoyed by the plaintiff.'" *Id.* (quoting *Robinson*, 560 F.3d at 244); see also *Barber v. Kimbrell's, Inc.*, 577 F.2d 216, 226 (4th Cir. 1978).

To determine the reasonable number of hours and a reasonable hourly rate for calculation of the lodestar, the court must consider the twelve, non-exclusive *Johnson* factors:

> (1) the time and labor required; (2) the novelty and difficulty of the questions; (3) the level of skill required to perform the legal service properly; (4) the preclusion of employment by the attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) the time limitations imposed by the client or the circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the "undesirability" of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases.

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as to other motions for attorneys' fees made and accepted in prior litigation under 42 U.S.C. § 1988 and recently upheld by the Fourth Circuit Court of Appeals. Compare, e.g., *Gifford v. Horry County* C/A No.4:16-cv-03136-MGL and *Gifford v. Horry Cty. Police Dep't*, No. 23-1471, 2024 U.S. App. LEXIS 32225, at *3 (4th Cir. Dec. 19, 2024) (unpublished).

Rum Creek Coal Sales, Inc. v. Caperton, 31 F.3d 169, 175 (4th Cir. 1994) (citing *Johnson*, 488 F.2d 714). While the *Johnson* factors provide a framework for our review, the Plaintiff bears the burden to prove a fee request is reasonable. *Hensley*, 461 U.S. at 433.

Application of the *Johnson* factors in this case supports the award of the Plaintiff's attorneys' fees.[5] Pursuant to *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974), which was embraced by the Fourth Circuit in *Barber v. Kimbrell's Inc.*, 577 F.2d 216, 226 (4th Cir. 1978), the court has taken all twelve factors into consideration.

First, the Court finds that the issues involved in this matter were not overly complicated considering the amount of time and dedication required, the novelty and difficulty of the questions involved, and the skill required to perform the legal service properly. *Johnson* at 717. Further, it is not compelling that the likelihood that the acceptance of this particular case precluded other employment by the lawyers. *Id.* at 718. The fee proposed as hourly rates for the various attorneys is customary and not unreasonable in the locality for similar legal services. *Id.* The time limitations imposed by the client or circumstances were substantial but not overly burdensome. *Id.* The amount time involved and the results obtained were complimentary of each other as there was a lack of experts and specialized evidence. *Id.* The experience, reputation, and ability of the lawyers performing the services is highly factually dependent as opposed to technical, but the results speak for themselves. *Id.* at 720. Although Plaintiff argues the case was "undesirable," this factor weighed positively in favor of the award. *Id.* The nature and length of the professional relationship

[5] The Plaintiff argues the applicability of ten of the twelve factors favor awarding Plaintiff's attorneys' fees. (ECF 07.01.2024 at 9-16). Plaintiff acknowledges factor seven is immaterial to the court's analysis. Nor was factor 11 an issue, and the court presumes a lengthy and professional relationship between Plaintiff's counsel and their clients. The Defendants' Memo in Opposition did not raise any arguments for factors two (2), four (4), six (6), seven (7), eight (8), ten (10), and eleven (11).

with the client was minimally excessive in the court's experience as compared to similar and more complex matters and facts. *Id.* Finally, facts as determined by the jury were in line with the verdict when compared to similar cases. *Id.* The jury award and outcome conformed to and supported the facts of this case in the court's opinion and is complimentary of the amount of time involved and the results obtained.

