IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

MARLITA THOMAS, as Mother, Next Friend, and Special Administrator of NORMAN L. SMITH, JR., deceased, Plaintiff,	)	No. 04 C 3563
v.	)	Judge Castillo
SHERIFF OF COOK COUNTY, et al. Defendants.	)	

DEFENDANT COOK COUNTY'S RESPONSE AND OBJECTIONTO PLAINTIFF'S PETITION FOR ATTORNEY'S FEES AND COSTS PURSUANT TO 42 U.S.C. §1988

NOW COMES Defendant, Cook County, and for its Response and Objection to Plaintiff's Petition for Attorney's Fees and Costs Pursuant to 42 U.S.C. §1988, and states as follows:

I. OBJECTION TO ATTORNEY FEE CLAIM

As will be seen below, Plaintiff's Petition for Fees and Costs[1] is entirely excessive, often of questionable accuracy and inadequately documented and seeks to add a windfall onto this case. Not only are excessive billing rates sought, but the billing includes time that is questionable on its face, time entered is often improperly block billed, billed in quarter hour increments, duplicative and, often, recovery is sought for clerical and secretarial tasks billing at excessively high claimed attorney rates. In total, this Defendant asserts that a reduction of **$824,199.99** is proper, as discussed further below.

1. Legal standards

The fees awarded by a district court must be reasonable. *Blanchard v. Bergeron*, 489 U.S. 87, 96 (1989). A district court has an independent obligation to scrutinize the legitimacy of a fee petition. *Spellman v. Bd. of Educ.*, 59 F.3d 642, 646 (7th Cir. 1995). A district court must assess what are reasonable billing rates under the circumstances of the case, and should examine

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[1] Defendant notes that plaintiff has made no effort to comply with the mandates of Local Rule 54.3, presumably because of the entry of a briefing schedule in this matter. To the extent Rule 54.3 has not been waived, defendant objects to plaintiff's Petition for Fees

the time allegedly spent on each billable task to determine the reasonableness of the hours reported. *See, e.g.*, *Newsome v. McCabe*, No. 96 C 7680, 2002 U.S. Dist. LEXIS 8793 (N.D. Ill. May 15, 2002). Finally, a district court must provide a clear and concise explanation for any fee award. *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983). A district court's award of attorney's fees is reviewed under an abuse of discretion standard. *See, People Who Care v. Rockford Bd. of Educ.*, 90 F.3d 1307, 1311 (7th Cir. 1996).

2. The Majority Of The Hours Billed By Plaintiff's Counsel Were Improper, Excessive, Duplicative Or Unnecessary In Relation To The Stakes And Level Of Difficulty Involved In This Litigation And Plaintiff's Attorneys Seek Exorbitant Hourly Rates For Their Services.

The Defendants do not dispute that Plaintiff is entitled to recover *reasonable* attorney's fees. Title VII provides that a court may in its discretion allow the prevailing party a reasonable attorney's fee. *See* 42 U.S.C. § 2000*e*-5(k) (2004). The issue becomes what constitutes a "reasonable" award of attorney's fees. After examining the time records of a fee applicant's attorney, a district court must determine whether reductions are necessary for inadequate documentation, excessive or unnecessary time expenditures. *Max M. v. Illinois State Bd. of Education*, 684 F. Supp. 514, 526 (N.D. Ill. 1988). Plaintiff would simply have this Court ignore its obligations in that regard.

The starting point for the calculation of a reasonable attorney's fee is the lodestar figure. *Lampley v. Onyx Acceptance Corp.*, No. 00 C 3901, 2004 U.S. Dist. LEXIS 8288, at *2 (N.D. Ill. May 7, 2004). That figure is the product of the number of hours *reasonably* expended on the litigation multiplied by a reasonable hourly rate. *Id.* (emphasis added) A district court must exclude from the lodestar calculation hours that were not reasonably expended – that is, hours that are excessive, redundant or otherwise unnecessary. *F. John Stark III v. PPM America, Inc.*, 354 F.3d 666 (7th Cir. 2003); *Spegon v. The Catholic Bishop of Chicago*, 175 F.3d 544, 550 (7th Cir. 1999). Hours for which the prevailing party provides inadequate documentation are also to be excluded. *Ohio-Sealy Mattress Mfg. Co. v. Sealy, Inc.*, 776 F.2d 646, 651 (7th Cir. 1985). The party seeking a fee award bears the burden of substantiating the reasonableness of both the claimed hourly rate and hours worked. *Spegon*, 175 F.3d at 550. Where the documentation of hours is inadequate, a district court may properly reduce the requested award. *Hensley*, 461 U.S.

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and Costs for violation of this rule. LR 54.3 Attorney's Fees and Related Non-taxable

at 433. A consideration of all of the relevant factors[2] warrants that the Plaintiff's lodestar figure be significantly reduced.

The party seeking an award of fees should submit evidence supporting the hours worked and rates claimed. Where the documentation of hours is inadequate, the district court may reduce the award accordingly." *Hensley*, 461 U.S. at 433, 103 S. Ct. at 1939. Courts require a certain amount of specificity to the description of the hours billed in order to avoid over billing and compensation for uncompensable tasks. See *Abbott v. The Village of Winthrop Harbor, et al.*, 1999 U.S. Dist. LEXIS 13346, 1999 WL 675292, *4 (N.D. Ill. Aug. 24, 1999); *Lawyer v. 84 Lumber Company*, 1998 U.S. Dist. LEXIS 2992, 1998 WL 111703, (N.D.Ill.) (reducing fees awarded because of lack of specificity in work descriptions); *Cristancho v. National Broadcasting Co.*, Inc., 117 F.R.D. 609 (N.D.Ill.1987) (denying fees because of substantial block billing); *In re Chicago Lutheran Hospital Association*, 89 B.R. 719, 735 (Bankr.N.D.Ill.1988) (denying payment for all block-billed entries).

3. The Hourly Rates Submitted For Plaintiff's Attorney's Services Are Unreasonably High.

Plaintiff's attorneys' claimed hourly rates of up to $670 per hour are extremely unreasonable. The reasonable hourly rate for lodestar purposes is "the rate that lawyers of similar experience and ability in the community normally charge their paying clients for the type of work in question." *Spegon*, 175 F.3d at 555. Put another way, the reasonable hourly rate is generally based on the prevailing market rate for the services rendered. *People Who Care*, 90 F.3d at 1310. Plaintiff must prove that her attorney's requested hourly rate is reasonable and comports with the prevailing market rate. *See McNabola v. Chicago Transit Auth.*, 10 F.3d 501, 518-19 (7th Cir. 1993). Only after the Plaintiff offers adequate evidence of a reasonable market rate does the burden shift to the Defendants to present evidence that a lower rate is warranted. *See, People Who Care*, 90 F.3d at 1313.

First, this court should take note of Cook County's Litigation Guidelines for Special States' Attorneys which sets out a top hourly rate of $185.00 for partners, no matter their experience level. (*See*, Guidelines attached as **Exhibit 1**.) Certainly, while plaintiff counsel are

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Expenses.

not bound by these guidelines, the comparison of this rate certainly calls into question the request for up to $670.00 per hour in this matter and plaintiff's arguments that $670.00 an hour would be a "reasonable market rate" for civil rights litigation in this district.

Likewise, plaintiff counsels' affidavits standing alone cannot establish that $670.00 per hour is a reasonable market rate for attorney services. The affidavits submitted by plaintiff counsel are entirely self-serving. Such an affidavit, without more, does not satisfy plaintiff's burden of proof. *See, Blum v. Stenson*, 465 U.S. 886, 895, n. 11 (1984). Notably, plaintiff counsel provide no fee agreements for their firms or sample bills from other litigation matters showing they have ever been compensated an hourly rate approaching the rates claimed by in this litigation.

Similarly, there is no evidence that any of the plaintiff counsel currently charge and receive from other paying clients hourly rates anywhere similar to those now sought for their representation of plaintiff. In addition, plaintiff counsel fail to cite a single case in which they have been awarded at the hourly rates sought in this matter. Such evidence is typically probative of an attorney's market rate. *See, People Who Care*, 90 F.3d at 1312 (noting that rates awarded in similar cases and sample billings to other clients are indicia of an attorney's market rate); *see also, Flaherty v. Marchand*, 284 F. Supp. 2d 1056, 1065 (N.D. Ill. 2003) (holding that past billing agreements with other clients can serve as evidence of an attorney's market rate). Because Plaintiff's fee petition lacks any of this evidence, plaintiff counsels' requested hourly rates should be reduced.

Plaintiff counsel also offer no affidavits from other counsel setting out that their claimed hourly rates in this matter are market rates for the level of work provided in the instant matter. *See, Spegon*, 175 F.3d at 556 (noting that affidavits from similarly experienced attorneys attesting to the rates they charge paying clients for similar work can be used to support a proposed market rate).

Generally speaking, an attorney's actual billing rate is appropriate to use as the reasonable hourly rate for lodestar calculation. *People Who Care*, 90 F.3d at 1310. Here, the Court is left guessing what plaintiff counsels' customary billing rate is. Plaintiff has submitted

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[2] Even once the lodestar figure is calculated, that figure can be adjusted based upon a consideration of the twelve factors enunciated in *Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983).

no evidence to this Court (other than plaintiff counsels' self-serving affidavits) that plaintiff counsels' actual billing rates approach the levels sought in this matter. Further, the U.S. Supreme Court has found that when attorney's fees are being calculated, a hourly rate that would "attract competent counsel, but which [does] not produce windfalls" to the attorney should be used. *Hensley*, 461 U.S. at 430, n.4.

Plaintiff cites to Judge Kennelly's ruling in *Entertainment Software Ass'n v. Blagojevic*, 05 C 4265 in their motion. Comparison of the rates allowed by Judge Kennelly demonstrates that the hourly rates sought here are too high. Indeed, in considering the fee request of attorneys from Jenner & Block, a well-known large corporate law firm, Judge Kennelly noted that "Plaintiffs seek reimbursement for 1,453.75 hours of attorney time and 167.5 hours of paralegal time, at hourly rates ranging from $215.00 to $585.00 for the attorneys and $100.00 to $210.00 for the paralegals." In reviewing these rates, Judge Kennelly noted the defendants' citation to *Spegon, supra*, and its statement that the best starting point for determining a fair market rate for an attorney is evidence of the attorneys' charges to other similar clients, and noted that the rates claimed by the Jenner & Block attorneys were documented by "seventy-one pages of invoices submitted by plaintiffs' counsel [and] Plaintiffs' counsel also assert that the plaintiffs paid them at the same hourly rates for similar litigation in California and Michigan. *See, Entertainment Software Ass'n v. Blagojevic*, 05 C 4265, document 154, attached hereto as **Exhibit 2.)**

Conversely, here we have no information on plaintiff counsels' respective regular hourly rates. Indeed, review of published decisions only reflects the following past experience on fee petitions awarded to plaintiff counsel here:

> "After carefully reviewing plaintiff's counsel's fee petition in this case, and defendants' objections to same, this Court has concluded that a reasonable hourly rate for Mr. [Daniel S.] Alexander, in light of his experience and efforts in this case, is $ 200.00 per hour. *Carter v. Chicago Police Officers*, 1996 U.S. Dist. LEXIS 11093 (D. Ill. 1996);

Obviously, it would be expected that attorney Alexander's approved rate would have increased from the $200 per hour awarded in 1996, but Alexander's provided affidavit sets out no basis to believe that he has increased his customary rates by the claimed $355 additional per hour sought here. Likewise, no reported cases were found for the other plaintiffs' attorneys on running of a search for their names and the words "fee w/a petition" via Lexis.

4. Laffey Matrix

Plaintiff next cites the "Laffey Matrix" as support for the extreme rates sought in this matter. However, there is no overall acceptance of the Laffey Matrix in this District and courts in this district clearly continue to exercise their own discretion in reviewing fee petitions, despite what the Laffey Matrix's mechanical application may foretell. For example, in *Schultz v. City of Burbank*, 2007 U.S. Dist. LEXIS 26491 (D. Ill. 2007), the court considered the Laffey Matrix, but still set the rate at $285 per hour for an attorney falling in "11-19 years" experience category under Laffey Matrix, and rejected the request for $375.00 per hour in civil rights litigation.

Likewise, in *Arch v. Glendale Nissan*, 2005 U.S. Dist. LEXIS 12198 (D. Ill. 2005), the court, while noting plaintiff's citation to the Laffey Matrix, followed the 7th's Circuit's pronouncement that "the best evidence of the lawyer's quality is the fee he commands in the market" and set rates at $225-300 per hour for attorneys prosecuting a Truth in Lending Act claim.

Similarly, in *Covington-McIntosh v. Mount Glenwood Memory Gardens S., Inc.*, 2004 U.S. Dist. LEXIS 2059 (D. Ill. 2004), the court found experienced partners' claimed rates of $400 for prosecution of claims under 42 U.S.C. §§ 1981-1982 and the Illinois Consumer Fraud Act, 815 ILCS 505/2, submitted with citation to the Laffey Matrix, to be unreasonable and reduced the hourly rate to $350 per hour.

