

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

KURT VROMAN,

Plaintiff,

v

Case No. 6:06-cv-229-Orl-28DAB

VOLUSIA COUNTY, FLORIDA, JAMES
TAUBER, TERRY MOORE, JAMES
WILLITS

Defendants

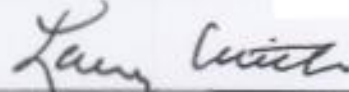
DEFENDANTS' PETITION FOR ATTORNEYS FEES & COSTS

The Defendants TAUBER, MOORE, and WILLITS, in their respective individual capacity, by and through the undersigned counsel, pursuant to Fed. R. Civ. P. 54, Local Rule 3.01 and Rule 4.18, Middle District of Florida, and Title 42 U.S.C. § 1988, petition this Court for their attorneys' fees and costs in connection with this action since February 23, 2006 based upon entry of Judgment for each of the individual Defendants entered by the Clerk on February 18, 2009 (Doc. 202). Plaintiffs seek \$611,522.50 in attorney's fees, representing 2,360.0 hours at the applicable rates. A breakdown of the services performed by each attorney is submitted with this petition. The subject matter of the work performed is described more fully in the accompanying memorandum.

Defendants also request an assessment of costs and expenses in the amount of \$9,805.92. A schedule of attorney's fees requested, verified bill of costs, memorandum in support of the petition, and attorney affidavit in support of the fees and costs are submitted with this petition.

Dated this 4th day of March, 2009

Respectfully submitted,



LARRY SMITH, ESQUIRE

Florida Bar No. 113010

Deputy County Attorney

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LUIS GUZMAN, ESQUIRE

Assistant County Attorney

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NANCY R. JONES, ESQUIRE

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CHARLES HARGROVE, ESQUIRE

Assistant County Attorney

123 West Indiana Avenue

DeLand, Florida 32720-4613

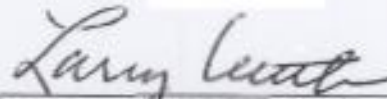
(386) 736-5950/(386) 736-5990 F

E-mail lasmith@co.volusia.fl.us

Attorneys for the Defendants, County of
Volusia and Tauber Moore and Willits in
their individual capacity

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Motion was furnished by e-mail delivery, on this 4th day of March, 2009, to: **MOLLY A. ELKIN, ESQUIRE** and **BRYAN G. POLISUK, ESQUIRE**, Woodley & McGillivray, 1125 15th St., N W , Ste 400, Washington, DC 20005, and by U.S. Mail Delivery to **PAUL A. DONNELLY, ESQUIRE**, 204 West University Ave., Ste. 5, Gainesville, FL 32601



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VOLUSIA COUNTY, FLORIDA, JAMES
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Defendants

**DEFENDANTS' AFFIDAVIT IN SUPPORT OF ITS
MOTION FOR AWARD OF ATTORNEYS' FEES AND COSTS**

STATE OF FLORIDA
COUNTY OF VOLUSIA

I, LARRY SMITH, being first duly sworn, deposes and says as follows

This Affidavit is being prepared and filed pursuant to the standards applicable in the Eleventh Circuit. Defendants, JAMES TAUBER, TERRY MOORE and JAMES WILLITS requests a total of \$611,522.50 in attorneys' fees with regard to services provided by counsel with and for the County of Volusia, County Attorney, in this matter. The attorneys' fees are based upon the following hours of work and hourly billing rates.

Dates	Attorney	Hours	Rate	Amount
07/06/06 - 02/17/09	LARRY SMITH	1400.8	\$300/ph	\$420,240.00
03/09/07 - 02/19/09	LUIS R. GUZMAN	710.2	\$175/ph	\$124,285.00
08/01/06 - 10/15/07	CHARLES D. HARGROVE	137.7	\$250/ph	\$ 34,425.00
03/07/06 - 09/02/06	MATTHEW G. MINTER	100.4	\$300/ph	\$ 30,120.00
06/05/06 - 04/14/08	NANCY R. JONES	10.9	\$225/ph	\$ 2,452.50
		2360.0	TOTAL	\$611,522.50

The undersigned is a Deputy County Attorney with the County of Volusia, County Attorney, and has served in such position since June 2006. The undersigned has been licensed to practice law in the State of Florida since 1968 and is in good standing with the Florida Bar. The undersigned practices exclusively in government law, personal injury eminent domain, labor and employment discrimination law, including federal litigation under the various civil rights acts. Each attorney with the County Attorney is assigned a rate depending on the attorney's years of legal experience, and more significantly, the attorney's experience in labor and employment discrimination matters.

