

**FILED**  
KING COUNTY, WASHINGTON

Hon. Monica J. Benton

**OCT 30 2013**

**SUPERIOR COURT CLERK  
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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

ISABELLE BICHINDARITZ,

Plaintiff,

v.

UNIVERSITY OF WASHINGTON,

Defendant.

No. 12-2-05747-8 SEA

**[PROPOSED] FINDINGS OF FACT AND  
CONCLUSIONS OF LAW REGARDING  
PLAINTIFFS' PETITION FOR  
ATTORNEY FEES AND COSTS**

THIS MATTER came on regularly before this Court on Plaintiffs' Petition for Attorney Fees and Costs. The Court considered the following:

Plaintiffs' Petition for Attorney Fees and Costs;

The Declaration of John P. Sheridan in Support of Plaintiffs' Petition for Attorney Fees and Costs with attached exhibits;

The Declaration of Beth Touschner in Support of Plaintiffs' Petition for Attorney Fees and Costs;

The Declaration of Scott Blankenship in Support of Plaintiffs' Petition for Attorney Fees and Costs;

The Defendant's response in opposition to Plaintiff's Petition for Attorney Fees and Costs;

**ORIGINAL**

**[PROPOSED] FINDINGS OF FACT AND  
CONCLUSIONS OF LAW REGARDING  
PLAINTIFFS' PETITION FOR ATTORNEY FEES,  
COSTS AND PREJUDGMENT INTEREST**

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1 The declaration(s) of counsel in opposition to Plaintiffs' Petition for Attorney Fees and  
2 Costs with attached exhibits;

3 Plaintiffs' Reply and supporting declaration with attached exhibits; and,  
4 The record of these proceedings.

5 Having been fully advised, the Court makes the following findings of fact and  
6 conclusions of law.  
7

8 1. These findings of fact and conclusions of law are issued in connection with the  
9 plaintiffs' petition for attorney fees. Our Supreme Court requires the entry of findings of fact  
10 in fee award decisions. *Mahler v. Szucs*, 135 Wn.2d 398, 435, 957 P.2d 632 (1998).

11 **Background**

12 2. This case was filed on February 14, 2012, in King County Superior Court  
13 alleging violations of the Public Records Act, RCW 42.56. This Court entered findings of fact  
14 and conclusions of law on September 11, 2013, which provided in part, that plaintiff shall be  
15 awarded attorney fees and costs.  
16

17 3. Under the PRA, if the State fails to provide requested documents in violation of  
18 the PRA, the State must pay attorney fees, costs, and penalties to the person who requested the  
19 documents:  
20

21 Any person who prevails against an agency in any action in the courts seeking  
22 the right to inspect or copy any public record or the right to receive a response to  
23 a public record request within a reasonable amount of time shall be awarded all  
24 costs, including reasonable attorney fees, incurred in connection with such legal  
25 action. In addition, it shall be within the discretion of the court to award such  
person an amount not to exceed one hundred dollars for each day that he or she  
was denied the right to inspect or copy said public record.

RCW 42.56.550(4).

1           4.       The plaintiff prevailed in this case, and with a \$723,000.00 verdict, achieved  
2 excellent results. *See, e.g., Blair v. Wash. State University*, 108 Wn.2d 558, 572 (1987), *Steele*  
3 *v. Lundgren*, 96 Wn. App. 773, 783 (2000). Thus, she is entitled to an award of reasonable  
4 attorney fees. Our Supreme Court has given trial courts broad discretion in awarding attorney  
5 fees. "In order to reverse an attorney fee award, an appellate court must find the trial court  
6 manifestly abused its discretion." *Pham v. Seattle City Light*, 159 Wn.2d 538, 540, 151 P.3d  
7 976 (2007).

8  
9           5.       The Washington State Supreme Court has determined that the calculation of an  
10 award of a reasonable attorney fee involves several determinations, the first of which is the  
11 calculation of a "lodestar figure." *Id.* (citing *Bowers v. Transamerica Title Insurance Co.*, 100  
12 Wn.2d 581, 597 (1983)). The lodestar figure is the product of the attorney's reasonable rate of  
13 hourly compensation multiplied by the number of attorney hours reasonably expended in the  
14 litigation. *Bowers*, 100 Wn.2d at 593. An attorney's established rate for billing clients is  
15 usually the reasonable hourly rate for calculation of the lodestar. *Id.* at 596-598. **"Where the**  
16 **attorneys in question have an established rate for billing clients, that rate will likely be a**  
17 **reasonable rate."** *Id.* at 597. Trial judges are in the best position to determine the amount of  
18 attorney fees and costs, and are thus given broad discretion in determining the lodestar. *Pham v.*  
19 *Seattle City Light*, 159 Wn.2d at 540.

