

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

JENNIFER J. TAYLOR	)	
	)	
Plaintiff,	)	
	)	
v.	)	CA No. 1:12cv523
	)	(GBL/IDD)
REPUBLIC SERVICES, INC., <i>et al.</i>	)	
	)	
Defendants.	)	
	)	

**MEMORANDUM IN SUPPORT OF PLAINTIFF'S  
PETITION FOR AN AWARD OF ATTORNEYS' FEES AND COSTS**

Pursuant to the Memorandum Opinion dated September 16, 2013, Rule 54(d) of the Federal Rules of Civil Procedure and Local Rule 54(D)(1) of the U.S. District Court Rules (E.D. Va.), Jennifer J. Taylor (“Ms. Taylor”), prevailing party in the above action, by counsel, hereby moves this Court for an award of attorneys’ fees in the amount of \$1,119,144; non-taxable costs and expenses necessarily incurred in the prosecution of this matter in the amount of \$103,023.61; and taxable costs in the amount of \$36, 160.12. A bench trial in this matter was held on May 6, 8, 9, 13 and 14. On September 16, 2013, Final Judgment was entered in favor of Plaintiff on Count II of the Amended Complaint (Retaliatory Discharge) as follows: Back pay damages in the amount of \$377,734 pursuant to Title VII of the Civil Rights Act of 1964; front pay damages in the amount of \$804,791 pursuant to Title VII of the Civil Rights Act of 1964; compensatory damages in the amount of \$50,000 pursuant to 42 U.S.C. § 1981a(b)(3); and, attorneys’ fees and costs to be determined.

## ARGUMENT

Plaintiff was the prevailing party in this action, within the meaning of 18 U.S.C. §1514A(c), and by the terms of the Memorandum Opinion and Final Judgment, dated September 16, 2013. This dispute lasted for more than two years, was intensely litigated against two of the largest employment litigation firms in the country, Seyfarth Shaw and Ogletree Deakins. The litigation was extremely contentious, including the Defendants moving for dismissal of the entire case, and on a number of occasions requesting various sanctions.

This action began with the numerous complaints by Ms. Taylor of gender discrimination and hostile work environment, which led to acts of retaliation, up to and including Ms. Taylor's termination by Republic Services, Inc. The initial Complaint was amended to include additional facts, allegations and defendants. On April 20, 2012, Ms. Taylor filed her Amended Complaint against Republic and co-defendants Republic Services of Virginia LLC ("Republic Virginia"), Jason Callaway ("Mr. Callaway"), Ronald Krall ("Mr. Krall"), Douglas Murphy ("Mr. Murphy"), Christopher Rains ("Mr. Rains"), and Daniel Jameson ("Mr. Jameson") (collectively the "Defendants").<sup>1</sup> The Amended Complaint alleged gender discrimination, sexual harassment, hostile work environment and retaliatory discharge in violation of Title VII, and tortious interference with business expectancy. On August 17, 2012, the Court dismissed Ms. Taylor's wrongful termination, civil conspiracy, and intentional infliction of emotional distress claims.

Summary judgment was subsequently granted in favor of the Defendants on Counts I (gender discrimination and sexual harassment), Count III (common law wrongful termination) and V (tortious interference), and partial summary judgment was granted on Count II (hostile

---

<sup>1</sup> Per the Court's August 17, 2012 ruling, Daniel Jameson was no longer a party to the case.

work environment). Count IV, Negligent Retention (of Jason Callaway) was dismissed by this Court on August 17, 2012.

The remaining portion of Count II, retaliation and retaliatory discharge, was pursued and defended vigorously.

The accompanying Declarations of Carla D. Brown, **Exhibit 1**, and Elaine Charlson Bredehoft, **Exhibit 2**, detail the time expended and tasks performed by counsel in litigating this case, as well as addressing each of the factors pertinent to an award of attorneys' fees, as set forth or discussed in *Riverside v. Rivera*, 477 U.S. 561, 106 S. Ct. 2686 (1986); *Hensley v. Eckerhart*, 461 US 424, 103 S.Ct 1933 (1983); *Barber v. Kimbrell's, Inc.*, 577 F.2d 216 (4th Cir.), *cert. denied*, 439 U.S. 934 (1978) and *Anderson v. Morris*, 658 F.2d 246 (4th Cir. 1981). *See also Daly v. Hill*, 790 F.2d 1071, 1077 (4th Cir 1986); *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir 1975). The hourly rates, if reasonable, multiplied by the reasonably expended hours, result in a presumptively reasonable fee. *Blum v. Stenson*, 465 U.S. 886, 897(1984).

