

FORM 4

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2014CP4004728

Alan S Hartzog

Miyos At Sandhills LLC

PLAINTIFF(S)

Miyos at Columbiana Place LLC

DEFENDANT(S)

Submitted by: \_\_\_\_\_

Attorney for :  Plaintiff  Defendant or  Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonset);  Rule 43(k), SCRPC (Settled);  Other \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award.
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):  Affirmed;  Reversed;  Remanded;  Other \_\_\_\_\_

**RECEIVED**  
MAY 13 2016  
SC COURT OF APPEALS  
CLERK OF COURT

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order (formal order to follow)  Statement of Judgment by the Court:

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk : \_\_\_\_\_

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge \_\_\_\_\_ Judge Code \_\_\_\_\_ Date \_\_\_\_\_

For Clerk of Court Office Use Only

This judgment was entered on the 12 day of May, 2016 and a copy mailed first class or placed in the appropriate attorney's box on this 13 May 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Stephen H. Brown

John E. Schmidt III

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter \_\_\_\_\_

Clerk of Court

*Jeanette W. McBride*

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )  
 )  
 Alan S. Hartzog, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Miyo's at Sandhills, LLC, Miyo's )  
 at Columbiana Place, LLC and )  
 Xiaolan M. "Michelle" Wang, )  
 )  
 Defendants. )

IN THE COURT OF COMMON PLEAS

C. A. No.: 2014-CP-40-4728

ORDER ON PLAINTIFF'S MOTION'S  
 FOR AWARD OF  
 ATTORNEY'S FEES AND COSTS

2016 MAY 12 AM 10:09  
 RICHLAND COUNTY  
 FILED  
 JEANETTE W. McNERNEY  
 C.C.P. & C.S.

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JUN 01 2016

SC Court of Appeals

This matter comes before the Court as a result of Plaintiff's Motion for Award of Attorney's Fees and Costs. On January 7, 2016, at the end of a full three-day trial, a jury verdict was rendered for the Plaintiff in this action awarding him \$564.89 in unpaid overtime compensation. In addition, the jury specifically found that Defendants' violation of the Fair Labor Standards Act (FLSA), 29 U.S.C. §201, *et. seq.* was willful. This Court entered judgment for Plaintiff in the sum of \$564.89, along with another \$564.89 as liquidated (double) damages due to Defendants' willful violation of the FLSA. The judgment of this Court establishes Plaintiff as the prevailing party since he won every issue raised at trial.

Given that Plaintiff has prevailed in this case, and the fact that the language of the relevant code section, 29 U.S.C. §216(b) mandates an award of attorney's fees and costs to a prevailing plaintiff, Plaintiff has requested that this Court award him reasonable attorney's fees and costs in the sum of \$74,039.37. The relatively large sum of attorney's fees and costs sought by Plaintiff, in comparison to the jury verdict of \$564.89 in unpaid overtime compensation, is what makes this matter notable. This Court has carefully

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considered this matter since the determination of the appropriate amount of attorney's fees and costs to be awarded, if any, is within the sound discretion of the trial court. The issue has been fully briefed by the parties and oral argument was held on March 3, 2016. After careful consideration of the facts of this case, the applicable law, and the reasonable arguments of counsel for the parties, for the reasons set forth below, this Court has determined that Plaintiff is entitled to an award of reasonable attorney's fees and costs in the sum total of \$66,951.87, constituting \$63,787.50 in reasonable attorney's fees and \$3,164.37 in recoverable costs.

**I. Award of Attorney's Fees to Prevailing Plaintiff Mandatory in an FLSA Action**

The Fair Labor Standards Act of 1938, as amended ("FLSA"), 29 U.S.C. §201 *et seq.*, protects the rights of American workers covered by the Act to be paid the wages they earn, including overtime wages for all hours over forty worked in a week. The FLSA, at 29 U.S.C. §216(b), sets forth the enforcement remedies and procedures to be applied against employers found to be in violation of the Act. In that section of the United States Code, the Congress of the United States has specifically provided that "The Court in such action SHALL, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by defendant, and costs of the action." (emphasis added). Over the nearly 80 years that the FLSA has been in effect since its enactment in 1938, myriad court decisions have been issued acknowledging the clear intent of the Act. The Fourth Circuit Court of Appeals in Maddrix v. Dize, 153 F.2d 274 (1946), in referring to the FLSA, opined

The purpose of the statute is not open to doubt; not only does it empower the court to render judgment for the amount due the employee for his hours of labor at the statutory rate, and to include in the judgment an equal amount as liquidated damages, but it expressly directs that "the court in such action shall, in addition

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to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action." Obviously Congress intended that the wronged employee should receive his full wages plus the penalty without incurring any expense for legal fees or costs.

Id. at 275-276.

The United States Supreme Court had the final say on this question when it expressly noted that the awarding of attorney's fees and costs by the trial court to a prevailing plaintiff in an FLSA action is mandatory. Christiansburg Garment Company v. E.E.O.C., 434 U.S. 412, 415 & n.5, 98 S. Ct. 694, 697 & n.5, 54 L.Ed. 2d 648 (1978).

## II. Determination of a Reasonable Attorney's Fee

In relation to an award of attorney's fees and costs pursuant to the FLSA, Congress created the fee shifting provision of 29 U.S.C. §216(b) so that a plaintiff, after being made whole by a jury verdict awarding him his earned but unpaid and wrongfully withheld wages, will not once again suffer at the hands of the defendant by being forced to pay an attorney to vindicate his rights. To the contrary, based on the fee shifting provision, the defendant will thus bear the costs originally incurred by the plaintiff. Such a fee shifting provision not only meets the Congressional purpose of correcting wrongs as a result of the failure to properly and timely pay earned wages in the particular case, but also establishes a deterrent to future unlawful withholding of earned wages and hopefully allows future plaintiffs to be able to stand up and protect their civil rights when they have been violated.