Likewise, the cases cited by plaintiff considering the Laffey Matrix in their deliberations show no support for the rates sought by plaintiff counsel here. *See*, e.g. *Delgado v. Vill. of Rosemont*, 2006 U.S. Dist. LEXIS 80284 (D. Ill. 2006) (awarding very experienced civil rights attorneys $375.00-425.00 per hour). Likewise, plaintiff's citation to *Embry v. Barnhart*, 2003 U.S. Dist. LEXIS 19473 (D. Ill. 2003), as a case approving use of the Laffey Matrix, "either expressly or implicitly," (Petition page 8) is questioned, as all the Court noted in that matter was that reference to the Laffey Matrix was "questionable" in the matter before it. This certainly is not the express or implicit approval plaintiffs would have this Court read from this decision.

Lastly, *Selph v. Bruno et al. & Assc., LLC*, 2007 WL 433103 (N.D. Ill. 2007), is of little use as examination of material available on the public docket reflects that Edelman Combs firm presented its fee petition unopposed following a default judgment. Judge Anderson did not review the merits of the Laffey Matrix, nor did he have reason to do so. While attorney Dan

Edelman discussed the matrix in his submission, the court's simple entry of judgment on the unopposed motion is hardly a declaration from Judge Anderson adopting the matrix in any way.

Finally, in the event this court is considering adopting the formulaic Laffey Matrix relied upon by plaintiff counsel here, it is worth noting that the matrix employs data from a different era which is updated poorly and from a different part of the country and adjusted incorrectly. (*See*, Reasonable Rates: Time to Reload the (Laffey) Matrix, William Rubenstein, Class Action Attorney Fee Digest, February 2008 (attached hereto and incorporated herein as **Exhibit 3**.) This Court should put plaintiff counsel to their burden of proof in showing what rates they normally command in similar litigation and what the prevailing rates are for civil rights work in this jurisdiction, and not rely on a crutch of questionable validity.

Plaintiff's fee petition contains no evidence of the hourly rate plaintiff counsel customarily charged any other paying clients for similar legal services. Further, Plaintiff has presented no evidence of what other Chicago lawyers routinely bill in similar cases. Finally, plaintiff has also not offered any evidence that plaintiff counsel received similar hourly fee awards in similar cases. As such, the requested hourly rates are too high. There is nothing in the affidavits that meaningfully or competently suggests otherwise. The proposed hourly rates plainly cannot be used for the lodestar calculations in this case. Defendants suggest that the following rates be substituted as the reasonable hourly rates in this matter:

Daniel S. Alexander (1989)	$250.00
Christopher R. Smith (1989)	$250.00
Phillip L. Coffey (1992)	$250.00
Jared S. Kosoglad (2005)	$175.00
Raymond J. Smith (1956)	$250.00

These proposed rates are similar to the rates approved by other judges in the Northern District of Illinois. Indeed, the rates are consistent with the rates set in cases cited by plaintiff here. *See, e.g., Schultz,* 2007 U.S. Dist. LEXIS 26491 (D. Ill. 2007) (setting rate of $285 per hour for attorney with 11-19 years experience directly in civil rights litigation); *Arch*, 2005 U.S. Dist. LEXIS 12198 (D. Ill. 2005) ($225-300 per hour); *Covington-McIntosh*, 2004 U.S. Dist. LEXIS 2059 (D. Ill. 2004) (highly experienced partners' claimed rates of $400 held to be unreasonable and reduced to $350 per hour); *c.f.*, *Delgado*, 2006 U.S. Dist. LEXIS 80284 (D. Ill. 2006). Plaintiff offers nothing sufficient to support the huge deviation in fees paid in this District to counsel here.

Even assuming this Court finds the proffered market rates to be appropriate (they are not), there are a variety of problems with the number of hours billed for certain tasks and the manner in which plaintiff counsel recorded their hours. First, many entries appear to be either improperly billed to this case, or the billing entries themselves call into question the veracity of the billing. Next, many of the entries included prohibited block billing – especially on deposition billing – such that it is not clear how much time was spent on certain discrete tasks because multiple tasks were often included in single blocks of billed time. Indeed, the persistent use of block billing on depositions raises the question of whether time was "padded" onto the deposition time.

Plaintiff counsel also consistently billed time in quarter hour increments, thereby unfairly increasing the charges they are seeking to apply to defendants. Likewise, certain hours were improper and excessive because the work performed was clerical in nature and did not warrant the expenditure of an attorney's time. Finally, literally dozens of billing entries reflect prohibited duplication of efforts, often with the billing entries exactly tracking each other both in time and description, to the point that it is questioned whether additional timekeepers had billing added to match those actually performing the claimed work.

5. Questionable Time Entries.

First, enclosed as **Exhibit A** are tables setting out entries that appear to be improperly billed to this case, or are questioned based on the billing description provided. **Table 1** sets out entries that appear improperly billed to this case, or are questioned based on the information provided. In this respect, defendants must respectfully question the billing for trial attendance on a Saturday. No court was in session on December 1, 2007 and this appears to be either a fraudulent entry or an errant billing entry. In either event, the entry is not properly billed as it does not provide any detail of the work performed and should not be allowed by this Court.

Pending further confirmation of this time, this entry should be stricken, for a recommended adjustment of **$4,162.50**.

6. Improper Block Billing

Similarly, many entries for deposition work are billed as block billed time entries. Block billing frequently results in the reduction of a requested attorney's fee award. *See, e.g., Poynor*

v. Comm. Unit School Dist. # 300, No. 99 C 1290, 1999 U.S. Dist. LEXIS 18831, at *3 (N.D. Ill. Nov. 30, 1999) (reducing the amount of fees block-billed by ten percent).

In this matter, block billing is routinely seen in entries for depositions, where time is claimed in one entry both for "preparation" and the time claimed for the deposition – with no discussion provided regarding what supposedly was done to prepare for the deposition. It goes as a matter of course that it is not normally necessary to spend ample time preparing for all depositions, especially in a case like this where multiple witnesses are testifying regarding similar subjects. Nevertheless, review of these blocked billed entries against the pages of the depositions, with the assumption of 1.5 minutes spent per deposition page, places the veracity of these billing entries in question. (*See*, Entries in **Exhibit A – Table 2**).

From review of **Table 2**, it becomes clear that there is no way to ascertain whether the extra time seen on the vast majority of the block billed entries is proper, as there is no discussion provided the claimed required preparation. Nevertheless, for purposes of remaining conservative in the stated objection, the billing entries in **Table 2** are adjusted only based on the excessive rates claimed by plaintiff counsel – for a resulting requested adjustment of **$56,550.00**. While this still provides a potential windfall to plaintiff counsel, the only other fair recourse would be to cut these billing entries in whole or require further documentation to support the extra time seen.

7. Improper Billing in Quarter Hour Increments

Further adding to the excessive nature of the fee claim of plaintiff counsel is the improper use of quarter hour billing increments. In this respect, review of the time entries reflects that every submitted entry is billed in quarter hour increments. Billing in quarter hour increments is frowned upon in this jurisdiction and subject to reduction. *See, Fox Valley Laborers Fringe Benefit Funds v. Pride of the Fox Masonry & Expert Restorations*, No. 94 C 4289, 1996 U.S. Dist. LEXIS 6515 (N.D. Ill. May 13, 1996) (reducing a fee award to account for improper quarter-hour billing practices).

While all billing entries are set out in quarter hour increments, reduction is not sought for entries that are challenged on other grounds in order to avoid duplication. That said, in the event challenges to billing entries on other grounds are rejected, defendants submit that a proper deduction should occur based on the use of quarter hour increments. At present, the time entries

that are only challenged based on the use of quarter hour billing entries are set out in **Table 3**, attached (**Exhibit A**).

As the billing entries in **Table 3** are also being challenged on the rates claimed by counsel, each of the time entries in the table above are only adjusted based on the deduction in the applicable rate. Should the rate be adjusted for any particular attorney, a corresponding adjustment would be appropriate. In the event that plaintiff counsel's claimed rates are deemed proper (they are not), the court should apply a deduction to each billing entry not adjusted on other grounds in order to account for the improper use of quarter hour billing entries. As it stands, a deduction of **$14,444.13** is sought by defendants at this time.

8. Unnecessary Duplication of Time

Next, plaintiff's fee petition is rendered severely excessive based on observed duplication of time by multiple attorneys performing the same listed tasks, reviewing the work of each other, or otherwise improperly billing for duplicative efforts. Certainly, based on the vague nature of the task descriptions often provided by counsel, a division of labor may have occurred that is not apparent, but based on the time entries provided, it is clear that there is substantial multiplication of effort.

Moreover, based on the often repetitive nature of the task descriptions and the time billed, defendants assert it is reasonable to question whether the time entries provided are contemporaneous, or simply recreated time prepared in the 3 months the parties have waited for plaintiff's fee petition. In either event, the veracity of the time entries is suspect. Nevertheless, in order to remain conservative in the objection to the fee claim, where duplicative time entries are noted, the time of the attorney billing the most to the effort is allow (subject to the reduced rates set out above). Moreover, in many instances nearing the time of trial, the time of multiple attorneys is allowed and only the 3rd or 4th attorney observed completing the same task is adjusted, as set out in the **Table 4**. (**Exhibit A**):

Plaintiff counsel goes to great lengths in their petition to set out their expertise and experience in cases like this in an effort to support the egregious hourly fees. Attorneys commanding the claimed rates would not need the duplication seen in the entries documented in **Table 4**. Based on the duplication of efforts seen in the above time entries, defendants respectfully assert that a deduction of **$768,272.25** is reasonable.

9. Billing for Clerical / Secretarial Tasks at Attorney Rates

Plaintiff counsel also billed for clerical work performed by lawyers. Such tasks included routine scheduling tasks, court filing, docket management and what appears to be routine file organization. Such billing entries are set out in **Table 5** (**Exhibit A**).

In total, defendant believes an adjustment of **$40,333.75** for billings attributed to clerical and secretarial tasks is proper and should not be part of the current fee petition.

II. Objection to Plaintiff's Claimed Costs.

Defendant also objects to plaintiff's claim for costs totaling $40,630.31. Many of the entries are invoices with no description of how the disbursement affected or advanced the litigation, many of the entries appear to be charges attributable to other cases and certain charges are not properly included in the petition for costs and not allowed under Section 1988.

In this respect, **Table 6** sets out the charges sought by plaintiff, together with the objections thereto. (**Exhibit A**) Plaintiff's attorney affidavits do not address the costs sought in this matter. Indeed, plaintiff only submits a simple table with attached invoices, with no further discussion in support of the cost claim. Review, however, of the invoices often reflects that the invoices themselves document that the charges were for work on other cases (*see, e.g.* Exhibits L2 and L4 to plaintiff petition). Moreover, several invoices provide no discussion of why the charges were made, so there is no way to determine if the charges are connected this case and properly chargeable in the cost petition. (*See, e.g.*, L9-12 and L14-15.) Absent further information, plaintiff has not satisfied her burden of properly describing the connection to the case in order to assess these costs.

With respect to plaintiff experts Nabers and Katz, the charges claimed should not be included in the fee petition. Absent specific statutory authority, there can be no recovery of expert witness fees under Section 1988 – while recovery of such fees are allowed for in Section 1981 claims, they are not allowed in Section 1983 cases like this matter. *Newsome v. McCabe*, 2002 U.S. Dist. LEXIS 8793, *13 (N.D. Ill. 2002), *citing, West Virginia Univ. Hosp. v. Casey*, 499 U.S. 83, 86-87, 111 S.Ct. 1138 (1991). Moreover, the vast majority of Nabers' opinions were disqualified under *Daubert* [Document 417] and plaintiff chose to never call him to testify in this matter. Accordingly, his expenses should not be included in the fee petition.

Moreover, even if any portion of Nabers' expense is going to be considered, it is objectionable as the billing provided offers no description of the work performed. Alternatively,

defendant objects to charges made by Nabers for "interest" on his account. Defendants should not be made to pay amounts which appear to be due to plaintiff counsel not timely paying bills. These charges did not advance the case and should not be considered in the cost petition. Lastly, the record reflects that defendants paid Nabers $4,534.87 for his deposition charges and, as such, plaintiff seeks a double recovery for these fees. *See*, Affidavit of Andrew Creighton attached hereto as **Exhibit 4** – Pars. 1-6.

Similarly, plaintiff includes claims for their investigator in their petition, (Exhibits L1 through L8), despite that such expenses are not statutorily allowed under Section 1988. *Estate of Moreland v. Spey-Broeck*, 2005 U.S. Dist. LEXIS 43574, *4 (N.D. Ind. 2005); *Tinch v. Dayton*, 199 F.Supp. 2d 758, 770 (S.D. Oh. 2002). Additionally, even if the investigator's billings were recoverable (they are not), defendants object to the charges connected to Carlos Matias. From review of the invoices, it appears clear that plaintiff counsel had contact with Matias and served him, but made no effort to seek a warrant against him on being advised by their investigator that he was objecting to coming to court on December 7, 2007. (*See,* Exhibit L8 to Petition).

Finally, plaintiff seeks recovery of fees for the deposition of Dr. Vescio, defendant's medical expert. (Exhibit L16 to Petition). However, plaintiff never paid counsel for defendant for these fees and should not be reimbursed for fees never paid. *See,* Affidavit of Andrew Creighton attached hereto and incorporated herein as **Exhibit 4** – Par. 7.

In total, defendant asserts that plaintiff's cost petition includes a total of **$40,630.31** in charges not properly connected to this case, not properly described or not connected to this litigation.

