

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

RUSSELL STEVEN LAPOINTE,)
)
 Plaintiff,)
)
 v.) Nos. 2:15-CV-171
) 2:15-CV-172
 MIDLAND FUNDING, LLC)
 MIDLAND CREDIT MANAGEMENT, INC.,)
)
 Defendants.)

MEMORANDUM OPINION AND ORDER

These matters are before the Court on the plaintiff's Motions for Attorney's Fees and Costs, [Doc. 22 in No. 2:15-CV-171 and Doc. 19 in No. 2:15-CV-172].¹ The defendants have responded, and the plaintiff has replied. The matters are ripe for review. For the reasons that follow, the motions are GRANTED IN PART AND DENIED IN PART.

The plaintiff filed his Complaints, which raise claims under the Fair Debt collection Practices Act ("FDCPA"), on June 22, 2015. The two Complaints are virtually identical. They raise claims against the same defendants for violations of the FDCPA regarding the collection to two debts originally incurred by the plaintiff to two different creditors, i.e. Wal-Mart and JCPenney. Defendants filed their Answers on August 24, 2015. On the same day, the defendants filed a Motion to Consolidate in case number 2:15-CV-171, [Doc. 10]. Also on the same day, the defendants tendered Offers of Judgment to the plaintiff in both cases. These

¹ From this point forward, this Memorandum Opinion will only refer to the filings in case number 2:15-CV-171. The Court has thoroughly reviewed all filings in both cases. All filings, for purposes of these motions, are essentially the same and at times identical. Moreover, prior to the offers of judgment in both cases, the defendants moved to consolidate the cases. However, the offers of judgment rendered the motion moot. In addition, the defendants have asked the Court to take judicial notice of the filings in each case. The Court will do so.

Offers consented to Judgments against the defendants for \$1001.00 plus attorney's fees and costs for each case.

According to plaintiff's counsel's records, counsel began working on responses to the Motion to Consolidate the same day the defendants tendered the Offers of Judgment on August 24, 2015. Counsel's time records confirm that he waited until September 8, 2015, to inform the plaintiff of defendants' Offers of Judgment. Plaintiff accepted these offers the same day they were presented to him. Almost two hours before filing notices of accepting the Offers of Judgment, plaintiff's counsel filed responses to the Motion to Consolidate.

On September 8, 2015, the plaintiff notified the Court of his acceptance of the Offers of Judgment by filing notices with the Court. The Court entered the Judgments on September 9, 2016. Thus, the Motion to Consolidate was rendered moot. Then, on September 23, 2015, the defendants tendered to plaintiff two checks for \$1,001.00.

On October 19, 2015, plaintiff's counsel filed the instant Motions for Attorney's Fees and Costs. In case number -171, counsel seeks \$7,133.00 in attorney's fees and costs of \$470.90 in costs for a total of \$7,603.90. In case number -171, counsel seeks \$6,650.50 in attorney's fees and \$467.47 in costs for a total of \$7,117.97.

The defendants argue that the total request of \$14,721.97 for duplicative and unnecessary work on two identical lawsuits should not be honored and the award should be reduced. The defendants further argue that the cases should have been brought in one suit, that a majority of the work claimed was performed after the Offers of Judgment, and that the hourly rate is excessive.

The FDCPA provides, in material part, "any debt collector who fails to comply with any provision of this subchapter with respect to any person is liable [for] . . . the costs of the action,

together with a reasonable attorney's fee as determined by the court." 15 U.S.C. § 1692k(a)(3); *see also Cotner v. Buffalo & Assocs., PLC*, 3:11-CV-299, 2012 WL 1670552, at *1 (E.D. Tenn. May 14, 2012) (Jordan, J.). A party seeking attorney's fees under a federal fee shifting statute such as the FDCPA bears the burden to show she is entitled to the amount requested. *See Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983); *Reed v. Rhodes*, 179 F.3d 453, 472 (6th Cir. 1999) (citations omitted). The fees requested should be documented, and, where they are not, the district court may reduce the award accordingly. *Reed*, 179 F.3d at 472 (citing *Hensley*, 461 U.S. at 433). The award of attorney's fees is left to the district court's exercise of discretion within the appropriate parameters, which are discussed below. *See Hensley*, 461 U.S. at 437; *Reed*, 179 F.3d at 469 n.2.

Attorney's fees for successful litigants under federal fee shifting statutes are commonly calculated using the "lodestar" method of multiplying the number of hours reasonably expended by a reasonable hourly rate. *Webb v. Board of Educ. of Dyer County, Tenn.*, 471 U.S. 234, 242 (1985); *Hensley*, 461 U.S. at 433; *Adcock-Ladd v. Sec'y of the Treasury*, 227 F.3d 343, 349 (6th Cir. 2000); *Reed*, 179 F.3d at 471. The reasonableness of the hours expended and the attorney's hourly rate must be considered on a case-by-case basis. *Hensley*, 461 U.S. at 429.

Courts may consider several factors to determine the basic lodestar fee and whether to make adjustments to it. *See Hensley*, 461 U.S. at 434 n.9; *Reed*, 179 F.3d at 471. Factors relevant to determination of the lodestar and any adjustments are: "(1) the time and labor required by a given case; (2) the novelty and difficulty of the questions presented; (3) the skill needed to perform the legal service properly; (4) the preclusion of employment by the attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and the

results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the “undesirability” of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases.” *Hensley*, 461 U.S. at 430 n.3 (quoting *Johnson v. Ga. Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974)); *Reed*, 179 F.3d at 472 n.3 (citations omitted).

