



SUPERIOR COURT OF NEW JERSEY,
LAW DIVISION,
ESSEX VICINAGE
DOCKET NO.: ESX-L-7209-24

ATLAS DATA PRIVACY CORPORATION, et al.,
Plaintiffs,
v.
COLE INFORMATION SERVICES, INC., et al.,
Defendants.

Petrillo, J.S.C.

FINAL OPINION AND ORDER

I. INTRODUCTION

This matter comes before the Court on Plaintiffs' Motion for an Award of Attorneys' Fees and Costs against Defendant Cole Information Services, Inc. ("Defendant" or "Cole") pursuant to R. 4:42-8(a), R. 4:42-9(a)(8), and N.J.S.A. 56:8-166.1(c) ("Daniel's Law"). Having carefully reviewed the submissions, certifications, affidavits, supporting documentation, and argument presented, the Court, for the reasons set forth herein, **GRANTS** Plaintiffs' Motion in its entirety.

**II. SUMMARY OF EVENTS LEADING TO ENTRY OF
THE INTERIM JUDGMENT**

Plaintiffs initiated this matter against Defendant Cole Information Services, Inc., alleging violations of Daniel's Law, codified at N.J.S.A. 56:8-166.1, as assignors or direct victims ("Covered Persons" and "Individual Plaintiffs"). The Complaint was properly served on Defendant on October 22, 2024 (Tr. I.D. LCV20242855853). Defendant failed to answer, respond, or otherwise participate in the litigation.

Plaintiffs moved for final judgment by default, supported by a comprehensive record and proper service of all process and notice to Defendant. On December 16, 2024, default was entered. Plaintiffs

subsequently filed their motion for final judgment and noticed Defendant, yet Defendant continued its failure to participate.

On August 5, 2025, a proof hearing was conducted, during which Plaintiffs presented evidence and expert testimony as to Defendant's violations of Daniel's Law, its continuing noncompliance with written nondisclosure requests relating to over 10,000 Covered Persons, and the resulting ongoing harm and danger to Individual Plaintiffs and Assignors. The Court found Plaintiffs' evidence compelling, comprehensive, and un rebutted given Defendant's utter disregard for legal process and its obligations under Daniel's Law.

On August 11, 2025, this Court entered an Interim Order granting Plaintiffs' motion for final judgment by default in part, awarding preliminary relief and reserving final damages and attorneys' fees for further submission (Tr. I.D. LCV20252229309). The present Motion, seeking attorneys' fees and costs pursuant to statutory fee-shifting provisions and New Jersey Rules of Court, was thereafter filed and fully supported with certifications of counsel, affidavits of time, and legal arguments.¹

III. PLAINTIFFS ARE ENTITLED TO STATUTORY ATTORNEYS' FEES AND COSTS

Daniel's Law, N.J.S.A. 56:8-166.1(c), mandates that "[a] court shall award ... reasonable attorney's fees and other litigation costs reasonably incurred" where a defendant fails to honor written nondisclosure requests from Covered Persons. Plaintiffs here prevailed entirely at the August 5, 2025, proof hearing, establishing Defendant's liability and entitlement to all statutory relief. No contrary evidence or argument was presented; Defendant's refusal to engage underscores the statutory imperative and Court's obligation to enforce these rights fully.

By way of legal background, the American Rule ordinarily precludes fee-shifting, but exceptions such as Daniel's Law directly empower this Court to award attorneys' fees and costs. Alyeska Pipeline Serv. Co. v. Wilderness Society, 421 U.S. 240, 247 (1975); Gerhardt v. Continental Ins. Cos., 48 N.J. 291, 301 (1966); Janovsky v. American Motorists Ins. Co., 11 N.J. 1, 7 (1952). R. 4:42-9(a)(8) confirms court authority "[i]n all cases where attorney's fees

¹ Final judgment is being entered in an order of even date.

are permitted by statute.” See also Hansen v. Rite Aid Corp., 253 N.J. 191, 214 (2023).

IV. THE RENDINE STANDARD: REASONABLE LODESTAR AND RATES

This Court adopts the methodology required by Rendine v. Pantzer, 141 N.J. 292, 334 (1995), and reaffirmed recently in Hansen. The fee award determination requires: (1) setting the lodestar (reasonable hours times reasonable rates), (2) review of the rates charged, (3) consideration of any necessary reduction, and (4) evaluation of possible enhancement. (Plaintiffs reserve enhancement if Defendant moves to vacate default.)

