

IN THE COURT OF COMMON PLEAS  
SCIOTO COUNTY, OHIO  
GENERAL DIVISION

SCIOTO COUNTY  
OHIO  
FILED

05 DEC -2 PM 4:09

*David W. Kuhn*  
CLERK OF COURTS

**TERESA MOLLETTE, et al.**

**Plaintiff**

**CASE NO. 04CIH00110**

**Vs.**

**JUDGMENT ENTRY**

**PORTSMOUTH CITY COUNCIL**

**Defendant**

This matter comes before the Court on three separate issues. 1) whether or not the Plaintiffs are entitled to Attorney fees, 2) whether or not the attorney fees requested by the Plaintiffs were reasonable and 3) whether or not the Defendant is entitled to a reduction of the award of attorney fees pursuant to Revised Code Section 121.22(H)(2)(a)(i)-(ii).

As to issue one, the Court finds that on August 31, 2005, an oral hearing was held wherein the parties requested clarification of this Court's prior judgment entry regarding Plaintiffs' request for injunctive relief. This Court granted plaintiffs' injunctive relief which was appropriate under the catch all prayer "for any such other relief as the Court found just and equitable". Therefore Plaintiffs are entitled to attorney fees pursuant to section 121.22 of the Revised Code.

The second issue before the Court is whether or not the attorney fees requested by the Plaintiffs are reasonable. Based upon the testimony of Attorney Dan Ruggiero, who has been practicing law in this area for 33 years and 90% of his practice being civil, he stated that a normal hourly rate would be \$125-\$150 per hour on behalf of the Plaintiffs. Attorney Steve Mowery, who also has a general civil practice attorney, and testified on

behalf of the Defendants, agreed that \$125-\$150 is a reasonable rate. Based upon the testimony of both attorneys, this Court finds a reasonable attorney rate to be \$150 per hour. This Court further finds that based upon the testimony of both attorneys that a reasonable law clerk rate to be \$65 per hour.

The third issue to be decided by this Court is should the Court reduce the fee award if it finds that the "well informed public body reasonably would believe that the public body was not violating or threatening to violate" "the Sunshine Law" section. The Court was therefore asked to review the depositions of City Council members to make this determination. The Court would have much rather heard the live testimony of the members of city council, but that was not presented herein. Therefore after reviewing the entire depositions and transcripts and the excerpts referred to in defendants memorandum herein, this Court finds that city council was intending to circumvent the Sunshine Law and therefore they knew that meeting in groups of three and having meetings not open to the public was in violation of the City Charter.

It is therefore ORDERED, ADJUDGED and DECREED that Defendants shall pay a civil forfeiture of \$500 pursuant to 121.22 (1)(2)(a), all court costs incurred herein and reasonable attorney fees as follows:

|                                |                           |                   |
|--------------------------------|---------------------------|-------------------|
| Attorney Joe Griffith's Hours: | 84.30hrs. x \$150.00/hr = | \$12645.00        |
| Law Clerks' Hours:             | 55.55hrs. x \$65.00/hr =  | \$ 3610.75        |
| Expenses                       |                           | <u>\$ 2061.95</u> |
| TOTAL                          |                           | \$18317.70        |

Based upon the foregoing it is therefore Ordered that Plaintiffs shall be granted judgment against the Defendants in the sum of Eighteen thousand three hundred dollars and seventy cents (\$18,317.70) as and for their attorney and law clerks' fees and expenses in addition to a \$500.00 civil forfeiture required pursuant to section 121.22 (1)(2)(a) for a total of Eighteen thousand eight hundred seventeen dollars and seventy cents, plus court costs.

There be no just reason for delay, this is a final appealable order.

**SO ORDERED.**

  
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JUDGE WILLIAM T. MARSHALL

Cc: Attorney D. Joe Griffith  
Attorney for Plaintiffs  
  
Attorney Lawrence E. Barbieri  
Attorney David W. Kuhn  
Attorneys for Defendants