While the lodestar method is the appropriate starting place for determining attorney’s fees, the inquiry does not end there. *See id.* at 472. Other considerations may lead the district court to adjust the fee. *See id.* “[T]he most critical factor’ in determining the reasonableness of a fee award is ‘the degree of success obtained.’” *Farrar v. Hobby*, 506 U.S. 103, 114 (1992) (citing *Hensley*, 461 U.S. at 436); *see also Cramblit v. Fikse*, 33 F.3d 633, 635 (6th Cir. 1994). Where the purpose of the litigation is to recover damages, then the district court must consider the amount and nature of damages awarded when determining attorney’s fees. *Farrar*, 506 U.S. at 115; *see also Cramblit*, 33 F.3d at 635. Where the plaintiff achieves only partial success against the defendant, the district court must consider whether the plaintiff achieved a level of success that makes the hours reasonably expended a satisfactory basis for making a fee award. *Hensley*, 461 U.S. at 434.

Finally, federal fee shifting statutes do not provide for enhancements of fees in order to compensate for the risk of nonpayment when an attorney takes a case on a contingency basis. *City of Burlington v. Dague*, 505 U.S. 557, 561-63 (1992) (federal fee shifting statutes which authorize a court to award “reasonable attorney’s fees” to a “prevailing or substantially prevailing party” do not authorize fee enhancements for the purpose of compensating attorneys hired on a contingency basis for the risk of loss); *see also Davis v. Mutual Life Ins. Co. of New York*, 6 F.3d 367, 381 (6th Cir. 1993) (holding no fee enhancement due to counsel for taking a

case which impinges significantly on a small practice's ability to take other cases); *Coulter v. Tennessee*, 805 F.2d 146, 149 n. 4 (6th Cir. 1986) ("In short, the lodestar figure includes most, if not all, of the relevant factors comprising a 'reasonable' attorney's fee, and it is unnecessary to enhance the fee for superior performance in order to serve the statutory purpose of enabling plaintiffs to secure legal assistance." (quoting *Pennsylvania v. Del. Valley Citizens' Council for Clean Air*, 478 U.S. 546, 565 (1986))).

Again, the defendants argue that the work claimed is duplicative and unnecessary for several reasons. The defendants argue that the cases should have been brought in one suit. However, the Offers of Judgment rendered the Motion to Consolidate moot. Therefore, there were two separate Judgments and two separate awards. The costs are separate as well. However, in many instances, the plaintiff has billed for the same work in both cases. To the extent that counsel argues that the time was just split in half between the two cases, the total time for performing those tasks was excessive and unreasonable. Moreover, plaintiff's counsel does not address why many of his entries were necessary and reasonable.

This Court relies heavily upon the reasoning and citations to authority in *McGhee v. Buffalo & Assocs., PLC*, No. 2:12-CV-333, 2014 WL 2871479, at *1 (E.D. Tenn. June 24, 2014), which addresses most of the issues raised by the defendants. Furthermore, the defendants' arguments are well-taken. First, the time spent in drafting two form-based Complaints is excessive and unreasonable. Second, the time spent drafting responses to the Motion to Consolidate and drafting the Fee Petitions is excessive and unreasonable. Third, the time spent reviewing Court orders and correspondence is excessive and unreasonable. Fourth, the time billed for communicating with the plaintiff is excessive. Fifth, the time billed for drafting the Rule 26(f) report is unreasonable. Sixth, much of the work was unneeded,

considering the timing of the Offers of Judgment. Seventh, the fees incurred for preparation of the fee petition must be reduced. Finally, the hourly rate must be reduced to \$250.00.

The Court will address each of these reductions via the spreadsheet attached to this Order in line item format.² In sum, the plaintiff's motions are GRANTED IN PART AND DENIED IN PART. Counsel shall be awarded fees and costs; however, the fees sought shall be reduced to a total of \$2,033.88 and total costs of \$938.37.

So ordered.

ENTER:

s/J. RONNIE GREER
UNITED STATES DISTRICT JUDGE

² The spreadsheet was originally attached to defendants' filings as Exhibit 26-1. The Court's spreadsheet has the additional column which includes the Court's ruling.

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
171	9/25/2014	SPL	Email to EHM re phone call from Mr. LaPointe: He is being harassed by Midland Credit Management over a GE Money Bank/Wal-Mart Card from about 5 years ago. Said the original debt was about \$120 to \$150 and he made his payments on it and they kept adding more and more interest and charges and he couldn't make the payments. He said MCM has been calling for about 2 or 3 years. He has received at least three letters so far from them all showing different amounts ranging from \$400 to \$600. He has not been sued yet. He said back in June they were calling him 3 to 4 times per day on his cell phone (only phone he has) but he only answered 1 or 2 times and told the man he was a 71 year old man on SSI who couldn't afford to pay the bill. He was asking if the different amounts they are telling him is illegal. He will check his credit reports to see what they are reporting.	0.25	\$95.00	\$23.75	Plaintiff not entitled to recover time billed prior to counsel being retained	0.25	\$95.00	\$23.75	\$23.75 (defendant objected but still included amount in its proposed total)