In interpreting the fee shifting provision of the FLSA, the courts have generally utilized the analysis used for other civil rights statutes. See, Smith v. University of North Carolina, 632 F.2d 316, 350 (4<sup>th</sup> Cir. 1980); Spagnuolo v. Whirlpool Corporation, 641 F.2d 1109, 1115 (4<sup>th</sup> Cir. 1981), (citing Walston v. School Board of Suffolk, 566 F.2d

1201, 1204-05 (4<sup>th</sup> Cir. 1977), and approving use of criteria therein for fixing fees in an ADEA case). In Johnson v. Georgia Highway Express Inc., 488 F.2d 714 (5<sup>th</sup> Cir. 1974), the Fifth Circuit Court of Appeals identified twelve guidelines which should be utilized for setting attorney's fee awards pursuant to the fee shifting provision of Title VII. These twelve factors were expressly adopted for use in the determination of reasonable attorney's fees by the Fourth Circuit in Barber v. Kimbrell, Inc., 577 F.2d 216 (4<sup>th</sup> Cir. 1978).

The twelve specific factors to be considered by a trial court in awarding a reasonable attorney's fee include the following:

1. The time and labor expended;
2. The novelty and difficulty of the questions raised;
3. The skill required to properly perform the legal services rendered;
4. The attorney's opportunity costs in pressing the instant litigation;
5. The customary fee for the work;
6. The attorney's expectations at the outset of the litigation;
7. The time limitations imposed by the client or circumstances;
8. The amount in controversy and the results obtained;
9. The experience, reputation and ability of the attorney;
10. The undesirability of the case within the legal community in which the suit arose;
11. The nature and length of the professional relationship between attorney and client;
12. Attorney's fee awards in similar cases.

Barber v. Kimbrell, Inc., 577 F.2d 216, at 226, n.28.

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The Fourth Circuit Court of Appeals has given further instruction to district courts in setting reasonable attorney's fees pursuant to a fee shifting provision of a federal statute in the case of Anderson v. Morris, 658 F.2d 246, 249 (4<sup>th</sup> Cir. 1981). Anderson involved a case based on 42 U.S.C. §1988, and therefore the Fourth Circuit Court of Appeals was interpreting the Attorney's Fees Awards Act to determine the appropriateness of the district court's awarding of fees in that case. Id. at 248. In such instructions, the Fourth Circuit made it clear that the district court should first ascertain the nature and extent of the services supplied by the attorney from a statement showing the number of hours worked and an explanation of how those hours were spent. Id. at 249. Plaintiff submitted such an explanation of hours spent on this case for the use of the Court in determining the appropriate award of attorney's fees, detailing how those hours were spent, and such documentation was attached to Plaintiff's motion as Exhibit 1, Itemization of Legal Services Rendered, and Exhibit 9, Supplemental Itemization of Legal Services Rendered.

The Fourth Circuit further instructed the district courts that they should next determine the customary hourly rate of compensation. The Court is then expected to multiply the number of hours reasonably expended, by the customary hourly rate, to determine an initial amount or "lodestar" for the fee award. "Finally, the courts should adjust the fee on the basis of the other factors, briefly explaining how they affected the award." Id. at 249.

In Anderson, the Fourth Circuit Court of Appeals clearly established that reaching an appropriate attorney's fee award, as well as making any necessary adjustments to the fee, is within the discretion of the trial judge. Id. at 249. The Court further noted that

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after reaching an initial estimate for an attorney's fee based on the number of hours reasonably expended, multiplied by an appropriate hourly rate, the Court must then explain any adjustment of these figures, either up or down, because of the other factors listed in Barber, Id. at 249.

### III. The Lodestar Calculation

Attorney's fees award jurisprudence in this country clearly establishes that in those limited types of cases, such as FMLA cases and others, where the United States Congress has enacted a statutory fee shifting provision to provide awards of attorney's fees and costs to successful Plaintiffs to further a public policy, courts are to begin the reasonable attorney's fee award analysis by determining the lodestar. The appropriate lodestar in any such case is the product of the customary fee for the attorney's work and the reasonable time and labor expended. See e.g., Anderson v. Morris, 658 F.2d 246 (4<sup>th</sup> Cir. 1981); Barber v. Kimbrell, Inc., 577 F.2d 216 (4<sup>th</sup> Cir. 1978). Courts have widely recognized that "there is ... a strong presumption that the lodestar figure represents a reasonable fee." Quarantino v. Tiffany & Co., 166 F.3d 422, 425 (2d Cir. 1999).

In this case, Plaintiff has submitted substantial evidence, both via sworn affidavits and a recent order of the United States District Court for the District of South Carolina, that establishes that the reasonable and customary hourly fee of his attorney is \$350.00 per hour. That rate was not challenged. Defendants did not object to that hourly rate and did not present any evidence to contradict it as the reasonable and customary fee for Plaintiff's counsel. This Court, being familiar with various rates of attorneys in South Carolina, finds that \$350.00 per hour is a reasonable and customary rate in this jurisdiction for legal counsel with the experience, reputation and ability of Plaintiff's

counsel. Mr. Brown has thirty years of experience practicing law and has been certified for many years as a specialist in labor and employment law by the South Carolina Supreme Court. This Court saw his legal abilities demonstrated at the trial of this case. Accordingly, the \$350.00 hourly rate requested by Plaintiff shall be utilized by this Court as it calculates the lodestar.

As to the time and labor expended, Defendants make the claim that the time records submitted by Plaintiff in support of his Motion "do not break down the tasks per lawyer or paralegal and do not break them down as to which of the three claims they pertained". (Defendants' Opposition Memorandum at p. 10-11). Defendants then in a footnote on page 11 of their Memorandum quote from the United States Second Circuit Court of Appeals decision in Kirsch v. Fleet St., Ltd., 148 F.3d 149, (2d Cir. 1998), to establish the proposition that a fee request submitted to a court should include "contemporaneously created time records that specify, for each attorney, the date, the hours expended, and the nature of the work done." Id. at 173. Plaintiff does not challenge the principle set forth in Kirsch, but submits that the time records filed in support of his motion meet all of such criteria.

