

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

MARISSA GIANNERINI,

Plaintiff,

v.

Case No: 6:22-cv-2075-RBD-LHP

EMBRY-RIDDLE AERONAUTICAL
UNIVERSITY, INC.,

Defendant

ORDER

This cause comes before the Court on review of Plaintiff's Motion to Compel Payment of Two Experts That Defendant Refuses to Pay for Discovery Deposition Time (Doc. No. 101) and Defendant's Response in Opposition (Doc. No. 113). Upon review, the Court will require a reply brief from Plaintiff.

Accordingly, it is **ORDERED** that within **fourteen (14) days** of this Order, Plaintiff shall file a reply brief, not to exceed **seven (7) pages** in length, addressing the following:

1. Defendant's argument that both Tarek Aly, MD, MPH and Dawn Parr Chappel, LMFT "are entitled to nothing more than the statutory witness fee under 28 U.S.C. § 1821(b)." *See* Doc. No. 113, at 1.

2. The reasonableness of the requested fees for the deposition time for both Tarek Aly, MD, MPH and Dawn Parr Chappel, LMFT, based on the factors set forth in *Gluck v. Geico Gen. Ins. Co.*, No. 8:19-cv-634-T-27AEP, 2020 WL 339593, at *1 (M.D. Fla. Jan. 21, 2020). Plaintiff shall include specifically the rates normally charged by Dr. Aly and LMFT Chappel, as well as authority demonstrating the prevailing rates for other comparable treatment providers in their areas of expertise. *See Costa v. Dollar Tree Stores, Inc.*, No. 2:13-cv-655-FtM-38DNF, 2014 WL 12618110, at *1 (M.D. Fla. Oct. 29, 2014).

3. Defendant's representations in response that "Chappel testified Plaintiff has not paid her at all for case-related work," and that Dr. Aly "testified he charged Plaintiff's attorney \$125 for a half-hour pre-deposition meeting, yet seeks to charge ERAU an exorbitantly higher rate of \$550/hour – \$300/hour more than charged to Plaintiff's counsel." *See* Doc. No. 113, at 2-3. Plaintiff shall include with her reply evidence of the rates Plaintiff has paid to Dr. Aly and LMFT Chappel for case-related work.

4. The reasonableness of the requested fees for time expended outside of deposition, to include time for preparation, travel, copying/scanning documents, and consultation with counsel. *See* Doc. No. 101-4, at 2; Doc. No. 116-1, at 2. *See also Gluck*, 2020 WL 339593, at *2 (awarding different rates for deposition time versus time spent in preparation).

5. Failure to timely file a reply brief addressing each of these issues may result in the summary denial of the motion. *See Costa*, 2014 WL 12618110, at *1.

DONE and **ORDERED** in Orlando, Florida on March 26, 2024.



LESLIE HOFFMAN PRICE
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties