

FILED 10/02/2023

AT 5:00 o'Clock P. M  
CLERK OF DISTRICT COURT

  
Deputy

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI**

THE HAGADONE CORPORATION, )  
)  
*Plaintiff,* )  
vs. )  
)  
NORTH IDAHO COLLEGE, ET AL, )  
)  
*Defendant.* )  
\_\_\_\_\_ )

Case No. **CV28-23-1273**

**MEMORANDUM DECISION AND  
ORDER ON COSTS AND  
ATTORNEY FEES**

**I. PROCEDURAL HISTORY AND FACTUAL BACKGROUND.**

On September 5, 2023, this Court filed its Memorandum Decision and Order Regarding Alleged Frivolous Pursuit by Defendants. In that decision, this Court held:

For the reasons stated above, this Court finds plaintiff CDA Press is the prevailing party, and finds the CDA Press' Motion for Attorney Fees and Costs is GRANTED in part under I.C. § 74-116(2), as it relates to Employment Contracts, the Court finding that such defense was frivolous by defendants North Idaho College and Rumpler. This Court also finds the CDA Press' Motion for Attorney Fees and Costs is DENIED in part as it relates to the Attorney Billing Disclosures, the Court finding such defense was not frivolous.

Counsel for the plaintiff CDA Press will submit to counsel for defendants North Idaho College and Rumpler (and file with the Court), plaintiff's reasonable attorney fees and costs associated with this **entire** matter. I.R.C.P. 54(d)(4). Counsel for North Idaho College and Rumpler will have fourteen days to either file an objection or, pay one-half of those costs and fees. The only objections to those costs and fees which this Court will entertain from defendants North Idaho College and Rumpler will be the hourly rate (I.R.C.P. 54(e)(3)D) and the total hours billed (I.R.C.P. 54(e)(e)(A) and (D). That is because this Court finds it unlikely that counsel for plaintiff CDA Press would have segregated the amount of time spent on the two subjects, and even if such segregation did occur, this Court uses its discretion to find that defendants are liable to plaintiffs one-half of the total charges spent by plaintiffs in this lawsuit. The Court is not going to get mired in parsing out what efforts were made on the employment contracts as

opposed to attorney billings.

IT IS HEREBY ORDERED plaintiff Coeur d'Alene Press is the prevailing party, and finds the Coeur d'Alene Press' Motion for Attorney Fees and Costs is GRANTED in part under I.C. § 74-116(2), as it relates to Employment Contracts, the Court finding that such defense by North Idaho College and Rumpler was frivolous.

IT IS FURTHER ORDERED even though this Court finds plaintiff Coeur d'Alene Press is the prevailing party on the Attorney Billing Disclosures, plaintiff Coeur d'Alene Press' Motion for Attorney Fees and Costs is DENIED in part as it relates to the Attorney Billing Disclosures as this Court finds such defense was not frivolous.

IT IS FURTHER ORDERED counsel for the plaintiff submit its total attorney fees and costs for this litigation.

IT IS FURTHER ORDERED counsel for the defendants shall file any objection within fourteen days after plaintiff's counsel's submission. If there is no objection filed by the defendants, the amount sought by plaintiffs for fees and costs for this litigation will be cut in half by the Court and counsel for plaintiff shall then present a judgment in that amount to the Court for its signature. If there is timely objection filed by the defendant, and hearing will be scheduled where the Court will hear argument only on the issues of the hourly rate charged by plaintiff's counsel (I.R.C.P. 54(e)(3)D) and the total hours billed by plaintiff's counsel (I.R.C.P. 54(e)[sic 3](e)(A) and (D).

Mem. Decision and Order Re: Alleged Frivolous Pursuit by Def.'s 10-11.

On September 15, 2023, counsel for plaintiff CDA Press timely filed Plaintiff's Memorandum of Costs which totaled \$1,461.01. The Court notes that of that amount, \$1,064.69 is for costs as a matter of right, and \$396.32 for discretionary costs. This court finds that under I.R.C.P. 54(d)(C) and (D), costs as a matter of right in the amount of \$1,064.69 must be allowed, and discretionary costs in the amount of \$396.32 are not allowed as there has been no showing of how those discretionary costs were exceptional.

On September 15, 2023, counsel for plaintiff CDA Press also timely filed an Affidavit of Markus W. Louvier Re: Attorney's Fees and Costs, which supported a total claim of attorney fees incurred in this litigation by plaintiff in the amount of \$34,349.00. The Court has reviewed such affidavit, and finds the total hours reasonable, and the total hourly rate reasonable (actually lower than the local prevailing rate given counsel's

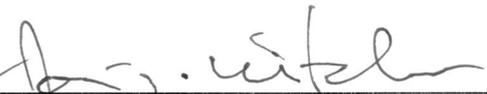
experience, but not significantly low such to justify an upward departure from the amount requested pursuant to I.R.C.P. 54(e)(3)(A) and (D)).

Under I.R.C.P. 54(d)(5) and 54(e)(6), defendants had fourteen days to file an objection to plaintiff's requested costs and fees. Those fourteen days have expired and this Court notes no such filing has been made by defendants. Although no objection has been filed by defendants, this Court must still analyze the plaintiff's requested costs and fees. This Court has engaged in that analysis under I.R.C.P. 54(e)(3)(A) and (D)).

IT IS HEREBY ORDERED costs as a matter of right in the amount of \$1,064.69 are awarded in favor of plaintiff, the prevailing party, against defendants, and discretionary costs in the amount of \$396.32 are denied.

IT IS FURTHER ORDERED pursuant to this Court's September 5, 2023, Memorandum Decision and Order Regarding Alleged Frivolous Pursuit by Defendants, attorney fees as costs are awarded in the amount of \$17,905.00 (per that decision, one-half the amount of the \$35,810.01 attorney fees expended by plaintiff in this litigation).

IT IS FURTHER ORDERED counsel for plaintiff shall prepare a Judgment consistent with this Memorandum Decision and Order on Costs and Attorney Fees.

  
John T. Mitchell, District Judge

**Certificate of Service**

I certify that on the 2nd day of October, 2023, a true copy of the foregoing was mailed postage prepaid or was sent by interoffice mail or facsimile to each of the following:

**Lawyer**  
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Jeanne Clausen, Deputy Clerk