III. CONCLUSION

In summary, the following adjustments to plaintiff's fee and cost petition are proper and should be ordered by this Court:

OVERALL OBJECTION TO PETITION		
Table 1	Questionable Time Entries	$4,162.50
Table 2	Improper Block Billing	$56,055.00
Table 3	Improper Billing in Quarter Hour Increments	$14,444.13
Table 5	Unnecessary Duplication of Time	$674,028.50
Table 5	Clerical / Secretarial Tasks at Attorney Rates	$40,333.75
Table 6	Objection to Plaintiff Claimed Costs	$40,630.31
		$829,654.19

WHEREFORE, Defendant Cook County respectfully request that this Court enter an order denying Plaintiff's Petition for Attorney Fees and Costs in part for the reasons stated herein. The Defendant further requests any other or additional relief that this Court deems just, equitable or appropriate in the premises.

Respectfully submitted,

Defendant Cook County

By: /s/ Andrew J. Creighton
/s/ Edward J. Maloney

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Thomas v. County of Cook - EXHIBIT A

OVERALL OBJECTION TO PETITION

Table 1	**Questionable Time Entries**	**$4,162.50**
Table 2	**Improper Block Billing**	**$56,055.00**
Table 3	**Improper Billing in Quarter Hour Increments**	**$14,444.13**
Table 5	**Unnecessary Duplication of Time**	**$674,028.50**
Table 5	**Clerical / Secretarial Tasks at Attorney Rates**	**$40,333.75**
Table 6	**Objection to Plaintiff Claimed Costs**	**$40,630.31**
		$829,654.19

TABLE 1 - QUESTIONABLE TIME ENTRY

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
12/1/2007	Trial preparation; Witness preparation and trial attendance **[*This is a Saturday*]**	7.5	DSA	$555.00	$4,162.50	$4,162.50
					$4,162.50	**$4,162.50**

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TABLE 2 - IMPROPER BLOCK BILLING

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST BY RATE	PAGES	X 1.5 minutes	HOURS	EXTRA HOURS
12/8/2005	Marlita Thomas Deposition and Preparation	5	CRS	$555.00	$2,775.00	$1,525.00	59	88.5	1.48	3.5
12/20/2005	James Myvette Preparation and taking of Deposition	5	DSA	$555.00	$2,775.00	$1,525.00	142	213.0	3.55	1.5
12/23/2005	Peggy Westbrook Preparation of and taking of Deposition	5.5	DSA	$555.00	$3,052.50	$1,677.50	72	108.0	1.80	3.7
1/3/2006	James Myvette Preparation and taking of Deposition	3.5	CRS	$555.00	$1,942.50	$1,067.50	142	213.0	3.55	(0.0)
1/12/2006	Terrance David Toomey Preparation and Taking of Deposition	6.25	DSA	$555.00	$3,468.75	$1,906.25	126	189.0	3.15	3.1
1/13/2006	James Moncszynski Preparation and taking of Deposition	4	DSA	$555.00	$2,220.00	$1,220.00	92	138.0	2.30	1.7
1/13/2006	Donneta Davis Preparation and Taking of Deposition	4.75	DSA	$555.00	$2,636.25	$1,448.75	60	90.0	1.50	3.3
1/17/2006	Officer Louis Thiemecke Preparation of and taking of Deposition	5.25	DSA	$555.00	$2,913.75	$1,601.25	146	219.0	3.65	1.6
1/24/2006	James Moncszynski Preparation for and taking of Deposition	3.75	CRS	$555.00	$2,081.25	$1,143.75	102	153.0	2.55	1.2
1/26/2006	Darryl Houston Preparation and taking of Deposition	4.25	DSA	$555.00	$2,358.75	$1,296.25	84	126.0	2.10	2.2
1/27/2006	Alex Sanchez Preparation for and taking of Deposition	4	CRS	$555.00	$2,220.00	$1,220.00	125	187.5	3.13	0.9
2/3/2006	Officer Jesus Facundo Preparation for and taking of Deposition	4.25	CRS	$555.00	$2,358.75	$1,296.25	107	160.5	2.68	1.6
3/14/2006	Douglas E. Johnson Preparation for and taking of Deposition	5.5	DSA	$555.00	$3,052.50	$1,677.50	49	73.5	1.23	4.3
4/11/2006	Barbara Davis Preparation for and taking of Deposition	4.5	DSA	$555.00	$2,497.50	$1,372.50		0.0	0.00	4.5
4/12/2006	Maurice Merritt Preparation and taking of Deposition	3.5	CRS	$555.00	$1,942.50	$1,067.50	51	76.5	1.28	2.2
4/13/2006	Steven Stroner Preparation and taking of Deposition	6	CRS	$555.00	$3,330.00	$1,830.00	122	183.0	3.05	3.0
4/18/2006	Enoch Anaglate Preparation and taking of Deposition	3	DSA	$555.00	$1,665.00	$915.00	177	265.5	4.43	(1.4)
4/25/2006	Callie Carter Wallace Preparation and taking of Deposition	4	DSA	$555.00	$2,220.00	$1,220.00		0.0	0.00	4.0
4/26/2006	Raymond Krzyzowski Preparation and taking of Deposition	5	CRS	$555.00	$2,775.00	$1,525.00	83	124.5	2.08	2.9
5/9/2006	Daniel Brown Preparation and taking of Deposition	6	DSA	$555.00	$3,330.00	$1,830.00	145	217.5	3.63	2.4

Thomas v. County of Cook - EXHIBIT A

TABLE 2 - IMPROPER BLOCK BILLING

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST BY RATE	PAGES	X 1.5 minutes	HOURS	EXTRA HOURS
6/27/2006	Callie Baird Preparation and taking of Deposition	6	DSA	$555.00	$3,330.00	$1,830.00	163	244.5	4.08	1.9
6/29/2006	Darius Williams Preparation and taking of Deposition	3	DSA	$555.00	$1,665.00	$915.00	78	117.0	1.95	1.1
8/1/2006	Scott Kurtovich Preparation and taking of Deposition	6	DSA	$555.00	$3,330.00	$1,830.00	126	189.0	3.15	2.9
8/9/2006	William Naber Preparation and defending of Deposition	7	DSA	$555.00	$3,885.00	$2,135.00	197	295.5	4.93	2.1
8/14/2006	Shania Stubbs Preparation and defending of Deposition	3	JSK	$275.00	$825.00	$300.00	57	85.5	1.43	1.6
8/19/2006	Corey Terrell Mitchell Preparation and taking of Deposition	4	CRS	$555.00	$2,220.00	$1,220.00	129	193.5	3.23	0.8
8/22/2006	Thomas Vescio Preparation and taking of Deposition	7.75	DSA	$555.00	$4,301.25	$2,363.75	194	291.0	4.85	2.9
8/28/2006	Teshana Malone Preparation and taking of Deposition	3	JSK	$275.00	$825.00	$300.00	50	75.0	1.25	1.8
9/12/2006	Ivan Hernandez Preparation and taking of Deposition	4	DSA	$555.00	$2,220.00	$1,220.00	51	76.5	1.28	2.7
9/13/2006	Charles Fasano Preparation and taking of Deposition	5	CRS	$555.00	$2,775.00	$1,525.00	209	313.5	5.23	(0.2)
9/13/2006	Donna Norton Preparation and taking of Deposition	2.5	JSK	$275.00	$687.50	$250.00	28	42.0	0.70	1.8
9/14/2006	Gilbert York Preparation for and taking of Deposition	4	CRS	$555.00	$2,220.00	$1,220.00	56	84.0	1.40	2.6
10/5/2006	Ivan Hernandez Preparation and taking of Deposition	3	CRS	$555.00	$1,665.00	$915.00	134	201.0	3.35	(0.4)
10/18/2006	Brian Ruzanski Preparation and taking of Deposition	3	CRS	$555.00	$1,665.00	$915.00	37	55.5	0.93	2.1
11/2/2006	Ivan Hernandez Preparation and taking of Deposition	2.5	CRS	$555.00	$1,387.50	$762.50	46	69.0	1.15	1.4
11/7/2006	Clarence Lacy Preparation and taking of Deposition	4.25	DSA	$555.00	$2,358.75	$1,296.25	106	159.0	2.65	1.6
11/16/2006	Richard Patton Preparation and taking of Deposition	4.75	DSA	$555.00	$2,636.25	$1,448.75	95	142.5	2.38	2.4
12/12/2006	Stephen Fullilive Preparation for and taking of Deposition	4.75	DSA	$555.00	$2,636.25	$1,448.75	117	175.5	2.93	1.8
12/12/2006	Howard Hladick Preparation and taking of Deposition	5.25	DSA	$555.00	$2,913.75	$1,601.25	64	96.0	1.60	3.7

Thomas v. County of Cook - EXHIBIT A

TABLE 2 - IMPROPER BLOCK BILLING

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST BY RATE	PAGES	X 1.5 minutes	HOURS	EXTRA HOURS
12/13/2006	Woodrow Winfrey Preparation and taking of Deposition	4.5	DSA	$555.00	$2,497.50	$1,372.50	124	186.0	3.10	1.4
12/14/2006	Kevin West Preparation and taking of Deposition	3.25	CRS	$555.00	$1,803.75	$991.25	72	108.0	1.80	1.5
2/16/2007	Carlos Matias Preparation and taking of Deposition	6	DSA	$555.00	$3,330.00	$1,830.00	182	273.0	4.55	1.5
					$102,792.50	**$56,055.00**				

Thomas v. County of Cook - EXHIBIT A

TABLE 3 - QUARTER HOUR BILLING

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST BY RATE
5/17/2004	Fax to Marlita Thomas Draft of Complaint	0.25	DSA	$555.00	$138.75	$76.25
5/18/2004	Phone calls to Marlita Thomas re: Draft of Complaint and Death Certificate	1.5	PLC	$555.00	$832.50	$457.50
7/21/2004	Contracts with family of Norman Smith re: Lawsuit	0.5	CRS	$555.00	$277.50	$152.50
7/21/2004	Phone contacts with O'Grady by phone regarding discovery	0.75	CRS	$555.00	$416.25	$228.75
7/21/2004	Fax to O'Grady regarding case; informal; discovery	0.25	DSA	$555.00	$138.75	$76.25
7/21/2004	Contracts with family of Norman Smith re: Lawsuit	0.5	PLC	$555.00	$277.50	$152.50
8/16/2004	Meeting with investigator re: where about of Norman Smith wife / ex-wife	1	CRS	$555.00	$555.00	$305.00
8/16/2004	Draft letter re: discovery compliance to O'Grady	0.75	DSA	$555.00	$416.25	$228.75
8/17/2004	Letter to Caldwell re: Lawsuit	0.5	DSA	$555.00	$277.50	$152.50
8/19/2004	Review of Discovery	2	CRS	$555.00	$1,110.00	$610.00
8/19/2004	Review of discovery	3.25	DSA	$555.00	$1,803.75	$991.25
10/3/2004	Review of Facts - Sheriff and conformation of sites	5	JSK	$275.00	$1,375.00	$500.00
11/9/2004	Disclosures Draft	1	CRS	$555.00	$555.00	$305.00
11/9/2004	Motion draft	1	CRS	$555.00	$555.00	$305.00
12/3/2004	Client Contact re: Estate	1.5	CRS	$555.00	$832.50	$457.50
12/3/2004	Probate Research and forms	3.25	DSA	$555.00	$1,803.75	$991.25
12/10/2004	Call to defense counsel regarding missing discovery	0.25	CRS	$555.00	$138.75	$76.25
12/11/2004	Call to defense counsel regarding missing discovery	0.25	CRS	$555.00	$138.75	$76.25
12/15/2004	Conference re: missing Discovery	0.25	CRS	$555.00	$138.75	$76.25
12/27/2004	Discovery document review	3.25	DSA	$555.00	$1,803.75	$991.25
12/27/2004	Discussion regarding filing motion for extension	0.75	PLC	$555.00	$416.25	$228.75
12/28/2004	Call to Def. re: missing Discovery	0.25	CRS	$555.00	$138.75	$76.25
12/29/2004	File a Motion for Extension of Time; Amended	1	CRS	$555.00	$555.00	$305.00
12/30/2004	Call to Def. re: missing Discovery	0.25	DSA	$555.00	$138.75	$76.25
12/30/2004	Review/re-draft and file motion for extension of time to file Amended Complaint	1.25	DSA	$555.00	$693.75	$381.25
1/6/2005	Review Cook County Discovery	4	CRS	$555.00	$2,220.00	$1,220.00
1/27/2005	Draft Letter to Sheehan re; Medical Loss	0.25	CRS	$555.00	$138.75	$76.25
2/2/2005	Research for Second Amended Complaint and Review of Discovery	3.5	CRS	$555.00	$1,942.50	$1,067.50
2/15/2005	Contact with Garfalo re: Estate	1	DSA	$555.00	$555.00	$305.00
3/16/2005	Court Motion to Dismiss	1	CRS	$555.00	$555.00	$305.00
4/22/2005	Contact client re: Settlement Conference	0.5	PLC	$555.00	$277.50	$152.50
4/28/2005	Preparation for Settlement Conference meeting with client settlement conference	3.5	CRS	$555.00	$1,942.50	$1,067.50
5/12/2005	Telephone Conference with Gallagher re: Discovery	0.25	CRS	$555.00	$138.75	$76.25
9/9/2005	Review Correspondence from Esbrook	0.25	DSA	$555.00	$138.75	$76.25
9/28/2005	Court	1	DSA	$555.00	$555.00	$305.00
10/5/2005	Review of Written Discovery and Correspondence	0.5	CRS	$555.00	$277.50	$152.50
10/24/2005	Fax to Thomas	0.25	PLC	$555.00	$138.75	$76.25
10/25/2005	Fax to Client	0.25	CRS	$555.00	$138.75	$76.25
10/28/2005	Preparation of Correspondence to Discovery re; Interrogatories	0.25	CRS	$555.00	$138.75	$76.25
11/1/2005	Review Motion for Protective Order	0.5	DSA	$555.00	$277.50	$152.50
11/14/2005	Correspondence and discovery Response	1	DSA	$555.00	$555.00	$305.00
11/21/2005	Review of Memorandum and Opinion and review of file	2.75	DSA	$555.00	$1,526.25	$838.75