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
172	9/25/2014	SPL	Email to EHM re phone call from Mr. LaPointe: He is being harassed by Midland Credit Management over a GE Money Bank/Wal-Mart Card from about 5 years ago. Siad the original debt was about \$120 to \$150 and he made his payments on it and they kept adding more and more interest and charges and he couldn't make the payments. He said MCM has been calling for about 2 or 3 years. He has received at least three letters so far from them all showing different amounts ranging from \$400 to \$600. He has not been sued yet. He said back in June they were calling him 3 to 4 times per day on his cell phone (only phone he has) but he only answered 1 or 2 times and told the man he was a 71 year old man on SSI who couldn't afford o pay the bill. He was asking if the different amounts they are telling him is illegal. He will check his credit reports to see what they are reporting.	0.25	\$95.00	\$23.75	Identical entry appears in bill for both cases.	0	\$0.00	\$0.00	\$0.00
171	9/26/2014	SPL	Voicemail from Mr. LaPointe: Mr. LaPointe left a voicemail last night--said he found three more letters with different amounts as well as a list of the phone calls for a couple of weeks in June	0.05	\$95.00	\$4.75	No objection	0.05	\$95.00	\$4.75	\$4.75

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
172	9/26/2014	SPL	Voicemail from Mr. LaPointe: Mr. LaPointe left a voicemail last night--said he found three more letters with different amounts as well as a list of the phone calls for a couple of weeks in June	0.05	\$95.00	\$4.75	Identical entry appears in bill for both cases.	0	\$0.00	\$0.00	\$0.00
171	10/3/14	SPL	Call from client -- discussed fee arrangements	0.15	\$95.00	\$14.25	No objection	0.15	\$95.00	\$14.25	\$14.75
172	10/3/14	SPL	Call from client -- discussed fee arrangements	0.15	\$95.00	\$14.25	Identical entry appears in bill for both cases.	0	\$0.00	\$0.00	\$0.00
171	10/7/14	EHM	Initial office consultation with Mr. Lapointe	0.5	\$300.00	\$150.00	Excessive rate	0.5	\$250.00	\$125.00	\$125.00
172	10/7/14	EHM	Initial office consultation with Mr. Lapointe	0.5	\$300.00	\$150.00	Excessive rate; unreasonable time entry, if the initial consultation was half an hour	0	\$0.00	\$0.00	\$0.00
171	10/8/14	SPL	Voicemail from Mr. LaPointe: He found another letter from MCM with a different amount. He will put it with the other paperwork you gave him.	0.1	\$95.00	\$9.50	No objection	0.1	\$95.00	\$9.50	\$9.50
172	10/8/14	SPL	Voicemail from Mr. LaPointe: He found another letter from MCM with a different amount. He will put it with the other paperwork you gave him.	0.1	\$95.00	\$9.50	Identical entry appears in bill for both cases; entry references one letter, which likely pertains to only one case, yet time is billed to both cases.	0	\$0.00	\$0.00	\$0.00
171	12/22/14	SPL	Voicemail from Mr. LaPointe: He received more collection letters -- will be working next two days and will try to mail this latest one to you on Wednesday.	0.1	\$95.00	\$9.50	No objection	0.1	\$95.00	\$9.50	\$9.50
172	12/22/14	SPL	Voicemail from Mr. LaPointe: He received more collection letters -- will be working next two days and will try to mail this latest one to you on Wednesday.	0.1	\$95.00	\$9.50	Identical entry appears in bill for both cases.	0	\$0.00	\$0.00	\$0.00

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
171	1/7/15	SPL	Call from Mr. LaPointe: He has broken his cell phone which is the number we have on file for him. He wanted to give you an alternative phone numner to reach him on until he can get his cell phone reactivated. The alternate number is XXX-XXX-8527. He said you were supposed to be filing a lawsuit for him and he didn't want to miss any of your calls.	0.15	\$95.00	\$14.25	Time is excessive and unreasonable.	0.1	\$95.00	\$9.50	\$9.50
172	1/7/15	SPL	Call from Mr. LaPointe: He has broken his cell phone which is the number we have on file for him. He wanted to give you an alternative phone numner to reach him on until he can get his cell phone reactivated. The alternate number is XXX-XXX-8527. He said you were supposed to be filing a lawsuit for him and he didn't want to miss any of your calls.	0.15	\$95.00	\$14.25	Time is excessive and unreasonable; exact same entry appears in bill for both cases.	0	\$0.00	\$0.00	\$0.00
171	2/3/15	SPL	Client called and said he received more letters from Midland Credit and wanted to know if he should send them in and I told him yes to go ahead and send them. He wanted to know if we had any idea when this would be filed because he had been waiting since October. I told him I would pass the message a long to Mr. Mechem.	0.15	\$95.00	\$14.25	No objection	0.15	\$95.00	\$14.25	\$14.25

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
172	2/3/15	SPL	Client called and said he received more letters from Midland Credit and wanted to know if he should send them in and I told him yes to go ahead and send them. He wanted to know if we had any idea when this would be filed because he had been waiting since October. I told him I would pass the message a long to Mr. Mechem.	0.15	\$95.00	\$14.25	Identical entry appears in bill for both cases.	0	\$0.00	\$0.00	\$0.00
171	3/19/15	SPL	Call from Client: He said you were going to send him some paperwork in March and he was just following up. Call him if you have any news.	0.1	\$95.00	\$9.50	No objection	0.1	\$95.00	\$9.50	\$9.50
172	3/19/15	SPL	Call from Client: He said you were going to send him some paperwork in March and he was just following up. Call him if you have any news.	0.1	\$95.00	\$9.50	Identical entry appears in bill for both cases.	0	\$0.00	\$0.00	\$0.00
171	3/27/15	SPL	Client called regarding status of documents he thought the firm was sending him this month. I asked him if had requested his credit reports and he said no. After talking to him, I sent the credit report request form to his email address. He will complete that and send it off and will send the credit reports to us when he receives them. He also has 3 or 4 more letters that he will send as well.	0.15	\$95.00	\$14.25	No objection.	0.15	\$95.00	\$14.25	\$14.25

