

reviewed the Mineral Conveyance and Underground Gas Storage Easement Agreement, drafted and submitted by Ms. James, counsel for Southern Star, to Mr. Hawver, counsel for Defendant, and found that it was enforceable. The Court further found that the terms of the agreement were as presented by Ms. James in the settlement agreement and mineral easement and conveyance document attached to her motion, with the exception of the word “currently” in section 5. The Court found no fraud or bad faith with respect to the statements made on the record concerning the terms of the settlement agreement and found that the parties intended to be bound.

In this May 24, 2011 Order, the Court granted Southern Star’s motion to enforce the settlement agreement and for sanctions in the amount of its attorney fees spent litigating the motion to enforce settlement. Defendant filed a motion for reconsideration, which the Court denied. After Southern Star submitted a properly supported motion for attorney fees, itemizing all fees requested, the Court awarded sanctions in the total amount of \$9799 on August 30, 2011. The Second Amended Judgment was entered in this matter that same day, disposing of all claims and issues, including attorney fees. Absolutely no issues remain. For this reason, the Court found that Defendant’s “Motion for Ruling on Open Issues” was frivolous and awarded attorney fees to Plaintiff in the amount reasonably spent responding to this motion.

In his objection, Defendant suggests that the Court is somehow responsible for providing Mr. Zweygart with a calculation of sanctions awarded in this case. He does not explain his request. Judgment was entered in the amount of \$9799—the amount of sanctions imposed on August 30, 2011. There is no further calculation by the Court that is warranted in this case. To the extent Defendant desires to have “Plaintiff review the case file,” that is not a matter for judicial determination. Defendant’s objection to the sanctions award is overruled and denied.

In its January 6, 2014 attorney fee application, Plaintiff seeks attorney fees and expenses for 7.6 hours of work by two different attorneys (Ms. Wood and Ms. James), as well as one paralegal, for a total request of \$1629. Plaintiff has submitted its billing records and Ms. Wood's affidavit to establish the reasonableness of its fee request.

In determining reasonable attorneys' fees, the court arrives at a lodestar figure by multiplying the hours counsel reasonably spent on the litigation by a reasonable hourly rate.¹ The applicant bears the burden of establishing entitlement to an award and documenting the appropriate hours expended and hourly rates.² Once an applicant has met this burden, the lodestar figure is presumed to be a reasonable fee.³ The Court has reviewed the documentation submitted with the fee application and finds that the minimal hours spent responding to Defendant's most recent motion is fair and reasonable. Notably, several of the entries were spent with no charge.

In examining the hourly rate, the court is to refer "to the prevailing market rates in the relevant community."⁴ "The first step in setting a rate of compensation for the hours reasonably expended is to determine what lawyers of comparable skill and experience practicing in the area in which the litigation occurs would charge for their time."⁵ In making this determination, if the court does not have before it adequate evidence of prevailing market rates, the court may, in its

¹*Lippoldt v. Cole*, 468 F.3d 1204, 1222 (10th Cir. 2006) (citing *Blum v. Stenson*, 465 U.S. 886, 897 (1984); *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983)).

²*See Case v. Unified School Dist. No. 233*, 157 F.3d 1243, 1249–50 (10th Cir. 1998).

³*Robinson v. City of Edmond*, 160 F.3d 1275, 1281 (10th Cir. 1998).

⁴*Blum v. Stenson*, 465 U.S. 886, 895 (1984).

⁵*See Case v. Unified School Dist. No. 233*, 157 F.3d 1243, 1256 (10th Cir. 1998).

discretion, “use other relevant factors, including its own knowledge, to establish the rate.”⁶

Plaintiff’s counsel has made a sufficient showing that Ms. Wood and Ms. James’ rates are reasonable under the applicable standard.

Therefore, the lodestar calculation for the legal fees spent responding to the motion to determine open issues is \$1629. The Court finds that this amount represents a reasonable amount of attorneys’ fees spent by Plaintiff Southern Star litigating the motion, which should be awarded as a sanction against Defendant Cline and his attorney for filing a frivolous and unnecessary motion. **The Court awards sanctions in the total amount of \$1629.**

IT IS THEREFORE ORDERED BY THE COURT Plaintiff’s Application for Award of Attorneys’ Fees (Doc. 106) is **granted. The Court awards sanctions against Defendant Cline in the total amount of \$1629.**

IT IS SO ORDERED.

Dated: January 15, 2014

S/ Julie A. Robinson
JULIE A. ROBINSON
UNITED STATES DISTRICT JUDGE

⁶*Lippoldt v. Cole*, 468 F.3d 1204, 1225 (10th Cir. 2006) (citing *Case*, 157 F.3d at 1257).