Under the final *Johnson* factor, the Court considers fee awards in similar cases, to include the following: *W. S. v. Daniels*, No. 8:16-CV-01032-DCC, 2019 WL 5448374, at *1 (D.S.C. Oct. 24, 2019), *aff'd in part, vacated in part on other grounds, remanded*, No. 19-2348, 2022 WL 621785 (4th Cir. Mar. 3, 2022) (award of $629,605.64 attorneys' fees and costs affirmed in case where the plaintiff was awarded $67,000 in actual damages and $67,000.00 in punitive damages against the individual defendant); *Doe v. Kidd*, 2018 WL 929670 (D.S.C. February 16, 2018) (awarding $425 per hour for attorneys' fees and $140 per hour for paralegal time for a total additional award of fees and costs in the amount of $1,312,681.41 in addition to the $669,077.20 awarded by the Fourth Circuit)[6]; and *Gifford v. Horry Cty. Police Dep't*, No. 23-1471, 2024 U.S. App. LEXIS 32225, at *3 (4th Cir. Dec. 19, 2024) (unpublished) (an award of attorneys' fees in the amount of $878,467.80 (less the billing for more than two attorneys at a deposition). And finally, the court considers *Bairefoot*, C/A No. 9:17-cv-02759, a distinctly different case, but one which involved two municipalities in Beaufort County, South Carolina. Notwithstanding the federal district court which has previously awarded $1,312,681.41, the fees awarded in the cases out of the Fourth Circuit range from $250,000 (*Bairefoot*)[7] to $878,467.80 (Gifford).

[6] *See* Civil Action No.3:03-cv-01918.

[7] This figure was the settlement amount and included "damages, attorneys' fees and expenses." *[Bairefoot*, C/A No. 9:17-cv-02759, ECF No. 45 at 10.]

At the conclusion of the trial, the jury rendered a verdict for the Plaintiff and awarded him One Hundred Thousand ($100,000.00) Dollars against Carter for federal claims under 42 U.S.C. § 1983 for unlawful seizure and malicious prosecution (which included a punitive damages award of forty Thousand ($40,000.00) Dollars) and Two Hundred and Fifty Thousand ($250,000.00) Dollars against the Town for state law claims of negligence and malicious prosecution.

The court must exercise sound judgment based on knowledge of the case and litigation experience if it decides to reduce the number of hours submitted. *Route Triple Seven Ltd. Partnership*, 127 F. Supp. 3d at 621. Again, Plaintiffs bear the burden to prove a fee request is reasonable, and the court may reduce the award accordingly when documentation is inadequate. *Hensley*, 461 U.S. at 433. However, the Supreme Court has also held that "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." *Hensley v. Eckerhart*, 461 U.S. 424, 437 n. 12., 103 S. Ct. 1933, 76 L. Ed. 2d 40 (1983). Similarly, the Fourth Circuit has held that it does not "intend to infer that minutely detailed records are required to support a fee request." *Daly v. Hill*, 790 F.2d 1071, 1079 n. 2 (4th Cir.1986).

Having heard this matter and considering all applicable factors the Court finds that the overall amount of time spent on this matter is slightly excessive and unreasonable, and that a ten percent reduction in hours billed is a reasonable reduction that meets the ends of justice in this case. Based on the foregoing, and other factors referenced herein, the court finds the reasonable hours expended on this case is **1,004.625, which is 10 percent less the reported hours billed.** The number of reasonable hours is just one of the two important calculations in determining the lodestar amount.

The court now turns to an analysis of the reasonable rates. Based on the findings of the Court with regard to the *Johnson* factors and the Court's own past experience, the Court hereby finds that the hourly amount of the fees proposed are reasonable with respect to each attorney. Counsel has adequately supported their requested rates through affidavits and case law. "The hourly rates included in a request for attorney's fees must also be reasonable." *Crossmann*, 2014 WL 2169075, at *2 (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983)). Reasonable rates are determined by looking to prevailing market rates in the community. *Blum v. Stenson*, 405 U.S. 886, 104 S. Ct. 1541 (1984).[8] ("The customary fee for similar work in the community should be considered." (citing *Johnson*, 488 F.2d at 718)). Plaintiffs must show their requested rates are reasonable based on rates approved in other cases as well as "affidavits of local lawyers who are