To assist the Court in ascertaining the reasonableness of the hourly rates, we have included Declarations from attorneys practicing in the Metropolitan area including Northern Virginia and the Eastern District of Virginia. **Exhibit 3 – Declaration of Debra S. Katz;** **Exhibit 4 – Declaration of Nicholas Woodfield.** In addition, we have retained Craig Reilly to provide his expert opinion as to the rates and amounts sought in this Petition, and attach his Declaration. **Exhibit 5 – Declaration of Craig C. Reilly.**

In addition, the amount of the fee award must be determined based upon the facts of each case. *Hensley v. Eckerhart*, 461 U.S. 424, 429 (1983). Plaintiff has deducted from the itemized

billing statements any time expended in connection with the claims dismissed on summary judgment, or on which Plaintiff was not otherwise the prevailing plaintiff. All of the evidence and discovery generated during the course of the litigation was necessary and essential to the successful prosecution of the remaining claims, and significantly, to rebut Republic's asserted legitimate business justifications for firing Ms. Taylor (or contending that she voluntarily resigned). In addition, all the time expended on the retaliation claims stemmed from a common core of operative facts, in that the retaliation claims relates to the proffered legitimate business justifications of Republic, and the relief sought stems from the retaliatory discharge of Ms. Taylor. Indeed, Republic's witnesses testified that the reason Ms. Taylor was directed to go home and not return to work was in part because of her earlier complaints and issues.

Ms. Taylor seeks a fee award for 2,082.9 hours of attorney time and 606.4 hours of paralegal time expended by Charlson Bredehoft Cohen Brown & Sakata, P.C., devoted to the prosecution of this case, at the following rates:

Elaine Charlson Bredehoft	\$550 per hour through 3/31/13; \$600 per hour thereafter
Carla D. Brown	\$475 per hour
Brian A. Scotti	\$425 per hour
Heather Austin Jones	\$450 per hour
Kathleen Z. Quill	\$400 per hour
Daphne Shih Gebauer	\$375 per hour through 11/4/12; \$400 per hour thereafter
Aseil Abu-Baker	\$325 per hour
Paralegals	\$135 or 250 per hour

In addition, Ms. Taylor requests the total amount of \$103,023.61 in non-taxable costs and \$36,160.12 in taxable costs.

Approximately 2/3 of Ms. Taylor's non-taxable costs are attributable to the fees and services of expert witnesses. In particular, iDiscovery Solutions (Julian Ackert) was engaged to perform analysis of email metadata, forensic imaging of Ms. Taylor's laptop (at the crux of

several important issues in this case, including the unsuccessful Counterclaims), providing Affidavits and expert reports, preparing for and attending deposition, preparing for and providing testimony at the evidentiary hearing brought on by Defendants accusing Ms. Taylor of spoliation (which resulted in the Court finding in favor of Ms. Taylor), and the backup, storage, searches and hosting related to imaging and metadata. Ms. Taylor expended \$28,762.50 on the services of iDiscovery Solutions/Julian Ackert. **Exhibit 6 – Statement of iDiscovery Solutions and c.v. of Julian Ackert.**

William Foote of Aronson LLC was engaged by Plaintiff as an economic and accounting expert. This Court specifically adopted Mr. Foote's calculations as to Ms. Taylor's back pay and front pay in its Memorandum Opinion dated 9/16/21013 (Dkt. 288 at 49-50 and 52-53, although the Court limited Ms. Taylor's front pay to five years, as opposed to the eight years anticipated by Mr. Foote), but otherwise found his opinions to be wholly supported by the record in this case. Ms. Taylor expended \$16,709.00 on the services of Aronson LLC/Bill Foote. These services included Expert Report and supplementation, preparation for and deposition, and preparation for and trial testimony. **Exhibit 7 – Statement of Mr. Foote/Aronson LLC and c.v. of William Foote.**

Ryan Shugarman is a licensed, board-certified Psychiatrist who examined Ms. Taylor, and provided expert testimony at deposition and trial. His time expended was for examination of Ms. Taylor, preparation of the Expert Report and supplementation, preparation for and deposition and preparation for and trial testimony. The Court found that "the severity of Ms. Taylor's emotional distress was exemplified by Psychiatrist Ryan Shugarman's testimony . . . ." (Dkt. 288 at 56). The Court also pointed out that Defendants presented no evidence or

contradicting expert testimony to undermine Dr. Shugarman's diagnosis or opinions. Id. Ms. Taylor expended \$19,300.00. **Exhibit 8 – Statements of Dr. Shugarman and c.v. of Dr. Shugarman.**

Although Defendants presented no expert testimony at trial, they identified Liza H. Gold (psychiatrist, to rebut the opinion of Dr. Shugarman) and Kristin K. Kucsma (economist, to rebut the findings of Mr. Foote), and identified them as witnesses on their Witness List. Therefore, to adequately prepare for trial, Plaintiff necessarily incurred fees to depose each expert (\$2,000 for Dr. Gold and \$975 for Kristin K. Kucsma – **Exhibit 9**).

