

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SHARLENE ISAAC,

Plaintiff,

v.

**RHONDA CRICHLLOW, REYNOLD CRICHLLOW,
THE ADMINISTRATOR OF THE ESTATE OF
HENRY CRICHLLOW, THE ESTATE OF HENRY
CRICHLLOW, and JOHN OR JANE DOE,**

Defendants.

CIVIL NO. SX-12-CV-065

MEMORANDUM OPINION

MOLLOY, Robert A., Judge,

BEFORE THE COURT is a "Motion for Attorneys' Fees and Costs, Request for Entry of Judgment, & Incorporated Memorandum of Law in Support" filed by Plaintiff Sharlene Isaac ("Isaac"). Isaac files this motion seeking reimbursement for attorneys' fees and costs from Defendants Rhonda Crichlow and Reynold Crichlow. For the reasons stated below, the Court will award Isaac attorneys' fees in the amount of \$30,430.00 and costs in the amount of \$510.60.

I. PROCEDURAL BACKGROUND

The underlying facts of this case are well known to the parties and were delineated in a prior opinion of this Court. Therefore, the Court will discuss only those facts pertinent to the disposition of the present motion.

Isaac initiated this civil action by filing a Verified Complaint on February 24, 2012, against the Defendants alleging seven causes of action. Count I alleged a cause of action to Set Aside the Decree of Distribution and Final Judgment. Count II through VII alleged causes

of action for conversion, misrepresentation, breach of fiduciary duty, civil conspiracy, unjust enrichment, and accounting, respectively. Isaac filed the complaint alleging that she was one of the four surviving heirs of her deceased father, Henry Crichlow. Isaac alleged that her siblings, Rhonda and Reynold Crichlow, probated the Estate of their father and intentionally misrepresented to the Superior Court that Rhonda and Reynold were the only surviving heirs of Henry Crichlow. The Superior Court subsequently issued a final adjudication and decree of distribution determining that Rhonda and Reynold were the only surviving heirs and the 100% owners of Henry Crichlow's home located at Plot No. 282 Estate Clifton Hill (the "Property"). Rhonda and Reynold thereafter sold the Property and retained all of the proceeds between themselves.

On February 14, 2013, Isaac filed a motion for summary judgment on all counts. Defendants Rhonda Crichlow and Reynold Crichlow subsequently filed a motion to dismiss the complaint on August 13, 2013. The Court held a hearing on both motions on July 2, 2014. At the hearing, Isaac voluntarily withdrew her claim for breach of fiduciary duty as alleged in Count IV. The Court subsequently issued a Memorandum Opinion and Order on February 13, 2015, granting Isaac's motion for summary judgment on Counts II (Conversion), III (Misrepresentation), and VI (Unjust Enrichment), but denying the motion as to Counts I (Action to Set Aside Decree of Distribution and Final Judgment), V (Civil Conspiracy), and VII (Accounting). *See Isaac v. Crichlow*, 63 V.I. 38 (V.I. Super. Ct. 2015). The Court also denied the Defendants' motion to dismiss in its entirety.

After the Court issued its ruling on the pending dispositive motions, the Court held a pretrial status conference on March 9, 2015. During the status conference, Isaac, through

her counsel, voluntarily withdrew Counts I, V, and VII of the complaint, and the Court subsequently issued a written order formally dismissing those counts. *See* Order dated Mar. 9, 2015, at 1. The Court scheduled a damages hearing on the remaining counts for July 8, 2015.

During the damages hearing, the Court allowed the parties to present witness testimony, introduce documentary evidence, and offer legal arguments in support of and in opposition to their respective cases. For the reasons stated on the record at the hearing, the Court issued a Judgment dated July 9, 2015, awarding Isaac \$42,897.58 in compensatory damages and \$42,897.58 in punitive damages for a total damages award of \$85,795.16. The award was issued against Rhonda Crichlow and Reynold Crichlow, jointly and severally. Defendants did not appeal the Judgment.

Isaac filed the instant motion requesting reimbursement for attorneys' fees and costs in the amounts of \$42,430.00 and \$510.60, respectively. Defendants oppose the motion.