[8] All courts have uniformly followed the clear mandate of the *Blum* opinion. See, e.g., *Missouri v. Jenkins*, 491 U.S. 274, 283 (1989) (in determining "reasonable hourly rates," attorney's fees awarded under § 1988 "are to be based on market rates for the services rendered"); *Rum Creek Coal Sales*, 31 F.3d at 175 (citing Blum and holding reasonableness met by compensating with "prevailing market rates in the relevant community"); *Glover v. Johnson*, 934 F.2d 703, 716 (6th Cir. 1991) (hourly rate can be established by proving that the rates sought are rates charged for similar services by lawyers of comparable skill, experience and reputation); *Malloy v. Monaghan*, 73 F.3d 1012, 1018-19 (10th Cir. 1996) (imposition of insurance defense attorney's hourly rate on prevailing plaintiff's attorney is inappropriate); *Pressley v. Haeger*, 977 F.2d 295, 299 (7th Cir. 1992) (reasonable attorney's fees to be based on "market rates" for legal services); *Rivera*, 477 U.S., at 591, (Rehnquist, J., dissenting) (reasonableness of fee must be determined "in light of both the traditional billing practices in the profession, and the fundamental principle that the award of a 'reasonable' attorney's fee under § 1988 means a fee that would have been deemed reasonable if billed to affluent plaintiffs by their own attorneys"; "The 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.'" *Bivins v. Wrap It Up, Inc.*, 548 F.3d 1348, 1350 (11th Cir. 2008) (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 433, 103 S. Ct. 1933, 76 L. Ed. 2d 40 (1983)); "The product of these two figures is the lodestar and there is a 'strong presumption' that the lodestar is the reasonable sum the attorneys deserve." *Id*. (quoting *Pennsylvania v. Delaware Valley Citizens' Council for Clean Air*, 478 U.S. 546, 565-66, 106 S. Ct. 3088, 92 L. Ed. 2d 439 (1986)); *see also Burlington v. Dague*, 505 U.S. 557, 112 S. Ct. 2638 (1992) (the "lodestar" figure has, as its name suggests, become the guiding light of our fee-shifting jurisprudence); *Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 130 S. Ct. 1662, 1673, 176 L. Ed. 2d 494 (2010), there is a 'strong presumption' that the lodestar reflects a reasonable statutory fee.").

familiar both with skills of the fee applicants and more generally with the types of work in the relevant community." *Robinson*, 560 F.3d 235, 245 (4th Cir. 2009); see also *Doe,* 656 F. App'x at 654 (affirming comparison to hourly rates in other cases to support finding of reasonable hourly rates in an attorneys' fees award under 42 U.S.C. § 1988). Local lawyers who attest to a prevailing party's requested hourly rates must state they are familiar with the fee applicants' skills and the type of work in the community. *Robinson*, 560 F.3d at 245.

The Plaintiff requests the following hourly rates:

- Thad L. Myers, Esq. - $650.00[9]
- Jeremiah "JJ" Shellenberg, Esq. - $350.00
- Joshua P. Golson, Esq. - $400.00
- Grady L. Patterson, Esq. - $300.00
- Nichol Hare, Paralegal - $175.00
- Nikki Seek, Paralegal - $125.00 (Waived by Plaintiff)

See ECF 07.01.2024 at 7.

Plaintiffs submitted evidence of hourly rates from other cases in the District Court for the District of South Carolina and the affidavits of their attorneys and local lawyers to support these rates. They also point to hourly rates awarded in recent civil rights litigation as justification for their request. Defendants argue that "an appropriate rate would be $200 to $250 per hour for lead attorney and $75 to $100 per hour for paralegals for work on a § 1983 case of comparable complexity." Defendants fail to provide any case law or evidence to support their contention. The court disagrees with the Defendants' assertions, notes there are recent awards to the contrary, and

[9] Defense Counsel specifically challenged the hourly rate of $650.00 for Mr. Myers. In 2012, Mr. Myers was awarded that hourly rate by the court. (ECF 12.23.2024 at Exhibit 1). *See also* 8:09-cv-00415 (ECF 109-3).

finds that the attorneys on the Plaintiff's legal team are entitled to a fee award greater than $250 per hour.

