UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

THE NASHVILLE COMMUNITY BAIL FUND,	)	
Plaintiff,	)	
v.	)	**Case No. 3:20-cv-00103**
	)	**Judge Aleta A. Trauger**
HON. HOWARD GENTRY, Criminal Court Clerk, in his official capacity,	)	
Defendant.	)	

MEMORANDUM

The Nashville Community Bail Fund ("NCBF") has filed a Motion for Attorney's Fees, Costs, and Expenses (Doc. No. 82). The defendant and party against whom the motion was filed is Howard Gentry, in his official capacity as Criminal Court Clerk for the Twentieth Judicial District ("Clerk"), but the Clerk himself has not filed a Response that is expressly on his own behalf. Rather, two government entities have filed separate Responses addressing all or part of the motion. The Metropolitan Government of Nashville and Davidson County ("Metro"), whose lawyers represented the Clerk for some, but not all, purposes in this case but who have since withdrawn from that representation (Doc. No. 30), filed a Response (Doc. No. 84) addressing both its own potential liability and the amount of fees requested, and NCBF filed a Reply (Doc. No. 87). The State of Tennessee, which is not a party to this case and did not directly furnish the Clerk with any representation, also filed a Response (Doc. No. 85), addressing only the issue of state liability and declining to take a position on the appropriateness of the fees. For the reasons set out herein, the motion will be granted as modified by the court.

I. BACKGROUND

"The judicial power of the [State of Tennessee] is vested in judges of the courts of general sessions, . . . circuit courts, [and] criminal courts," as well as other courts established by the State. Tenn. Code Ann. § 16-1-101. Within the boundaries of Metropolitan Nashville and Davidson County, that judicial power is exercised by the courts of the Twentieth Judicial District. Tenn. Code Ann. § 16-2-506(a)(20)(A)(1).[1] At the district level, the state's judicial power is further subdivided between the district's judges, who adjudicate cases, and its court clerks, who "perform all the clerical functions of the court." Tenn. Code Ann. § 18-1-101. Among a clerk's duties, at least in the 20th Judicial District, is taking payment from any individual or entity that wishes to post cash bail for a prisoner awaiting trial.

NCBF is a Nashville-based nonprofit entity founded in 2016 for the purpose of "pay[ing] cash bail for individuals who cannot afford to do so in order to alleviate the harms caused by unfair wealth-based pretrial detention." (Doc. No. 1 ¶ 11.) NCBF relies on what it refers to as a "revolving fund" in order to post cash bail for as many defendants as possible. (*Id.* ¶ 3.) NCBF posts bail for a pretrial detainee and, when the detainee satisfies his appearance obligations, NCBF accepts the refund, which it puts back into its budget and applies toward posting bail for another pretrial detainee. Accordingly, a single charitable donation of, for example, $1,000 can be used over and over again to secure pretrial release for a series of defendants, ultimately resulting in far greater than $1,000 in cash bail being posted.

In order for NCBF's revolving fiscal model to be sustainable, NCBF must be able to obtain a refund of at least a substantial portion of the money it uses to post bail. To that end, NCBF objected to a set of policies and practices, adopted by the judges of the 20th Judicial

[1] Other districts, however, span multiple counties. For example, the thirteenth judicial district spans seven counties: Clay, Cumberland, DeKalb, Overton, Pickett, Putnam, and White. Tenn. Code Ann. § 16-2-506(a)(13)(A).

District and implemented by the Clerk, requiring that a third party posting cash bail for a defendant consent to the money's being garnished to pay the defendant's fines, fees, and other case-related liabilities. *See State v. Clements*, 925 S.W.2d 224, 226 (Tenn. 1996) (holding that a court cannot garnish the cash bail posted by a third party without consent). For a time, the judges of the district exempted NCBF from that policy, but they eventually rescinded the exemption and began requiring NCBF to consent to garnishment of its posted funds.

On February 5, 2020, NCBF filed a Complaint for Injunctive and Declaratory Relief, in which it named, as the sole defendant, "Hon. Howard Gentry, Criminal Court Clerk, in his official capacity." (Doc. No. 1 at 1 (italics omitted).) NCBF pleaded three causes of action under 42 U.S.C. § 1983: first, for violation of the Eighth Amendment right against excessive bail; second, for violation of the Fourteenth Amendment, based on the imposition of unconstitutional release conditions; and, third, for violation of the Fourteenth Amendment right not to be subjected to a deprivation of liberty without due process. (*Id.* ¶¶ 62–78.) On the same day, NCBF filed a Motion for Preliminary Injunction, asking the court to enjoin Gentry "from (1) enforcing Davidson County Local Rule Governing Bail Bonds 10(B) as well as (2) enforcing his office's policy of conditioning the acceptance of cash bails on receipt of a signed form acknowledging future payment of criminal debts from that cash bail." (Doc. No. 3 at 1.)