1 The time and the labor required - Since March 7, 2006, date of service of Petition & Summons on Defendants, former Deputy County Attorney, Matthew G. Minter has spent 100.4 hours of time on this matter; Assistant County Attorney, Charles D. Hargrove, has spent 137.7 hours of time on this matter; Deputy County Attorney, Larry Smith, has spent 1400.8 hours of time on this matter; Assistant County Attorney, Luis R. Guzman, has spent 710.2 hours on this matter; and, Assistant County Attorney Nancye R. Jones, has spent 10.9 hours of time on this matter. The billing records for this matter,

which show the amount of time spent on each task by the above individuals, are attached hereto (Note The attached billing statements reflect the legal work performed on the case. *See Exhibit "1" attached hereto.*)

2 The novelty and difficulty of the questions - This case involved allegations of First and Fourteenth Amendment right violations due to Plaintiff's association with the International Association of Fire Fighters (IAFF), Local 3574, and retaliation by Defendants in the form of termination of employment as a result of his outspoken criticism of the fire services administration and his association with the IAFF. The issues raised by Plaintiff (and which were ultimately taken before a jury) were not particularly novel or complex for a law office practicing in civil rights and the labor and employment law field.

3 The skill requisite to perform the legal service properly - It is the undersigned's belief that the efficient handling of the issues required counsel highly experienced in the field of civil rights and labor and employment law.

4. The preclusion of other employment by the attorneys due to acceptance of the case - Defendants' counsel, being part of the County of Volusia, County Attorney's office, maintains a full case load for all of its members at all times. Accordingly, the representation of Defendants herein rendered the attorneys involved unable to use the time spent on Defendants for other purposes.

5 The customary fee - The customary fee for representation by counsel in the private sector with similar experience in labor and employment litigation and civil rights litigation in Federal District Court in the Middle District of Florida ranges from \$175 to \$300 per hour. Defendants submit that a total fee in the amount of \$611,522.50 is reasonable.

in this case. The attorneys' fees are based upon the following hours of work and hourly billing rates

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		2360	TOTAL	\$611,522.50

6 Whether the fee is fixed or contingent - The fee is fixed

7 Time limitations imposed by the client or the circumstances - This case required Defendant's counsel to comply with deadlines imposed by the Federal Rules of Civil Procedure and this Court.

8. The amount involved and the results obtained - Defendants, JAMES TAUBER, JAMES WILLITS and TERRY MOORE, obtained Judgment, on or about February 18, 2009, in accordance with the jury's verdict rendered on March 19, 2006, as to Plaintiff's claims in their entirety

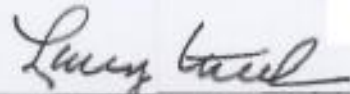
9 The experience and reputation of the attorneys - The following attorneys were involved in the instant litigation Matthew G Minter, Esquire; Larry Smith, Esquire, Charles D. Hargrove, Esquire; Luis R Guzman, Esquire and, Nancye R. Jones, Esquire See attached mini Biography of attorneys marked as Exhibit "2"

10 The undesirability of the case - This factor has no bearing on this case

11 The nature and length of the professional relationship with the client - The undersigned and associated counsel have had a long-standing relationship with the individual Defendants by virtue of their employment with the County of Volusia. The hourly rates sought are the same as those charged for representation of other individual defendants who are County employees as well as that charged for the County of Volusia as defendant.

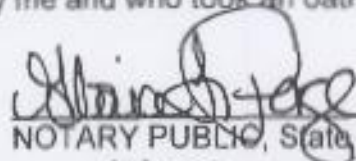
12 The amount of costs involved - Defendants, TAUBER, MOORE and WILLITS' total costs for which they are entitled to recover is \$9,805.92, as set out in Defendants' Petition for Attorney Fees and Costs and the Bill of Costs filed herein

I have read the above Affidavit comprised of eleven (11) numbered paragraphs and swear that it is true to the best of my information and knowledge.



LARRY SMITH, ESQUIRE, Affiant
Fla Bar No. 113010

The foregoing instrument was executed before me on this 4th day of March, 2009, by LARRY SMITH, who is personally known by me and who took an oath



NOTARY PUBLIC, State of Florida
At Large

Printed Name:

G. LYNNE PAGE

Commission No.

MY COMMISSION # 80829898

Expiration.

2/25/05 - January 31, 2011