For example, in the litigation of a recent § 1983 case just over a year ago, the South Carolina District Court rejected a Defendant's claim that $250 to $300 was an appropriate hourly rate for attorneys in § 1983 cases in the South Carolina district. *Brown v. Lexington County*, C/A No. 3:17-cv-01426-SAL, at *21 (D.S.C. Sept. 29, 2023). In *Brown*, the Court analyzed *South Carolinians for Responsible Gov't v. Krawcheck*, C/A No. 3:06-1640-MBS (D.S.C. July 9, 2012) and *Doe v. Kidd*, 656 F. App'x 643 (4th Cir. 2016)[10] and noted that the rates for South Carolina § 1983 cases adopted in those cases "were $275-$480 for attorneys and $140 for paralegals." *Brown*, C/A No. 3:17-cv01426-SAL, at *23. The Court noted that "[b]ased on the court's experience, these rates remain customary in 2023 for federal court litigation in South Carolina." *Id*. at *23 n.21. The Court thus held that "[t]hese rates are appropriate considering the skills required to litigate this case, the novelty of the issues, the customary fee for like work, and the experience and reputation of counsel." *Id*.

Furthermore, the Plaintiff has not "simply submit[ted] affidavits from their colleagues praising their skills," but rather submitted evidence deemed competent by the Fourth Circuit to support the requested rates. *McAfee*, 738 F.3d at 91 ("The evidence we have deemed competent to show prevailing market rates includes 'affidavits of other local lawyers who are familiar both with

[10] *Krawcheck* and *Doe* are useful comparators: Both are civil rights cases that seek to vindicate constitutional rights under Section 1983 and awarded fees under Section 1988. In *Krawcheck*, the court awarded hourly rates of $425, $385, and $275, and hourly paralegal rates of $140. 2012 WL 2830274, at *2. In *Doe*, the Fourth Circuit relied on *Krawcheck* to find rates of $425–475 per hour fit prevailing South Carolina rates. 656 F. App'x at 655. The *Doe* court also found $140 per hour was appropriate for paralegal services. *Id*. at n. 2. Here, Plaintiff also cites *Gifford*, another civil rights case(s) that sought to vindicate constitutional rights under Section 1983 and awarded fees under Section 1988. In *Gifford*, the court found hourly rates of $450, $400, and $250, and paralegal rates of $125 per hour. No. 23-1471, 2024 U.S. App. LEXIS 32225, at *3 (4th Cir. Dec. 19, 2024).

the skills of the fee applicants and more generally with the type of work in the relevant community.'"). For example, the Plaintiff has submitted evidence of hourly rates from other similar cases and the affidavits of his attorneys and local lawyers to support these rates. Neal M. Lourie, a South Carolina practitioner with experience in the litigation of civil rights claims, indicates that constitutional claims against law enforcement, particularly those raised in this case, present complex legal hurdles not easily overcome by a plaintiff. Based upon his extensive experience as a litigator, including the prosecution of constitutional claims, he believes Plaintiff's counsel utilized considerable legal skill to prevail on Plaintiff's constitutional claim (ECF 07.01.2024 at Exhibit 1).

The Plaintiff has filed affidavits of local attorneys. Based upon these affidavits and case law, this Court finds that a reasonable hourly rate for counsel in South Carolina for lawyers of their experience and ability is between $300.00 and $750.00 per hour, considering the current market rates for attorneys in civil litigation and civil rights litigation. Additionally, $125.00 to $175.00 per hour is a reasonable fee for paralegals working on complex cases within this market.

Therefore, based on the evidence submitted by Plaintiff's counsel, rates in similar cases, and the court's own knowledge, the court adopts the hourly rates requested by the Plaintiff as consistent with the "prevailing market rates."[11]

Thus, this Court finds the reasonable hours and reasonable hourly rates in this case are:

ATTORNEY/ PARALEGAL	HOURS	HOURLY RATE	TOTAL
Thad L. Myers, Esq.	77.49	$650.00	$50,368.5
Jeremiah "JJ" Shellenberg, Esq.	371.385	$350.00	$129,884.80

[11] While the Plaintiff has demonstrated the Consumer Price Index calculations to adjust for inflation, based on the court's experience, these rates remain customary for civil rights litigation in South Carolina.

Joshua P. Golson, Esq.	350.1	$400.00	$140,040.00
Grady L. Patterson, Esq.	106.65	$300.00	$31,995.00
Nichol Hare, Paralegal	99	$175.00	$17,325.00
TOTAL FEES			**$369,713.30**

Accordingly, the lodestar is **$369,713.30**. This figure reflects the reasonable number of hours expended on this litigation multiplied by the reasonable hourly rates.