NCBF's concerns about the constitutionality of the mandatory garnishment scheme were well-founded. The Eighth Amendment of the U.S. Constitution forbids a court from conditioning a criminal defendant's pretrial release on the payment of "[e]xcessive bail," which has been interpreted by courts to mean any bail greater than the amount "reasonably calculated to" provide "adequate assurance that he will stand trial and submit to sentence if found guilty." *Stack v. Boyle*, 342 U.S. 1, 5 (1951). When a bail amount is increased beyond the level mandated by that

discrete purpose—either by increasing the raw dollar figure itself or requiring the surrender of an additional asset, such as a consent to garnishment—then the bail is "'excessive' in the sense of the Eighth Amendment because it would be used to serve a purpose for which bail was not intended." *Cohen v. United States*, 82 S. Ct. 526, 529 (1962) (Douglas, J., in chambers[2]).; *see also United States v. Rose*, 791 F.2d 1477, 1480 (11th Cir. 1986) ("We have no doubt that the addition of any condition to an appearance bond to the effect that it shall be retained by the clerk to pay any fine that may subsequently be levied against the defendant after the criminal trial is over is for a purpose other than that for which bail is required to be given under the Eighth Amendment. Such provision is therefore excessive and is in violation of the Constitution.").

On February 20, 2020, the Clerk, represented by attorneys from Metro's Department of Law ("Metro Legal"), filed a Response opposing the Motion for Preliminary Injunction. (Doc. No. 15.) Gentry claimed that he was "enter[ing] this appearance exclusively in his capacity as an elected official for" Metro. (*Id.* at 1.) Gentry conceded, however, that, when he was carrying out the business of the Twentieth Judicial District and its bail system, he was acting, not in any capacity as a representative or agent of the Metro government, but rather as an agent of the State of Tennessee. (*Id.* at 1.) Nevertheless, the Clerk did not file any separate response in his State capacity, and no attorneys appeared to represent him in that capacity.

On February 27, 2020, the Clerk—still represented by Metro Legal and still purporting to be appearing only in a limited capacity—filed a Motion to Dismiss, asking the court to dismiss NCBF's claims, "insofar as the Court construes the claims as proceeding against Mr. Gentry in

[2] An "in chambers" opinion is an opinion written and issued by a single judge of a multi-judge court, pursuant to a court rule allowing a lone judge to address certain secondary matters without obtaining concurrence from the full court or a panel thereof. *See* Daniel M. Gonen, *Judging in Chambers: The Powers of a Single Justice of the Supreme Court*, 76 U. Cin. L. Rev. 1159, 1173 (2008). In *Cohen*, Justice Douglas was addressing the issue of the bond amount set for a defendant pending appeal, which he was permitted to do without seeking concurrence of the other members of the Court. 82 S. Ct. at 527.

his capacity as a Metropolitan Government official." (Doc. No. 17 at 1.) He explained that his reason for drawing this distinction was that, in his view, he had never been properly served in his capacity as a state official, only as a local official. (Doc. No. 18 at 7–8.)

On March 17, 2020, the court denied the Motion to Dismiss and granted the Motion for Preliminary Injunction. (Doc. No. 23.) The court addressed and rejected various procedural issues that the Clerk had raised related to his supposed dual role as a state and local official and expressed disappointment that the Clerk had not yet obtained counsel empowered to represent him in his full official capacity. The court held that, while the Clerk was correct that the Twentieth Judicial District was an arm of the State of Tennessee, he was mistaken that he had no obligation to respond to the lawsuit in that capacity merely because service had—by his consent—been effected through Metro Legal. The court therefore did not dismiss any aspect of the action. The court also determined that the factors governing preliminary injunctions, including likelihood of success on the merits, favored granting an injunction prohibiting the Clerk from enforcing the challenged policies against NCBF. (Doc. No. 22 at 28–34.) In the wake of the court's ruling, the Clerk obtained private counsel. (Doc. Nos. 25, 36–37.)