Thomas v. County of Cook - EXHIBIT A

TABLE 3 - QUARTER HOUR BILLING

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST BY RATE
11/28/2005	Correspondence to Defendant re: Deposition and Discovery issues	0.75	DSA	$555.00	$416.25	$228.75
11/29/2005	Review and Response to Correspondence re: Settlement and Deposition	1.25	DSA	$555.00	$693.75	$381.25
12/1/2005	Review of Correspondence and discovery response of Cook County	1.25	CRS	$555.00	$693.75	$381.25
12/5/2005	Review of File re: services issues and amendments	1.25	CRS	$555.00	$693.75	$381.25
12/5/2005	Telephone calls to Sheehan and Esbrook re; Discovery	0.5	DSA	$555.00	$277.50	$152.50
12/5/2005	Review Discovery Response and Correspondence	2.75	DSA	$555.00	$1,526.25	$838.75
12/6/2005	Preparation motion for leave to conduct in excess of ten depositions; 4th Amended Complaint and Motion to leave to File	3.75	DSA	$555.00	$2,081.25	$1,143.75
12/18/2005	Preparation and filing of Motion to Compel	1.75	DSA	$555.00	$971.25	$533.75
12/10/2005	Review of Motion for Leave to Amend and Depositions	0.5	CRS	$555.00	$277.50	$152.50
12/11/2005	Review of Responses and discussion re; Leave to Amend Complaint	0.75	DSA	$555.00	$416.25	$228.75
12/13/2005	Preparation correspondence re; Discovery and Deposition	0.75	DSA	$555.00	$416.25	$228.75
12/14/2005	Preparation for Deposition and review of Discovery documents	3	DSA	$555.00	$1,665.00	$915.00
1/4/2006	Conference with Naber expert	0.5	CRS	$555.00	$277.50	$152.50
1/4/2006	Review documens [SIC] of Nabor expert	3	CRS	$555.00	$1,665.00	$915.00
1/5/2006	Preparation of summons	0.5	CRS	$555.00	$277.50	$152.50
1/6/2006	Conference with expert Nabor	0.5	CRS	$555.00	$277.50	$152.50
1/6/2006	Document review	2	CRS	$555.00	$1,110.00	$610.00
1/13/2006	Review of Correspondence re; Deposition and discovery documents of media request	0.25	CRS	$555.00	$138.75	$76.25
1/23/2006	Review Correspondence re: Depositions	0.25	CRS	$555.00	$138.75	$76.25
1/26/2006	Draft letter for Def. Re: movement book	0.5	DSA	$555.00	$277.50	$152.50
1/26/2006	Calls re: address of Johnson and Facundo	0.5	DSA	$555.00	$277.50	$152.50
1/26/2006	Correspondence to Esbrook and Sheehan	0.25	DSA	$555.00	$138.75	$76.25
1/26/2006	Telephone conference with Nabor	0.25	DSA	$555.00	$138.75	$76.25
1/27/2006	Review of Discovery for missing documents	1.5	CRS	$555.00	$832.50	$457.50
1/29/2006	Meeting with Investigator Ellis re: Service of CFD; Def: Facundo	0.5	CRS	$555.00	$277.50	$152.50
1/30/2006	Review of Letter re; Addresses	0.5	DSA	$555.00	$277.50	$152.50
1/30/2006	Conference with expert Nabor	0.5	DSA	$555.00	$277.50	$152.50
1/30/2006	Review of jail materials	3	DSA	$555.00	$1,665.00	$915.00
2/1/2006	Conference call with expert Nabor	0.5	DSA	$555.00	$277.50	$152.50
2/2/2006	Review of expert material	2	DSA	$555.00	$1,110.00	$610.00
2/2/2006	Conference with expert Nabor	0.5	CRS	$555.00	$277.50	$152.50
2/7/2006	Court Motion to Strike	1	DSA	$555.00	$555.00	$305.00
2/7/2006	Review replies to Plaintiff Combined Response	1.5	PLC	$555.00	$832.50	$457.50
2/8/2006	Review of Fax Estbrook re: Deposition	0.25	CRS	$555.00	$138.75	$76.25
2/12/2006	Review Correspondence re; EsBrook	2	PLC	$555.00	$1,110.00	$610.00
2/22/2006	Correspondence prepared Supplemental Rule 26A1	0.25	DSA	$555.00	$138.75	$76.25
2/23/2006	Correspondence prepared by; Re: Medical Examiner Choi	0.5	DSA	$555.00	$277.50	$152.50
2/23/2006	Call to Medical Examiner	0.25	DSA	$555.00	$138.75	$76.25
3/2/2006	Review new discovery	2	CRS	$555.00	$1,110.00	$610.00
3/7/2006	Obtain additional plaintiff discovery	0.5	CRS	$555.00	$277.50	$152.50
3/7/2006	Calls and review of discovery documents	0.5	CRS	$555.00	$277.50	$152.50

Thomas v. County of Cook - EXHIBIT A

TABLE 3 - QUARTER HOUR BILLING

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST BY RATE
3/10/2006	Draft letter re: witnesses and discovery disclosures	0.5	CRS	$555.00	$277.50	$152.50
3/27/2006	Preparation of correspondence Notice of deposition and HIPPA order	0.5	DSA	$555.00	$277.50	$152.50
3/27/2006	Review and preparation of agreed HIPP A	1	DSA	$555.00	$555.00	$305.00
3/29/2006	Review and prepare documents for disclosure of related mengitatius [SIC] death case 04c3563	3	CRS	$555.00	$1,665.00	$915.00
3/29/2006	Review Esbrook Correspondence	0.25	CRS	$555.00	$138.75	$76.25
3/31/2006	Draft correspondence re: Addie McCall disclosures	0.25	CRS	$555.00	$138.75	$76.25
4/3/2006	Preparation and filing of Motion re: Protective Order and Motion Deposition of Keeper of Records	2.5	DSA	$555.00	$1,387.50	$762.50
4/3/2006	Draft correspondence and supplement to 26 a disclosures	1.25	DSA	$555.00	$693.75	$381.25
4/6/2006	Draft letter re: death in custody	0.5	JSK	$275.00	$137.50	$50.00
4/6/2006	Research review re: death in custody	1.25	JSK	$275.00	$343.75	$125.00
4/10/2006	Draft letter re: HIPPA	0.25	JSK	$275.00	$68.75	$25.00
4/12/2006	Preparation of correspondence and supplemental to Rule 26	1.25	DSA	$555.00	$693.75	$381.25
4/14/2006	Review documents Discovery	3	DSA	$555.00	$1,665.00	$915.00
4/14/2006	Draft a letter re: depositions and discovery	0.75	DSA	$555.00	$416.25	$228.75
4/18/2006	Review Order	0.25	JSK	$275.00	$68.75	$25.00
4/18/2006	Calls and draft correspondence re: Katz dep	0.5	JSK	$275.00	$137.50	$50.00
4/18/2006	Draft supplemental disclosure letter	0.5	JSK	$275.00	$137.50	$50.00
4/21/2006	Sgt. Gerald Dew Preparation and taking of Deposition	4.5	DSA	$555.00	$2,497.50	$1,372.50
4/25/2006	Review of Court Order	0.25	DSA	$555.00	$138.75	$76.25
4/26/2006	Draft letter re: Baird Deposition	0.5	JSK	$275.00	$137.50	$50.00
4/26/2006	Review correspondence and call re: extension of discovery	0.5	JSK	$275.00	$137.50	$50.00
5/5/2006	Prep of letter re: Brown dep.	0.5	DSA	$555.00	$277.50	$152.50
5/5/2006	Deposition notices	0.5	JSK	$275.00	$137.50	$50.00
5/8/2006	Review documents and Draft; Reply/Compel HIPP A	3	JSK	$275.00	$825.00	$300.00
5/9/2006	Preparation and filing reply in Support of Motion by plaintiff to Compel	2	DSA	$555.00	$1,110.00	$610.00
5/10/2006	Correspondence and calls re: settlement conference dates	0.75	JSK	$275.00	$206.25	$75.00
5/10/2006	Review of discovery and edit correspondence	3	DSA	$555.00	$1,665.00	$915.00
5/18/2006	Correspondence re: Interrogatory and depositions	0.5	DSA	$555.00	$277.50	$152.50
5/19/2006	Correspondence Discussions re: Settlement Conference Dates	1.5	CRS	$555.00	$832.50	$457.50
5/22/2006	Telephone conference with Nabor	0.5	JSK	$275.00	$137.50	$50.00
5/23/2006	Court for Status and Pending Motions	1	DSA	$555.00	$555.00	$305.00
5/30/2006	Draft Correspondence: Interrogatory Response	1.25	CRS	$555.00	$693.75	$381.25
6/2/2006	Preparation of correspondence re depositions	0.25	DSA	$555.00	$138.75	$76.25
6/4/2006	reviews correspondence re: motion to bar/deposition dates	0.5	DSA	$555.00	$277.50	$152.50
6/7/2006	Preparation of supplement discovery letter	0.5	JSK	$275.00	$137.50	$50.00
6/7/2006	Review of correspondence	0.5	DSA	$555.00	$277.50	$152.50
6/9/2006	Letter re; Outstanding Discovery re depositions missing interrogatory responses -review discovery-	2.75	DSA	$555.00	$1,526.25	$838.75
6/14/2006	Review correspondence and calls re: Numbers deposition schedule	0.5	DSA	$555.00	$277.50	$152.50
6/15/2006	Conference Review order and reschedule	1.5	CRS	$555.00	$832.50	$457.50

Thomas v. County of Cook - EXHIBIT A

TABLE 3 - QUARTER HOUR BILLING

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST BY RATE
6/16/2006	Review correspondence and calls regarding settlement conference	1.25	CRS	$555.00	$693.75	$381.25
6/17/2006	Preparation letter re Katz deposition	0.5	JSK	$275.00	$137.50	$50.00
6/28/2006	Correspondence Matias deposition	0.25	JSK	$275.00	$68.75	$25.00
7/12/2006	Edit and Preparation of demand letter	1	JSK	$275.00	$275.00	$100.00
7/14/2006	Review correspondence and preparation of letter reply re: motion and Naber issues	1	JSK	$275.00	$275.00	$100.00
7/14/2006	Review of Defendants Cook; motion to compel and response	0.5	DSA	$555.00	$277.50	$152.50
7/17/2006	Review of July 14th 2006 Cook County Discovery letter	0.5	DSA	$555.00	$277.50	$152.50
7/20/2006	Preparation and obtaining information for letter re: Matias	0.5	JSK	$275.00	$137.50	$50.00
7/26/2006	Correspondence re: discovery addresses and deposition	1	JSK	$275.00	$275.00	$100.00
7/26/2006	Review of correspondence	0.5	CRS	$555.00	$277.50	$152.50
7/27/2006	Settlement conference	2	CRS	$555.00	$1,110.00	$610.00
8/7/2006	Preparing for Nabor meeting	2	JSK	$275.00	$550.00	$200.00
8/8/2006	Jail visit and conference regarding jail visit	4.5	DSA	$555.00	$2,497.50	$1,372.50
8/8/2006	Preparing for Deposition: Nabor	2.5	DSA	$555.00	$1,387.50	$762.50
8/15/2006	Status hearing	1	CRS	$555.00	$555.00	$305.00
8/28/2006	Subpoena Preparation	0.75	JSK	$275.00	$206.25	$75.00
9/7/2006	Correspondence re: medical records of detainees	1	JSK	$275.00	$275.00	$100.00
9/7/2006	Drafting and filing motion for discovery to depose sheriff	1.75	DSA	$555.00	$971.25	$533.75
9/7/2006	Drafting memorandum in support of deposing Sheehan	6	DSA	$555.00	$3,330.00	$1,830.00
9/7/2006	Filing and editing motion to defendants and Hernandez	0.75	JSK	$275.00	$206.25	$75.00
9/8/2006	Correspondence regarding witness addresses	0.75	JSK	$275.00	$206.25	$75.00
9/11/2006	Preparation of Correspondence and Documents for Katz re: call to Katz	1.5	CRS	$555.00	$832.50	$457.50
9/14/2006	Draft and preparation / Reply to motion for leave to depose Sheriff Sheehan	0.5	CRS	$555.00	$277.50	$152.50
9/18/2006	Correspondence re; Parker disclosures	0.25	JSK	$275.00	$68.75	$25.00
9/18/2006	Review of documents re: pre-trial for preparation of witness list	4	CRS	$555.00	$2,220.00	$1,220.00
9/18/2006	Review motion for protective order	0.5	DSA	$555.00	$277.50	$152.50
9/23/2006	Review of response in opposition to compel	1.25	DSA	$555.00	$693.75	$381.25
9/26/2006	Correspondence re: pretrial	0.5	CRS	$555.00	$277.50	$152.50
9/26/2006	Review of H154-169 medical records	2	JSK	$275.00	$550.00	$200.00
9/26/2006	Court	1	CRS	$555.00	$555.00	$305.00
9/27/2006	Preparation of draft of motion in limine	2	JSK	$275.00	$550.00	$200.00
9/27/2006	Review of witness list	3	DSA	$555.00	$1,665.00	$915.00
9/28/2006	Preparation and drafting motion in limine	5.5	DSA	$555.00	$3,052.50	$1,677.50
9/29/2006	Preparation of letter re: Deposition of Hernandez-Re: taking objections	0.75	JSK	$275.00	$206.25	$75.00
9/29/2006	Review correspondence and calls to set up depositions of Hernandez	0.5	JSK	$275.00	$137.50	$50.00
9/29/2006	Plaintiffs motion in limine exhibit list witness	1	CRS	$555.00	$555.00	$305.00
10/1/2006	Hernandez motion for summary judgment Rule 56	1	CRS	$555.00	$555.00	$305.00
10/1/2006	Review of H154-169 medical records	2	JSK	$275.00	$550.00	$200.00
10/2/2006	Corrected exhibit memorandum in support of summary judgment	1	JSK	$275.00	$275.00	$100.00
10/2/2006	Preparation of letter re: Naber Photographs depositions and subpoenas	0.75	JSK	$275.00	$206.25	$75.00

