

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MICHAEL BOGDONAS,

Plaintiff,

v.

ROBERT MUSEUS, in his official capacity
as Town Administrator and in his
individual capacity, JOHN WILSON, in his
official capacity as Chief of Police and in his
individual capacity, TOWN OF BELOIT,
a municipal corporation, ALAN LEVY,
and ONE OR MORE JOHN DOES,

Defendants.

ORDER

10-cv-618-bbc

On June 28, 2011, I granted defendant John Wilson's motion to substitute Miguel Ruiz as his counsel in place of Michael Cieslewicz. In addition, because plaintiff had filed a baseless brief in opposition to defendant's motion, I granted defendant's request for fees incurred in responding to plaintiff's opposition brief. Defendant is seeking an award of \$672 in attorney fees. Plaintiff has had an opportunity to respond both to the order granting the award and the amount of the award. Dkt. ##45, 51. He offers no justification for opposing defendant Wilson's motion for substitution of counsel, but argues that the fee request should

be reduced to \$120 because, although defense counsel's hourly rate is reasonable, "[d]efense counsel spent time arguing issues and filing documents that are not relevant to the issue presented, including a motion in limine filed in the Smith et al. case and a protective order in the Dransfield et al. case." Dkt. #51, at 2.

I will grant defendant Wilson's request for an award of \$672. Defendant's request is supported by affidavits from two attorneys who performed work on his response to plaintiff's opposition to the motion to substitute, as well as a breakdown of the 2.8 hours spent working on the response. Dkt. ##43, 44. They declare that the breakdown is an accurate representation of the hours spent working on the response. I have no reason to think that 2.8 hours is an unreasonable amount of time for preparing the response. Additionally, I disagree with plaintiff that this time includes time spent arguing irrelevant issues and filing irrelevant documents. Defendant attached to his response the motion in limine that plaintiff's counsel filed in a related case as evidence that plaintiff's counsel knew that issues of credibility should be left to the jury and thus, that plaintiff's counsel should have recognized the frivolousness of the brief he filed in opposition to defendant's motion to substitute attorneys. Defendant filed the proposed protective order because he believed that such an order may be necessary to prevent plaintiff from seeking to call Ruiz as a witness at trial. Although I denied the request for a protective order, this was not an irrelevant issue or document.

ORDER

IT IS ORDERED that defendant John Wilson is awarded \$672.00 for the unnecessary fees and costs he incurred in responding to the baseless objections filed by plaintiff Michael Bogdonas in opposition to defendant's motion for substitution of counsel. The sanction is to be paid to defendant by plaintiff's counsel no later than September 30, 2011.

Entered this 15th day of September, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge