

IN THE CHANCERY COURT OF MARION COUNTY, TENNESSEE

THUNDER AIR, INC.,)
)
 Plaintiff,)
)
 v.) Case No.: 8424
)
 JOE E. BLEVINS, JR., et al.,)
)
 Defendants.)

FILED
CHANCERY COURT

JAN 24 2025

MARION CO., TN
TIME 10:37 BY *DM*

ORDER GRANTING DEFENDANTS' MOTIONS FOR ATTORNEY'S FEES,
COSTS, AND EXPENSES

This matter came before the Court on January 21, 2025, for an approximately three-hour evidentiary hearing on Defendant Kennedy's *Motion for Reasonable Attorney's Fees and Costs* and Defendant Blevins' *Motion for Attorney's Fees, Costs, and Expenses*. Upon consideration of: (1) the Defendants' Motions, (2) the Plaintiff's Response in Opposition, (3) the Defendants' Reply, (4) the evidence and witness testimony received at hearing concerning the reasonableness of defense counsel's rates claimed, items billed, and the time expended by defense counsel in the defense of this matter, (5) the arguments of counsel, and (6) the entire record, for the reasons stated by the Court after hearing which are incorporated by reference herein, the Court **GRANTS** the Defendants' Motions as stated below and makes the following findings of fact and conclusions of law:

1. As to the matter about which the Plaintiff's witness, Samuel F. Hudson, was tendered and qualified as an expert, the Court finds credible the testimony received at hearing about defense counsel's rates. The Court acknowledges the testimony received at hearing that the customary rates charged in the Twelfth Judicial District are lower than

the rates claimed by the Defendants' attorneys. However, in reaching its ruling as to the reasonableness of the Defendants' fees, the Court relies on the additional testimony received at hearing, including the testimony that there has never been another Tennessee Public Participation Act case in the Twelfth Judicial District, that the Plaintiff's expert witness had never handled a Tennessee Public Participation Act defense, and that Plaintiff's expert witness was unaware of any other lawyer from the Twelfth Judicial District who had handled a Tennessee Public Participation Act defense.

2. The Court has considered whether the locality rule warrants reducing the Defendants' attorneys' standard rates based on the customary rates charged in the Twelfth Judicial District. The Court finds that the Defendants' attorneys' claimed rates are reasonable and should not be reduced. The Court bases that finding in part on the Lincoln County Circuit Court's Order dated December 11, 2024, attached as Exhibit #7 to Mr. Blevins' motion, in which a Circuit Court in a judicial district as rural as the Twelfth Judicial District recently upheld counsel's rates charged out of Nashville. The Court also takes note of the hearing testimony that this is the first anti-SLAPP case defended in the Twelfth Judicial District, and the Court finds that it takes a particularly knowledgeable and experienced attorney to handle this type of suit, especially given the caliber of the out-of-district attorneys who represented the Plaintiff in this case.

3. The Court finds that, as a compliment to the Plaintiff's attorneys, the Plaintiff's attorneys showed up, worked hard, replied to everything, dug their heels in, and did everything they could for their client. By doing that, the Plaintiff required opposing counsel to do the same thing.

4. The Court finds that this lawsuit, which the Court has had for less than a year, has more filings, pleadings, and papers than any case the Court has ever handled

and that it has been shocking how much has been filed in this case. In reading it all, however, the Court finds that all of the filings were necessary and required.

5. The Court finds that this case involved very skilled attorneys representing their clients in a very unique area of law.

6. The Court acknowledges that the rates claimed by the Defendants' Nashville-based attorneys are higher than the customary rates charged by attorneys in the Twelfth Judicial District. However, the Court finds that this case is different. It required a certain level of skill, expertise, and knowledge in anti-SLAPP litigation that is unique.

7. The Court has considered all of the factors set forth under Tennessee Supreme Court Rule 8, RPC 1.5(a) as to both Defendants. The Court finds that all of the Defendants' claimed fees are both reasonable and compensable under the Tennessee Public Participation Act, with one caveat. Specifically, as to the work performed by Mr. Blevins' attorneys from March 20, 2024 through April 3, 2024, the Court finds that this work related only to Mr. Blevins' libel of title defense and is not compensable under Tenn. Code Ann. § 20-17-107(a)(1). The Court acknowledges, but denies, Mr. Blevins' claim for attorney's fees under Tennessee common law for successfully defending against the Plaintiff's libel of title claim.

8. As to Mr. Kennedy's attorney's fees, costs and expenses requested, the Court grants them from March 25, 2024 through January 21, 2025, including through the Court's January 21, 2025 hearing. The Court finds that Mr. Kennedy's lead counsel shall be awarded reasonable attorney's fees for an additional 15 hours of work related to filings drafted in advance of the Court's January 21, 2025 hearing, preparation for the Court's January 21, 2025 hearing, and participation in the Court's January 21, 2025 hearing.