This Court has carefully scrutinized Plaintiff's Itemization of Legal Services Rendered in Exhibits 1 and 9 in support of his motion. As is readily apparent from those documents, the date, the hours expended and the nature of the work performed are all set forth. As clearly stated in Plaintiff's supporting memoranda and evidentiary materials submitted to this Court, including the sworn affidavit of Plaintiff's counsel, all of the services listed and all of the hours worked were performed only by Stephen H. Brown as counsel for Plaintiff. No other attorneys worked on this case on Plaintiff's behalf. This

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Court finds that the documentation submitted by Plaintiff in support of his Motion for Award of Attorney's Fees and Costs, specifically Exhibits 1 and 9, meet all of the applicable criteria for contemporaneously created attorney time records upon which this Court may and did rely upon in making a determination as to the appropriate attorney's fee to be awarded.

After careful review and consideration of all of the evidence, arguments and authorities presented by each of the parties, and specific review by this Court of each of the twelve factors to be considered by a trial court in making a decision upon a motion for an award of attorney's fees, this Court is convinced of the merit of Plaintiff's claim for an award of reasonable attorney's fees and costs. The skill required to pursue Plaintiff's claims, the attorney's expectations at the outset of the litigation, the undesirability of the case and attorney's fee awards in similar cases are each important factors justifying the substantial attorney's fee award sought by Plaintiff in this case. Accordingly, this Court finds that the unquestioned \$350.00 hourly rate which is customary and reasonable, multiplied by the 202.5 hours upon which the requested attorney's fee award is based, all of which is specifically detailed on Exhibits 1 and 9 as to the date on which the precise hours were rendered and the nature of the work is identified, results in an appropriate and reasonable lodestar of \$70,875.00.

#### **IV. Adjustments to the Lodestar Calculation**

After a court determines the appropriate lodestar in a particular case, even in an FLSA action with a mandatory fee shifting provision, the court can determine if that lodestar should be adjusted as a result of unusual or significant factors that would make the awarding of a fee based on the full amount of the lodestar unreasonable. In their

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opposition to Plaintiff's motion, Defendants provide four theories on which they claim a reduction in Plaintiff's attorney's fee request is warranted: A) Failure to Maintain Adequate Contemporaneous Time Records; B) Unreasonable Settlement Position; C) Disproportionately Low Recovery; and, D) Success on Only Some Claims. This Court has carefully considered each of the Defendants' arguments for a reduction in the lodestar and makes the following findings:

**A. Failure to Maintain Adequate Contemporaneous Time Records**

The Defendants' allegation of failure to maintain adequate contemporaneous records has been fully addressed above in Section III, "The Lodestar Calculation". Plaintiff's counsel has submitted a detailed listing of contemporaneous time records showing the hours expended on this FLSA case, by date, identifying the nature of the work performed, as set forth on Exhibits 1 and 9, Itemization of Legal Services Rendered. Those records also reflect various services rendered for which Plaintiff's counsel did not charge a fee. The time records submitted by Plaintiff meet all applicable legal and ethical guidelines for such billing records. Defendants' position that the requested attorney's fee award should be reduced due to a failure of Plaintiff's counsel to maintain adequate contemporaneous time records has no merit and is expressly rejected by this Court.

**B. Unreasonable Settlement Position**

Defendants seek to support their position that the attorney's fee award sought by Plaintiff should be reduced because Mr. Hartzog did not accept a gross settlement offer of \$1,461.60 (net of \$1,360.00) from Defendants in July 2012 that was prepared by the United States Department of Labor ("DOL") and written up on a DOL Form. Defendants

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maintain that Plaintiff's refusal of the July 2012 offer, which turned out to be greater than the verdict returned by the jury in this case for unpaid overtime wages, relieves them of the obligation, set forth by the United States Congress, for employers having violated the FLSA to pay the prevailing employee's reasonable attorney's fees. Such a position is without merit and fails to acknowledge the critical facts of the settlement negotiation history of this case. In the record before this Court, it is undisputed that Defendants never made any settlement offer at all to Plaintiff at any time from the inception of Mr. Brown's representation of Plaintiff on November 8, 2013, until December 30, 2015, only six days before this trial began on January 5, 2016. This fact is significant and undermines Defendants' argument that the requested attorney's fee award should be reduced because of unreasonable settlement positions taken by Plaintiff.

**1. July 2012 Settlement Offer Proposed by the DOL**

It is undisputed that Mr. Hartzog, while incarcerated and without the assistance of legal counsel, rejected the written settlement offer of the Defendants proposed by the U.S. Department of Labor in July 2012. However, Mr. Hartzog's rejection of that offer was reasonable because the offer did not cover all of the time period during which he had been employed by Defendants and did not appear to represent all of the earned unpaid wages due to him. A review of Plaintiff's Exhibit 8, the DOL form in question, clearly shows that the settlement offer only covered Mr. Hartzog's entitlement to payment for worked performed "beginning with the workweek ending 10/15/2011 through the workweek ending 05/05/2012." The written offer, by its own terms, did not cover the entire period of time that Plaintiff had been employed by Defendants and during which time Plaintiff had worked overtime hours without compensation. It was proven at trial,

despite emphatic opposing testimony from Defendant Wang, that Plaintiff began his employment with the Defendants on July 31, 2011. This Court notes that despite Defendant Wang's testimony at trial, the e-mail she wrote on February 27, 2014, attached as a part of Plaintiff's Exhibit 7, establishes that Plaintiff was employed by Defendants from July 31, 2011 through October 26, 2012. The critical point here is that the July 2012 offer, on its face, did not purport to compensate Plaintiff for any of his unpaid overtime hours worked from July 31, 2011 through October 14, 2011, nor for any such hours worked after May 5, 2012. It was certainly reasonable for Plaintiff to assume that if he was owed a total of \$1,461.60 in unpaid overtime for the weeks covered by the settlement offer, he would be owed more if the additional weeks that he worked without being paid overtime were reviewed, particularly the work weeks preceding October 15, 2011. Plaintiff knew that the proposed offer did not cover all of the weeks during which he had worked overtime hours without compensation, and that the DOL had prepared the settlement offer based on the limited information concerning his hours that were provided to the DOL by Defendants. For all of these reasons, Plaintiff's rejection of the \$1,461.60 settlement offer in July of 2012 was reasonable at the time.

