

IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX: CHRISTIANSTED

GEORGE ALEXANDER,	)	
	)	
Plaintiff,	)	
	)	CIVIL NO. 313/1982
v.	)	
	)	
DAVID MONTOUTE,	)	ACTION FOR DAMAGES
	)	
Defendant and	)	
Third-Party Plaintiff,	)	
	)	
v.	)	
	)	
EDWIN MARTINA and ED AND CAM	)	
ASSOCIATES, INC.,	)	
	)	
Third-Party	)	
Defendant.	)	

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SILVERLIGHT, J.

MEMORANDUM OPINION
December 8, 1983

In this Civil Action for Damages tried before the Court, Judgment was rendered for plaintiff and against defendant for damages arising from an automobile accident. Judgment was further rendered in favor of defendant on his third-party claim against Edwin Martina and Ed and Cam Associates for negligence in failing to file an insurance claim.

As defendant has prevailed on his third-party claim, he filed with the Court a Motion for Attorney's Fees pursuant to 5 V.I.C. §543. Third-Party Defendant opposes the attorney's fees prayed for as being excessive. The attorney of record for defendant has submitted his affidavit listing the total hours expended by him on behalf of defendant. The hours of preparation were broken down by event, the total amounting to 17.5 out of court hours and additionally 6 in court hours. For out of court preparation the attorney seeks \$125.00 per hour, while seeking \$150.00 per hour in court. After carefully considering the attorneys affidavit, this Court believes that the times and amounts are excessive.

The criteria for consideration in determining attorney's fees are the time and labor required, the novelty and difficulty of the questions involved, the skill requisite properly to conduct the cause, the customary charges of the bar for similar services, the amount involved in the controversy, the benefits resulting to the client from the services, the contingency or certainty of the compensation.

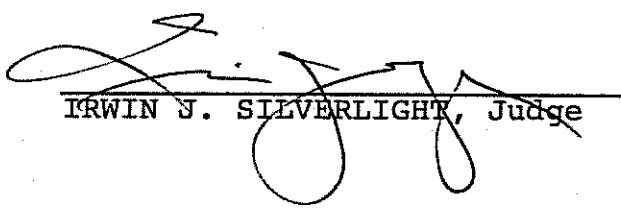
Lucerne Investment Company v. Estate Belvedere, Inc., 7 V.I.C. 242, 411 F.2d 1205 (3rd Cir. 1969). Following these guidelines, this Court feels that on the basis of the defendant's attorney's affidavit, 10.5 hours should be allowed for out of court preparation. The policy behind 5 V.I.C. §541 (1967) is not [necessarily] one of total indemnification, but only to award a prevailing party a fair and reasonable portion of his attorney's fees. Bevan v. Triumpho, 17 V.I. 144 (Terr. Ct., Div. St. T. and St. J., 1980).

Furthermore, this Court believes that the hourly rates requested by attorney for Third-Party Plaintiff are mildly excessive and should be modified. The value of an attorney's time generally is reflected in his normal billing rate. Estien v. Christian, 11 V.I. 464, 467 (3rd Cir. 1975) citing Lindy Bros. Bldrs., Inc. of Phila. v. American R & S San. Corp., 487 F.2d 161 (3rd Cir. 1973). However, By harmonizing the guidelines of Lucerne Investments with Estien, this Court

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concludes that a reasonable attorney's fee for out of court preparation of this trial is \$75.00 per hour, \$500.00 per diem in Court. This Court will award Third-Party Plaintiff 10.5 out of court hours at \$75.00 per hour or \$787.50 and one day in court at \$500.00 per diem or \$500.00, which totals \$1,287.50.

E N T E R :



IRWIN J. SILVERLIGHT, Judge

DATED: December 8, 1983.