II. LEGAL STANDARD

A party's request for reimbursement for attorneys' fees and costs expended as part of a civil action is governed by 5 V.I.C. § 541. Title 5, Section 541(b) of the Virgin Islands Code provides that "there shall be allowed to the prevailing party in the judgment such sums as the court in its discretion may fix by way of indemnity for his attorney's fees in maintaining the action or defenses thereto." 5 V.I.C. § 541(b). A prevailing party is a party who "has achieved at least some of the benefits which were sought in the litigation, even if judgment is not obtained." *Melendez v. Rivera*, 24 V.I. 63, 65 (V.I. Terr. Ct. 1988). "A party need not win on all issues to be entitled to an award." *Id.*

An award of attorneys' fees is determined by establishing the "lodestar"¹ amount by determining the number of hours worked by counsel and the value of his services. *Bevans v. Triumpho*, 17 V.I. 144, 148 (V.I. Terr. Ct. 1980) (citing *Lindy Brothers, Inc. v. American Radiator & Standard Sanitary Corp.*, 484 F.2d 161 (3d Cir. 1975)). To determine the reasonableness of the lodestar amount, the Court considers factors such as: (1) the time and labor required; (2) the novelty and difficulty of the issues involved; (3) the level of skill needed to properly conduct the case; (4) the customary charges of the bar for similar services; (5) the amount involved in the controversy; (6) the benefits resulting to the client from the services; and (7) the contingency of compensation. *Judi's of St. Croix Car Rental v. Weston*, 2008 V.I. Supreme LEXIS 21, at *6 (V.I. 2008). Accordingly, a prevailing party may be reimbursed for reasonable attorneys' fees charged for work that was "useful and of a type ordinarily necessary to secure the final result obtained from the litigation." *Pennsylvania v. Delaware Valley Citizens' Council for Clean Air*, 478 U.S. 546, 561 (1986). In awarding attorneys' fees, the Court must be mindful of "the policy behind 5 V.I.C. § 541 is not one of total indemnification, but only to award a prevailing party a fair and reasonable portion of his attorney's fees." *Bevans*, 17 V.I. at 148. The allowance of attorneys' fees to the prevailing party in litigation is not a matter of right, but is an exercise of discretion by the Court. *Ryan v. Ryan*, 53 V.I. 140, 144 (V.I. Super. Ct. 2010).

¹ Black's Law Dictionary defines "lodestar" as "[a] reasonable amount of attorney's fees in a given case, usu. calculated by multiplying a reasonable number of hours worked by the prevailing hourly rate in the community for similar work, and often considering such additional factors as the degree of skill and difficulty involved in the case, the degree of its urgency, its novelty, and the like." *Black's Law Dictionary* 1084 (10th ed. 2014).

III. DISCUSSION

A. Attorneys' Fees

1. Whether the Hours Billed Were Reasonably Expended

In her motion, Isaac requests reimbursement for \$42,430.00 in attorneys' fees for work performed by Attorney Christopher Kroblin and Attorney Shari D'Andrade. In analyzing the reasonableness of these fees, the Court must first determine whether the hours billed were reasonably expended. Attorney Kroblin, billed \$325.00 (old rate) per hour for 41.6 hours of work and \$350.00 (new rate) per hour for 33.8 hours of work for a total of \$25,350.00 for 74.40 hours of legal work.² Attorney D'Andrade charged \$200.00 per hour for 85.40 hours of services for a total of \$17,080.00. Attorney Kroblin, on behalf of Isaac, submitted an Affirmation along with itemized time entries describing the amount and type of legal services performed in prosecuting this lawsuit. After reviewing the time entries submitted by Attorney Kroblin and applying the standard outlined in *Weston*, the Court finds that some of the entries requested by Isaac were duplicative or excessive, and therefore, not reasonably expended.