## **2. Plaintiff's Pre-Suit Settlement Overtures to Defendants**

At the time Plaintiff retained legal counsel, in November of 2013, Defendants, in violation of the FLSA, wrongfully retained the overtime hours pay that Plaintiff had earned. Significantly, at the time Plaintiff's counsel was retained, there was no outstanding settlement offer from Defendants to resolve the dispute. As evidenced by Plaintiff's Exhibit 2, Plaintiff's November 12, 2013, Engagement Letter with his attorney, Mr. Brown agreed to "review and investigate your [Plaintiff's] claim to

determine if the filing of a legal action is warranted, in the event Miyo's Gourmet Group, Inc. is unwilling to settle this matter to your [Plaintiff's] satisfaction prior to suit."

Recognizing the relatively small amount in controversy in this case for unpaid wages, as compared to what could reasonably be anticipated as attorney's fees if the case was extensively litigated, a good faith effort was made to resolve the case prior to the initiation of the legal action. On February 20, 2014, Plaintiff's counsel e-mailed Defendant Wang to notify her of his representation of Plaintiff and to open settlement discussions. Defendant Wang immediately responded by e-mail, making it clear that Defendants had no interest in a pre-suit negotiated settlement. That same day, Plaintiff's counsel sent a second e-mail to Defendant Wang pointing out that "From the tone of your e-mail, I did not get the sense that you are particularly interested in reviewing settlement options prior to the filing of the lawsuit. If I am wrong about that, you have all of my contact information and you or your attorney may contact me to discuss the matter." A week later, on February 27, 2014, Defendant Wang sent a second reply, once again clearly rejecting the notion of a pre-suit negotiated settlement. That string of four e-mails from Plaintiff's legal counsel to Defendant Wang, and her replies, are all part of Plaintiff's Exhibit 7 submitted in support of Plaintiff's motion.

As clearly evidenced by that e-mail string, despite the best efforts of Plaintiff's counsel, Defendants expressed no interest in resolving the dispute with Plaintiff through a negotiated settlement and refused to make any settlement offer. This was true even though Plaintiff's counsel explained, in writing, that Defendants could potentially be held liable for Plaintiff's attorney's fees if he prevailed in the legal action. In their opposition to Plaintiff's Motion for Award of Attorney's Fees and Costs, Defendants repeatedly

argued that Plaintiff demanded \$40,000.00 to settle the case. That is simply not what is reflected in Plaintiff's Exhibit 7. Plaintiff counsel's e-mails to Michelle Wang of February 20, 2014 were professional, appropriate, accurate and courteous. Upon a review of Plaintiff's Exhibit 7, this Court finds that those e-mails were sent in a good-faith effort to negotiate a settlement prior to the filing of a legal action. While no specific dollar figure demand was included, the estimated potential liability sum in excess of \$40,000.00 was clearly stated as what Plaintiff would likely recover in "twice the actual wages due to him, plus reasonable attorney's fees and costs, if he proves these claims in court." As it turns out, now that the case has been tried that estimate of potential liability was accurate. Plaintiff's Exhibit 7 does not contain an unreasonable pre-trial \$40,000.00 settlement demand as it has been characterized by Defendants.

What is clear from this e-mail exchange is that Defendants fully intended to keep the overtime wages earned by Plaintiff that they had wrongfully withheld from him. The Defendants proposed no offer of settlement. This point is significant. For the argument pressed by Defendants in opposition to Plaintiff's Motion for Award of Attorney's Fees and Costs to successfully result in a reduction of Plaintiff's attorney's fee request, Defendants would have to prove that they made some reasonable offer to settle the case in the early stages of this litigation. They have failed to do so. The cases cited by Defendants in support of their position relating to unreasonable settlement positions of plaintiffs in other cases all have fact patterns where plaintiff's counsel acted unreasonably and refused to respond to defense counsel's settlement overtures prior to the filing of a legal action or in its early stages after filing. Such a fact pattern simply does not exist in the case now before this Court. To the contrary, the evidence in this case clearly shows

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that the shoe is on the other foot, so-to-speak. The Plaintiff made reasonable settlement overtures to Defendants, pre-suit, only to be specifically and sarcastically rebuffed.

Once Defendant Wang made clear that a pre-suit negotiated settlement was not an option, Mr. Hartzog was left with a difficult choice. He could walk away from his claim and let the Defendants wrongfully keep the wages he had earned, due to Defendants' willful violation of the FLSA, or he would have to put at risk the financial resources required to prosecute his claim to victory through successful litigation. Defendant Wang refused to acknowledge that Defendants still retained the funds that the DOL had calculated were due to Plaintiff in unpaid overtime wages, more than 18 months earlier. Rather than picking up on the opportunity to quickly resolve a relatively small claim, at least a portion of which she had previously acknowledged was due, Defendant Wang promised a vigorous defense and sought to intimidate Plaintiff by her advice to Plaintiff's legal counsel that "You need to check his financial ability and employment status now to make sure he can pay for your service." Such a financial imbalance between an employee seeking to recover earned and unpaid wages and the employer refusing to honor the applicable federal wage law is precisely why the United States Congress enacted the fee shifting provision of the FLSA, 29 U.S.C. §216(b). Even though Plaintiff's counsel put Michelle Wang on notice of her potential liability for attorney's fees and costs in February of 2014, she failed to acknowledge any financial or legal obligation to Plaintiff, despite the fact that she was well aware of the DOL finding of unpaid overtime wage liability for only a portion of the time she employed Mr. Hartzog. While it is true that Michelle Wang made these decisions before suit was filed, presumably without the benefit of legal counsel, the position of Defendants did not

change even after legal counsel was retained. Defendants, through counsel, could have reached out to Plaintiff's counsel, once suit was filed, to follow up on Plaintiff's settlement overtures and attempt to promptly settle this small wage claim. Defendants did not do so. Their failure to make any settlement offer for more than a year after the filing of the Complaint in this case prevents Defendants from succeeding on their argument that Plaintiff's unreasonable settlement positions should result in a reduction of the attorney's fee requested.

