

Judge Denise J. Casper: ELECTRONIC ORDER entered re: [66](#) Motion for Attorney Fees. Having considered the motion papers, D. 66-67, supporting affidavits from Plaintiff's co-counsel from Goodwin, D. 68, and ACLUM, D. 69, Defendants' opposition, D. 73 and the attachments thereto, and Plaintiff's reply, D. 76, 77, the Court **ALLOWS** the motion for attorneys' fees and costs to the extent explained here. Defendants do not dispute that Plaintiff was the prevailing party for the purposes of 42 U.S.C. § 1988(b) and the Court finds that Plaintiff was the prevailing party and that an award of attorneys' fees and costs is appropriate here. Id. § 1988(b); see Gay Officers v. Action League v. Puerto Rico, 247 F.3d 288, 293 (1st Cir. 2001). Defendants, however, question whether the attorneys' fees sought are reasonable in light of the nature of counsel's preparation of the case and the scope of the litigation and also take issue with the reasonableness of the attorneys' billing rates and the hours billed. When considering a fee award under § 1988(b), the Court ordinarily begins with the "lodestar," i.e., "the product of the number of hours appropriately worked times a reasonable hourly rate or rates." Hutchinson ex rel. Julien v. Patrick, 636 F.3d 1, 13 (1st Cir. 2011). Defendants challenge the hourly rates, arguing that Plaintiff has not shown that these rates are reasonable, D. 73 at 8-9. The fact that courts have awarded fees at lower hourly rates, id. at 8-10 (citing cases), does not make the fees sought here unreasonable. This is particularly true where the range of rates sought here, reflecting the range of experience of the attorneys, are not out of line with the awards in some other cases, see D. 76 at 8-9 (citing cases). Also, the Goodwin attorneys, whose attorneys' fees comprise the bulk of the award sought here, have already taken a 40% reduction of their usual hourly rates. D. 67 at 11-12. Moreover, the Court disagrees with Defendants in its characterization of this case as a single plaintiff employment cases litigated by a small firm, D. 73 at 10, to justify a substantial reduction in the billable rate. Although this was a single plaintiff case, it was one involving constitutional issues of broad concern to the treatment of drug addiction in correctional facilities. Although Defendants are correct that Plaintiff bears the burden of showing the reasonableness of the hourly rates sought, the Court concludes that Plaintiff has met that showing here given the nature of the work, the locality in which it was performed (Boston, a different legal market than Maine in the Smith cases) and the experience and relevant qualifications of counsel. See Hutchinson, 636 F.3d at 16. The Court also concludes that the number of hours sought here are reasonable. First, not all of the compensable hours have been charged as both law offices note, D. 67 at 2-3; D. 69 at 3. Second, the fees sought here are supported by the time records of the attorneys, D. 68 at 2; D. 69 at 7, and exhibits thereto, and indicate tasks necessary for the litigation which occurred on an expedited basis given the nature of the relief sought. Third, the entirety of the record does not suggest that the attorneys here did a "cut and paste" job to litigate and prevail in this case. This litigation, even in a short time, required substantial briefing beyond the complaint that Defendants compare to those filed in the Maine cases and an array of expert affidavits. Fourth, the challenges to the billing records do not merit the substantial reduction in the fee award that Defendants seek. Although Defendants claim that the bills reflect duplicative, excessive and vague billing and/or "block billing," D. 73 at 16, 19, 21-27, and 28, the Court does not agree that all of these challenges warrant any reduction. That multiple attorneys on a team might spend some time collaborating on the same task, particularly where as here, the time they spent on many of those matters differed, see, e.g., D. 73 at 16 (regarding consultation with experts) and there were different, but related tasks for the team to undertake to prevail (e.g., the engagement of different experts in support of the injunctive relief Plaintiff

sought). As to Defendants' complaints about alleged "vague billing" and "block billing," (in which Defendants challenge some of the entries by both the Goodwin and ACLUM attorneys), the Court agrees that there could have been some further breakdown of tasks as to some of these entries and questions whether all of the hours of preparation by a single attorney for oral argument should have been billing, the substantial reduction of 50% that Defendants urge, D. 73 at 29, is not warranted. Accordingly, the Court will ALLOW Plaintiff's motion for attorneys' fees and costs, but shall reduce the attorneys' fees sought by 10% (\$252,890-10% (\$25,289)=\$227,601). Accordingly, the Court awards Plaintiff attorneys' fees in the amount of \$227,601 and costs (undisputed by Defendants) of \$2,070. (Hourihan, Lisa) (Entered: 10/27/2020)