First, Isaac seeks reimbursement for time her attorneys spent on in-house counsel communication. Because "[m]ultiple lawyer conferences, not involving opposing counsel . . . involve duplicative work," the court will reduce the award to exclude these entries. *Marcher*

² Attorney Kroblin charged \$325.00 per hour from the inception of this case up until February 25, 2015, when he began to charge \$350.00 per hour.

v. Nash, 32 F.Supp.2d 239, 241 (D.V.I. 1998). Accordingly, the Court will exclude 2.0 hours and 0.90 hours submitted by Attorney Kroblin and Attorney D'Andrade, respectively.³

Isaac also seeks reimbursement for time Attorney Kroblin spent reviewing and editing the work submitted by Attorney D'Andrade. While it is certainly a permissible practice for a senior attorney to review the work of a junior attorney, this activity is inherently duplicative and redundant. This activity is akin to in-house counsel communication and consultation and therefore, unreimburseable for purposes of section 541(b). *See Interocean Ins. Agency v. Joseph*, 2014 V.I. LEXIS 73, *9 (V.I. Super. Ct. Sept. 12, 2014) ("The Court will not consider requests for attorney fees that are duplicative, excessive or redundant."). Accordingly, the Court will exclude 10.10 hours charged by Attorney Kroblin for these itemized entries.⁴

Additionally, the Court will reduce the number of hours charged for time spent on those claims that Isaac voluntarily dismissed. Generally, a party is not entitled to be reimbursed attorneys' fees for time spent on unsuccessful claims. *See Trailer Marine Transp. Corp. v. Charley's Trucking*, 20 V.I. 286, 289 (V.I. Terr. Ct. 1989) (opining that "the hours spent on the unsuccessful claim should be excluded in considering the amount of a reasonable fee ..."). On February 13, 2015, the Court issued a Memorandum Opinion and Order granting Isaac's motion for summary judgment on counts II, III, and VI. During the course of this

³ The Court excluded the following hours as duplicative in-house counsel communication: 03/06/13 (SD-0.40 hours); 07/01/14 (CK-0.50 hours); 07/02/14 (CK-1.20 hours); 07/03/14 (CK-0.30 hours); and 07/03/14 (SD-0.50 hours). "CK" refers to Attorney Christopher Kroblin and "SD" refers to Attorney Shari D'Andrade.

⁴ The Court excluded the following time entries charged by Attorney Kroblin as duplicative reviewing and editing: 01/08/13 (0.20 hours); 02/04/13 (2.70 hours); 02/12/13 (0.90 hours); 02/13/13 (0.20 hours); 03/22/13 (1.20 hours); 07/24/13 (0.20 hours); 08/27/13 (0.30 hours); 08/28/13 (1.60 hours); 09/11/13 (2.60 hours); 11/14/13 (0.20 hours).

litigation, Isaac voluntarily withdrew counts I, IV, V, and VII. Thus, Isaac was successful on three of the seven claims alleged in the Verified Complaint. There is no indication that Attorney Kroblin or Attorney D'Andrade spent more time on any one claim than the other. Therefore, because it appears to the Court that counsel spent an equal amount of legal work on each of the seven claims and that Isaac did not prevail on all of her claims, the Court will exclude 57.1% of the time spent relating to activities specifically applicable to all claims.⁵ Accordingly, the Court will reduce the hours for time spent on unsuccessful claims by 6.10 hours and 18.30 hours charged by Attorney Kroblin and Attorney D'Andrade, respectively.⁶

2. Whether the Hourly Rates are Fair and Reasonable

Next, the Court must determine whether the hourly rates charged by the attorneys are fair and reasonable. In this matter, Attorney Kroblin charged rates of \$325.00 and \$350.00 per hour and Attorney D'Andrade charged a rate of \$200.00 per hour. It is universally accepted that the party seeking fees bears the burden of "produc[ing] satisfactory evidence — in addition to the attorney's own affidavit — that the requested rates are in line with those prevailing in the community for similar services by lawyers of reasonable comparable skill, experience, and reputation." *Blum v. Stenson*, 465 U.S. 886, 86 (1984); *see also Smith v. Phila. Hous. Auth.*, 107 F.3d 223, 225 (3d Cir. 1997) (providing that

⁵ The Court arrived at the 57.1% figure by dividing four (the number of unsuccessful claims) by seven (the number of total claims).