On May 21, 2020, the Clerk filed a Second Motion to Dismiss, in which he raised substantive arguments not previously addressed by Metro Legal. (Doc. No. 47.) On October 26, 2020, the court denied the motion and, in so doing, resolved a number of substantive legal questions in NCBF's favor, including with regard to the core principle that, taking the facts set forth by NCBF as true, "the Twentieth Judicial District . . . exceeded the boundaries of permissible bail under the Eighth Amendment by including [garnishment] conditions in its uniform bail policy." (Doc. No. 65 at 33.)

On December 8, 2020, the parties filed a Joint Motion for Entry of Consent Judgment and Decree, explaining that, after consultation, the parties "agreed that the Court's Opinions in this matter have fully and finally decided all the issues in this case in NCBF's favor." (Doc. No. 75 at 1.) The next day, the court entered the agreed-upon Order, which included the following passage:

> Pursuant to 42 U.S.C. § 1988 and Federal Rule of Civil Procedure 54, the Court concludes that NCBF is the prevailing party on all claims filed in this matter. In accordance with the parties' agreement, NCBF shall file any Motion for Attorney's Fees within 45 days of the date this Judgment is entered. Because the attorney's fees judgment will be against the Criminal Court Clerk in his official capacity, the judgment will be a suit against the "entity of which an officer is an agent." *Kentucky v. Graham*, 473 U.S. 159, 165 (1985) (citing reference omitted). Thus, there is still an outstanding question of which entity—the State of Tennessee or [Metro]—is responsible for the satisfaction of any award of attorney's fees. If NCBF has any position on whether the State or Metro is responsible for the attorney's fee judgment, it should so state in its Motion.

(Doc. No. 77 ¶ 14.)

On January 25, 2021, NCBF filed its expected Motion for Attorney's Fees. The fees requested are as follows:

Firm	Biller	Hourly Rate	Hours	Fees
Bass, Berry, & Sims PLC	Angela Bergman	$450	228.9	$103,005.00
	Briana Schuster	$450	124.1	$55,845.00
	Beth McCaskill*	$225	20.2	$4,545.00
	Total			**$163,395.00**
ACLU (National)	Andrea Woods	$450	197.65	$88,942.50
	Daniel McGowan*	$225	44.0	$9,900.00
	Kadeisha Weise*	$225	12.0	$2,700.00
	Total			**$101,542.50**
ACLU of Tennessee	Thomas Castelli	$475	33.3	$15,817.50
	Stella Yarbrough	$365	27.5	$10,037.50
	Total			**$25,855.00**
Civil Rights Corps	Charles Gerstein	$400	49.1	$19,640.00
	Ryan Downer	$475	16.2	$7,695.00
	Tara Mikkilineni	$400	25.7	$9,880.00
	Total			**$37,215.00**
Choosing Justice Initiative	Dawn Deaner	$500	109.1	$54,550.00
	Total			**$54,550.00**
Total			**887.75**	**$382,557.50**

* Paralegal

(Doc. No. 82-1 ¶ 12; Doc. No. 82-2 ¶ 18; Doc. No. 82-3 ¶ 8; Doc. No. 82-4 ¶ 20; Doc. No. 82-5 ¶ 9; Doc. No. 82-6 ¶ 10; Doc. No. 82-7 ¶ 10.) NCBF also seeks $3,234.57 in additional costs and expenses. (Doc. No. 82 at 1.) NCBF has stated that it "does not have a position on whether the 'State or Metro' is responsible for the attorneys' fee judgment." (Doc. No. 83 at 13.) The State and Metro, however, each filed a Response arguing that the other government should be liable. (Doc. Nos. 84–85.)

II. LEGAL STANDARD

A. Entitlement to Fees

"Our legal system generally requires each party to bear his own litigation expenses, including attorney's fees, regardless whether he wins or loses." *Fox v. Vice*, 563 U.S. 826, 832, (2011). Thus, courts do not award "fees to a prevailing party absent explicit statutory authority." *Buckhannon Bd. & Care Home v. W. Va. Dep't of Health & Human Res.*, 532 U.S. 598, 602 (2001) (citation omitted). Under § 1988(b), the "prevailing party" in an action to enforce civil rights under § 1983 may recover "a reasonable attorney's fee as part of the costs" of litigation. *See Green Party of Tenn. v. Hargett*, 767 F.3d 533, 552 (6th Cir. 2014). To be considered a prevailing party, a litigant must have "receive[d] at least some relief on the merits of his claim" amounting to "a court-ordered change in the legal relationship between the plaintiff and the defendant." *Buckhannon*, 532 U.S. at 603–04 (internal quotation marks and alterations in original omitted).