After calculating the lodestar, the court must "subtract fees for hours spent on unsuccessful claims unrelated to successful ones." *Robinson,* 560 F.3d at 244; *Grissom v. The Mills Corp.*, 549 F.3d 313, 321 (4th Cir. 2008). When all claims "involve a common core of facts . . . [m]uch of counsel's time will be devoted generally to the litigation as a whole, making it difficult to divide the hours expended on a claim-by-claim basis." *Brodziak v. Runyon*, 145 F.3d 194 (4th Cir. 1998).

Here, there is a legitimate consideration relative to an intertwined series and/or substantial nexus of facts between the state law claims and the federal claims as presented at trial. In addition to other claims, the Plaintiff prevailed on claims against both the Town and Carter for malicious prosecution as well as federal claims against Carter for unlawful seizure under § 1983. Thus, it appears the facts and evidence used in the successful litigation of the federal claims against Carter were in certain ways inherently tied to the successful litigation of the state law claims against the Town.

Fourth Circuit cases support the conclusion that the ultimate issue for consideration is whether the success and/or failure of claims arise from a common core of facts, and the nature of the relationship of those facts to a plaintiff's success on the §1983 claim. *Gregg v. Ham*, No. 3:08-4040-CMC, 2010 U.S. Dist. LEXIS 128723, at * 8 (D.S.C. Dec. 6, 2010). Accordingly, the test is

whether "the facts supporting the §1983 action were so 'inextricably intertwined with the facts surrounding' the state law claims . . . [such] . . . that counsel could not have presented the constitutional aspects of this case without developing and presenting the facts surrounding the entire sequence of events that transpired.'" *Id.* (citing *Abshire v. Walls*, 830 F.2d 1277, 1283 (4th Cir. 1987) (the Fourth Circuit held that the district court had erred in reducing billable hours for unsuccessful claims for false arrest, false imprisonment, and malicious prosecution where those claims and a successful § 1983 claim for an unconstitutional strip search "arose from a common core of facts").[12]

In further support of such a conclusion, the court in *Gregg v. Ham* relied on its earlier precedent in *Goodwin v. Metts*, 973 F.2d 378 (4th Cir. 1992), and further explained, "In Goodwin, the court held that when juries award damages for conduct which not only informs an award under § 1983 but also results in finding for a Plaintiff on a state law cause of action, the "language of section 1988 nowhere indicates that a determination that conduct causing the constitutional deprivation under 42 U.S.C. § 1983 [and] also amounts to tortious misbehavior under state law should affect the court's award of attorneys' fees." 973 F.2d at 378, 386 (4th Cir. 1992). *Gregg v. Ham*, No. 3:08-4040-CMC, 2010 U.S. Dist. LEXIS 128723, at *15 (D.S.C. Dec. 6, 2010).

In addition, the Fourth Amendment claims for unreasonable seizure and malicious prosecution against Carter are inextricably tied to the state law causes of action. For example, the

[12] The *Gifford* case is particularly instructive in this case. In *Gifford*, the Plaintiff was likewise awarded an appropriate amount of monetary damages on the state law claims, but was only awarded one dollar on federal claims. Here, in addition to the award on the state law claims, the Plaintiff further secured [by way of the cumulative knowledge, expertise, and skill of his respective counsel at trial] actual and punitive damages against an individual officer under § 1983. The court in *Gifford* awarded attorneys' fees in an amount of $878,467.80. The award was upheld by the Fourth Circuit in an unpublished opinion. No. 23-1471, 2024 U.S. App. LEXIS 32225, (4th Cir. Dec. 19, 2024).

state law negligence and/or gross negligence claims which assert, e.g., a failure to properly train, discipline, or supervise, as well as malicious prosecution. In this case, the success of Plaintiff's federal claims under § 1983 was significantly based on evidence that also supported his state law claims, upon which he also prevailed. Based on the evidence presented at trial, Carter did not have a reasonable basis to charge the Plaintiff with a crime. The record before the Court also reflects significant evidence, including witness testimony, that Carter did not have a reasonable basis to charge the Plaintiff with a crime. The record shows significant evidence that Carter neglected to relay substantial amounts of evidence and information in her warrant application and obtained the warrant using deceptive tactics and those tactics were material in obtaining the warrant. Carter also ignored the conclusions of responding officers, her immediate supervisor, and the Internal Affairs officer that there was no reasonable basis and no probable cause to arrest the Plaintiff. Thus, the question of probable cause to arrest was a material question of fact for the jury.