A. Reasonableness of Counsel's Hourly Rates

Plaintiffs have submitted sworn certifications and affidavits detailing the credentials, experience, and regional comparators for counsel's rates. The rates sought by PEM Law LLP—\$1,350/hr (Parikh), \$750/hr (Kraft)—and by Bird, Marella, Rhow, Lincenberg, Dooks & Nessim LLP—\$1,700/hr (Rhow), \$1,100/hr (Harvey Schatmeier), \$925/hr (Nolan), \$690/hr (Clawges), \$480/hr (Attarson and Moore)—are supported by prevailing market rates in both New Jersey and California for complex, specialized litigation. See Trans Web, LLC v. 3M Innovative Props. Co., 16 F. Supp. 3d 385, 413 (D.N.J. 2014) (premier litigation firm selection reasonable for high-stakes, complex cases); CFTC v. Traders Global Group Inc., No. 1:23-cv-118082 (D.N.J. Jul. 14, 2025) (partner rates of \$1,700/hr, associate rates exceeding \$1,160/hr found reasonable).

Additional comparative rates from the Central District of California confirm reasonableness. See Yuga Labs, Inc. v. Ripps, No. 2:22-cv-04355, 2024 WL 489248, at *2-4 (C.D. Cal. Jan. 11, 2024); see also Plaintiffs' Letter Brief at 5–6 (collecting cases).

No evidence in the record supports any downward adjustment. To the contrary, as attested by Ekwan E. Rhow, Esq., these rates are consistent with and indeed more modest than rates at major litigation boutiques. The Court finds the rates are reasonable, justified by the novel, sophisticated issues at stake and the high caliber of counsel.

B. Reasonableness of Total Hours Expended

Plaintiffs have precisely documented the hours expended by each attorney from initial investigation through the August 5 proof hearing: PEM Law—124.5 hours; Bird Marella—164.6 hours; totaling over 304 hours. See Parikh Affidavit; Harvey Schatmeier Affidavit. The majority of time was necessarily devoted to preparing for the proof hearing, investigating noncompliance with Daniel's Law, analyzing the substantial volume of violation evidence (over 115,000 files), and assembling compelling expert testimony. The time spent is factually supported as reasonable, especially given Defendant's failure to participate or provide the discovery typically available in such cases, which substantially prolonged and complicated Plaintiffs' evidentiary burden. See Walker v. Giuffre, 209 N.J. 124, 130-41 (2012); Furst v. Einstein Moomjy, Inc., 182 N.J. 1, 22 (2004).

C. No Reduction Warranted

Plaintiffs achieved total success, obtaining all requested statutory and equitable relief. No downward adjustment is indicated. See Furst, 182 N.J. at 23; Pub. Interest Research Grp. v. Windall, 51 F.3d 1179, 1189–90 (3d Cir. 1995).

D. Compliance with RPC 1.5(a)

All fees and hours are reasonable upon review of the RPC 1.5(a) factors: the time and labor required, novelty and complexity, skill and experience of counsel, reasonableness of rates, contingency nature of fee arrangement, and magnitude of the successful result. RPC 1.5(a) provides that a lawyer's fee shall be reasonable, considering the following eight factors. Plaintiffs' counsel addressed these factors in the Certifications and the Letter Brief. See Parikh Cert.; Harvey Schatmeier Cert.; Letter Brief at 8–11.

Key details from the record are summarized below for each factor:

1. **Time and Labor Required, Novelty and Difficulty, and Skills Requisite**

- The case involved extensive investigation and mastery of Daniel's Law violations affecting more than 10,000 Covered Persons.

- Given Defendant's non-appearance, Plaintiffs' counsel had to compile, review, and analyze over 115,000 files (34.8GB of data) to establish noncompliance.
- The case required a deep understanding of multiple complex areas: data privacy, First Amendment, internet law, NJ practice, government records, CAN-SPAM, FCRA, CDA, voting rights, and other regulatory schemes. See Letter Brief at 4–5; Parikh Cert. at 4–5, 10.

2. Likelihood That Acceptance Would Preclude Other Employment

- Significant hours were devoted: PEM Law and Bird Marella combined spent over 304 hours litigating this matter from inception to proof hearing.
- The complexity and time demands of the case necessarily limited counsel's ability to accept other engagements. See Parikh Cert. at 11, Letter Brief at 9.

3. Fee Customarily Charged for Similar Services in Locality

- The hourly rates charged (\$1,350/hr for Parikh, \$1,700/hr for Rhow, \$1,100/hr for Harvey Schatmeier, etc.) are fully documented as reasonable and consistent with premier litigation rates in NJ and CA for similarly complex, specialized cases. See Letter Brief at 5–6 (for supporting case law and certifications).

4. Amount Involved and Results Obtained

- Plaintiffs obtained all requested relief: compensatory and punitive damages, statutory and equitable remedies, and full statutory fee-shifting.
- The risk to thousands of Covered Persons was remedied, and comprehensive compliance was ordered. See Letter Brief at 7, Parikh Cert. at 13.

