

**CIRCUIT COURT OF THE 20th JUDICIAL CIRCUIT
IN AND FOR COLLIER COUNTY, FLORIDA**

SCOTT MOORE, an individual,

Plaintiff,

v.

MASON CLASSICAL ACADEMY, INC., a Florida
not for profit corporation,

Defendant.

CIVIL ACTION

Case No. 20-CA-1471

Judge: Elizabeth Krier

DECLARATION OF BENJAMIN H. YORMAK

1. My name is Benjamin H. Yormak, and I am over the age of 18 years old.

2. I am a practicing attorney duly authorized to practice law before all the Courts of the State of Florida. I represent the Plaintiff. Unless otherwise expressly indicated, the facts set forth below are based upon my personal knowledge and the opinions set forth are my own.

3. I have been engaged in the practice of law in Southwest Florida, and have been practicing in the State of Florida for more than a decade. I am admitted to practice in the U.S. Supreme Court, Eleventh Circuit Court of Appeals, First Circuit Court of Appeals, U.S. District Courts for the Middle, Southern and Northern Districts of Florida, the Florida Supreme Court, and the Massachusetts Supreme Judicial Court. I am a member of the American Bar Association, Federal Bar Association, National Employment Lawyers Association, Florida Employment Lawyers Association, Southwest Florida Federal Bar Association, Lee County Bar Association, and the American Inns of Court.

4. I am a Board Certified Expert in labor and employment law by The Florida Bar. Certification is the highest level of recognition by The Florida Bar of the competence and

EXHIBIT 1

experience of attorneys. In my practice, I only represent employees, and much of my practice involves whistle-blower cases and cases involving fraud. In 2019, I was co-lead counsel in a nationwide fraud case that settled for nearly \$90 million. In *United States v. 21st Century Oncology et. al* (2015), I successfully represented a whistle-blower who challenged Medicare fraud, which resulted in a recovery of more than \$25 million. I have been recognized by Super Lawyers magazine each year since 2016, an honor bestowed upon only the top 2 percent of Florida attorneys as voted by their peers. I have also been recognized by Best Lawyers, a renowned publication made up of distinguished legal professionals from the world's leading law firms and many of the General Counsel from Fortune 500 and Global 500 companies. I have won the Avvo Client Choice Award each year since 2012, have been recognized as a Lawyer of Distinction (2018) and have been honored by National Advocates Top 40 Under 40. I have also been selected as a Top Lawyer by Naples Illustrated magazine each year since 2018. I previously worked with the U.S. Department of Justice and received my JD from the University of Maine School of Law and my AB from Bowdoin College, graduating with honors.

5. My requested hourly rate is \$350.00 per hour in this case, which has been approved by the U.S. District Court for the Middle District of Florida as recently as 2020. I am familiar with the hourly rates charged in Collier County, Florida by lawyers with comparable experience and reputation. It is my opinion that my hourly rate of \$350.00 is at or below the market rates for lawyers of similar qualifications and experience. In forming the above opinion, I relied on my knowledge of the rates charged for counsel in similar matters in Collier County, Florida.

6. For billing, I regularly entered the time spent on legal services in an itemized fashion into a computer that regularly maintains such records. During the course of this lawsuit, my firm utilized Rocket Matter as its timekeeping system, and I have exported my time from this

system. The time records were made sufficiently contemporaneously to the events recorded to be reliable. After exporting, I reviewed, revised, deleted and edited time records as appropriate based on a review. Exhibit "A" details the legal services rendered and the actual time spent (in increments of tenths of hours) on this matter. I have exercised billing judgment in this matter. I am of the opinion that the work performed was done efficiently and effectively and that the time spent on that work was reasonable and not excessive.

7. It is also my opinion that a contingent fee multiplier is appropriate in this case. First, there are very few labor and employment attorneys in Southwest Florida that represent employees, and less than a handful of them are Board Certified Experts in the field. Second, most of the attorneys would not have agreed to prosecute what can be difficult, complex and risky employment law case on a strictly contingency basis. Third, there is no way I could have mitigated against the risk of loss. Had the Plaintiff lost, I would have been compensated nothing for the 83.0 hours I expended. Fourth, prosecuting this matter on a contingency basis was required because no unemployed person could reasonably afford \$29,050 in fees on just one motion alone. Fifth, the result obtained here was an unqualified, complete success. These factors support a multiplier of 2.0 being added.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 14, 2020.



Benjamin H. Yormak
Florida Bar No. 71272

Yormak Employment & Disability Law

Recovering your past... Ensuring your future. ©

Benjamin H. Yormak, Esq.