B. Fee Amount

The Supreme Court has cautioned that a request for attorney's fees "should not result in a second major litigation." *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983). "The most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably

expended on the litigation multiplied by a reasonable hourly rate." *Id.* at 433. This two-step calculation, known as the lodestar amount, provides an "initial estimate of the value of a lawyer's services." *Id.* However, "[t]he product of reasonable hours times a reasonable rate does not end the inquiry." *Id.* at 434. After determining the lodestar amount, the court may adjust the fee upward or downward "to reflect relevant considerations peculiar to the subject litigation." *Adcock–Ladd v. Sec'y of Treasury*, 227 F.3d 343, 349 (6th Cir. 2000). However, "trial courts need not, and should not, become green-eyeshade accountants." *Fox*, 563 U.S. at 838. "The essential goal in shifting fees is to do rough justice, not to achieve auditing perfection." *Id.* Therefore, "trial courts may take into account their overall sense of a suit, and may use estimates in calculating and allocating an attorney's time." *Id.*

III. ANALYSIS

A. Liability of the State of Tennessee or Metro

When Congress enacted § 1983, it "recognized that suits brought against individual officers for injunctive relief are for all practical purposes suits against the State itself" and anticipated that, "in such suits[,] attorney's fee awards should generally be obtained 'either directly from the official, in his official capacity, from funds of his agency or under his control, or from the State or local government (whether or not the agency or government is a named party).'" *Hutto v. Finney*, 437 U.S. 678, 700 (1978) (quoting S. Rep. No. 94–1011 (1976)). Metro asks the court to clarify that "the State of Tennessee, and not the Metropolitan Government, is responsible for any fee award in this case." (Doc. No. 84 at 1.) The State, in turn, argues that the court should hold that the Clerk "was acting here in his official capacity on behalf of Metro and not on behalf of the State" and that Metro, therefore, must pay the attorney's fees. (Doc. No. 85 at 2.)

The court has already discussed the respective roles of Metro and the State of Tennessee in this litigation at length and it will not go through every step of that analysis again here. *(See, e.g.*, Doc. No. 22 at 17–21.) In short, a suit against the Clerk in his official capacity is actually a suit against the Clerk's Office of the Criminal Court of the Twentieth Judicial District, and the Twentieth Judicial District is a state-created entity that is distinct from Metro. The court, moreover, has already held that, at least for the purposes of notice and service of process, the Criminal Court of the Twentieth Judicial District is an arm of the State of Tennessee. (*Id.* at 21–22.) As the State points out, however, it is not *necessarily* the case that the Clerk would also be considered an arm of the state for the purpose of attorney's fees. The questions are closely related—indeed, much more closely related than the State acknowledges, given the overlapping tests applicable, *see* fn. 5, *infra*—but it is true that, as a technical matter, the issues are distinct.

Metro, the State, and NCBF all appear to agree that the substantive question of which government is liable for an attorney's fee award is governed by *Miller v. Caudill*, 936 F.3d 442 (6th Cir. 2019), in which the Sixth Circuit set forth a five-factor test for determining whether the state or a local government should pay an attorney's fee award related to the actions of an official with hybrid responsibilities. The governments' and NCBF's attorneys are undoubtedly correct that *Miller* provides the test for resolving that substantive question in the Sixth Circuit. Simply applying *Miller* here, however, is not so easy, because that case was procedurally quite different from this one. The plaintiffs in *Miller* began their case by "su[ing] Rowan County and [Rowan County Clerk Kim Davis], in her individual capacity and in her official capacity as County Clerk." *Id.* at 446. Later in the litigation, Davis "filed a third-party complaint against the then-Governor of Kentucky, Steven Beshear, and the then-Commissioner of Kentucky's Department of Libraries and Archives, Wayne Onskt." *Id.* As a result, the plaintiffs in *Miller* had

a full menu of governments and officials from whom they could seek attorney's fees. NCBF, though, has only one: the Clerk, in his official capacity—in other words, the Clerk's Office of the Twentieth Judicial District. Whether the Clerk's Office is a state entity or a local entity for any given purpose is an interesting and difficult conundrum, but it does not actually have any bearing on the question of who will be on the hook for the attorney's fee award. Everyone should already know the answer to that question: the Clerk's Office will be on the hook—regardless of what the Clerk's Office is.[3]