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
172	3/27/15	SPL	Client called regarding status of documents he thought the firm was sending him this month. I asked him if had requested his credit reports and he said no. After talking to him, I sent the credit report request form to his email address. He will complete that and send it off and will send the credit reports to us when he receives them. He also has 3 or 4 more letters that he will send as well.	0.15	\$95.00	\$14.25	Identical entry appears in bill for both cases.	0	\$0.00	\$0.00	\$0.00
171	3/30/15	SPL	Mr. LaPointe called. he received the credit report form and wanted to make sure what he needed to do. I told him he needed to complete the form, fill in the circles next to the credit reporting agency and mail it to the address at the top of the form. Told him it would take about 2 weeks and he would get all 3 credit reports. He will send those in as he gets them. He also received 3 other letters from Midland and will send those as well.	0.2	\$95.00	\$19.00	No objection.	0.2	\$95.00	\$19.00	\$19.00

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
172	3/30/15	SPL	Mr. LaPointe called. he received the credit report form and wanted to make sure what he needed to do. I told him he needed to complete the form, fill in the circles next to the credit reporting agency and mail it to the address at the top of the form. Told him it would take about 2 weeks and he would get all 3 credit reports. He will send those in as he gets them. He also received 3 other letters from Midland and will send those as well.	0.2	\$95.00	\$19.00	Identical entry appears in bill for both cases.	0	\$0.00	\$0.00	\$19.00
171	4/30/15	SPL	Call from Mr. LaPointe: He said he mailed in the credit report form you gave him a month ago and haven't received this credit report yet. He also said you would send in for him if he didn't receive it. He said you should probably put is actual full name this time. He just probably put Steve LaPointe and his whole name is Russell Steven LaPointe.	0.15	\$95.00	\$14.25	No objection	0.15	\$95.00	\$14.25	\$14.25
172	4/30/15	SPL	Call from Mr. LaPointe: He said he mailed in the credit report form you gave him a month ago and haven't received this credit report yet. He also said you would send in for him if he didn't receive it. He said you should probably put is actual full name this time. He just probably put Steve LaPointe and his whole name is Russell Steven LaPointe.	0.15	\$95.00	\$14.25	Identical entry appears in bill for both cases.	0	\$0.00	\$0.00	\$0.00

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
171	6/8/15	SPL	Call from Mr. LaPointe - message to Everett: We called him last week about coming in to talk to you before filing two possible FDCPA complaints for letters v Credit reports with inaccurate numbers.	0.15	\$95.00	\$14.25	No objection	0.15	\$95.00	\$14.25	\$14.25
172	6/8/15	SPL	Call from Mr. LaPointe - message to Everett: We called him last week about coming in to talk to you before filing two possible FDCPA complaints for letters v Credit reports with inaccurate numbers.	0.15	\$95.00	\$14.25	Identical entry appears in bill for both cases.	0	\$0.00	\$0.00	\$0.00
171	6/10/15	EHM	Research and prepared draft complaint re Midland/WalMart	3.5	\$300.00	\$1,050.00	Excessive rate; excessive time for copied-and-pasted complaint; contains unnecessary time for research	1.2	\$250.00	\$300.00	\$300.00
172	6/10/15	EHM	Research and prepared draft complaint re Midland/JC Penney	3.5	\$300.00	\$1,050.00	Excessive rate; excessive time for copied-and-pasted complaints; contains unnecessary time for research; separate lawsuit unnecessary	0	\$0.00	\$0.00	0.5 x \$250= \$125.00
171	6/10/15	SPL	Email to Mr. LaPointe with attachments for review and signature: Mr. LaPointe, Attached for your review is a complaint against Midland Funding and Midland Credit regarding the GE/Money Bank/Wal-Mart account. Please let me know if there are any changes or corrections. If none, please sign the attached Oath and return to us. Your signature will need to be notarized.	0.3	\$95.00	\$28.50	No objection	0.3	\$95.00	\$28.50	\$28.50

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
172	6/11/15	SPL	Email to Mr. LaPointe re: 2nd case - Midland/JC Penney: Mr. LaPointe, Attached is the complaint against Midland Funding/Midland Credit on the GEMB/JC Penney account. Please review this and let me know if there are any corrections or changes. If not, please print and sign the attached Oath in front of a notary and return it to our office. If you have any questions please call. Thank you.	0.3	\$95.00	\$28.50	Two identical emails were sent regarding each matter.	0	\$0.00	\$0.00	\$0.00
171	6/12/15	SPL	Mr. LaPointe called regarding the emails I sent him. He is to print off the oaths for each complaint and sign them in front of a notary and send them back to us. He said he would do that. He wanted to know if I though Midland would sue him after we do this. I told him he needed to talk to Everett at that point.	0.3	\$95.00	\$28.50	No objection	0.3	\$95.00	\$28.50	\$28.50
172	6/12/15	SPL	Mr. LaPointe called regarding the emails I sent him. He is to print off the oaths for each complaint and sign them in front of a notary and send them back to us. He said he would do that. He wanted to know if I though Midland would sue him after we do this. I told him he needed to talk to Everett at that point.	0.3	\$95.00	\$28.50	Identical entry appears in bill for both cases.	0	\$0.00	\$0.00	\$0.00

