

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**MEDICAL SUPPLY CHAIN, INC.,**

**Plaintiff,**

**v.**

**US BANCORP, NA, et al.,**

**Defendants.**

**CIVIL ACTION**

**No. 02-2539-CM**

**MEMORANDUM AND ORDER**

This matter comes before the court on defendants' unopposed Motion for Attorney Fees (Doc. 54). Defendants filed their Motion for Attorney Fees pursuant to the Tenth Circuit Court of Appeals' December 30, 2004 Order awarding defendants attorney fees incurred in opposing plaintiff's appeal of this court's June 16, 2003 Order dismissing plaintiff's amended complaint. The Tenth Circuit remanded the case to this court for determination of the amount of attorney fees to be awarded. Defendants have set forth an affidavit and billing records in support of their claim that they incurred \$23,956.00 in attorney fees in opposing plaintiff's appeal. Plaintiff did not respond to defendants' Motion.

Attorney fees are traditionally determined using the "formula of a reasonable number of hours times a reasonable hourly fee." *Sheldon v. Vermonty*, 107 Fed. Appx. 828, 833 (10<sup>th</sup> Cir. 2004). "[T]he fee applicant bears the burden of . . . documenting the appropriate hours expended and hourly rates." *Mares v. Credit Bureau of Raton*, 801 F.2d 1197, 1201 (10<sup>th</sup> Cir. 1986) (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983)). However, "[t]here is no precise rule or formula for making these determinations." *Hensley*, 461 U.S. at 436.

The court has reviewed defendants' affidavit and detailed billing records in support of its Motion. Defendants claim \$23,956.00 in fees. This figure represents 91.7 hours of work performed on the appeal at an average rate of \$260.00 per hour. The court finds that the number of hours expended in opposing plaintiff's appeal and the hourly rate set forth by defendants are both reasonable. Accordingly, the court hereby awards defendants \$23,956.00 in attorney fees pursuant to the Tenth Circuit's December 30, 2004 Order. The court finds that the \$23,956.00 is a reasonable amount in light of the hours expended opposing plaintiff's appeal.

**IT IS THEREFORE ORDERED** that defendants' Motion for Attorney Fees (Doc. 54) is granted.

**IT IS FURTHER ORDERED** that defendants are hereby awarded \$23,956.00 in attorney fees pursuant to the Tenth Circuit's December 30, 2004 Order.

Dated this 13th day of May 2005, at Kansas City, Kansas.

s/ Carlos Murguia  
**CARLOS MURGUIA**  
**United States District Judge**