The dispute that Metro and the State want this court to resolve is something else altogether. They want the court to adjudicate a presumed[4] disagreement between the Clerk's Office and the State's general government regarding whether state dollars should be made available to the Clerk's Office to pay its liability. And there would certainly be nothing remarkable about state dollars going toward an arguably local purpose, regardless of whether one considers the Clerk's Office to be an arm of the state or not; after all, state dollars routinely go to local governments. *See, e.g.*, Tenn. Code Ann. § 49-3-354 (discussing distribution of state funds to local educational agencies). What *would* be remarkable, however, would be if this court

[3] It is true that the Supreme Court has acknowledged that a district court has the power to assess attorney's fees and costs that will ultimately be paid be a non-party government entity. *See Hutto*, 437 U.S. at 700. The Supreme Court, however, was discussing a government that was not formally named but was, in fact, the functional defendant in the case—just as the Clerk's Office is the functional defendant in this case. *Id.* ("Although the Eleventh Amendment prevented respondents from suing the State by name, their injunctive suit against prison officials was, for all practical purposes, brought against the State."). That does not mean, though, that the court has the power to assess attorney's fees against a government entity *other than* the one represented by the defendant official. In other words, Congress has authorized the court to take the initial step of imputing liability to the Clerk's Office, despite the fact that it was technically not a named party, but Congress has not authorized the court to take the additional step of imputing that liability to an additional governmental entity, such as the general government of either the State or Metro, in a case in which those other entities were not parties.

[4] The court says "presumed" because the Clerk's Office (*a.k.a.* the Clerk, in his official capacity) did not file a separate brief.

waded into that conflict, despite the fact that the State itself has not been made a party to this litigation and no claim on behalf of the Clerk has been pleaded against it.

The court understands the root of the disagreement between Metro and the State of Tennessee, as well as that disagreement's importance; the dollar figures at issue here are not trivial. Procedurally, though, that conflict is not properly before the court. The court's duty here is to assess fees against the losing party in this case, and that is the Clerk's Office. It is not up to the court to resolve any internal or intergovernmental budgetary disagreements about where that money will come from—just as, when the court enters a judgment against a private company, the court does not meddle in how the company will adjust its budget to pay the award. The Clerk's Office of the Criminal Court of the Twentieth Judicial District is the sole non-prevailing party in this case and will therefore be obligated to pay the attorney's fees and costs awarded. *How* the Clerk will ultimately pay those attorney's fees—including whether it will use State dollars to do so—is not something that the court is currently in a position to resolve. The fees, however, must be paid, one way or another.[5]

C. Amount of Recovery

No party (or entity making a limited appearance) has disputed NCBF's entitlement to attorney's fees, and the only filer disputing the amount of fees—Metro—does not challenge the hourly rates requested. (Doc. No. 84 at 7.) Indeed, NCBF, in its Reply, characterizes its request as unopposed, given that the Clerk himself did not file a Response directly attributed to him. NCBF is probably technically correct that the one entity that actually should have opposed (or

[5] For what it is worth, the court notes that the test in *Miller* is virtually identical to—and indeed based on—a preexisting test governing sovereign immunity, *see Miller*, 936 F.3d at 450, and the court has already applied that test to the facts underlying this case, in the context of determining whether the State was entitled to separate notice under 28 U.S.C. § 2403(b). (*See* Doc. No. 22 at 20 (applying sovereign immunity caselaw because the issues were "so closely related" that the court found the reasoning of the sovereign immunity caselaw "inescapable").) The court held that, under that test, the Clerk's Office was an arm of the state for the purposes of the facts at issue. (*Id.* at 16–21.)

expressly conceded) the motion failed to do so. Nevertheless, NCBF still bore the initial burden of supporting its request, and the court will not blindly grant it, but rather will, at least, review it for basic sufficiency. In so doing, the court will note and address Metro's objections, even though those objections were not properly filed on behalf of the Clerk.