Defendants' settlement offer in July of 2012, rejected by Plaintiff, did not result in any earned but unpaid wages being paid to Plaintiff. Defendants still owed those unpaid wages to Plaintiff in February of 2014 when Plaintiff's counsel reached out to Michelle Wang to resolve this dispute. To avoid the Congressionally mandated award of reasonable attorney's fees in this case, as Defendants attempt to do, they would have been required to make some reasonable settlement offer to Plaintiff in response to Plaintiff counsel's February 2014 overture or in the early stages of the litigation. Defendant Wang is entirely responsible for the fact that a judgment for a large award of attorney's fees and costs could be entered against Defendants. As determined by the jury, and is now the law of the case, Defendants willfully violated the employer's obligations to pay overtime wages to Plaintiff as required by the FLSA. But for that willful act, Defendants would not have lost a case at trial or be engaged in this battle over a reasonable attorney's fee. Furthermore, even after the willful violation of the FLSA, Defendants might have been able to put themselves in a position to avoid a large payment of attorney's fees and costs to Plaintiff if they had just made a reasonable offer to resolve this relatively small claim. Defendants knew that the DOL had determined in 2012 that Defendants owed Plaintiff

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\$1,461.60 for unpaid overtime wages earned for work performed over about only half of the period of his employment from July 31, 2011 through October 26, 2012. Defendants likely would have avoided this litigation altogether if they had simply made a reasonable settlement offer to Plaintiff in 2014. If they had made such a reasonable offer in 2014, and it had been rejected by Plaintiff, Defendants would have had a very good chance of having their statutory obligation to pay Plaintiff's attorney's fees and costs reduced, or potentially eliminated altogether. Defendants chose not to make any settlement offer, but to instead keep Plaintiff's earned and unpaid wages, daring him to sue. Justice requires that the effects of their decisions, consistent with the public policies expressed through the FLSA, result in Defendants being ordered to pay all of Plaintiff's reasonable attorney's fees and costs. To do otherwise would be imminently unfair as Defendants' unreasonable position in regard to settlement of this case left Plaintiff no option other than permitting Defendants to wrongfully keep the wages he had earned, or taking on the risk and expense of legal action. Having won his case at trial, especially in light of the finding that Defendants' violation of the FLSA was willful, it is time for Defendants to be held liable for the consequences of their actions, consistent with the public policy clearly enforced through the applicable provisions of the FLSA at issue in this case. To be clear, this Court is not penalizing Defendants for a violation of the FLSA through this award of attorney's fees and costs. That penalty arises through the award of liquidated damages. Rather, the fact that Defendants' actions in withholding Plaintiff's earned overtime compensation, in violation of the FLSA, were willful, illustrates that the attorney's fees and costs incurred by Plaintiff in pursuing his rights to forcibly collect his earned wages

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were beyond his control and caused directly by Defendants. Therefore, he is deserving of reimbursement under the applicable law.

### 3. Settlement Positions at Mediation

The important points that justice will be served by awarding Plaintiff the reasonable attorney's fees and costs requested, and that Defendants' unreasonable litigiousness was demonstrated in this case, are further evidenced by Defendants' failure to make any settlement offer at mediation. This Court is well aware of the duties now imposed upon litigants to mediate their cases and the obligation to do so in good faith. A major reason underlying such mandatory mediation is to avoid the exact situation as has occurred here, where a three-day trial is conducted over a relatively small sum due as unpaid overtime compensation. While there were differing numbers presented at oral argument as to whether Plaintiff's opening demand at mediation, to include attorney's fees and costs, was \$75,000.00 or \$90,000.00, it is undisputed that Defendants made no offer of settlement at mediation.

To be clear, this Order directing that Defendants must pay Plaintiff's reasonable attorney's fees and costs is not based on Defendants' failure to make an offer of settlement at mediation. Rather, Defendants' failure to make any settlement offer at mediation is a significant and entirely appropriate reason to reject Defendants' argument that Plaintiff's attorney's fees request should be reduced as a result of Plaintiff having taken any unreasonable settlement position. As of July 17, 2015, the date of the scheduled mediation, Defendants still wrongfully retained all of the earned unpaid wages that were due to Plaintiff. Defendants were fully aware of the 2012 DOL finding of unpaid overtime wages due to Plaintiff and the relatively small sum in controversy.

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Nevertheless, despite knowledge of all of those facts, Defendants chose to walk out of the mediation without making any settlement offer. That action left Plaintiff in the same position he was in when he filed suit, so he had no choice but to continue the litigation. Defendants' actions at the mediation clearly demonstrate not only that Defendants' argument that the requested attorney's fee award should be reduced due to unreasonable settlement positions taken by Plaintiff has no merit and must be rejected by this Court, but provide further support for Plaintiff's position that Defendants' unreasonable actions and litigiousness unnecessarily increased the legal hours needed by Plaintiff to prosecute this case. Defendants must be ordered to pay the reasonable attorney's fees and costs as they are directly responsible for the attorney's fees and costs incurred by Plaintiff, both because of their actions in willfully violating the FLSA, and in their subsequent actions refusing to make any reasonable settlement offer to resolve this relatively small case.