We believe that the set of facts related to all of the Counts of this matter are intertwined and inter-related such that it would be difficult to separate and segregate time per Count; however, in spite of this, we have “no-charged,” and do not seek to recover for, time sent solely on matters related to any Count dismissed by the Court. However, for discovery that relates to Counts against the individual defendants, we have included time and effort related to that discovery, since those individual Defendants propounded discovery on Ms. Taylor, all were deposed, and most were witnesses, either in the form of Summary Judgment attachments and/or trial, so these individuals would have been involved in one way or the other in any event. Moreover, Defendants frequently overlapped the discovery responses, referring to other responses as covering the answers or providing documents.

We have also either not included, or “no-charged,” and also redacted, certain information and time that relates to claims Ms. Taylor's husband (whom we represent), as well as matters relating to other former employees seeking representation and offering to provide assistance in this case, since we now have an attorney-client relationship with those individuals.

We also “no-charged” time that related to Jennifer Taylor’s second deposition because it prompted, in part, by our production of notes that Jennifer Taylor prepared; While produced during discovery, it was after her first deposition. We similarly did not seek any costs for payment of the transcript related to that second deposition.

Therefore, the total amount of “no charge” time or time written off in the Fee Petition is 106.1 hours, for a total amount of “no charge” fees of \$43,517.50. **See Exhibit 2 to Declaration of Carla D. Brown.**

In addition, we have removed some timekeepers, even including partners and senior attorneys, who over course of two years have provided limited assistance with this case. However, in spirit of self-auditing, have removed these time keepers and have not included them in the fee petition. (*See Exhibits 1 and 2 to accompanying Declaration of Carla D. Brown, Summary of Time Records and Summary of Timekeepers Removed*). The total amount of fees attributable to timekeepers who have been removed from the Fee Petition in their entirety is \$15,103.50. **See Exhibit 2 to Declaration of Carla D. Brown.**

### **CONCLUSION**

Prevailing Plaintiff Jennifer J. Taylor requests that this Court award her \$1,119,144 in attorneys’ fees, \$103,023.61 in non-taxable costs, and \$36,160.12 in taxable costs, for a total amount of \$1,258,327.73 in favor of the Plaintiff, Jennifer J. Taylor, and against the Defendant, Republic Services, Inc.

September 30, 2013

Respectfully submitted,

/s/ CARLA D. BROWN

Elaine Charlson Bredehft, VSB No. 23766

[ecb@cbcblaw.com](mailto:ecb@cbcblaw.com)

Carla D. Brown, VSB No. 44803

[cbrown@cbcblaw.com](mailto:cbrown@cbcblaw.com)

Brian A. Scotti, VSB No. 74510

[bscott@cbcblaw.com](mailto:bscott@cbcblaw.com)

CHARLSON BREDEHOFT COHEN

BROWN & SAKATA, P.C.

11260 Roger Bacon Drive, Suite 201

Reston, Virginia 20190

(703) 318-6800 Telephone

(703) 318-6808 Facsimile

*Counsel for Plaintiff, Jennifer J. Taylor*



## CERTIFICATE OF SERVICE

I hereby certify on the 30<sup>th</sup> day of September 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send a notification of such filing to the following:

Rhett E. Petcher, Esq.  
[rpetcher@seyfarth.com](mailto:rpetcher@seyfarth.com)  
Raymond C. Baldwin, Esq. (admitted *pro hac vice*)  
[Rbaldwin@Seyfarth.com](mailto:Rbaldwin@Seyfarth.com)  
SEYFARTH SHAW LLP  
975 F Street, NW  
Washington, DC 20004  
(202) 828-3583 Telephone / (202) 828-5393 Facsimile  
*Counsel for Defendants, Republic Services, Inc., Republic Services of Virginia, LLC, Jason Callaway, Ronald Krall, Douglas Murphy and Christopher Rains*

Joleen R. Okun, Esq.  
[Joleen.Okun@ogletreedeakins.com](mailto:Joleen.Okun@ogletreedeakins.com)  
Mark G Kisicki, Esq. (admitted *pro hac vice*)  
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.  
1909 K Street, N.W., Suite 1000  
Washington, D.C. 20006  
(202) 887-0855 Telephone / (202) 887-0866 Facsimile  
*Counsel for Defendants, Republic Services, Inc., Republic Services of Virginia, LLC, Jason Callaway, Ronald Krall, Douglas Murphy and Christopher Rains*

/s/ CARLA D. BROWN  
Elaine Charlson Bredehoft, VSB No. 23766  
[ecb@cbcblaw.com](mailto:ecb@cbcblaw.com)  
Carla D. Brown, VSB No. 44803  
[cbrown@cbcblaw.com](mailto:cbrown@cbcblaw.com)  
Brian A. Scotti, VSB No. 74510  
[bscott@cbcblaw.com](mailto:bscott@cbcblaw.com)  
CHARLSON BREDEHOFT COHEN  
BROWN & SAKATA, P.C.  
11260 Roger Bacon Drive, Suite 201  
Reston, Virginia 20190  
(703) 318-6800 Telephone  
(703) 318-6808 Facsimile  
*Counsel for Plaintiff, Jennifer J. Taylor*