20  
21  
22                   **Plaintiffs' Attorneys' Hourly Rates**

23           6.       In assessing the reasonableness of the hourly rates of counsel, the Court has  
24 independently reviewed the billing records submitted by the parties and the declarations of their  
25 attorneys and staff.

1           7.       Jack Sheridan—Mr. Sheridan requests an hourly rate of \$550 per hour. This  
2 court finds that the \$550 per hour rate is Mr. Sheridan's established hourly in that he bills  
3 hourly clients at that rate. This rate "will likely be a reasonable rate." *Bowers v. Transamerica*  
4 *Title Insurance Co.*, 100 Wn.2d 581, 597 (1983). On January 1, 2013, I became a partner at  
5 MacDonald, Hoague & Bayless, which is a prominent Seattle law firm that focuses on civil  
6 rights and immigration. This Court finds Mr. Sheridan's rate to be reasonable for attorneys  
7 with his level of experience and expertise. This Court finds that Mr. Sheridan has been an  
8 attorney since 1984 and that he has extensive experience as a trial attorney having conducted  
9 numerous jury trials in his career both in the military and in private and public practice. This  
10 Court finds that Mr. Sheridan has focused his practice on civil rights and public interest law  
11 since 1994, and that some of his cases have helped shape the development of Washington law.  
12 *See e.g., Martini v. Boeing*, 137 Wn. 2d 357 (1999), *Brundridge v. Fluor Fed. Services, Inc.*,  
13 164 Wn.2d 432, 191 P.3d 879 (2008), *Pham v. Seattle City Light*, 159 Wn.2d 538, 540, 151  
14 P.3d 976 (2007), *Trinh and Bailey v. City of Seattle*, 2008 Wash. App. LEXIS 1391 (1998),  
15 *Johnson v. Chevron*, 159 Wn. App. 18, 244 P.3d 438 (2010), and *Lodis v. Corbis Holdings,*  
16 *Inc.*, 172 Wash. App. 835, 852, 292 P.3d 779, 789 (2013). In support of the hourly rate, I note  
17 that Scott Blankenship, the attorney expert retained by the plaintiff, found that Mr. Sheridan's  
18 rate is eminently reasonable for an attorney with his years of experience and level of  
19 achievement. I also note that Mr. Sheridan has not requested fees for the period involving the  
20 defendant's first summary judgment motion.  
21  
22  
23

24           8.       Beth Tuschner—plaintiffs request an hourly rate of \$325 per hour. This Court  
25 finds that rate to be reasonable for attorneys with her level of experience and that \$325 per hour  
is the rate she currently charges clients who retain her services on an hourly basis. This Court

1 finds that Ms. Tuschner has been an attorney since 2008, and that she has worked for the  
2 Sheridan Law Firm, P.S. for over three years and MHB since January. She has supported Mr.  
3 Sheridan in drafting pleadings, including summary judgment responses and appellate briefs,  
4 and has second-chaired trials with Mr. Sheridan, including this one. In support of the hourly  
5 rate, I note that Steve Frank, the attorney expert hired by the plaintiffs, has found that Ms.  
6 Tuschner's rate is reasonable.  
7

8 9. Staff fees—Ashalee May requests an hourly rate of \$200 per hour. Ms. May has  
9 worked as Mr. Sheridan's paralegal since June 2008, and has provided a diverse range of  
10 services under Mr. Sheridan's supervision from document management to litigation support,  
11 including drafting document and witness-related pleadings such as lists of primary witnesses  
12 and pre-trial statements. She also interviews witnesses, helps draft witness declarations, and  
13 attends trials when required. Ms. May's hourly rate has been deemed reasonable by Mr.  
14 Sheridan and the Court so finds.  
15

