

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

_____	)	
HAROLD LEONARD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 96-360-GMS
	)	
UNIVERSITY OF DELAWARE, a	)	
corporation of the State of Delaware,	)	
PAUL METTLER, and MARY	)	
MARTIN,	)	
	)	
Defendants.	)	
_____	)	

**ORDER**

**I. INTRODUCTION**

On July 2, 1996, Harold Leonard (“Leonard”) filed the above-captioned action against the University of Delaware (“the University”), Paul Mettler, and Mary Martin (collectively “the defendants”) for violating his constitutional right to due process and for breaching a prior settlement agreement. The parties reached a settlement on November 21, 2001. On May 24, 2002, the court granted the defendants’ motion to enforce this settlement. In that order, the court also awarded the defendants reasonable attorneys’ fees incurred in preparing the motion to enforce the settlement agreement.

Presently before the court is the defendants’ fee petition and motion to deduct the fees from the settlement amount. For the following reasons, the court will award the defendants reasonable attorneys’ fees. The court will further grant the defendants’ motion to deduct the fees from the settlement amount.

## II. DISCUSSION

### A. Reasonableness of Fees

The defendants request fees and expenses in the amount of \$6,900.87. Leonard objects to the reasonableness of these fees because the fee petition: (1) lacks an affidavit establishing a normal billing rate; (2) lacks appropriate documentation as to the hours expended and the hourly rate; and (3) lacks evidence supporting the reasonableness and necessity of the expenses for which reimbursement is sought.<sup>1</sup>

With regard to Leonard's first concern, the court is unpersuaded that the lack of an affidavit renders the fee petition invalid. As the defendants correctly note, the court awarded attorneys' fees as a sanction against Leonard because he acted vexatiously and in bad faith. As such, the court is eminently capable of determining whether the requested fees are a reasonable sanction without the aid of an affidavit.

As to Leonard's second concern, the defendants themselves have already remedied the fee petition's alleged defect. Accordingly, the defendants have now provided the court, and Leonard, with a detailed description of the time expended and the hourly rate utilized for each task. After reviewing this information, the court finds that an award of attorneys' fees in the amount of \$5,837.75 is reasonable, and will suffice as an appropriate sanction against Leonard.

The defendants additionally request that the court award them \$1,063.12 in costs and

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<sup>1</sup>The court is also in receipt of the Leonard's letter dated June 19, 2002, which he filed without the assistance of his counsel. The letter contains arguments solely to the effect that the court should not have enforced the settlement agreement and that an award of attorneys' fees was inappropriate in this case. The letter does not contest the amount of attorneys' fees enumerated in the fee petition presently pending before the court. Thus, to the extent that the letter is a motion for reconsideration of the court's May 24, 2002 Memorandum and Order, it will be disregarded as untimely. *See* Local Rule 7.1.5.

expenses. The court declines to do so as it has concluded that the above-determined award of attorneys' fees is an adequate sanction on these facts.

**B. Deduction of Fees From the Settlement Agreement**

The defendants further ask that the court authorize them to deduct the amount of attorneys' fees awarded to them from the amount owed to Leonard under the settlement agreement. Indeed, the defendants submit that such protection is their best, and perhaps only, chance of recovering the awarded attorneys' fees. Given the tortured history of this case, and specifically the behavior that led the court to sanctioning Leonard, the court will grant this request. In so ordering, the court concludes that this outcome is a fair and prudent manner of safeguarding the funds in dispute.

**III. CONCLUSION**

For the foregoing reasons, IT IS HEREBY ORDERED that:

1. The Defendants' fee petition (D.I. 251) is approved in the amount of \$5,837.75.
2. The Defendants shall deduct this amount from the \$6,900.87 currently held in escrow and promptly remit the remainder of the amount held in escrow to the Plaintiff.

Date: July 9, 2002

Gregory M. Sleet  
UNITED STATES DISTRICT JUDGE