**4. Defendants' \$2,000.00 Settlement Offer of December 30, 2015**

The only settlement offer made to Plaintiff by Defendants to settle this dispute, at any time since legal counsel was retained to represent Plaintiff in November of 2013, was the \$2,000.00 offer communicated via e-mail on December 30, 2015, just six days prior to trial. Defendants' counsel made clear that this \$2,000.00 sum was Defendants' maximum offer. By the date this offer was made, discovery was completed and Plaintiff had incurred the costs of taking two depositions, as well as purchasing a copy of his own deposition transcript. The costs Plaintiff had already incurred in out-of-pocket expenses in pursuing the litigation to recover his earned overtime wages that were being wrongfully withheld by Defendants, including the cost of the deposition transcripts, fees paid to the mediator, the costs of filing and serving the Complaint, and the mileage

expenses for attorney travel, exceeded \$2,000.00. Of course, the \$2,000.00 settlement offer left no compensation for Plaintiff's unpaid overtime wages due or for the reasonable attorney's fees incurred as of December 30, 2015. The \$2,000.00 "max" offer made on the eve of trial was not a reasonable settlement offer at the time it was made. Had the Defendants made a \$2,000.00 settlement offer in response to Plaintiff counsel's February 2014 e-mail, or at any other time before or shortly after the filing of the Complaint, such an offer may well have been considered reasonable and might have served to protect Defendants from a large award of attorney's fees and costs after they tried and lost their FLSA case. However, waiting until the eve of trial to make a \$2,000.00 offer, after having walked out of the mediation in July of 2015 without making any settlement offer, after Plaintiff had already incurred over \$2,000.00 in out-of-pocket costs and his attorney had spent over 125 hours litigating the case, Defendants' lowball offer was simply too little, too late. While the Defendants were within their rights to fully defend themselves against Plaintiff's lawsuit, having lost that case at trial, they are now subject to the full effects of their actions for having willfully violated the FLSA. Defendants' argument that the requested attorney's fees award should be reduced due to unreasonable settlement positions taken by Plaintiff has no merit and is hereby specifically rejected by this Court.

### **C. Disproportionately Low Recovery**

Defendants' primary argument to support their position that Plaintiff's attorney's fees request should be reduced is that Plaintiff received a disproportionately low recovery at trial in comparison to the substantial attorney's fees and costs now requested. Courts interpreting federal fee shifting provisions have uniformly rejected a proportionality test. See Kassim v. City of Schenectady, 415 F. 3d 246, 252 (2<sup>nd</sup> Cir. 2005) and cases cited

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therein. In fact, a trial court's decision reducing or rejecting the attorney's fee petition of a prevailing plaintiff on the grounds of a disproportionately low recovery would constitute reversible error. Id. at 252. Courts have rejected a rule requiring proportionality between the attorney's fee to be awarded and the monetary sum at issue in the litigation because such a rule would effectively prevent plaintiffs from obtaining legal counsel in cases involving small dollar claims. Congress put no "small dollar" cap in the fee shifting provision of the FLSA. When an employer violates the overtime wage requirements of the FLSA, denies liability for the plaintiff's claim, and the plaintiff ultimately prevails on that claim at trial, the FLSA mandates that "The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action." 29 U.S.C. §216(b). The purpose behind that attorney's fee shifting public policy is particularly served when, as in the case at bar, the employer's violation of the FLSA is willful. Fee shifting provisions enacted into legislation by Congress are designed "to encourage the bringing of meritorious civil rights claims which might otherwise be abandoned because of the financial imperatives surrounding the hiring of competent counsel." Riverside v. Rivera, 477 U.S. 561, 578, 106 S.Ct. 2686, 2696, 91 L.Ed. 2d 466 (1986).

To the extent Defendants confuse reducing a statutory attorney's fee award due to a disproportionately low recovery, which has been uniformly rejected by courts as a rationale to support such a position, with reducing an attorney's fee award due to a plaintiff's lack of success on the merits, this Court notes that success on the merits in achieving the objectives of the litigation is a critical factor to be considered by a trial court in making a determination of a reasonable attorney's fee. The undisputed fact that

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the judgment awarded to Plaintiff at trial was a relatively small sum is not an appropriate basis to reduce the attorney's fee award to Plaintiff in this case. The reasonable attorney's fees incurred were the unavoidable consequence of Defendants' willful violation of the FLSA, combined with their unnecessarily litigious defense, false sworn deposition testimony admitted by Defendant Wang at trial to be false, and their refusal to make any offer of settlement to resolve this small wage claim when approached by Plaintiff's counsel prior to commencement of the litigation in 2014.

This Court notes the decision of the court in Rice v. Sunrise Express, Inc., 237 F. Supp. 2d 962 (N.D. Indiana, 2002). The decision of Chief Judge William Lee of the United States District Court for the Northern District of Indiana in Rice, is particularly instructive because that case had facts remarkably similar to the case at bar as it relates to the determination of an award of reasonable attorney's fees. The decision and analysis of Chief Judge Lee in Rice, is found by this Court as significantly persuasive authority to govern the outcome of Plaintiff's pending Motion for Award of Attorney's Fees and Costs. While Rice was a Family and Medical Leave Act ("FMLA") action, rather than a FLSA case, the FMLA, like the FLSA, mandates an award of reasonable attorney's fees to a prevailing plaintiff. In Rice, the Plaintiff prevailed at trial and obtained a jury verdict of \$720.00 in lost wages. After careful consideration of the plaintiff's request for an award of reasonable attorney's fees and costs, and the defendant's staunch opposition, the Court awarded \$129,663.60 in attorney's fees to the plaintiff.

Because the expense of litigation is not tied to the amount in controversy, it is not at all unusual for the award of reasonable attorney's fees to a prevailing plaintiff to be many multiples of the actual damages awarded in an employment case. The opinion of

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the trial judge in Rice carefully examined the facts of that case in justifying the attorney's fee award of nearly \$130,000.00 compared to the \$720.00 verdict of lost wages won by Ms. Rice at the trial of the action. Rice sought damages of less than \$12,000.00 from the defendant. In the case at bar, Mr. Hartzog sought \$13,220.52 from the Defendants as alleged in the Complaint and obtained a verdict of \$564.89 in unpaid overtime wages. In both cases, the jury's actual damages award was doubled as liquidated damages were awarded. The damages sought and the results obtained in these two cases are remarkably similar.

The United States District Judge in Rice conducted a thorough review of the applicable law, and the underlying social policies, as he reached his decision to make the attorney's fee award to plaintiff's counsel. Significantly, a major factor in the decision of Chief Judge Lee to award \$129,663.60 in attorney's fees to Ms. Rice was "the part Defendant played in driving up the cost of this litigation." Chief Judge Lee went on to state:

Defendant, as it is entitled to do, chose to aggressively defend this case based on principle through two trials and an appeal. This was Defendant's choice but, in taking this route, Defendant's litigious posture placed heightened demands on Plaintiff's counsel, increasing the amount of time counsel needed to spend to defend Plaintiff's rights and causing Plaintiff to incur an increasing amount of fees to vindicate what even Defendant acknowledges was a small claim.