5. Time Limitations Imposed

- Plaintiffs faced urgency due to continued exposure of Protected Information and Defendant's ongoing violations.
- Lack of discovery from Defendant increased counsel's workload and urgency to secure preliminary and final orders See Letter Brief at 9–10.

6. Nature and Length of Professional Relationship with Client

- Plaintiffs' counsel have represented Atlas and Covered Persons in numerous Daniel's Law lawsuits; the firm-client relationship is ongoing and significant. See Parikh Cert. at 6–7, Letter Brief at 10.

7. Experience, Reputation, and Ability of Lawyers

- Plaintiffs' counsel are highly accomplished, with significant complex litigation experience:
 - Rajiv D. Parikh: 20 years, recognized in NJ Legal Power rankings, involvement in high-stakes cases and government matters. See Parikh Cert. at 4–7.
 - Ekwan E. Rhow: Band One Chambers ranking, Fellow of the American College of Trial Lawyers, numerous top verdicts. See Rhow Cert. at 2–4.
 - Elliot C. Harvey Schatmeier: Recognized in Law Dragon, Benchmark Litigation, and multiple trial/arbitration victories. See Harvey Schatmeier Cert. at 4.
 - Other counsel similarly bring deep experience, confirmed in their certifications.

8. Whether the Fee is Fixed or Contingent

- Plaintiffs' counsel entered into contingency fee agreements; Atlas and counsel bear the risk of non-recovery unless relief is awarded. See Parikh Cert. at 14; Statement of Fees Received.

Conclusion as to RPC factors:

All RPC 1.5(a) factors are met and documented in the record. The case required extraordinary time, effort, technical skill, and specialized expertise. The fees requested are fully supported by prevailing market standards and the substantial, successful result obtained for the Plaintiffs.

V. ENTITLEMENT TO COSTS

Plaintiffs also seek reimbursement for \$7,393.00 in litigation costs (filing, service of process, travel, etc.), as itemized in the Harvey Schatmeier Affidavit. These costs are plainly reasonable and permitted under the statute. N.J.S.A. 56:8-166.1(c)(3).

Itemized Litigation Costs

The total costs for Bird, Marella, Rhew, Lincenberg, Drooks & Nessim LLP are **\$7,393**, broken down as follows. See Affidavit of Services of Elliot C. Harvey Schatmeier, Esq. at 4.:

<u>Date</u>	<u>Description</u>	<u>Amount</u>
8/3-8/6/2025	Travel expenses for attendance at 8/5/2025 hearing (flights from California, lodging, ground travel)	\$6,927
1/31/2025	Certificate of Good Standing from California Bar for pro hac vice application (Bill L. Clawges)	\$82
10/31/2024	Service of Summons and Complaint	\$384
TOTAL		\$7,393

No costs beyond these itemized sums are sought, despite Bird Marella incurring additional costs in the representation. See Affidavit of Services of Elliot C. Harvey Schatmeier, Esq. at 3–4.

VI. ORDER AND AWARD

The Court hereby finds and concludes:

- Plaintiffs are the prevailing parties in this action under Daniel’s Law upon full proof and undisputed record.
- All elements for statutory fee-shifting and cost reimbursement have been met.
- The hourly rates and hours claimed by both PEM Law LLP and Bird Marella are reasonable and fully supported by detailed certifications, affidavits, and prevailing market evidence.

- The costs claimed are reasonable and necessary.
- Plaintiffs' counsel acted with diligence, professionalism, and technical acumen befitting the complexity and significance of this litigation.

Accordingly, IT IS ORDERED:

A. Plaintiffs' motion for an award of attorneys' fees and costs, pursuant to R. 4:42-8(a), R. 4:42-9(a)(8), and N.J.S.A. 56:8-166.1(c), is **GRANTED**.

B. The Court hereby awards Plaintiffs' counsel the following hourly rates:

- Ekwon E. Rhow, Esq.: \$1,700
- Rajiv D. Parikh, Esq.: \$1,350
- Elliot C. Harvey Schatmeier, Esq.: \$1,100
- Gregory T. Nolan, Esq.: \$925
- Thomas R. Kraft, Esq.: \$750
- Bill L. Clawges, Esq.: \$690
- Rebecca Attarson: \$480
- Pam Moore: \$480

C. The Court hereby awards Plaintiffs attorneys' fees in a lodestar amount of \$278,527.00, with interest per the Court's final judgment.

- PEM LAW LLP: \$123,375.00
- BIRD, MARELLA, RHOW, LINCENBERG, DROOKS & NESSIM LLP: \$155,152.00

D. The Court further awards Plaintiffs costs in the sum of \$7,393.00 (as itemized).

E. Plaintiffs shall submit a supplemental invoice for work performed after entry of final judgment by default within fourteen (14) days.

F. Plaintiffs shall serve a true copy of this Opinion and Order on all parties per R. 1:5-1(a).

A memorializing order will be filed simultaneously with this opinion.