

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-9583
Summary Calendar

ZERITA DAY WILSON,

Plaintiff-Appellant,

VERSUS

OUPAC, INCORPORATED,

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of Louisiana
91 CV 793 H(5)

June 7, 1993

Before HIGGINBOTHAM, SMITH, and DeMOSS, Circuit Judges.

JERRY E. SMITH, Circuit Judge:*

I.

Zerita Wilson appeals, as inadequate, the magistrate judge's award of attorney's fees. Wilson sued for recovery under the federal truth in lending statute and the Louisiana Unfair Trade

* Local Rule 47.5.1 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that rule, the court has determined that this opinion should not be published.

Practice and Consumer Protection Act in regard to financing furnished her by Oupac, Incorporated ("Oupac"), in connection with her purchase of an insurance policy.

Oupac filed a motion for summary judgment, but before a ruling thereon the parties settled the matter for \$1,000, agreeing that Wilson had the right to attorney's fees under the federal statute. The magistrate judge then awarded fees for 50 hours at \$100 per hour for the work of Wilson's attorney and 12 hours at \$100 for the work of additional counsel employed to pursue the entitlement to fees.

The magistrate judge explained her fee award in an oral statement of findings and conclusions that appears in the transcript. She recognized the truth-in-lending expertise of Wilson's principal attorney and set a lodestar of 50 hours at \$100, deducting from the requested number of hours an estimate of the time spent on the state law claim. She denied an enhancement, explaining the following:

In this instance, the plaintiff's damages were limited. The plaintiff also had only herself to blame for the cancellation of this insurance She made at least one payment, possibly more, on the insurance that was obtained for her. And frankly, she has only herself to blame for the fact that this insurance was cancelled, rather than what anybody else did.

In short, I have found with this case that there is a very questionable connexity [sic] between the damage that this plaintiff incurred and the truth-in-lending violation that occurred in this case. And so, therefore, to give any kind of an enhancement under this set of circumstances when a case where a total settlement value on the main demand was \$1,000 would be

very, very questionable behavior on my part, and I decline to do it. Therefore, the total attorney's fee as to Mr. Breeden's participation in this case will be \$5,000.

The court also denied the request for recovery of photocopying and long-distance telephone charges, finding them to be "subsumed in overhead."

II.

We affirm, essentially on the basis of the magistrate judge's reasoning, finding no abuse of discretion. The court found that this was a straightforward truth-in-lending matter that did not justify an enhanced fee, especially in view of the modest result obtained. In fact, the fees awarded totaled 6.2 times the amount of the settlement. In regard to the lodestar rate of \$100, Wilson's own expert testified that he had been awarded \$100 per hour in similar cases in federal district court. The evidence also showed that Oupac's counsel charged \$75 for the defense of this matter.

The judgment is AFFIRMED.