Thomas v. County of Cook - EXHIBIT A

TABLE 3 - QUARTER HOUR BILLING

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST BY RATE
10/4/2006	Preparation of Correspondence re: Hernandez Contempt/Deposition	0.5	CRS	$555.00	$277.50	$152.50
10/10/2006	Court Apperance [SIC] re: Hernandez and Jonder	1	CRS	$555.00	$555.00	$305.00
10/25/2006	Telephone conference re: Affidavit of Darius Parker	1.75	DSA	$555.00	$971.25	$533.75
10/25/2006	Review of grievances and medical request and jail documents	4	DSA	$555.00	$2,220.00	$1,220.00
10/25/2006	Review letters and prepare correspondence and call regarding depositions	1.5	JSK	$275.00	$412.50	$150.00
10/26/2006	Correspondence to Darius Parker	0.5	DSA	$555.00	$277.50	$152.50
10/26/2006	Review documents and deposition re: Summary Judgment issues	3.5	DSA	$555.00	$1,942.50	$1,067.50
10/27/2006	Review records of Jail	1.5	JSK	$275.00	$412.50	$150.00
10/27/2006	Letter re: deposition of Hernandez and review correspondence	0.5	JSK	$275.00	$137.50	$50.00
10/30/2006	Preparation of correspondence re: Hernandez affidavit	0.5	JSK	$275.00	$137.50	$50.00
11/1/2006	Preparation letter regarding Hernandez scheduling changes	0.5	JSK	$275.00	$137.50	$50.00
11/4/2006	Preparing Correspondence obtaining and sending Hernandez Deposition documents	0.75	JSK	$275.00	$206.25	$75.00
11/6/2006	Correspondence re: Darrius Parker	0.5	JSK	$275.00	$137.50	$50.00
11/9/2006	Correspondence re: Affidavit of G. Robotis	0.25	JSK	$275.00	$68.75	$25.00
11/13/2006	Preparation of correspondence re: Hernandez deposition documents	0.75	JSK	$275.00	$206.25	$75.00
11/16/2006	Preparation of correspondence Rule 34 inspection	0.5	JSK	$275.00	$137.50	$50.00
11/16/2006	Court appearance extension additional discovery	1	DSA	$555.00	$555.00	$305.00
11/17/2006	Letter re: Rule to show cause order	0.75	CRS	$555.00	$416.25	$228.75
11/20/2006	Letter re: Robinson affidavit	0.25	JSK	$275.00	$68.75	$25.00
11/22/2006	Review of motion for summary judgment research	5.5	DSA	$555.00	$3,052.50	$1,677.50
11/22/2006	Planning meeting	1.25	DSA	$555.00	$693.75	$381.25
11/29/2006	Letter demanding outstanding deposition	0.75	JSK	$275.00	$206.25	$75.00
12/7/2006	Preparation for response to summary judgment	4.5	CRS	$555.00	$2,497.50	$1,372.50
12/7/2006	Research for summary judgment	4.5	JSK	$275.00	$1,237.50	$450.00
12/8/2006	Review of documents in support of summary judgment review of draft and outline and research	6	DSA	$555.00	$3,330.00	$1,830.00
12/8/2006	Letter and communication re: deposition and scheduling	1.75	JSK	$275.00	$481.25	$175.00
12/14/2006	Preparation letter re: discovery monthly pharmacy sheet	0.5	JSK	$275.00	$137.50	$50.00
1/10/2007	Review and edit of response to facts	1.5	CRS	$555.00	$832.50	$457.50
2/1/2007	Preparation of response to reconsider	6	DSA	$555.00	$3,330.00	$1,830.00
2/2/2007	Preparation of repsonse to reconsider	7	DSA	$555.00	$3,885.00	$2,135.00
2/7/2007	Letter to Matius re; possible arrest warrant	1	DSA	$555.00	$555.00	$305.00
2/8/2007	Review of record order	0.25	DSA	$555.00	$138.75	$76.25
2/28/2007	Preparation of additional facts	4.5	DSA	$555.00	$2,497.50	$1,372.50
3/6/2007	Contact clients regarding additional discovery and status of case	0.75	PLC	$555.00	$416.25	$228.75
3/7/2007	Hearing on motion to supplement	1	DSA	$555.00	$555.00	$305.00
4/27/2007	Review Court Order	0.25	JSK	$275.00	$68.75	$25.00
7/11/2007	Preparation correspondence re: 26al visit grievance staffing discovery and depositions	1.5	JSK	$275.00	$412.50	$150.00
9/28/2007	Review of exhibits list	2	DSA	$555.00	$1,110.00	$610.00
10/3/2007	Contact client re: Settlement Conference	0.5	DSA	$555.00	$277.50	$152.50

Thomas v. County of Cook - EXHIBIT A

TABLE 3 - QUARTER HOUR BILLING

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST BY RATE
10/25/2007	Preparation of Correspondence to Defense re; Written Discovery	0.5	CRS	$555.00	$277.50	$152.50
10/25/2007	Review of Correspondence and conference w/ CRS	0.25	DSA	$555.00	$138.75	$76.25
11/2/2007	Trial preparation and Motion to Amend witness list	1.5	JSK	$275.00	$412.50	$150.00
11/3/2007	Trial preparation	3	JSK	$275.00	$825.00	$300.00
11/24/2007	Revised statement	0.5	CRS	$555.00	$277.50	$152.50
12/13/2007	Calls to obtain documents to submit to jury	0.25	CRS	$555.00	$138.75	$76.25
12/13/2007	Calls to DSA regarding Jury Questions	0.5	CRS	$555.00	$277.50	$152.50
12/21/2007	Research petition for fees	2	CRS	$555.00	$1,110.00	$610.00
12/26/2007	Motion for extention of time for filing petition	1	CRS	$555.00	$555.00	$305.00
1/3/2008	Review and research of post trial motion	2.5	DSA	$555.00	$1,387.50	$762.50
1/3/2008	Review of hours and cost	3	CRS	$555.00	$1,665.00	$915.00
1/4/2008	Conference with Tyron Hudson re: Bill of Cost	2	CRS	$555.00	$1,110.00	$610.00
2/13/2008	Motion for extention of time for filing petition	0.25	DSA	$555.00	$138.75	$76.25
					$144,441.25	**$14,444.13**

Thomas v. County of Cook - EXHIBIT A

TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
5/5/2004	Discussion regarding the possibility of a new case	0.75	CRS	$555.00	$416.25	$228.75
5/5/2004	Discussion regarding the possibility of a new case	0.75	DSA	$555.00	$416.25	$416.25
5/5/2004	Discussion regarding the possibility of a new case	0.75	PLC	$555.00	$416.25	$416.25
5/6/2004	Meeting regarding case and contract	4	CRS	$555.00	$2,220.00	$1,220.00
5/6/2004	Meeting regarding case and contract	4	PLC	$555.00	$2,220.00	$2,220.00
5/10/2004	Contact with clients phone regarding initial documents and discussion regarding case	1.25	CRS	$555.00	$693.75	$381.25
5/10/2004	Contact with clients phone regarding initial documents and discussion regarding case	1.25	DSA	$555.00	$693.75	$693.75
5/12/2004	interview possible witness	2.5	CRS	$555.00	$1,387.50	$762.50
5/12/2004	Interview witness	2.5	DSA	$555.00	$1,387.50	$1,387.50
5/13/2004	Research and preparation of complaint and party witness	3	CRS	$555.00	$1,665.00	$915.00
5/17/2004	Preparation of complaint	2	CRS	$555.00	$1,110.00	$610.00
5/17/2004	Preparation of complaint	4	DSA	$555.00	$2,220.00	$2,220.00
5/21/2004	Preparation of Summons and Cover Sheet final draft of Complaint	2	CRS	$555.00	$1,110.00	$1,110.00
5/21/2004	Preparation of Summons and Cover Sheet final draft of Complaint	2.75	DSA	$555.00	$1,526.25	$838.75
5/28/2004	Review of Court order and phone discussion regarding dismissal and discovery plan	2	CRS	$555.00	$1,110.00	$610.00
5/28/2004	Review of Court order and phone discussion regarding dismissal and discovery plan	2	DSA	$555.00	$1,110.00	$1,110.00
7/21/2004	Review of discovery documents	0.75	CRS	$555.00	$416.25	$228.75
7/21/2004	Review of discovery documents	2.25	DSA	$555.00	$1,248.75	$1,248.75
7/23/2004	Meeting with Angela Magsby re: Lawsuit and contract	2.5	CRS	$555.00	$1,387.50	$762.50
7/23/2004	Meeting with Angela Magsby re: Lawsuit and contract	2.5	DSA	$555.00	$1,387.50	$1,387.50
7/26/2004	Meeting with Mother Cassandra Talmad re; Contract and Lawsuit	2	CRS	$555.00	$1,110.00	$610.00
7/26/2004	Meeting with Mother Cassandra Talmad re; Contract and Lawsuit	2	DSA	$555.00	$1,110.00	$1,110.00
7/26/2004	Meeting with Mother Cassandra Talmad re; Contract and Lawsuit	2	PLC	$555.00	$1,110.00	$1,110.00
7/27/2004	Review of O'Grady Fax re: Sheriff Policy	0.25	CRS	$555.00	$138.75	$76.25
7/27/2004	Call to O'Grady re: Discovery disclosures	0.25	DSA	$555.00	$138.75	$138.75
7/27/2004	Review of O'Grady Fax re: Sheriff Policy	0.25	DSA	$555.00	$138.75	$138.75
8/23/2004	Draft Amended Complaint	1.5	CRS	$555.00	$832.50	$832.50
8/23/2004	Draft Amended Complaint	3.5	DSA	$555.00	$1,942.50	$1,067.50
8/23/2004	Draft Summonses	2	CRS	$555.00	$1,110.00	$610.00
8/23/2004	Draft Summons	0.5	PLC	$555.00	$277.50	$277.50