Id. at 977.

Similar to the facts in Rice, Defendants' litigiousness in the case now before this Court was the primary reason for the large attorney's fee award now sought by Plaintiff. In the preparation of this case, from its inception in November 2013, Plaintiff's counsel was required to perform extensive legal research, organize a substantial factual record, and fully prepare this case for litigation. Throughout the entire course of this case,

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including all of the investigations conducted by Plaintiff's counsel which preceded the filing of the Complaint, Defendants downplayed Plaintiff's case and denied his claims. Plaintiff and his attorney had to work for every penny of the judgment that has been awarded.

Defendants defended this action in such a fashion that substantially greater attorney hours were expended than would otherwise be required in a straightforward FLSA action for the collection of unpaid overtime wages. By law, Defendants, as the employer of Plaintiff, were required to keep and retain time records establishing the hours Plaintiff worked. Plaintiff's counsel suspected, and ultimately proved in court, that Defendants intentionally did not keep or retain the required time records and were very well aware that their actions violated the FLSA. Despite the fact that Defendants knew they did not keep or retain the required time records, Defendant Wang testified at her deposition, under oath, that such records had been kept, knowing such sworn testimony was not true. Defendants represented to the Court, and Plaintiff's counsel, that Defendants had turned over such time records reflecting Plaintiff's earnings to the United States Department of Labor (USDOL) and that Defendants, for reasons not fully explained, simply failed to keep copies of the time records submitted to the USDOL. Defendants further represented to the Court, and Plaintiff's counsel, that Defendants were seeking to obtain copies of those time records from the USDOL. Many hours were spent in discovery, unnecessarily, due to Defendants' representations. Once the DOL records were produced by Defendants, about six weeks prior to trial, and the many hundreds of pages reviewed, it was obvious that Defendants never kept such time records for Plaintiff and many other of its employees. Clearly, Defendants never "turned over" to the DOL

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such records that they did not have. Defendant Wang, under oath at trial, acknowledged the false testimony that she gave at her deposition. Substantial attorney's time, and the corresponding fees incurred, were required to be invested by Plaintiff's counsel in an effort to discover facts that would normally be routine in an FMLA action.

Defendants also unnecessarily complicated and extended the litigation of this case by changing their theory of the defense of the case without precedential support from statutory authority or applicable case law. In Defendants' Answer, dated August 27, 2014, Defendants admitted that Plaintiff became an employee of theirs on July 31, 2011 (Answer Paragraph 7) and that Plaintiff was employed through October 26, 2012 (Answer Paragraph 8). More than a year later, on November 2, 2015, Defendants changed their theory of the case and served an Amended Answer claiming that while Plaintiff worked for Defendants they denied that "Plaintiff was an employee as defined by law because he was engaged through the State of South Carolina Department of Corrections in the manner of a 'temp' agency ... "(Amended Answer Paragraph 7). Defendants withdrew the admissions made in their Answer to press their new theory that Plaintiff was not an employee subject to the protections of the FLSA. Such a claim, underlying Defendants' motion for directed verdict at trial, was rejected by this Court in denying the directed verdict motion. Defendants were unable to cite one case for this Court where a prison inmate, employed by a private, for-profit company, outside of the prison walls, was held not to be subject to the protections of the FLSA because of his status as an incarcerated inmate. This Court readily acknowledges that Defendants are entitled to make such arguments in good faith, but also finds that a substantial amount of time and expense was incurred by Plaintiff in prosecuting the case due to the extended

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legal maneuvering and arguments over weak defenses without statutory or case law support. Coupled with the intentional misrepresentations of Defendants made in sworn deposition testimony as discussed above, Defendants' actions required Plaintiff's counsel to expend all of the hours, for which compensation is sought through the Motion for Award of Attorney's Fees and Costs, to obtain success for the Plaintiff such that the Plaintiff became the prevailing party. Substantial legal skills were required to develop the facts of this case, and prepare it for trial, such that sufficient evidence could be presented to prevail at trial and permit this Court to uphold the jury verdict in this case.

Similar to what Judge Lee found in Rice, this Court is convinced that Defendants' defense of this action has substantially driven up the cost of this litigation. However, a significant difference between these two cases is that the actions of Wang and the Defendants in the case at bar are much more egregious than the actions of the defendant in Rice. The trial judge in Rice specifically noted that while the defendant in that case had to pay the price for its aggressive defense of a small claim, that defense was based on principle. In contrast, Defendant Wang's defense of the intentional violation of the FLSA in withholding earned overtime pay from Mr. Hartzog was not based on principle, but rather on knowing and intentional misrepresentations, made under oath. Such unprincipled actions of the Defendants in the case at bar certainly justify that Defendants bear the litigation expenses, specifically to include the reasonable attorney's fees incurred by Plaintiff.

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**D. Success on Only Some Claims**

Defendants argue that because Plaintiff raised three causes of action in his Complaint, and took only one such cause of action to trial, he has not been successful on all of his claims. That position misrepresents the facts of this case and the applicable law. From the commencement of this action Plaintiff was seeking all of the wages, including earned but unpaid overtime wages, owed to him by Defendants. This point is evidenced by Plaintiff's counsel's pre-suit e-mail to Defendant Michelle Wang dated February 20, 2014, which was submitted as Plaintiff's Exhibit 7. The fact that Plaintiff raised alternative legal theories in his Complaint, for the exact same wages wrongfully withheld by Defendants, does not mean that he has not been successful on all of his claims.