⁶ The Court reduced the hours billed by Attorney Kroblin for work relating to unsuccessful claims by 57.1% from 10.70 hours to 6.10 hours. These entries are: 02/02/12 (1.50 hours); 02/03/12 (2.00 hours); 02/22/12 (2.50 hours); 12/03/12 (3.70 hours); 01/08/13 (0.20 hours); 03/19/13 (0.50 hours) and 06/18/14 (0.30 hours). Similarly, the Court reduced the hours billed by Attorney D'Andrade by 57.1% from 29.6 hours to 16.90 for the following entries: 01/23/13 (2.80 hours); 01/24/13 (5.20 hours); 01/28/13 (6.50 hours); 01/29/13 (6.20 hours); 02/05/13 (1.40 hours); 02/07/13 (0.40 hours); 02/08/13 (2.10 hours); 02/13/13 (2.50 hours); 02/14/13 (0.30 hours); 03/18/13 (1.70 hours); and 03/19/13 (0.50 hours); 03/23/13 (1.20 hours); 03/22/13 (0.80 hours); and 07/24/13 (0.50 hours).

prevailing party bears the initial burden of establishing that the requested hourly rates are in line with comparable market rates for legal services). This can be accomplished by providing "affidavits of other practitioners supportive of the requested hourly rate." *Kurschinke v. Meadville Forging Co.*, 2008 U.S. Dist. LEXIS 76281, at *8-9 (W.D. Pa. Sept. 30, 2008). If the Court is not satisfied that the parties have submitted sufficient evidence justifying the requested rates, the court "must exercise its discretion in fixing a reasonable hourly rate." *Washington v. Phila. Court of Common Pleas*, 89 F.3d 1031, 1036 (3d Cir. 1996).

Courts in the Virgin Islands have generally held that hourly rates between \$125 and \$300 are considered reasonable in this jurisdiction. See *Weston*, 2008 V.I. Supreme LEXIS 21, at *6 (opining that "\$300.00 per hour is at the high end of rates normally charged by Virgin Islands attorneys."); *Guardian Ins. Co. v. Estate of Knight-David*, 2015 V.I. LEXIS 124, at *23-24 (V.I. Super. Ct. Sept. 30, 2015) (finding that hourly rates of \$200.00 for partner and \$180.00 for associate to be reasonable); *Interocean Ins. Agency v. Joseph*, 2014 V.I. LEXIS 73, at *10-11 (V.I. Super. Ct. Sept. 12, 2014) (finding rate of \$350.00 for in-court services and \$300.00 for other services as fair and reasonable); *Cohen v. Skepple*, 2014 U.S. Dist. LEXIS 75982, at *6 (D.V.I. June 4, 2014) (finding that a rate of \$225.00 per hour in a debt and foreclosure case is reasonable); *Chapa v. Sepe*, 2013 V.I. LEXIS 72, *6-8 (V.I. Super. Ct. June 3, 2013) (opining that \$295.00 per hour is a moderate rate while \$395.00 per hour is a high rate only permissible where particularly difficult work has been done).

Here, the Court finds that counsel has failed to establish the reasonableness of the \$325 and \$350 hourly rates charged by Attonrey Kroblin. "Establishing a prima facie case requires the production of evidence beyond the attorney's own affidavit in support of the

requested rate." *Arietta v. City of Allentown*, 2006 U.S. Dist. LEXIS 72025, at *4 (E.D. Pa. 2006).

The only evidence submitted in support of these rates is Attorney Kroblin's Affirmation stating the legal costs incurred in this litigation. Counsel did not submit any evidence stating his years of legal experience or affidavits from other practitioners establishing the rates charged for similar work. The Court is simply unable to conclude that Isaac should be reimbursed for rates above the \$300 per hour figure that courts in the Virgin Islands have considered to be on the high end of the normal rate spectrum.

The Court, however, will exercise its discretion and allow Isaac to be reimbursed at a rate of \$300 per hour for work performed by Attorney Kroblin and the \$200 per hour rate requested for work performed by Attorney D'Andrade. The Court awards the above approved rates based on this Court's familiarity with the legal competency of both Attorney Kroblin and Attorney D'Andrade as both attorneys routinely practice before this Court. Both attorneys have demonstrated the appropriate level of skill and competency to justify these rates. The Court must note that the record of this case was not extensive nor were the issues novel or complex. The main issue in this case was whether Isaac was able to prove that she was an heir of her father. Once she presented satisfactory evidence to the Court that she was, the determination of whether Isaac would prevail on some of her claims was almost a foregone conclusion. The legal skill involved in this case centered around counsels' ability to maneuver through the evidentiary rules in order for Isaac to prove that she was in fact a descendant of her father. Thus, in the absence of evidence that the legal skill in this case commands a rate above the normal rates customarily charged in the Virgin Islands, the Court

will approve the rates of \$300 and \$200 per hour for Attorney Kroblin and Attorney D'Andrade, respectively.