Thomas v. County of Cook - EXHIBIT A

TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
8/25/2004	Review Amended Complaint Summons Draft Cover file Complaint	2	CRS	$555.00	$1,110.00	$1,110.00
8/25/2004	Review Amended Complaint Summons Draft Cover file Complaint	4	DSA	$555.00	$2,220.00	$1,220.00
9/14/2004	Obtain Service information and serve Cermak defendant and Cook County	2.25	CRS	$555.00	$1,248.75	$686.25
9/14/2004	Obtain Service information and serve Cermak defendant and Cook County	2.25	PLC	$555.00	$1,248.75	$1,248.75
9/30/2004	Review fax re: initial Status from Allegretti	0.25	DSA	$555.00	$138.75	$76.25
9/30/2004	Telephone Conference with Attorney Allegretti re: Discovery and Initial Status Report	0.25	DSA	$555.00	$138.75	$138.75
10/3/2004	Review correspondence	0.25	DSA	$555.00	$138.75	$138.75
10/5/2004	Preparation of Joint Status Report and fax to Allegretti	1.5	CRS	$555.00	$832.50	$832.50
10/8/2004	Preparation of Joint Status Report and Filing	1.75	DSA	$555.00	$971.25	$533.75
10/28/2004	Motion to Dismiss by Sheriff review	1.5	CRS	$555.00	$832.50	$457.50
11/2/2004	Review of Motions to dismiss and discussion	1.25	CRS	$555.00	$693.75	$381.25
11/2/2004	Review of Motions to dismiss and discussion	0.5	PLC	$555.00	$277.50	$277.50
11/3/2004	Review of Motions to dismiss and discussion	2.5	DSA	$555.00	$1,387.50	$1,387.50
11/12/2004	Review Court Order and discussion /planning with D.A.	0.25	DSA	$555.00	$138.75	$138.75
11/12/2004	Review Court Order and discussion /planning with D.A.	0.25	DSA	$555.00	$138.75	$138.75
12/9/2004	Review of 26(A) 1 from Sheriff	3.5	CRS	$555.00	$1,942.50	$1,067.50
12/9/2004	Review of 26(A) 1 from Sheriff	3	DSA	$555.00	$1,665.00	$1,665.00
12/9/2004	Review of 26(A) 1 from Sheriff	2	PLC	$555.00	$1,110.00	$1,110.00
12/27/2004	Discussion regarding filing motion for extension	0.75	CRS	$555.00	$416.25	$228.75
12/27/2004	Discussion regarding filing motion for extension	0.75	DSA	$555.00	$416.25	$416.25
1/12/2005	Review of Discovery	2	CRS	$555.00	$1,110.00	$1,110.00
1/12/2005	Review of Discovery	3.5	DSA	$555.00	$1,942.50	$1,067.50
1/12/2005	Review of Discovery	2	PLC	$555.00	$1,110.00	$1,110.00
1/13/2005	Review of County Discovery	3.25	DSA	$555.00	$1,803.75	$991.25
2/3/2005	Draft Second Amended Complaint	4	CRS	$555.00	$2,220.00	$1,220.00
2/4/2005	Review of Complaint and Draft	2.5	DSA	$555.00	$1,387.50	$1,387.50
2/8/2005	Preparation of 2nd Amended Complaint and Filing Docs.	2	CRS	$555.00	$1,110.00	$610.00
2/9/2005	Preparation and Filing Second Amended Complaint	3.75	DSA	$555.00	$2,081.25	$2,081.25
3/10/2005	Review Motions to Dismiss	1	PLC	$555.00	$555.00	$555.00
3/11/2005	Review of Motion and Memorandum to Dismiss and Planning Meeting	2.5	CRS	$555.00	$1,387.50	$762.50
3/11/2005	Review of Motion and Memorandum to Dismiss and Planning Meeting	2.5	PLC	$555.00	$1,387.50	$1,387.50
3/15/2005	Meeting re: Motion to Dismiss - Review & Research	2.25	CRS	$555.00	$1,248.75	$1,248.75

Thomas v. County of Cook - EXHIBIT A

TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
3/15/2005	Meeting re: Motion to Dismiss - Review & Research	4.5	DSA	$555.00	$2,497.50	$1,372.50
3/15/2005	Meeting re: Motion to Dismiss	1	PLC	$555.00	$555.00	$555.00
4/11/2005	Review Correspondence; regarding settlement conference	0.5	CRS	$555.00	$277.50	$277.50
4/11/2005	Review of Judge Mason Settlement conference Orders Contact client re; settlement letters	0.75	PLC	$555.00	$416.25	$228.75
4/21/2005	Draft Demand Letter	0.75	CRS	$555.00	$416.25	$416.25
4/21/2005	Draft Demand Letter	2	DSA	$555.00	$1,110.00	$610.00
4/22/2005	Edit and send out Demand Letter	1	DSA	$555.00	$555.00	$555.00
4/25/2005	Review Settlement Letters	0.25	CRS	$555.00	$138.75	$76.25
4/25/2005	Review Settlement Letters	0.25	DSA	$555.00	$138.75	$138.75
4/27/2005	Preparation for Settlement Conference	1	CRS	$555.00	$555.00	$555.00
4/27/2005	Preparation for Settlement Conference	1.25	PLC	$555.00	$693.75	$381.25
5/12/2005	Review of all produced discovery	4	CRS	$555.00	$2,220.00	$1,220.00
5/12/2005	Review of all produced discovery	4	DSA	$555.00	$2,220.00	$2,220.00
5/15/2005	Telephone Conversation with Querrey re: Discovery	3	CRS	$555.00	$1,665.00	$1,665.00
5/15/2005	Review of Def. Sheriff Discovery and Dep. List of all amended documents	6	DSA	$555.00	$3,330.00	$1,830.00
8/4/2005	Research and Preparation of Mememorandum [SIC] regarding Russ Cases impact on Motion to Dismiss	3.5	DSA	$555.00	$1,942.50	$1,067.50
8/8/2005	Review brief by Defendants on Russ v. Watts Motion to Withdraw	0.25	CRS	$555.00	$138.75	$138.75
8/8/2005	Review brief by Defendants on Russ v. Watts Motion to Withdraw	0.5	DSA	$555.00	$277.50	$152.50
8/8/2005	Drafting Memorandum / Russ v. Watts	3	DSA	$555.00	$1,665.00	$915.00
8/8/2005	Draft and filing of Memorandum on Russ v.Watts	3.25	DSA	$555.00	$1,803.75	$991.25
9/20/2005	Review of Motion to Dismiss for Want of Prosecution and Conference	0.75	CRS	$555.00	$416.25	$416.25
9/20/2005	Review of Motion to Dismiss for Want of Prosecution and Conference	0.75	DSA	$555.00	$416.25	$228.75
9/20/2005	Review of Motion and filing re: Motion to Dismiss for Want of Prosecution	1	DSA	$555.00	$555.00	$305.00
9/21/2005	Review discovery request and gather information	3	DSA	$555.00	$1,665.00	$1,665.00
9/21/2005	Prepare discovery obtain documents information	3.5	PLC	$555.00	$1,942.50	$1,067.50
9/22/2005	Draft written discovery	4	CRS	$555.00	$2,220.00	$1,220.00
9/23/2005	Discovery conference	1.5	CRS	$555.00	$832.50	$457.50
9/23/2005	Review written discovery request and conference	2.5	CRS	$555.00	$1,387.50	$762.50
9/23/2005	Discovery conference	1.5	DSA	$555.00	$832.50	$832.50
9/23/2005	Discovery conference	1.5	PLC	$555.00	$832.50	$832.50
9/28/2005	Discovery Draft written	2	CRS	$555.00	$1,110.00	$610.00
9/28/2005	Discovery Draft written	2	CRS	$555.00	$1,110.00	$610.00
9/28/2005	Written request final edit	1.5	DSA	$555.00	$832.50	$832.50

Thomas v. County of Cook - EXHIBIT A

TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
9/28/2005	Written Request for final edit	0.5	DSA	$555.00	$277.50	$277.50
10/5/2005	Phone call / Esbrook regarding Written Discovery	0.25	CRS	$555.00	$138.75	$138.75
10/5/2005	Phone call-Esbrook re: Review of County written Disco and Correspondence	0.5	CRS	$555.00	$277.50	$152.50
10/7/2005	Prepare response to written Discovery	3	CRS	$555.00	$1,665.00	$1,665.00
10/7/2005	Preparing document responses	5.25	DSA	$555.00	$2,913.75	$2,913.75
10/12/2005	Review Motion to Compel	0.25	CRS	$555.00	$138.75	$138.75
10/12/2005	Review Motion to Compel	0.5	DSA	$555.00	$277.50	$277.50
10/12/2005	Review Motion to Compel	0.25	PLC	$555.00	$138.75	$138.75
10/20/2005	Preparation of Response to Written Discovery	4	CRS	$555.00	$2,220.00	$1,220.00
10/21/2005	Preparation of Response to Written Discovery	2	CRS	$555.00	$1,110.00	$610.00
10/24/2005	Preparation of Written Response Discovery	1	CRS	$555.00	$555.00	$305.00
10/24/2005	Preparation to Written Response	3.25	DSA	$555.00	$1,803.75	$1,803.75
11/9/2005	Court	1	CRS	$555.00	$555.00	$305.00
11/9/2005	Court	1	DSA	$555.00	$555.00	$555.00
12/13/2005	Court re; Motions	1	CRS	$555.00	$555.00	$305.00
12/13/2005	Court re; Motions	1	DSA	$555.00	$555.00	$555.00
12/20/2005	Rule 26 Conference re; Policy Documents'	1.75	CRS	$555.00	$971.25	$533.75
12/20/2005	Rule 26 Conference re; Policy Documents'	1.75	DSA	$555.00	$971.25	$971.25
12/27/2005	Drafting and Filing reply to Defendants Response to Motion for Leave to file and serve affidavit	2.2	CRS	$555.00	$1,221.00	$1,221.00
12/27/2005	Drafting and Filing reply to Defendants Response to Motion for Leave to file and serve affidavit	2.75	DSA	$555.00	$1,526.25	$838.75
1/18/2006	In Court Status	1	CRS	$555.00	$555.00	$305.00
11/18/2006	In Court Status	1	DSA	$555.00	$555.00	$555.00
2/1/2006	Review and Conference re: Motions to Strike and Motion to Dismiss 4th Amended Complaint and continue Discovery	2.5	CRS	$555.00	$1,387.50	$1,387.50
2/1/2006	Review and Conference re: Motions to Strike and Motion to Dismiss 4th Amended Complaint and continue Discovery	3.5	DSA	$555.00	$1,942.50	$1,067.50
2/1/2006	Review and Conference re: Motions to Strike and Motion to Dismiss 4th Amended Complaint and continue Discovery	2	PLC	$555.00	$1,110.00	$1,110.00
2/15/2006	Preparation for Responses to Motions to Dismiss or Strike	3	CRS	$555.00	$1,665.00	$1,665.00
2/15/2006	Drafting and filing reply re: Leave for Additional Deps and Defendants response to Compel	3.25	DSA	$555.00	$1,803.75	$991.25
2/15/2006	Drafting and filing combined Responses to Motions to Dismiss or Strike	4	DSA	$555.00	$2,220.00	$1,220.00
3/3/2006	Conference with DSA re Discovery	1.5	CRS	$555.00	$832.50	$832.50

Thomas v. County of Cook - EXHIBIT A

TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
3/3/2006	Review and discussion re: discovery and checklist	2	DSA	$555.00	$1,110.00	$610.00
3/9/2006	Supplement to Amended Rule 26 (a) (2) and filing	1.5	CRS	$555.00	$832.50	$832.50
3/9/2006	Supplement to Amended Rule 26 (a) (2) and filing	1.5	DSA	$555.00	$832.50	$457.50
3/21/2006	Review of discovery and planning meeting prep for timelines and scheduling	2.5	JSK	$275.00	$687.50	$687.50
3/22/2006	Review of discovery and planning meeting prep for timelines and scheduling	2.5	DSA	$555.00	$1,387.50	$762.50
3/24/2006	Court	1	CRS	$555.00	$555.00	$305.00
3/24/2006	Court	1	DSA	$555.00	$555.00	$555.00
4/3/2006	Review of needed Depositions and planning meeting	2	CRS	$555.00	$1,110.00	$610.00
4/3/2006	Review of needed Depositions and planning meeting	2	DSA	$555.00	$1,110.00	$1,110.00
4/3/2006	Review of needed Depositions and planning meeting	2	JSK	$275.00	$550.00	$550.00
4/4/2006	Review of amended answer for complaint	0.25	CRS	$555.00	$138.75	$138.75
4/6/2006	Review of amended answer for complaint	1.25	DSA	$555.00	$693.75	$381.25
4/10/2006	Review of correspondence discovery and location of witnesses search for other cases re: failure to provide medical care	3.5	JSK	$275.00	$962.50	$962.50
4/10/2006	Review of correspondence discovery and location of witnesses search for other cases re: failure to provide medical care	3.5	CRS	$555.00	$1,942.50	$1,067.50
4/12/2006	Planning meeting	2	CRS	$555.00	$1,110.00	$610.00
4/12/2006	Planning meeting	2	JSK	$275.00	$550.00	$550.00
4/12/2006	Planning meeting	2	DSA	$555.00	$1,110.00	$1,110.00
4/24/2006	Review and Conference responses and Motion to bar.	1.25	CRS	$555.00	$693.75	$381.25
4/24/2006	Review and Conference responses and Motion to bar.	1.25	DSA	$555.00	$693.75	$693.75
4/24/2006	Review and Conference responses and Motion to bar.	1.25	JSK	$275.00	$343.75	$343.75
4/26/2006	Conference call with Callie Baird re Deposition	0.5	CRS	$555.00	$277.50	$152.50
4/26/2006	Conference call with Callie Baird re Deposition	0.5	JSK	$275.00	$137.50	$137.50
5/1/2006	Review of Motion and Prep for Court and Conference	0.5	DSA	$555.00	$277.50	$152.50
5/2/2006	Review of Motion and Prep for Court and Conference	0.5	CRS	$555.00	$277.50	$277.50
5/2/2006	Court; Motion to Compel and Bar	1	CRS	$555.00	$555.00	$305.00
5/2/2006	Court; Motion to Compel and Bar	1	DSA	$555.00	$555.00	$555.00
5/5/2006	Planning meeting and review	2	JSK	$275.00	$550.00	$550.00
5/5/2006	Planning meeting and review	2	CRS	$555.00	$1,110.00	$610.00
5/5/2006	Planning meeting and review	2	DSA	$555.00	$1,110.00	$1,110.00