Thus, Mr. Kennedy is awarded a money judgment against the Plaintiff in the total amount of **ONE HUNDRED TWENTY THOUSAND, TWO HUNDRED AND SIX DOLLARS AND EIGHTY-FOUR CENTS (\$120,206.84)**, calculated as follows:

- 239.25 hours for attorney William J. Harbison II, billed at a rate of \$450/hour;
- 20.1 hours for attorney Daniella Bhadare-Valente, billed at a rate of \$300/hour;
- 3.0 hours for attorney James G. Thomas, billed at a rate of \$550/hour;
- 0.25 hours for attorney Nathan C. Sanders, billed at a rate of \$500/hour;
- 6.75 hours for paralegal Stephen C. Section, billed at a rate of \$200/hour;
- 17.25 hours for summer associate Delaney Edge, billed at a rate of \$140/hour;

and

- \$974.34 in reasonable expenses.

9. As to Mr. Blevins' attorney's fees, costs and expenses requested, the Court finds that all attorney's fees, costs, and expenses requested should be granted from April 4, 2024—which is the first mention of a Tennessee Public Participation Act claim in counsel's billing entries—through January 21, 2025, including through the Court's January 21, 2025 hearing. The Court finds that Mr. Blevins's lead counsel shall be awarded reasonable attorney's fees for an additional 20 hours of work related to filings drafted in advance of the Court's January 21, 2025 hearing, preparation for the Court's January 21, 2025 hearing, and participation in the Court's January 21, 2025 hearing. Thus, Mr. Blevins is awarded a money judgment against the Plaintiff in the total amount of **NINETY-ONE THOUSAND, ONE HUNDRED AND THIRTY-EIGHT DOLLARS AND FIFTY-SIX CENTS (\$91,138.56)**, calculated as follows:

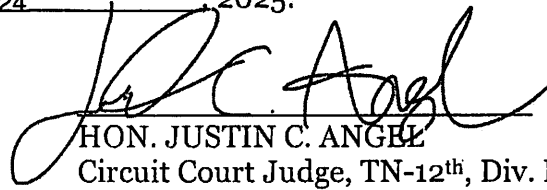
- 179.5 hours for attorney Daniel A. Horwitz, billed at a rate of \$395/hour;
- 64.7 hours for attorney Melissa Dix, billed at a rate of \$285/hour; and

- \$1,796.56 in reasonable expenses.

10. The Court denies the Defendants' claims for a multiplier and for interest on their claimed awards between the time that their TPPA petitions were granted and this judgment.

IT IS SO ORDERED.

ENTERED this the _____ day of 1-24, 2025.


HON. JUSTIN C. ANGELE
Circuit Court Judge, TN-12th, Div. III
Sitting by interchange as Chancellor

APPROVED FOR ENTRY:

By: /s/ Daniel A. Horwitz
DANIEL A. HORWITZ, BPR #032176
MELISSA K. DIX, BPR #038535
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jharbison@nealharwell.com

Counsel for Defendant Kennedy

LOCAL RULE 15.02 CERTIFICATION

Defendants' counsel are in agreement as to the content of this proposed order.

However, as to Plaintiff's counsel, counsel's efforts to agree on an order have failed.

By: /s/ Daniel A. Horwitz
DANIEL A. HORWITZ, BPR #032176

CERTIFICATE OF SERVICE

I hereby certify that on this the 23rd day of January, 2024, a copy of the foregoing was sent via USPS mail, postage prepaid, or via email to the following parties:

Harold L. North, Jr. (BPR # 7022)
Nathan L. Kinard (BPR# 035721)
Frederick L. Hitchcock (BPR # 5960)
Peter A. Newman (BPR # 40524)
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Counsel for Defendant Kennedy

By: /s/ Daniel A. Horwitz
DANIEL A. HORWITZ, BPR #032176

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have served a copy of the foregoing pleading upon:

Harold L. North, Jr., Esquire
Frederick L. Hitchcock, Esquire
Nathan L. Kinard, Esquire
Peter A. Newman, Esquire
605 Chestnut Street, Suite 1700
Chattanooga, Tennessee 37450

William J. Harbison, II, Esquire
1201 Demonbreun Street, Suite 1000
Nashville, Tennessee 37203

Daniel A. Horwitz, Esquire
4016 Westlawn Drive
Nashville, Tennessee 37209

via hand-delivering, facsimile, or by placing a copy of the same in the United States Mail, properly addressed with first class postage for the same to reach its destination.

This the 27th day of January, 2025.

By: Paige Mashburn
Paige Mashburn
Clerk & Master