The rates and hours claimed for attorneys are, on their face, at least mostly reasonable and consistent with the rates charged in comparable litigation. However, although no individual attorney's rate was prohibitively high, the court has some concern that the total fees might have been reasonably reduced by entrusting more tasks to less experienced attorneys with lower rates. Only one of the several attorneys representing the plaintiffs billed at a rate lower than $400/hour, and that attorney accounted for some of the fewest hours claimed. Generally speaking, it is neither efficient nor consistent with ordinary practice to staff a team of this size with such a top-heavy ratio of more expensive attorneys to less expensive attorneys. Moreover, while the attorneys' individual rates are within the ordinary range approved by this court, the paralegals' are not. The court, accordingly, will reduce the paralegals' rates to $120/hour and will consider the potential overreliance on more expensive attorneys in its final calculation.

Metro objects to the high number of attorneys claiming fees for representing NCBF—nine, plus the three paralegals—and suggests that the court should therefore make a modest across-the-board reduction in the fees.[6] *See Ky. Rest. Concepts Inc. v. City of Louisville*, 117 F. App'x 415, 419 (6th Cir. 2004) (affirming 10% reduction in fees based on the district court's

[6] As counsel for NCBF points out, the names of a total of six attorneys appear on the Responses of Metro and the State in their opposition to this Motion (Doc. No. 84 at 8 (naming three attorneys); Doc. No 85 at 15 (same)), and the Clerk has used two additional private attorneys in this litigation as well. Two of the attorneys listed on the Responses—the Tennessee Attorney General and Reporter and the Director of Metro Legal—are the heads of their respective offices, and the court assumes that they did not actually perform the labor involved, other than by providing ordinary supervision. Nevertheless, the sheer number of attorneys formally involved in this case *other than* NCBF's does somewhat undermine any argument that NCBF's high number of attorneys is necessarily a sign of excessive billing.

conclusion that "two law firms would have been sufficient as opposed to four"). While nine attorneys may seem like it at least borders on excessive, the weight of that objection is mitigated substantially by the fact that many of those attorneys have claimed relatively few hours of work, compared to the core team that took the lead in litigating the case. Two attorneys—Angela Bergman and Andrea Woods—account for nearly half of the attorney and paralegal hours billed, with two other attorneys—Briana Schuster and Dawn Deaner—accounting for another roughly 26%. Even if the court were to assume, for example, that the 16.2 hours worked by another attorney were unnecessary or duplicative, it would not represent a large portion of the fees at issue. Moreover, the particular model adopted by NCBF—with a few core attorneys doing most of the work but availing themselves of discrete assistance from others as needed—strikes this court as a wise approach to a case such as this, particularly given that resolving NCBF's claims required a working knowledge of both federal constitutional issues and the details of state and local governance in Tennessee.[7] *See Ne. Ohio Coal. for the Homeless v. Husted*, 831 F.3d 686, 704 (6th Cir. 2016) ("Multiple-lawyer litigation is common and not inherently unreasonable.") (citations omitted).

That said, it is true that NCBF relied on a large number of attorneys and that those attorneys are claiming rates that, though individually reasonable in light of each attorney's experience, are collectively somewhat on the high end. Moreover, at least some of the expense was due to NCBF's having selected a method of service that, though ultimately held to be adequate, was on shakier legal ground than necessary.[8] Finally, while this case presented a few

[7] In the court's experience, civil rights plaintiffs who understand one, but not both, of those areas of the law tend to create more work and expense for all involved.

[8] Indeed, NCBF itself appears to have recognized that service could have been effected in a less legally debatable manner, because it chose to effect that service a second time, more directly, in an attempt to stave off the Clerk's challenge to its original effort. (*See* Doc. No. 21 at 2.)

genuinely difficult legal questions, it was resolved quickly, before many of the more labor-intensive aspects of civil litigation could arise. The court accordingly concludes that NCBF has supported an award of 90% of the requested fees after adjusting the rate for paralegals, with no reduction in the requested other costs. By the court's calculation, the reduction in paralegal fees amounts to a total reduction of $8,001, for a claimed total of $374,556.50. Ninety percent of $374,556.50 is $337,100.85. With the addition of $3,234.57 in additional costs and expenses, the full award will be $340,335.42.

V. CONCLUSION

For the foregoing reasons, NCBF's Motion for Attorney's Fees, Costs, and Expenses (Doc. No. 82) will be granted as modified by the court, and the Clerk will be ordered to pay $340,335.42 in fees and costs. The court takes no position regarding the budgetary source for the funds used to satisfy that obligation.

An appropriate order will enter.

ALETA A. TRAUGER
United States District Judge