9990 Coconut Road

Bonita Springs, Florida 34135

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PRE-BILL

Richard Scott Moore

Fort Myers, FL

Invoice Date: September 09, 2020

Invoice Number: Pre-bill

Invoice Amount: \$29,050.00

Matter: Moore v. Mason Classical Academy

Attorney's Fees

4/24/2020	Meeting with client; Discuss reinstatement and outline facts in support.	B.H.Y.	1.50	\$525.00
5/3/2020	Research for Motion for Temp. Reinstatement; Outline Motion.	B.H.Y.	2.50	\$875.00
5/4/2020	Email correspondence with client re: reinstatement.	B.H.Y.	.10	\$35.00
5/5/2020	Drafting Motion for Temp. Reinstatement; Edit to same; Discussion with client; Filing Motion.	B.H.Y.	4.20	\$1,470.00
6/22/2020	Interview nonparty witness.	B.H.Y.	1.00	\$350.00
6/25/2020	Reviewing MTD; Researching cited cases; Outlining memorandum of law on temp reinstatement.	B.H.Y.	3.70	\$1,295.00
6/26/2020	Drafting memorandum of law on temp reinstatement; Legal research.	B.H.Y.	3.90	\$1,365.00
7/10/2020	Telephone conference with client re: temp reinstatement.	B.H.Y.	.50	\$175.00
7/19/2020	Continue drafting memorandum of law.	B.H.Y.	2.50	\$875.00
8/3/2020	Meeting with client.	B.H.Y.	2.00	\$700.00
8/4/2020	Reviewing documents from client for use on motion for temp. reinstatement; Reviewing MCA's agendas and minutes; Reviewing charter contract, FL statutes and Fishbane Report; Reviewing Coleman Report.	B.H.Y.	6.50	\$2,275.00
8/9/2020	Reviewing MCA board meeting videos for 3/23, 3/26 and 4/14; Comparing same to draft meeting minutes and approved meeting minutes.	B.H.Y.	4.40	\$1,540.00
8/17/2020	Finalizing memorandum of law on temp reinstatement; Organizing exhibits; Drafting directs of Moore and Vickaryous; Begin outlining cross of Lichter and Bolduc.	B.H.Y.	6.00	\$2,100.00
8/18/2020	Finalize memorandum of law to be filed (w. exhibits);	B.H.Y.	3.70	\$1,295.00

8/19/2020	Continue drafting cross of Lichter and Bolduc. Filing memorandum of law (w. exhibits); Reviewing analogous cases.	B.H.Y.	1.00	\$350.00
8/20/2020	Read and respond to email from opposing counsel re: temp reinstatement motion and hearing; Reviewing admin orders.	B.H.Y.	.20	\$70.00
8/20/2020	Teleconference with client.	B.H.Y.	1.00	\$350.00
8/20/2020	Interviewing nonparty witness.	B.H.Y.	1.50	\$525.00
8/24/2020	Telephone conference with opposing counsel re: temp reinstatement.	B.H.Y.	.50	\$175.00
8/25/2020	Telephone conference with client.	B.H.Y.	1.20	\$420.00
8/26/2020	Reviewing MCA's response to temp reinstatement; Researching cited cases; Outlining response; Reviewing all exhibits cited by MCA and outline opposing strategy; Reviewing P's cited exhibits; Reviewing video of MCA Board meetings.	B.H.Y.	6.50	\$2,275.00
8/27/2020	Finalize directs of Moore and Vickaryous; Finalize cross of Lichter and Bolduc and gather impeachment evidence.	B.H.Y.	3.00	\$1,050.00
8/28/2020	Telephone conference with Moore to prepare for hearing; Telephone conference with Vickaryous to prepare for hearing; Prepare hearing notebook and notes on each exhibit.	B.H.Y.	8.50	\$2,975.00
8/30/2020	Hearing preparation.	B.H.Y.	5.00	\$1,750.00
8/31/2020	Continued hearing preparation; Attend hearing; Telephone conference with opposing counsel; Review additional impeachment material for Lichter and Bolduc.	B.H.Y.	6.00	\$2,100.00
9/1/2020	Attend hearing; Telephone conference with Moore.	B.H.Y.	3.50	\$1,225.00
9/4/2020	Drafting order granting motion for temp. reinstatement; Reviewing hearing transcript; Email correspondence to opposing counsel.	B.H.Y.	2.50	\$875.00
9/8/2020	Email correspondence to opposing counsel; Respond to email from opposing counsel.	B.H.Y.	.10	\$35.00
SUBTOTAL:			83.00	\$29,050.00

Costs

SUBTOTAL:				\$0.00
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Matter Ledgers

9/9/2020	Balance before last invoice			\$714.35
9/9/2020	Invoice 13152			\$373.45
SUBTOTAL:				\$1,087.80

Trust Account

9/9/2020	Previous Balance			\$0.00
Available in Trust:				\$0.00

TOTAL: \$29,050.00

PREVIOUS BALANCE DUE: \$1,087.80

CURRENT BALANCE DUE AND OWING: \$30,137.80

Yormak Employment & Disability Law

Recovering your past... Ensuring your future. ©

Benjamin H. Yormak, Esq.

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INVOICE

Richard Scott Moore

Fort Myers, FL

Invoice Date: September 09, 2020

Invoice Number: 13152

Invoice Amount: \$373.45

Matter: Moore v. Mason Classical Academy

Attorney's Fees

SUBTOTAL:	0.00	\$0.00
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Costs

9/4/2020	Fort Myers Court Reporting	\$373.45
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SUBTOTAL:		\$373.45
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Matter Ledgers

8/3/2020	Balance before last invoice	\$964.35
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8/10/2020	Invoice 13117	\$0.00
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9/2/2020	Paid on account.	(\$250.00)
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9/9/2020	Invoice 13152	\$373.45
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SUBTOTAL:		\$1,087.80
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Trust Account

9/9/2020	Previous Balance	\$0.00
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Available in Trust:		\$0.00
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TOTAL: \$373.45

PREVIOUS BALANCE DUE: \$714.35

CURRENT BALANCE DUE AND OWING: \$1,087.80