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
171	6/12/15	SPL	Called client to follow up regarding his approval to file complaints. Also explained to him that the statute was running on some of the letters and he said he wasn't worried about that, that he had 4 or 5 more letters from them.	0.25	\$95.00	\$23.75	No objection	0.25	\$95.00	\$23.75	\$23.75
172	6/12/15	SPL	Called client to follow up regarding his approval to file complaints. Also explained to him that the statute was running on some of the letters and he said he wasn't worried about that, that he had 4 or 5 more letters from them.	0.25	\$95.00	\$23.75	Identical entry appears in bill for both cases.	0	\$0.00	\$0.00	\$0.00
171	6/15/15	EHM	Received message to call client	0.1	\$300.00	\$30.00	Excessive rate	0.1	\$250.00	\$25.00	\$25.00
172	6/15/15	EHM	Received message to call client	0.1	\$300.00	\$30.00	Excessive rate; time is excessive and unreasonable, as entry for the same activity is billed to both cases	0	\$0.00	\$0.00	\$0.00
171	6/15/15	EHM	Returned call to client re questions on complaint, etc.	0.25	\$300.00	\$75.00	Excessive rate	0.25	\$250.00	\$62.50	\$62.50
172	6/15/15	EHM	Returned call to client re questions on complaint, etc.	0.25	\$300.00	\$75.00	Excessive rate; time is excessive and unreasonable, as entry for the same activity is billed to both cases	0	\$0.00	\$0.00	\$0.00
171	6/22/15	SPL	Filed complaint -- Midland/WalMart Penney, summonses and cover sheet	1	\$95.00	\$95.00	No objection	1	\$95.00	\$95.00	\$95.00
172	6/22/15	SPL	Filed complaint -- Midland/JC Penney, summonses and cover sheet	1	\$95.00	\$95.00	Time is excessive and unreasonable; time billed for unnecessarily filing separate lawsuit; same entry appears in both bills	0	\$0.00	\$0.00	\$0.00

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
171	7/1/15	EHM	Reviewed Court's Order re case # 2:15-cv-171 and #2:15-cv-172 are related and need to be assigned to same judge, Judge Greer	0.1	\$300.00	\$30.00	Excessive rate	0.1	\$250.00	\$25.00	\$25.00
172	7/1/15	EHM	Reviewed Court's Order re case # 2:15-cv-171 and #2:15-cv-172 are related and need to be assigned to same judge, Judge Greer	0.1	\$300.00	\$30.00	Excessive rate; billed twice for same task	0	\$0.00	\$0.00	\$0.00
171	7/2/15	EHM	Reviewed Court's Order re 2:15-cv-171; filing of 12(b) motions discourage if defect can be cured by filing an amended pleading	0.1	\$300.00	\$30.00	Excessive rate	0.1	\$250.00	\$25.00	\$25.00
172	7/2/15	SPL	Prepared and filed Summons returned executed as to Midland Funding in #2:15-cv-172	0.2	\$95.00	\$19.00	Time is unreasonable; time billed for preparation of summons in second lawsuit when claims should have been brought in one lawsuit	0	\$0.00	\$0.00	\$19.00
171	7/10/15	SPL	Prepared and filed Summonses returned executed as to Midland Funding and Midland Credit in #2:15-cv-171	0.3	\$95.00	\$28.50	No objection	0.3	\$95.00	\$28.50	\$28.50
172	7/10/2015	SPL	Prepared and filed Summons returned executed as to Midland Credit in #2:15-cv-172	0.2	\$95.00	\$19.00	Time is unreasonable, as time billed for preparation of summons in both lawsuits when claims should have been brought in one lawsuit	0	\$0.00	\$0.00	\$19.00
171	7/17/2015	EHM	Received email from opposing counsel with proposed stipulations and responded to same	0.15	\$300.00	\$45.00	Excessive rate	0.15	\$250.00	\$37.50	\$37.50

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
172	7/17/2015	EHM	Received email from opposing counsel with proposed stipulations and responded to same	0.15	\$300.00	\$45.00	Excessive rate; billed twice for same task	0	\$0.00	\$0.00	\$37.50
171	7/17/2015	EHM	Phone conference with opposing counsel, Frank Springfield re extension of time to file answer/response in both cases	0.15	\$300.00	\$45.00	Excessive rate	0.15	\$250.00	\$37.50	\$37.50
172	7/17/2015	EHM	Phone conference with opposing counsel, Frank Springfield re extension of time to file answer/response in both cases	0.15	\$300.00	\$45.00	Excessive rate; billed twice for same task	0	\$0.00	\$0.00	\$0.00
171	7/17/2015	EHM	Reviewed Stipulations of Extension of Time filed by opposing counsel on both cases	0.15	\$300.00	\$45.00	Excessive rate	0.15	\$250.00	\$37.50	\$37.50
172	7/17/2015	EHM	Reviewed Stipulations of Extension of Time filed by opposing counsel on both cases	0.15	\$300.00	\$45.00	Excessive rate; billed twice for same task; only one case needed	0	\$0.00	\$0.00	\$0.00
171	7/22/2015	EHM	Reviewed Court's Order re scheduling orders, etc. on #2:15-cv-171	0.3	\$300.00	\$90.00	Excessive rate	0.3	\$250.00	\$75.00	\$75.00
171	7/31/2015	EHM	Received message to call opposing counsel	0.1	\$300.00	\$30.00	Excessive rate	0.1	\$250.00	\$25.00	\$25.00
172	7/31/2015	EHM	Received message to call opposing counsel	0.1	\$300.00	\$30.00	Excessive rate; billed twice for same task	0	\$0.00	\$0.00	\$0.00
171	8/5/2015	EHM	Prepared Settleemnt Demand letter to opposing counsel on both cases	0.15	\$300.00	\$45.00	Excessive rate	0.15	\$250.00	\$37.50	\$37.50
172	8/5/2015	EHM	Prepared Settleemnt Demand letter to opposing counsel on both cases	0.15	\$300.00	\$45.00	Excessive rate; billed twice for same task; only one case needed	0	\$0.00	\$0.00	\$0.00
171	8/10/2015	EHM	Reviewed Unopposed Motion for Extension of Time to File Answer in 2:15-cv-171	0.1	\$300.00	\$30.00	Excessive rate	0.1	\$250.00	\$25.00	\$25.00

Case No.	Date	Time- Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
172	8/10/2015	EHM	Reviewed Unopposed Motion for Extension of Time to File Answer in 2:15-cv-172	0.1	\$300.00	\$30.00	Excessive rate; time billed for review of motion in second lawsuit unnecessary because claims could have been filed in one lawsuit	0	\$0.00	\$0.00	\$0.00
171	8/11/2015	EHM	Reviewed Court's notice regarding granting Defendants' Motions for Extension of Time to file Answers in both cases	0.15	\$300.00	\$45.00	Excessive rate; excessive time	0.1	\$250.00	\$25.00	\$25.00
172	8/11/2015	EHM	Reviewed Court's notice regarding granting Defendants' Motions for Extension of Time to file Answers in both cases	0.15	\$300.00	\$45.00	Excessive rate; excessive time; time billed for review of motion in second lawsuit unnecessary because claims could have been filed in one lawsuit; billed twice for same task	0	\$0.00	\$0.00	\$0.00
171	8/13/2015	SPL	Mr. LaPointe called regarding status of his cases. Told him that the Court gave Midland until August 24 to file an Answer. Told him we would let him know if anything happened before that.	0.15	\$95.00	\$14.25	No objection	0.15	\$95.00	\$14.25	\$14.25
172	8/13/2015	SPL	Mr. LaPointe called regarding status of his cases. Told him that the Court gave Midland until August 24 to file an Answer. Told him we would let him know if anything happened before that.	0.15	\$95.00	\$14.25	Identical entry appears in bill for both cases.	0	\$0.00	\$0.00	\$0.00
172	8/17/2015	EHM	Reviewed Court's Order re discouraging filing of 12(b) Motion in 2:15-cv-172 if defect can be cured by filig amended pleading.	0.15	\$300.00	\$45.00	Excessive rate; only one case needed	0	\$0.00	\$0.00	\$0.00
171	8/21/2015	SPL	Drafted proposed Report of Parties' Planning Meeting and emailed to opposing counsel in 2:15-cv-171	0.6	\$95.00	\$57.00	Unnecessary time, as Defendants had not even answered or otherwise responded to complaint.	0	\$0.00	\$0.00	\$0.00

Case No.	Date	Time- Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
171	8/21/2015	EHM	Reviewed and revised draft Report of Parties' Planning Meeting	0.8	\$300.00	\$240.00	Excessive rate; unnecessary time, as Defendants had not even answered or otherwise responded to complaint.	0	\$0.00	\$0.00	\$0.00
171	8/24/2015	EHM	Reviewed documents filed by opposing counsel: Motion and Memo to Consolidate Cases; Offers of Judgment on both cases; Certificates of Corporate Interest for defendants; Answers on both cases; research regarding consolidation	1.25	\$300.00	\$375.00	Excessive rate; contains unnecessary time toward researching consolidation because Offers of Judgment should have been discussed with Plaintiff	0.2	\$250.00	\$50.00	\$50.00
172	8/24/2015	EHM	Reviewed documents filed by opposing counsel: Motion and Memo to Consolidate Cases; Offers of Judgment on both cases; Certificates of Corporate Interest for defendants; Answers on both cases; research regarding consolidation	1.25	\$300.00	\$375.00	Excessive rate; contains unnecessary time toward researching consolidation because Offers of Judgment should have been discussed with Plaintiff; contains unnecessary time as Plaintiff could have filed one lawsuit; billed twice for same task; Motion to Consolidate not filed in Case No. 172	0	\$0.00	\$0.00	\$0.00
171	8/25/2015	EHM	Reviewed Court's Orders in both cases re availability of magistrate judge	0.15	\$300.00	\$45.00	Excessive rate; excessive time	0.1	\$250.00	\$25.00	\$25.00
172	8/25/2015	EHM	Reviewed Court's Orders in both cases re availability of magistrate judge	0.15	\$300.00	\$45.00	Excessive rate; excessive time; contains unnecessary time as Plaintiff could have filed one lawsuit; billed twice for same task	0	\$0.00	\$0.00	\$0.00