In their opposition, Defendants argue that Isaac's requests for attorneys' fees and costs should be limited to \$2,600.00. Defendants argues this amount represents the fees incurred up to August 10, 2012, the date Defendants formally offered to settle the case for \$35,450.57. Def.s' Mot. in Opp. to Pl.'s Mot. for Atty. Fees at 2-3; *see also* Def.s' Ex. 3 – Letter dated August 10, 2012. According to Defendants, any litigation after the offer to settle was made was entirely unnecessary because they agreed that Isaac was entitled to 1/4 of the share of the proceeds of the sale of the Property.⁷ Defendants also suggest that there was no reason for Isaac's counsel to spend so many hours litigating the motion for summary judgment because Defendants were always willing to settle and “did not contest the facts stated therein and thanked the Court for the very thorough reasoning outlined therein.” *Id.* at 3.

The Court finds these arguments to be unpersuasive, meritless, and disingenuous. Isaac had no obligation to settle this case on terms offered by the Defendants. In fact, Isaac received a judgment in the amount of \$85,795.16, more than \$50,000.00 above Defendants' settlement offer. More troubling to the Court is that the evidence in this case clearly demonstrated that Defendants made intentional misrepresentations to the Superior Court during the probate proceedings by not listing Isaac as a surviving heir of their father. Defendants knew that Isaac was their sibling and the daughter of Henry Crichlow but yet

⁷ During the course of litigation, it was revealed that Henry Crichlow had a fourth surviving heir who was not included in the probate proceedings. That individual also was not a party to this civil action.

required Isaac to jump through hoops and hurdles to prove to the Court that she was his child. Throughout this litigation, Defendants zealously and vigorously argued that Isaac was not entitled to a share of their father's estate because there was no evidence that Isaac was the daughter of Henry Crichlow. As stated in this Court's February 10, 2015 Memorandum Opinion:

As a threshold matter, Defendants argue in their dismissal motion that Isaac's paternity is an essential elements to her claims and that she has failed to establish that she is an heir of Henry Crichlow to accord entitlement to a share of the proceeds from the sale of the Property.

Isaac, 63 V.I. at 50. The fact that Defendants offered to settle this case before Isaac incurred a significant portion of her attorneys' fees does not preclude the Court from issuing a fair and reasonable award. The plain language of 5 V.I.C. § 541 entitles the prevailing party to attorneys' fees "such sums as the court in its discretion may fix by way of indemnity..." The Court concludes that the facts of this case warrants the issuance of attorneys' fees for legal work performed before and after the Defendants offered to settle this case.

B. Costs

Finally, Isaac seeks reimbursement for costs for the following items: filing fee for complaint (\$75.00); service of complaint by Due Process on Reynold Crichlow (\$217.80); and service of complaint by Due Process on Rhonda Crichlow (\$217.80). The Court finds these costs to be reasonable and allowable under 5 V.I.C. § 541(a) and therefore, will award costs in favor of Isaac in the amount of \$510.60.

IV. CONCLUSION

After reviewing the record in this matter and applying the standard set forth in *Judi's of St. Croix Car Rental v. Weston*, 2008 V.I. Supreme LEXIS 21 (V.I. 2008), the Court will award

Isaac attorneys' fees in the amount of \$30,430.00. Isaac is entitled to be reimbursed for 57.30 hours of legal services provided by Attorney Kroblin at a rate of \$300 per hour and 66.20 hours of legal services provided by Attorney D'Andrade at a rate of \$200.00 per hour. The Court will also award Isaac costs in the amount of \$510.60. An appropriate Order follows.

Date: September 29, 2016


ROBERT A. MOLLOY
Judge of the Superior Court

ATTEST:
ESTRELLA GEORGE
Acting Clerk of the Court

By: 
Court Clerk Supervisor

Dated: 9/29/16