16 **Total Hours Worked**

17 10. Attorneys must document their work. The Court has reviewed the extensive  
18 billing records submitted by the plaintiffs. "This documentation need not be exhaustive or in  
19 minute detail, but must inform the court, in addition to the number of hours worked, of the type  
20 of work performed and the category of attorney who performed the work (*i.e.*, senior partner,  
21 associate, etc.)." *Bowers* at 597. This court finds that the records submitted by plaintiffs'  
22 counsel contain sufficient detail under the standard set forth in *Bowers*.  
23

24 11. Plaintiffs billed 285.3 hours in this litigation. "The court must limit the lodestar  
25 to hours reasonably expended, and should therefore discount hours spent on unsuccessful  
claims, duplicated effort, or otherwise unproductive time." *Bowers* at 597. The hours

1 reasonably expended must be spent on claims having a "common core of facts and related legal  
2 theories." *Pham*, 159 Wn.2d at 538 (citing *Martinez v. City of Tacoma*, 81 Wn. App. 228, 242-  
3 43, 914 P.2d 86 (1996)).

4 12. Mr. Sheridan and his staff used an electronic billing program to record and edit  
5 the time billed to this client, and they deducted unbillable, unproductive, and duplicative times  
6 and reduced time spent based on his business judgment as each time slip was created.

7 13. The plaintiffs prevailed on their statutory PRA claim. The pleadings submitted  
8 by the plaintiffs and the hours billed were based on a common core of facts and related legal  
9 theories, and plaintiffs should be compensated for those hours.

10 14. The hours expended by the plaintiff in this case were reasonable. Plaintiff's  
11 approach was economical and does not include billings before January 1, 2013. Here, plaintiff  
12 conducted key depositions before trial, and successfully moved to compel evidence withheld by  
13 the defendant. The defendant filed a summary judgment motion in 2013 and a CR 59 motion,  
14 both of which were denied.

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16  
17 **Lodestar**

18 15. Pursuant to *Bowers*, once the hourly rates and total hours worked have been  
19 determined, "[t]he total number of hours reasonably expended is multiplied by the reasonable  
20 hourly rate of compensation." *Bowers*, 100 Wn.2d at 597. That figure becomes the lodestar.

21 The calculation is as follows:

22

<u>Attorney/Staff</u>	<u>Hourly Rate</u>	<u>Hours Billed</u>	<u>Total</u>
Sheridan	\$550	90.80	\$49,940.00
Touschner	\$325	82.60	\$26,845.00
May	\$200	111.90	\$22,380.00
	<b>Total Hours Worked:</b>	<b>285.3</b>	<b>\$99,165.00</b>

Expert Scott Blankenship	\$550	2.1	\$1,155.00
		<b>Total Fees Requested for Lodestar:</b>	<b>\$100,320.00</b>

Sheridan Dec., Ex. 9. The lodestar in this case is the product of the rates and hours billed as set forth above, which totals \$100,320.00. The Court finds this amount to be reasonable.

**Costs**

19. RCW 42.41 specifically provides for costs. In civil rights cases in Washington, victims of discrimination may recover, "actual costs of the litigation, including expert witness fees, facsimile and copying expenses, cost of depositions, and other out-of-pocket expenses." *Hume v. American Disposal, Co.*, 124 Wn.2d 656, 674, 880 P.2d 988 (1994), *Xieng v. Peoples Nat. Bank of Washington*, 120 Wn.2d 512, 528-530, 844 P.2d 389 (1993). There is no reason to think that the legislature intended that victims of agency abuses under the PRA should get less.


20. Plaintiffs incurred costs of \$2,638.03 in connection with this litigation, which are reasonable. Sheridan Dec., Ex. 10.

**Summary and Allocation**

30. The defendant is ordered to pay the plaintiffs the attorneys' fees and costs as follows:

Attorney Fees:	\$100,320.00
Costs:	\$2,638.03
<b>Total Owing:</b>	<b>\$102,958.03</b>

1  
2 DATED this 30 day of October, 2013.

3  
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6   
7 Hon. Monica J. Benton  
8 King County Superior Court

9 Presented by:  
10 THE SHERIDAN LAW FIRM, P.S.

11 By: s/John P. Sheridan  
12 John P. Sheridan, WSBA # 21473  
13 Attorneys for Plaintiffs  
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