Ultimately, the claims cannot be dissected because they are interrelated and both Defendants were found liable for related and/or similar claims, which were proven in part by similar elements. "While identity between claims is not required, the state and federal claims must certainly bear some relation in order for the state claims to be considered under § 1988." *Gregg v. Ham*, No. 3:08-4040-CMC, 2010 U.S. Dist. LEXIS 128723, at *15 (D.S.C. Dec. 6, 2010) citing *Jama v. Esmor Correctional Svcs., Inc.*, 577 F.3d 169, 176 (3d Cir. 2009).

As a result, this Court finds that the state and federal claims are inherently related to a sufficient degree such that Plaintiff's attorneys' fees are justifiably based upon the litigation of the totality of the facts and evidence presented at trial.

In the final step before making an attorney's fee award under § 1988, a court must "consider the relationship between the extent of success and the amount of the fee award." The

court will reduce the award if "the relief, however significant, is limited in comparison to the scope of the litigation as a whole." *Hensley*, 461 U.S. at 439-40. Indeed, the Supreme Court has recognized that the extent of a plaintiff's success is "the most critical factor" to determine a reasonable attorney's fee under 42 U.S.C. § 1988. *Id*. at 436. "'[T]he most critical factor' in calculating a reasonable fee award 'is the degree of success obtained.' *Brodziak*, 145 F.3d at 196 (quoting *Hensley*, 461 U.S. at 436). The most important result achieved in this case was the vindication of Paul Coffman's claim of constitutional violations. Carter was found liable for multiple constitutional violations for unreasonable seizure and malicious prosecution. The Town was found liable for state law claims of malicious prosecution and negligence.

The Plaintiff has achieved all the relief the law allows to one injured as he was so injured, to include an award of punitive damages on the federal claims under 42 U.S.C. § 1983. Consequently, Plaintiff's result merits a reward, including an award of attorneys' fees that properly recognizes and honors the reasonable amount of time to successfully litigate such cases and achieve these particular results.

As it pertains to costs, "[i]t is well settled that a prevailing party in a civil rights action is entitled to those reasonable out-of-pocket expenses incurred by the attorney which are normally charged to a fee-paying client in the course of providing legal services." *Morris v. Bland*, No. 5:12-cv-3177-RMG, 2015 WL 12910632, at *1 (D.S.C. Jan. 30, 2015) (internal marks and citations omitted). "The allowance for reimbursement of out-of-pocket costs is part of the purpose of 42 U.S.C. § 1988 …." *Id*. "The touchstone for reviewing all costs sought to be reimbursed is reasonableness." *Id.*

Plaintiff agrees to waive certain costs which he initially sought, including two amounts for mileage ($175.54 and 157.20), mediation costs ($600.00), various trial expenses beginning with

lodging ($4,183.46), and interest on case costs ($758.70), which totals $5,874.90. Similarly, Plaintiff agrees to waive the requested costs from the Law Office of Joshua P. Golson, LLC. Accordingly, the Court finds the remaining costs claimed by Thad L. Myers, PA are reasonable. The court thereby awards costs of $10,057.78.

CONCLUSION

Based on the foregoing, the record before the Court, and the matters properly presented to the Court, Plaintiff's motion to reconsider attorneys' fees award, ECF 01.27.2025, is **GRANTED.** For the reasons above, Plaintiff is awarded **$369,713.30** in attorneys' fees as enumerated herein and **$10,057.78** in costs.

AND IT IS SO ORDERED.

H. Steven DeBerry, IV
Presiding Circuit Court Judge

Beaufort, South Carolina
May_, 2025

Beaufort Common Pleas

Case Caption: Paul Vernon Coffman Jr , plaintiff, et al VS Port Royal Town , defendant, et al

Case Number: 2021CP0701217

Type: Order/Attorney Fees

H. Steven DeBerry, IV

Circuit Court Judge 2771