

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DAWN ZOERB, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

NATIONAL COLLEGIATE
STUDENT LOAN TRUST 2006-3, a
Delaware statutory trust(s); and LAW
OFFICE OF PATENAUDE AND
FELIX, A.P.C.,

Defendants.

Case No. 14-cv-00468-BAS-KSC

**ORDER GRANTING
PLAINTIFF’S MOTION FOR
AWARD OF ATTORNEYS’ FEES
AND COSTS**

Plaintiffs’ counsel files a Motion for Attorneys’ Fees and Costs requesting \$125,000 in attorneys’ fees and \$7,500 reimbursement for costs. (ECF No. 47.) Defendants do not oppose. The Court held a hearing on the issue on April 3, 2017.

After reviewing the time sheets and considering the arguments of counsel both oral and written, the Court concludes that Plaintiffs’ request is reasonable and GRANTS the Motion for Attorneys’ Fees and Costs.

1 **I. STATEMENT OF FACTS**

2 **A. Underlying Case**

3 On March 3, 2014, Plaintiff Dawn Zoerb filed a civil class action alleging that
4 Defendants, as assignees of student loan debts, failed to properly identify the original
5 creditor in various state court collections actions. (ECF No. 1.) The case was
6 eventually consolidated with ten other cases making the same allegations against
7 Defendants. (ECF No. 22.)

8 The Plaintiffs claim Defendants violated the FDCPA and Rosenthal Act by
9 filing complaints in state court collections lawsuits falsely claiming that each Plaintiff
10 had entered into a written loan contract with Defendants, when the Plaintiff in fact
11 had never dealt with Defendants and had no idea who they were. (ECF No. 1.)
12 Defendants, however, claim that the FDCPA is inapplicable and that because
13 Plaintiffs received earlier notice of the Defendant Trusts taking over their loan
14 obligations, Plaintiffs could not have been misled in the state court actions. (Joint
15 Mot., ECF No. 43, ¶ IIB.)

16 The parties met with a private mediator, the Hon. Herbert B. Hoffman (Ret.)
17 on multiple occasions. All aspects of the settlement were extensively negotiated
18 through numerous meetings, telephone conferences and exchanges of
19 correspondence, with multiple drafts of the Settlement Agreement being prepared
20 before it was presented for the Court's approval. (Joint Mot. ¶ 2(C).)

21 **B. Settlement and Attorneys' Fees**

22 Plaintiffs submit declarations detailing that hourly attorneys' fees expended on
23 this case to date total \$159,971, more than the \$125,000 requested, and that costs
24 advanced equal \$8,441.67, again more than the \$7,500 requested. (ECF No. 47.)

25 **II. ANALYSIS**

26 The FDCPA provides for mandatory attorney fees to be awarded to the
27 successful consumer. *Tolentino v. Friedman*, 46 F.3d 645, 651 (7th Cir. 1995); 15
28 U.S.C. § 1692k(a). Courts have an obligation to ensure that the attorneys' fees award,

1 like the settlement, is reasonable. *In re Bluetooth Headsets Prods. Liab. Litig.*, 654
2 F.3d 935, 941 (9th Cir. 2011).

3 However, “[u]nlike most private tort litigants [a plaintiff who brings an
4 FDCPA action] seeks to vindicate important . . . rights that cannot be valued solely
5 in monetary terms.” *Tolentino*, 46 F.3d at 652 (quoting *City of Riverside v. Rivera*,
6 477 U.S. 561, 574 (1986)). “The most useful starting point for determining the
7 amount of a reasonable fee is the number of hours reasonably expended on the
8 litigation multiplied by a reasonable hourly rate.” *Tolentino*, 46 F.3d at 652 (quoting
9 *Hensley v. Eckenhart*, 461 U.S. 424, 433 (1983)). The Court should also consider the
10 novelty and difficulty of the litigated issues; preclusion of employment by the
11 attorney due to acceptance of the case; results obtained; experience, reputation and
12 ability of the plaintiffs’ attorney; “undesirability” of the case and awards in similar
13 cases. *Id.*

14 Plaintiffs’ counsel submits records detailing the number of hours worked on
15 this case. The Court finds the number of hours as well as the hourly rate reasonable
16 given the experience level of the attorneys involved. Thus, had plaintiffs’ counsel
17 been working for a client who paid a reasonably hourly wage, counsel would be
18 entitled to \$159,971. Counsel is requesting less than this amount or \$125,000. The
19 Court finds this is reasonable. Although the litigated issues were not novel or
20 difficult, they did require much negotiation by the attorneys and the results obtained
21 were excellent given plaintiffs’ primary damage was decreased credit scores due to
22 the alleged misrepresentations.

23 Defendant does not object to Plaintiffs’ request for reimbursement of costs in
24 the amount of \$7,500.00. Plaintiffs’ counsel detail costs expended that exceed this
25 amount. Therefore, the Court finds the requested amount of \$7,500 is reasonable and
26 grants Plaintiffs’ request for costs.

27 **III. CONCLUSION**

28 For the reasons stated above, the Court **GRANTS** Plaintiff’s Motion for

1 Attorneys' Fees and Costs. (ECF No. 47.) The Court grants Plaintiff \$125,000 in
2 attorneys' fees and \$7500 in costs.


3 **IT IS SO ORDERED.**

4

5 **DATED: April 5, 2017**

6

7


Hon. Cynthia Bashant
United States District Judge

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28