Thomas v. County of Cook - EXHIBIT A

TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
5/18/2006	Review of Def. Motion to Withdraw, take deposition and Settlement conference minute order	0.5	CRS	$555.00	$277.50	$152.50
5/18/2006	Review of Def. Motion to Withdraw, take deposition and Settlement conference minute order	0.5	DSA	$555.00	$277.50	$277.50
5/18/2006	Reviewing planning and preparation of Correspondence re: documents	3.5	DSA	$555.00	$1,942.50	$1,067.50
5/18/2006	Review of Def. Motion to Withdraw take deposition and Settlement conference minute order	0.5	JSK	$275.00	$137.50	$137.50
5/30/2006	Review discovery documents and Conference with DSA re: further necessary Discovery	2	CRS	$555.00	$1,110.00	$1,110.00
5/30/2006	Review Interrogatories and Document Responses	1.5	DSA	$555.00	$832.50	$457.50
5/30/2006	Review discovery documents and Conference with DSA re: further necessary Discovery	2	DSA	$555.00	$1,110.00	$610.00
5/30/2006	Review discovery documents and Conference with DSA re: further necessary Discovery	2	JSK	$275.00	$550.00	$550.00
6/9/2006	Review of new discovery and compare various responses to prove documents were never produced	4	CRS	$555.00	$2,220.00	$1,220.00
6/9/2006	Review of new discovery and compare various responses to prove documents were never produced	4	JSK	$275.00	$1,100.00	$1,100.00
6/9/2006	Correspondence 3 pages letter re deposition and discovery	1.5	JSK	$275.00	$412.50	$412.50
6/9/2006	Correspondence 3 pages letter re deposition and discovery	1.5	CRS	$555.00	$832.50	$457.50
6/9/2006	Review of discovery and planning re deposition and missing documents and policy claims	3	JSK	$275.00	$825.00	$825.00
6/9/2006	Review of discovery and planning re deposition and missing document and policy claims	3	CRS	$555.00	$1,665.00	$915.00
6/9/2006	Review of discovery and planning re deposition and missing documents and policy claims	3	DSA	$555.00	$1,665.00	$1,665.00
6/14/2006	dfatr [SIC] pleading re: deposition of Sheriff Sheehan	1.5	DSA	$555.00	$832.50	$457.50
6/14/2006	Draft and preparation / Reply to motion for leave to depose Sheriff Sheehan	0.5	JSK	$275.00	$137.50	$137.50
6/19/2006	Review of index of prisoner grievances preparation of table of grievances	3	CRS	$555.00	$1,665.00	$915.00
6/19/2006	Review of index of prisoner grievances preparation of table of grievances	3	JSK	$275.00	$825.00	$825.00
6/19/2006	Review of grievences preparation of letter re: request for inspection or grievance	2.75	DSA	$555.00	$1,526.25	$1,526.25
6/20/2006	Review of and discovery produces MGT staffing	3	CRS	$555.00	$1,665.00	$915.00
6/20/2006	Review of and discovery produces MGT staffing	2	JSK	$275.00	$550.00	$550.00

Thomas v. County of Cook - EXHIBIT A

TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
6/21/2006	Preparation correspondence re: Naber jail visit	0.25	JSK	$275.00	$68.75	$68.75
6/21/2006	Review correspondence and edit	0.25	CRS	$555.00	$138.75	$76.25
6/21/2006	Preparation of correspondence re: Naber jail visit	0.5	JSK	$275.00	$137.50	$137.50
6/21/2006	Phone conference r; Katz Deposition	0.5	JSK	$275.00	$137.50	$137.50
6/26/2006	Ben Katz Preparation and defending of deposition	7	DSA	$555.00	$3,885.00	$2,135.00
6/27/2006	Location and conference with Carlos Matias	1.75	CRS	$555.00	$971.25	$533.75
6/27/2006	Location and conference with Carlos Matias	1.75	JSK	$275.00	$481.25	$481.25
7/14/2006	Review correspondence and confer with JSK, DSA, CRS	0.75	CRS	$555.00	$416.25	$228.75
7/14/2006	Review correspondence and confer with JSK, DSA, CRS	0.75	DSA	$555.00	$416.25	$416.25
7/14/2006	Review correspondence and confer with JSK, DSA, CRS	0.75	JSK	$275.00	$206.25	$206.25
7/14/2006	Draft motion for rule to show cause	3.5	DSA	$555.00	$1,942.50	$1,067.50
7/14/2006	Exhibits and preparation for rule to show cause	1.5	JSK	$275.00	$412.50	$412.50
7/17/2006	Letter re: Deposition and location of Carlos Matias	1	JSK	$275.00	$275.00	$275.00
7/17/2006	Review letter and edit	0.5	DSA	$555.00	$277.50	$152.50
7/19/2006	Review of Defendants settlement letter	0.75	CRS	$555.00	$416.25	$228.75
7/19/2006	Review of Defendants settlement letter	0.75	JSK	$275.00	$206.25	$206.25
7/19/2006	Review of Defendants settlement letter	0.75	PLC	$555.00	$416.25	$416.25
7/19/2006	Review of Defendants settlement letter	0.75	DSA	$555.00	$416.25	$416.25
7/19/2006	Preparation of reply for discovery; jail visit	3	JSK	$275.00	$825.00	$825.00
7/19/2006	Preparation of reply for discovery; jail visit	3.5	DSA	$555.00	$1,942.50	$1,067.50
7/24/2006	Settlement conference	2	PLC	$555.00	$1,110.00	$1,110.00
7/24/2006	Settlement conference	2	DSA	$555.00	$1,110.00	$610.00
7/24/2006	Telephone conference with Nabor	0.5	JSK	$275.00	$137.50	$137.50
7/25/2006	Telephone conference with Nabor	0.75	PLC	$555.00	$416.25	$228.75
7/25/2006	Telephone conference with Nabor	0.25	JSK	$275.00	$68.75	$68.75
8/2/2006	Review of correspondence from County and Sheriff re: witness/policy	0.75	CRS	$555.00	$416.25	$228.75
8/2/2006	Review of correspondence from County and Sheriff re: witness/policy	0.75	JSK	$275.00	$206.25	$206.25
8/2/2006	Review of correspondence from County and Sheriff re: witness/policy	0.75	DSA	$555.00	$416.25	$416.25
8/2/2006	Meeting regarding deposition and correspondences re: cost	0.75	CRS	$555.00	$416.25	$228.75
8/2/2006	Meeting regarding deposition and correspondences re: cost	0.75	JSK	$275.00	$206.25	$206.25
8/2/2006	Meeting regarding deposition and correspondences re: cost	0.75	DSA	$555.00	$416.25	$416.25
8/7/2006	Meeting with JSK and CRS and expert Nabor	1.5	JSK	$275.00	$412.50	$412.50
8/7/2006	Meeting with JSK and CRS and expert Nabor	1.5	CRS	$555.00	$832.50	$457.50

Thomas v. County of Cook - EXHIBIT A

TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
9/6/2006	Call re: witness location meeting and interview Titus Haynes	2.5	JSK	$275.00	$687.50	$687.50
9/6/2006	Call re: witness location meeting and interview Titus Haynes	2.5	PLC	$555.00	$1,387.50	$762.50
9/6/2006	Research and drafting memorandum in support of motion to depose Sheriff	5	JSK	$275.00	$1,375.00	$1,375.00
9/6/2006	Research and drafting memorandum in support of motion to depose Sheriff	3	DSA	$555.00	$1,665.00	$915.00
9/6/2006	Drafting motion for default judgment of Hernandez and preparing exhibits	3	DSA	$555.00	$1,665.00	$915.00
9/6/2006	Drafting motion for default judgment of Hernandez and preparing exhibits	1.5	JSK	$275.00	$412.50	$412.50
9/7/2006	Review of records and correspondence re: medical-HIPPA Production	1.25	JSK	$275.00	$343.75	$343.75
9/7/2006	Review of records and correspondence re: medical-HIPPA Production	1	CRS	$555.00	$555.00	$305.00
9/8/2006	Review of Motion to compel handwritten notes and transcripts	0.75	JSK	$275.00	$206.25	$206.25
9/8/2006	Review of motion to compel handwritten notes and transcripts	0.75	CRS	$555.00	$416.25	$228.75
9/8/2006	Location of witness	2	CRS	$555.00	$1,110.00	$610.00
9/8/2006	Location of witness	2	JSK	$275.00	$550.00	$550.00
9/8/2006	Notice of deposition	0.5	JSK	$275.00	$137.50	$137.50
9/8/2006	Notice of deposition	0.5	CRS	$555.00	$277.50	$152.50
9/11/2006	Review and Reponses regarding Sheehan	0.5	CRS	$555.00	$277.50	$152.50
9/11/2006	Review and response regarding Sheehan	0.5	JSK	$275.00	$137.50	$137.50
9/11/2006	Review of motion to compel handwritten notes and transcripts	0.5	CRS	$555.00	$277.50	$152.50
9/11/2006	Review of motion to compel handwritten notes and transcripts	0.5	JSK	$275.00	$137.50	$137.50
9/11/2006	Conference and planning	0.5	CRS	$555.00	$277.50	$152.50
9/11/2006	Conference and planning	0.5	DSA	$555.00	$277.50	$277.50
9/14/2006	Review of possible exhibits and witnesses	5	JSK	$275.00	$1,375.00	$1,375.00
9/14/2006	Review of possible exhibits and witnesses	5	CRS	$555.00	$2,775.00	$1,525.00
9/15/2006	Review of correspondence FRCP disclosures	0.5	DSA	$555.00	$277.50	$152.50
9/15/2006	Review of correspondence FRCP Disclosures	0.5	JSK	$275.00	$137.50	$137.50
9/15/2006	Preparation of filing of motion to compel	2.5	DSA	$555.00	$1,387.50	$762.50
9/15/2006	Preparation of filing of motion to compel	2.5	JSK	$275.00	$687.50	$687.50
9/18/2006	Review of documents submitted by Darius Parker	1	JSK	$275.00	$275.00	$275.00
9/18/2006	Review of documents submitted by Darius Parker	1.25	CRS	$555.00	$693.75	$381.25

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TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
9/18/2006	Preparation of motion for default judgment	3	DSA	$555.00	$1,665.00	$915.00
9/18/2006	Preparation of motion for default judgment	2	JSK	$275.00	$550.00	$550.00
9/27/2006	Preparation and filing of exhibit list, witness list list, [SIC] and motion in limine	8	CRS	$555.00	$4,440.00	$4,440.00
9/27/2006	Preparation and filing of exhibit list, witness list list, [SIC] and motion in limine	8	JSK	$275.00	$2,200.00	$2,200.00
9/27/2006	Preparation and filing of exhibit list, witness list list, [SIC] and motion in limine	9.25	DSA	$555.00	$5,133.75	$2,821.25
9/27/2006	Review of documents and preparation of exhibit list	7	DSA	$555.00	$3,885.00	$2,135.00
9/28/2006	Review and preparation of exhibits list	6	CRS	$555.00	$3,330.00	$3,330.00
9/28/2006	Review and preparation of exhibits list	6	JSK	$275.00	$1,650.00	$1,650.00
9/29/2006	Review of correspondence Sheriff and County of 27, 28, 29	0.75	JSK	$275.00	$206.25	$206.25
9/29/2006	Review of correspondence Sheriff and County of 27, 28, 29	0.75	CRS	$555.00	$416.25	$228.75
10/2/2006	Review of summary judgment documents and case and motions in limine objection to witness list	6.5	DSA	$555.00	$3,607.50	$1,982.50
10/2/2006	Review of summary judgment documents and case and motions in limine objection to witness list	5	CRS	$555.00	$2,775.00	$2,775.00
10/2/2006	Review of summary judgment documents and case and motions in limine objection to witness list	5	JSK	$275.00	$1,375.00	$1,375.00
10/2/2006	Planning meeting	2	DSA	$555.00	$1,110.00	$610.00
10/2/2006	Planning meeting	2	CRS	$555.00	$1,110.00	$1,110.00
10/4/2006	Preparation of Katz-Letter re: Hernandez and conference with JSK	0.25	CRS	$555.00	$138.75	$76.25
10/4/2006	Preparation of Katz-Letter re: Hernandez and conference with CRS	0.25	JSK	$275.00	$68.75	$68.75
10/13/2006	Review of Cook County budget materials and financial documents B1-123	1.75	CRS	$555.00	$971.25	$533.75
10/13/2006	Review of Cook county budget materials and financial documents B1 - 123	2.5	JSK	$275.00	$687.50	$687.50
10/13/2006	Review of County Budget materials 2000-2004	2.25	CRS	$555.00	$1,248.75	$1,248.75
10/13/2006	Review of County Budget materials 2000-2004	3.25	DSA	$555.00	$1,803.75	$991.25
10/20/2006	Review of grievances and medical request and jail documents	2.5	CRS	$555.00	$1,387.50	$762.50
10/20/2006	Review of grievances and medical request and jail documents	1.5	JSK	$275.00	$412.50	$412.50
10/20/2006	Conference with DSA re Discovery	0.75	CRS	$555.00	$416.25	$228.75
10/20/2006	Conference with CRS re Discovery	0.75	DSA	$555.00	$416.25	$416.25
10/23/2006	Review Cook County Medical Records and Policy Documents	1.75	CRS	$555.00	$971.25	$971.25

