

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

Name of Assigned Judge or Magistrate	Suzanne B. Conlon	Sitting Judge/Mag. If Other Than Assigned Judge/Mag.	
Case Number	87 C 1224	Date	February 20, 1990
Case Title	Rosario, et al. v. Livaditis, et al.		

MOTION: [In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3d-party plaintiff, and (b) state briefly the nature of the motion being presented]

Plaintiffs' Petition for Attorneys' Fees

DOCKET ENTRY: (The balance of this form is reserved for notations by court staff.)

(1) Judgment is entered as follows: (2) [Other docket entry:]

Plaintiffs are awarded attorneys' fees in the amount of \$271,711.80.

ENTER MEMORANDUM OPINION AND ORDER.

Suzanne B. Conlon

(3) Filed motion of [use listing in "MOTION" box above].

(4) Brief in support of motion due _____.

(5) Answer brief to motion due _____ Reply to answer brief due _____.

(6) Hearing Ruling on _____ set for _____ at _____.

(7) Status hearing held continued to set for reset for _____ at _____.

(8) Pretrial conference held continued to set for reset for _____ at _____.

(9) Trial set for reset for _____ at _____.

(10) Bench trial Jury trial Hearing held and continued to _____ at _____.

(11) This case is dismissed without with prejudice and without costs by agreement pursuant to FRCP 4(j) (failure to serve) General Rule 21 (want of prosecution) FRCP 41(a) (1) FRCP 41(a)(2)

(12) (For further detail see order on the reverse of order attached to the original minute order form.)

<input checked="" type="checkbox"/> No notices required. <input type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate.	courtroom deputy's initials mkw	Date/time received in central Clerk's Office	number of notices	Document #
			date docketed	
			docketing dpty. initials	
			date mid. notices	
			mailing dpty. initials	

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MARILUZ ROSARIO, et al.,)	
)	
Plaintiffs,)	
)	No. 87 C 1224
v.)	
)	Judge Suzanne B. Conlon
ATHANASIOS LIVADITIS, et al.,)	
)	
Defendants.)	

MEMORANDUM OPINION AND ORDER

Following a lengthy trial, a jury awarded plaintiffs in this class action \$640,422 under the Illinois Consumer Fraud Act ("the CFA"), Ill.Rev.Stat. ch. 121-1/2, § 261 et seq. Section 270a(c) of the CFA provides that reasonable attorneys' fees may be awarded to the prevailing party. Plaintiffs are also entitled to reasonable attorneys' fees as the prevailing parties under 18 U.S.C. § 1964(c); although damages were not awarded, the jury found in plaintiffs' favor on two RICO counts.

Plaintiffs have submitted a fully documented and comprehensive application for attorneys' fees in the amount of \$271,761.80. By affidavit, plaintiffs establish that the billing rates regularly utilized by the Legal Assistance Foundation of Chicago are reasonable and appropriate in relation to the level of experience of the various attorneys and law clerks who have worked on this litigation. Plaintiffs have also thoroughly itemized the time expended. With the exception of one inexplicable entry (Citrano .6 hour billing to "[c]onsult with

Readers Digest reporter regarding this case"), the time designated and tasks itemized also appear reasonable. Although given an extended period to do so, defendants have not challenged the rates or the time expended. Instead, they claim that plaintiffs are not entitled to any attorneys' fees because (1) the CFA does not require fee awards; (2) plaintiffs did not receive damage awards on their two RICO counts; (3) the fee petition is disproportionate to the amount recovered by each individual class member; and (4) it would be an unjust windfall for plaintiffs' attorneys to recover fees when they did not actually issue bills to plaintiffs. These contentions are without merit.

Defendants argue that the use of the precatory term "may" in the CFA provision authorizing the award of attorneys' fees merely vests this court with discretion to award fees and, further, that equitable considerations mitigate against a fee award in this case. Defendants' arguments run counter to the express legislative purpose of the CFA. Liberal construction is required to provide appropriate remedies to defrauded consumers. American Buyers Club of Mt. Vernon v. Honecker, 46 Ill.App.3d 252, 257, 361 N.E.2d 1370, 1374 (5th Dist. 1977).

Even if the awarding of attorneys' fees under the CFA were only discretionary, an award would be appropriate here because ongoing fraudulent conduct resulted in substantial illicit income to the defendants. Furthermore, the limited financial resources of the plaintiffs make it unlikely that they could have pursued

this litigation on their own. These considerations compel reasonable compensation for the public interest lawyers who vigorously and ably prosecuted this case.


Similarly, defendants' contention that plaintiffs are not entitled to attorneys' fees for work done on RICO claims ignores the realities of this litigation. Although damages were not awarded, plaintiffs prevailed on the merits of two RICO claims. The same witnesses and proof were utilized to prove all claims relating to defendants' fraudulent and deceptive conduct. There was a significant evidentiary interrelationship among all plaintiffs' claims. The jury awarded plaintiffs substantial relief in relation to the time reasonably expended by plaintiffs' attorneys. The award of attorneys' fees should not be reduced simply because plaintiffs did not prevail on all their legal theories. Hensley v. Eckerhart, 461 U.S. 424, 440 (1983); Lenard v. Argento, 808 F.2d 1242, 1245-46 (7th Cir. 1987).

Defendants assert that the attorneys' fees claimed are disproportionate to the amount each of the 1404 class members shall recover from the judgment. Defendants cite no legal authority for their argument. This court finds that the fee request is fair and reasonable in light of the complexity and duration of this litigation, the quality of the legal work, the extensive number of witnesses and volume of documentary evidence, the motions and court appearances caused by defendants' intransigence in responding to discovery and the \$640,422 judgment on the CFA claim.

Finally, defendants argue that attorneys' fees may not be awarded because plaintiffs were not actually billed for fees by the Legal Assistance Foundation of Chicago. This argument is frivolous. Denial of fees for public interest lawyers would cripple the statutory remedial schemes invoked in this litigation. Blum v. Stenson, 465 U.S. 886, 895 (1984); Hairston v. R & R Apartments, 510 F.2d 1090, 1092 (7th Cir. 1975); Merchandise Nat. Bank of Chicago v. Scanlon, 86 Ill.App.3rd 719, 408 N.E.2d 248 (1st Dist. 1980).

Accordingly, plaintiffs are awarded attorneys' fees in the amount of \$271,711.80 (\$271,761.80 less \$50 for the Readers Digest consultation).

ENTER:



Suzanne B. Conlon
United States District Judge

February 20, 1990