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
171	9/3/2015	EHM	Prepared and filed Motion for Extension of Time to File Report of the Parties' Planning Meeting	0.4	\$300.00	\$120.00	Excessive rate	0.4	\$250.00	\$100.00	\$100.00
171	9/4/2015	EHM	Researched and drafted response to Motion to Consolidate cases	3	\$300.00	\$900.00	Excessive rate; contains unnecessary time toward response to motion to consolidate	0	\$0.00	\$0.00	\$0.00
172	9/4/2015	EHM	Researched and drafted response to Motion to Consolidate cases	3	\$300.00	\$900.00	Excessive rate; contains unnecessary time toward response to motion to consolidate; contains time billed to draft response to motion that was not filed in Case No. 172	0	\$0.00	\$0.00	\$0.00
171	9/5/2015	EHM	Reveiwed and revised draft Response to Motion to Consolidate cases	3	\$300.00	\$900.00	Excessive rate; contains unnecessary time toward response to motion to consolidate.	0	\$0.00	\$0.00	\$0.00
172	9/5/2015	EHM	Reveiwed and revised draft Response to Motion to Consolidate cases	3	\$300.00	\$900.00	Excessive rate; contains unnecessary time toward response to motion to consolidate; contains time billed to draft response to motion that was not filed in Case No. 172	0	\$0.00	\$0.00	\$0.00
171	9/8/2015	EHM	Finalized and filed Response in Opposition to Motion to Consolidate cases. Spoke with client regarding Offer of Judgment. Prepared and filed Notice of Acceptance of Offer of Judgment	1.1	\$300.00	\$330.00	Excessive rate; contains unnecessary time toward response to motion to consolidate	0.4	\$250.00	\$100.00	\$100.00

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
172	9/8/2015	EHM	Finalized and filed Response in Opposition to Motion to Consolidate cases. Spoke with client regarding Offer of Judgment. Prepared and filed Notice of Acceptance of Offer of Judgment	1.1	\$300.00	\$330.00	Excessive rate; contains unnecessary time toward response to motion to consolidate; contains time billed to draft response to motion that was not filed in Case No. 172; only one case needed	0	\$0.00	\$0.00	\$0.00
171	9/8/2015	EHM	Received email from Frank Springfield: Everett, I am in receipt of your notice of acceptance of Midland's Offers of Judgment for the two LaPointe cases. If you will please forward me your fees and expenses for each case, we can see if we can get everything workf out without having to involve the Court to set those. Thanks.	0.15	\$300.00	\$45.00	Excessive rate; excessive time	0.1	\$250.00	\$25.00	\$25.00
172	9/8/2015	EHM	Received email from Frank Springfield: Everett, I am in receipt of your notice of acceptance of Midland's Offers of Judgment for the two LaPointe cases. If you will please forward me your fees and expenses for each case, we can see if we can get everything workf out without having to involve the Court to set those. Thanks.	0.15	\$300.00	\$45.00	Excessive rate; excessive time; billed twice for same task	0	\$0.00	\$0.00	\$0.00
171	9/9/2015	EHM	Received email from John Marshall Smith, Judge Corker's law clerk, and opposing counsel's response to same, since plaintiff accepted Offer of Judgment in both cases if the motion to consolidate and request for extension of time are now moot	0.15	\$300.00	\$45.00	Excessive rate; excessive time	0.1	\$250.00	\$25.00	\$25.00

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
172	9/9/2015	EHM	Received email from John Marshall Smith, Judge Corker's law clerk, and opposing counsel's response to same, since plaintiff accepted Offer of Judgment in both cases if the motion to consolidate and request for extension of time are now moot.	0.15	\$300.00	\$45.00	Excessive rate; excessive time; billed twice for same task	0	\$0.00	\$0.00	\$0.00
171	9/9/2015	EHM	Reviewed Court's Judgment	0.1	\$300.00	\$30.00	Excessive rate	0.1	\$250.00	\$25.00	\$25.00
172	9/9/2015	EHM	Reviewed Court's Judgment	0.1	\$300.00	\$30.00	Excessive rate and time; should only be one case	0	\$0.00	\$0.00	\$0.00
171	9/21/2015	EHM	Research and drafted Motion for attorney fees & costs & Memo in support	3.2	\$300.00	\$960.00	Excessive rate; contains unnecessary time toward recycled fee petition; fee incurred after OOJ	0	\$0.00	\$0.00	\$47.63
172	9/21/2015	EHM	Research and drafted Motion for attorney fees & costs & Memo in support	3.2	\$300.00	\$960.00	Excessive rate; contains unnecessary time toward recycled fee petition; fee incurred after OOJ	0	\$0.00	\$0.00	\$0.00
171	9/23/2015	SPL	Client called regarding status of his case. I told him that WHM was talking to opposing counsel re settlement. I told him that what EHM was trying to do was to get them to write the debt off (couldn't guarantee this), get EHM's fees and statutory damages for him. I told him that we would call him if EHM got his case settled.	0.3	\$95.00	\$28.50	Fee incurred after OOJ accepted; trying to strike a new deal that was not part of the case	0	\$95.00	\$0.00	\$28.50