Courts reviewing a prevailing plaintiff's degree of success attained in determining a reasonable attorney's fee award based upon a statutory fee shifting provision, such as the FLSA fee shifting provision at issue in the case at bar, distinguish between single or "unitary" claim cases which "involve a common core of facts" from "distinctly different claims for relief that are based on different facts and legal theories." Hensley v. Eckerhart, 461 U.S. 424, 434 (1983), abrogated on other grounds by Texas State Teachers Ass'n. v. Garland Indep. Sch. Dist., 489 U.S. 782. The Second Circuit Court of Appeals in Kassim v. City of Schenectady, 415 F. 3d 246, 253-255, provides a particularly insightful analysis of the difference between "unitary" and "distinctly different claims" cases for the purposes of determining a plaintiff's measure of success in reaching a conclusion as to a reasonable attorney's fee award based upon a federal attorney's fee shifting statute. The action now before this Court is clearly a "unitary" case. From the outset of the case, Plaintiff sought only earned but unpaid wages due to

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him. He made no claims for wrongful termination, retaliatory discharge or any of the other employment-related claims that are often litigated along with claims for wages wrongfully withheld by an employer. Because Plaintiff pursued only a simple unitary wage claim, no discovery or legal proceedings of any type were required on either of the two state law causes of action included in the Complaint. Plaintiff was successful on the only claims he pursued in this matter; 1) the recovery of his earned unpaid wages wrongfully withheld from him, and 2) proving Defendants' willful violation of the applicable law. Defendants' position that the requested attorney's fee award should be reduced due to a lack of success on some claims by Plaintiff has no merit and is hereby expressly rejected by this Court.

**E. Plaintiff's Motion to Compel Discovery**

While not specifically set forth by Defendants as a separate rationale for a reduction in Plaintiff's requested attorney's fee award, Defendants have argued that Plaintiff should not be entitled to an attorney's fee award based on those hours spent pursuing the Motion to Compel. That Motion was heard by the Honorable James R. Barber, III on November 2, 2015. As pointed out by Defendants, Judge Barber granted in part and denied in part Plaintiff's Motion to Compel. Significantly, for the purposes of this Order on Plaintiff's Motion for Award of Attorney's Fees and Costs, Judge Barber's Order set forth that each party would bear its own attorney's fees. Such a decision was no doubt just due to the fact that the Motion to Compel was granted in part and denied in part. In light of Judge Barber's prior Order in this case, this Court deems it appropriate to reduce Plaintiff's claims for reasonable attorney's fees by the amount represented by the hours Plaintiff's counsel spent on pursuing the Motion to Compel.

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Having very carefully reviewed Plaintiff counsel's Itemization of Legal Services Rendered, this Court has determined that Plaintiff's fee request must be reduced by the 20.25 hours Plaintiff's counsel spent on the Motion to Compel between September 11, 2015, when the Motion was drafted and November 19, 2015, when the finalized proposed Order was submitted to Judge Barber for his review and consideration. Multiplying the \$350.00 hourly rate at issue in this case by those 20.25 hours, this Court finds that the \$7,087.50 in attorney's fees expended on the Motion to Compel should be subtracted from the lodestar sum of \$70,875.00. The adjusted lodestar, after the deduction for hours spent by Plaintiff's counsel on the Motion to Compel, is therefore \$63,787.50.

**V. Costs To Be Recovered As Part of the Attorney's Fee**

29 U.S.C. §216(b) entitles a prevailing plaintiff to recover costs in addition to reasonable attorney's fees. Therefore, in addition to the attorney's fees requested, Plaintiff is also seeking to be reimbursed for costs in the sum of \$3,164.37. The costs for which Plaintiff is seeking reimbursement are fully detailed on the last page of the Itemization of Legal Services Rendered, Exhibit 1.

Plaintiff seeks to recover the costs he has incurred in this case based on his right to recover costs from Defendants, pursuant to 29 U.S.C. §216(b). These costs are fully identified in the documents submitted by Plaintiff in support of his motion, but they consist of court filing fees for the filing of the Complaint and two motions, fees to process servers for serving the Complaint and three trial subpoenas, trial subpoena witness fees and mileage, mediation/mediator fees, document copying charges, mileage expenses for attorney travel, purchase of the jury list, purchase of the SLED Check and the cost of deposition transcripts reasonably obtained for preparation of this case for trial.

The Fourth Circuit Court of Appeals in Herold v. Hajoca Corporation, 864 F.2d 317 (4<sup>th</sup> Cir. 1988) specifically affirmed a District Court's granting of a prevailing plaintiff's attorney's request for costs and expenses, consisting of the filing fee, witness fees, mileage for attorneys, and fees for deposition transcripts. The District Court for the Western District of Virginia granted the plaintiff's request for reimbursement of these costs, and the Fourth Circuit affirmed, holding that "where attorney's fees are expressly authorized by statute (as they are in 29 U.S.C. § 216(b)), the trial court is not limited to Rule 54(d), but, in addition, has authority to include litigation expenses as a part of a 'reasonable attorney's fee'." See, Wheeler v. Durham City Board of Education, 585 F.2d 618, 623 (4<sup>th</sup> Cir. 1978). Based on this reasoning, the Fourth Circuit noted that it has defined such litigation expenses to include necessary travel. Accordingly, the mileage expenses requested by Plaintiff's counsel in this case should be granted. These mileage expenses reflect nine round trips from Greenville, South Carolina, to Columbia, South Carolina, for three depositions, one mediation, one motion hearing, one roster meeting and three days of trial.


Plaintiff has argued that the costs for which he seeks reimbursement are standard and anticipated costs in the pursuit of litigation of this type, were necessary for the prosecution of this case, and should therefore be granted to him as reasonable attorney's fees. This Court concurs on this point and notes that Defendants made no arguments in opposition to the awarding of costs as requested by Plaintiff. Accordingly, this Court finds that Plaintiff is entitled to an award of costs recouping the full amount of the costs he incurred totaling \$3,164.37

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VI. Conclusion

For all of the reasons set forth above, this Court orders Defendants to pay Plaintiff the sum of \$63,787.50 in reasonable attorney's fees, along with \$3,164.37 in recoverable costs, for a total award of attorney's fees and costs in the sum of \$66,951.87.

IT IS SO ORDERED.

  
D. Craig Brown  
Circuit Court Judge

April 26, 2016

*Florence, S.C.*

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JEANETTE W. BENTLEY  
CLERK OF COURT  
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