Case No.	Date	Time- Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
172	9/23/2015	SPL	Client called regarding status of his case. I told him that WHM was talking to opposing counsel re settlement. I told him that what EHM was trying to do was to get them to write the debt off (couldn't guarantee this), get EHM's fees and statutory damages for him. I told him that we would call him if EHM got his case settled.	0.3	\$95.00	\$28.50	Fee incurred after OOJ accepted; billed twice for same task	0	\$0.00	\$0.00	\$0.00
171	9/23/2015	EHM	Phone call to opposing counsel regarding fees and expenses	0.15	\$300.00	\$45.00	Excessive rate; fee incurred after OOJ accepted	0	\$250.00	\$0.00	\$37.50
172	9/23/2015	EHM	Phone call to opposing counsel regarding fees and expenses	0.15	\$300.00	\$45.00	Excessive rate; billed twice for same task; fee incurred after OOJ accepted	0	\$0.00	\$0.00	\$0.00
171	9/23/2015	EHM	Email to opposing counsel o follow up on phone call regarding fees and expenses	0.15	\$300.00	\$45.00	Excessive rate; billed twice for same task; fee incurred after OOJ accepted	0	\$250.00	\$0.00	\$37.50
172	9/23/2015	EHM	Email to opposing counsel o follow up on phone call regarding fees and expenses	0.15	\$300.00	\$45.00	Excessive rate; billed twice for same task; fee incurred after OOJ accepted	0	\$0.00	\$0.00	\$0.00
171	9/23/2015	EHM	Email from opposing counsel regarding fees and expenses	0.15	\$300.00	\$45.00	Excessive rate; fee incurred after OOJ accepted	0	\$250.00	\$0.00	\$37.50
172	9/23/2015	EHM	Email from opposing counsel regarding fees and expenses	0.15	\$300.00	\$45.00	Excessive rate; billed twice for same task; fee incurred after OOJ accepted	0	\$0.00	\$0.00	\$0.00
171	9/23/2015	EHM	Received email from opposing counsel re breakdown of fees and expenses	0.15	\$300.00	\$45.00	Excessive rate; fee incurred after OOJ	0	\$250.00	\$0.00	\$37.50
172	9/23/2015	EHM	Received email from opposing counsel re breakdown of fees and expenses	0.15	\$300.00	\$45.00	Excessive rate; billed twice for same task; fee incurred after OOJ accepted	0	\$0.00	\$0.00	\$0.00

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
171	10/8/2015	EHM	Prepared draft Joint Motion for Extension to file Plaintiff's Motion for Attorney fees and Costs and emailed same to Frank Springfield	0.15	\$300.00	\$45.00	Excessive rate; fee incurred after OOJ accepted; unnecessary time toward motion for attorney's fees; fees could have been avoided if motion timely filed	0	\$250.00	\$0.00	\$0.00
171	10/8/2015	EHM	Prepared draft Joint Motion for Extension to file Plaintiff's Motion for Attorney fees and Costs and emailed same to Frank Springfield	0.15	\$300.00	\$45.00	Excessive rate; billed twice for same task; fee incurred after OOJ accepted; unnecessary time toward motion for attorney's fees; fees could have been avoided if motion timely filed	0	\$0.00	\$0.00	\$0.00
171	10/8/2015	EHM	Received email from opposing counsel re proposed Joint Motion and replied to same	0.15	\$300.00	\$45.00	Excessive rate; fee incurred after OOJ accepted; unnecessary time toward motion for attorney's fees; fees could have been avoided if motion timely filed	0	\$250.00	\$0.00	\$0.00
172	10/8/2015	EHM	Received email from opposing counsel re proposed Joint Motion and replied to same	0.15	\$300.00	\$45.00	Excessive rate; billed twice for same task; fee incurred after OOJ accepted; unnecessary time toward motion for attorney's fees; fees could have been avoided if motion timely filed	0	\$250.00	\$0.00	\$0.00
171	10/8/2015	EHM	Received 2nd email from opposing counsel regarding changes to proposed Joint Motion	0.15	\$300.00	\$45.00	Excessive rate; fee incurred after OOJ accepted; unnecessary time toward motion for attorney's fees	0	\$250.00	\$0.00	\$0.00

Case No.	Date	Time-Keeper	Entry	Time	Rate	Amount Billed	Objection	Proposed Time	Proposed Rate	Proposed Total	Court Ruling
172	10/8/2015	EHM	Received 2nd email from opposing counsel regarding changes to proposed Joint Motion	0.15	\$300.00	\$45.00	Excessive rate; billed twice for same task; fee incurred after OOJ accepted; unnecessary time toward motion for attorney's fees	0	\$0.00	\$0.00	\$0.00
171	10/14/2015	EHM	Finalized Motion for Fees and Costs and obtained supporting affidavits	1.6	\$300.00	\$480.00	Excessive rate; fee incurred after OOJ accepted; unnecessary time toward motion for attorney's fees	0	\$250.00	\$0.00	\$0.00
172	10/14/2015	EHM	Finalized Motion for Fees and Costs and obtained supporting affidavits	1.6	\$300.00	\$480.00	Excessive rate; billed twice for same task; fee incurred after OOJ accepted; unnecessary time toward motion for attorney's fees	0	\$0.00	\$0.00	\$0.00
171	10/15/2015	SPL	Compiled and formatted Motion for Attorney Fees and Costs for filing with the Court	1.5	\$95.00	\$142.50	Fee incurred after OOJ accepted; unnecessary time toward motion for attorney's fees	0	\$95.00	\$0.00	\$0.00
172	10/15/2015	SPL	Compiled and formatted Motion for Attorney Fees and Costs for filing with the Court	1.5	\$95.00	\$142.50	Billed twice for same task; fee incurred after OOJ accepted; unnecessary time toward motion for attorney's fees	0	\$95.00	\$0.00	\$0.00
TOTALS				54.35		\$13,783.50		8.8		\$1,587.75	\$2,033.88