Thomas v. County of Cook - EXHIBIT A

TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
10/23/2006	Review Cook County Medical Records and Policy Documents	2.5	DSA	$555.00	$1,387.50	$762.50
10/23/2006	Review Cook County Medical Records and Policy Documents	1.75	JSK	$275.00	$481.25	$481.25
10/23/2006	Prepare Correspondence re: missing discovery and disclosure of addresses	1.75	CRS	$555.00	$971.25	$533.75
10/23/2006	Prepare Correspondence re: missing discovery and disclosure of addresses	1.75	JSK	$275.00	$481.25	$481.25
10/27/2006	locate meet and interview witness Titus Hayes	2.5	CRS	$555.00	$1,387.50	$762.50
10/27/2006	locate meet and interview witness Titus Hayes	2.5	JSK	$275.00	$687.50	$687.50
10/30/2006	Review of Cook's Motion for extension	0.25	CRS	$555.00	$138.75	$76.25
10/30/2006	Review of Cook's Motion for extension	0.25	DSA	$555.00	$138.75	$138.75
11/7/2006	Planning meeting re: summary judgment issues	2	DSA	$555.00	$1,110.00	$610.00
11/7/2006	Planning meeting re: summary judgment issues	2	CRS	$555.00	$1,110.00	$1,110.00
11/7/2006	Planning meeting re: summary judgment issues	2	JSK	$275.00	$550.00	$550.00
11/7/2006	Preparation and filing motion for Rule to show cause	1.75	DSA	$555.00	$971.25	$533.75
11/7/2006	Preparation and filing motion for Rule to show cause	0.5	JSK	$275.00	$137.50	$137.50
11/8/2006	Review of personnel files of Bradley West Lacy	1.5	DSA	$555.00	$832.50	$832.50
11/8/2006	Review of personnel files of Bradley West Lacy	2	CRS	$555.00	$1,110.00	$610.00
11/8/2006	Review of personnel files of Bradley West Lacy	2	JSK	$275.00	$550.00	$550.00
11/8/2006	Review Katz supplemental opinion	0.5	CRS	$555.00	$277.50	$277.50
11/8/2006	Review Katz supplemental opinion	0.5	DSA	$555.00	$277.50	$277.50
11/9/2006	Locating meeting and interviewing George Robotis	3	CRS	$555.00	$1,665.00	$915.00
11/9/2006	Locating meeting and interviewing George Robotis	3	JSK	$275.00	$825.00	$825.00
11/9/2006	Preparation and filing of Rule 56 motion for additional discovery	1	DSA	$555.00	$555.00	$305.00
11/9/2006	Preparation and filing of Rule 56 motion for additional discovery	0.5	JSK	$275.00	$137.50	$137.50
11/12/2006	Review and correspondence re: document for Hernandez deposition and dismissal	0.75	DSA	$555.00	$416.25	$228.75
11/13/2006	Review and correspondence re: document for Hernandez deposition and dismissal	0.75	CRS	$555.00	$416.25	$416.25
11/13/2006	Preparation review of documents and sheriff Rule 56	6.5	DSA	$555.00	$3,607.50	$1,982.50
11/13/2006	Preparation review of documents and sheriff Rule 56	4	JSK	$275.00	$1,100.00	$1,100.00
11/13/2006	Preparation review of documents and sheriff Rule 56	4	CRS	$555.00	$2,220.00	$2,220.00
11/15/2006	Reviewing discovery locating important witnesses	2.5	JSK	$275.00	$687.50	$687.50
11/15/2006	Reviewing discovery locating important witnesses	2.5	CRS	$555.00	$1,387.50	$762.50

Thomas v. County of Cook - EXHIBIT A

TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
11/16/2006	interview in custody witness Robinson	1.5	CRS	$555.00	$832.50	$457.50
11/16/2006	interview in custody witness Robinson	1.5	JSK	$275.00	$412.50	$412.50
11/20/2006	Prep and filing motion for discovery re: Cermak Supervisors	1.5	CRS	$555.00	$832.50	$457.50
11/20/2006	Prep and filing motion for discovery re: Cermak Supervisors	2.5	JSK	$275.00	$687.50	$687.50
11/21/2006	Review of motions for summary judgment	3	CRS	$555.00	$1,665.00	$915.00
11/21/2006	Review of motions for summary judgment	3	JSK	$275.00	$825.00	$825.00
11/30/2006	Review of summary judgment in supporting documents and case documents	6.5	CRS	$555.00	$3,607.50	$1,982.50
11/30/2006	Review of summary judgment in supporting documents and case documents	3	JSK	$275.00	$825.00	$825.00
12/1/2006	Review document and support material and files for summary judgment responses and planning meeting	4.25	CRS	$555.00	$2,358.75	$1,296.25
12/1/2006	Review document and support material and files for summary judgment responses and planning meeting	4.25	JSK	$275.00	$1,168.75	$1,168.75
12/4/2006	Review document and support material and files for summary judgment responses and planning meeting	5	DSA	$555.00	$2,775.00	$1,525.00
12/4/2006	Review document and support material and files for summary judgment responses and planning meeting	5	CRS	$555.00	$2,775.00	$2,775.00
12/4/2006	Review document and support material and files for summary judgment responses and planning meeting	5	JSK	$275.00	$1,375.00	$1,375.00
12/8/2006	Responses for summary judgment and preparation for trial and review of file	4.5	DSA	$555.00	$2,497.50	$1,372.50
12/8/2006	Responses for summary judgment and preparation for trial and review of file	4	CRS	$555.00	$2,220.00	$2,220.00
12/8/2006	Responses for summary judgment and preparation for trial and review of file	4	JSK	$275.00	$1,100.00	$1,100.00
12/27/2006	Preparation of additional facts	5	CRS	$555.00	$2,775.00	$1,525.00
12/27/2006	Preparation of additional facts	5	JSK	$275.00	$1,375.00	$1,375.00
12/28/2006	Preparation of additional facts	5.25	CRS	$555.00	$2,913.75	$1,601.25
12/28/2006	Preparation of additional facts	6	JSK	$275.00	$1,650.00	$1,650.00
12/29/2006	Preparation of additional facts	6.5	CRS	$555.00	$3,607.50	$1,982.50
12/29/2006	Preparation of additional facts	8	JSK	$275.00	$2,200.00	$2,200.00
12/30/2006	Preparation for responses to Rule 56 statement	7.5	DSA	$555.00	$4,162.50	$2,287.50
12/30/2006	Preparation for responses to Rule 56 statement	3	CRS	$555.00	$1,665.00	$1,665.00
12/30/2006	Preparation for responses to Rule 56 statement	3	JSK	$275.00	$825.00	$825.00
1/2/2007	Preparation of responses to Sheriff Rule 56 Facts	6.5	CRS	$555.00	$3,607.50	$1,982.50
1/2/2007	Preparation of responses to Sheriff Rule 56 Facts	6.5	JSK	$275.00	$1,787.50	$1,787.50

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TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
1/3/2007	Preparation of responses to Rule 56 facts Sheriff	6	CRS	$555.00	$3,330.00	$1,830.00
1/3/2007	Preparation to response to Rule 56 facts Sheriff	4	JSK	$275.00	$1,100.00	$1,100.00
1/4/2007	Preparation of additional facts	3.5	DSA	$555.00	$1,942.50	$1,067.50
1/4/2007	Preparation of additional facts	3.5	CRS	$555.00	$1,942.50	$1,942.50
1/4/2007	Preparation of additional facts	3.5	JSK	$275.00	$962.50	$962.50
1/4/2007	Preparation of responses to Rule 56 Facts Cook	3	CRS	$555.00	$1,665.00	$915.00
1/4/2007	Preparation of responses to Rule 56 Facts Cook	4	JSK	$275.00	$1,100.00	$1,100.00
1/5/2007	Preparation of additional facts and exhibits summary judgment	6.25	CRS	$555.00	$3,468.75	$1,906.25
1/5/2007	Preparation of additional facts and of exhibits	4.25	JSK	$275.00	$1,168.75	$1,168.75
1/5/2007	Review of facts and responses	5	DSA	$555.00	$2,775.00	$2,775.00
1/8/2007	Preparation and response to summary judgment motion	4.25	CRS	$555.00	$2,358.75	$1,296.25
1/8/2007	Preparation and response to summary judgment motion and exhibits	3.5	JSK	$275.00	$962.50	$962.50
1/9/2007	Review and edit of response to facts	3.5	CRS	$555.00	$1,942.50	$1,067.50
1/9/2007	Review and edit of response to facts	1.5	JSK	$275.00	$412.50	$412.50
1/11/2007	Research and preparation of memorandum in opposition	6.5	JSK	$275.00	$1,787.50	$1,787.50
1/11/2007	Research and preparation of memorandum in opposition	5.25	DSA	$555.00	$2,913.75	$1,601.25
1/12/2007	Review of additional facts responses to additional facts and editing	5.5	DSA	$555.00	$3,052.50	$1,677.50
1/12/2007	Editing additional facts	3	JSK	$275.00	$825.00	$825.00
1/13/2007	Modify statement of additional facts	1.75	CRS	$555.00	$971.25	$971.25
1/13/2007	Modify statement of additional facts	7	DSA	$555.00	$3,885.00	$2,135.00
1/13/2007	Modify statement of additional facts	2.5	JSK	$275.00	$687.50	$687.50
1/14/2007	Preparation and research for memorandum in opposition to summary judgment	7	DSA	$555.00	$3,885.00	$2,135.00
1/14/2007	Preparation and research for memorandum in opposition to summary judgment	1.5	CRS	$555.00	$832.50	$832.50
1/14/2007	Preparation and research for memorandum in opposition to summary judgment	2.5	JSK	$275.00	$687.50	$687.50
1/15/2007	Preparation of memorandum in opposition to summary judgment	6.5	DSA	$555.00	$3,607.50	$3,607.50
1/15/2007	Preparation of additional facts and exhibits summary judgment	8	CRS	$555.00	$4,440.00	$2,440.00
1/15/2007	Preparation of additional facts and exhibits summary judgment	8	JSK	$275.00	$2,200.00	$2,200.00
1/16/2007	Preparation and research for memorandum in opposition to summary judgment	6	DSA	$555.00	$3,330.00	$1,830.00
1/16/2007	Preparation of exhibits for summary judgment	6	JSK	$275.00	$1,650.00	$1,650.00
1/16/2007	Preparation of exhibits for summary judgment	6	CRS	$555.00	$3,330.00	$3,330.00

Thomas v. County of Cook - EXHIBIT A

TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
1/17/2007	Preparation and filing Response to Rule 56 Statement of Sheriff	2	CRS	$555.00	$1,110.00	$1,110.00
1/17/2007	Preparation and filing Response to Rule 56 Statement of Sheriff	3.5	DSA	$555.00	$1,942.50	$1,067.50
1/17/2007	Preparation and filing Response to Rule 56 Statement of Sheriff	1.5	JSK	$275.00	$412.50	$412.50
1/17/2007	Preparation and filing response to Rule 56 Statement of Cook	0.5	CRS	$555.00	$277.50	$277.50
1/17/2007	Preparation and filing response to Rule 56 Statement of Cook	2	DSA	$555.00	$1,110.00	$610.00
1/17/2007	Preparation and filing response to Rule 56 Hernandez	0.5	CRS	$555.00	$277.50	$152.50
1/17/2007	Preparation and filing response to Rule 56 Hernandez	0.5	DSA	$555.00	$277.50	$277.50
1/17/2007	Preparation and filing response to Rule 56 Hernandez	0.5	JSK	$275.00	$137.50	$137.50
1/17/2007	Statement of additional facts	2	CRS	$555.00	$1,110.00	$610.00
1/17/2007	Statement of additional facts	2	DSA	$555.00	$1,110.00	$1,110.00
1/17/2007	Statement of additional facts	2	JSK	$275.00	$550.00	$550.00
1/17/2007	Exhibits to combine response for defendant motion for summary judgment	2.5	CRS	$555.00	$1,387.50	$1,387.50
1/17/2007	Exhibits to combine response for defendant motion for summary judgment	2.5	JSK	$275.00	$687.50	$687.50
1/17/2007	Exhibits to combine response for defendant motion for summary judgment	2.5	DSA	$555.00	$1,387.50	$762.50
1/17/2007	Response to motion of summary judgment	3	DSA	$555.00	$1,665.00	$915.00
2/2/2007	Preparation and filing of motion to hold Carlos Matias in contempt	1	JSK	$275.00	$275.00	$275.00
2/2/2007	Preparation and filing of motion to hold Carlos Matias in contempt	1	DSA	$555.00	$555.00	$305.00
2/2/2007	Review of motion for extension of time	0.25	JSK	$275.00	$68.75	$68.75
2/2/2007	Review of motion for extension of time	0.25	DSA	$555.00	$138.75	$76.25
2/3/2007	Preparation of Affidavits in support of memorandum	0.75	RJS	$670.00	$502.50	$315.00
2/3/2007	Preparation of Affidavits in support of memorandum	0.75	CRS	$555.00	$416.25	$416.25
2/3/2007	Preparation of Affidavits in support of memorandum	0.75	JSK	$275.00	$206.25	$206.25
2/3/2007	Preparation of Affidavits in support of memorandum	0.75	DSA	$555.00	$416.25	$416.25
2/18/2007	Preparation of Response in opposition to defendants motion to strike-Affidavits and Experts	3	JSK	$275.00	$825.00	$825.00
2/20/2007	Preparation of Response in opposition to defendants motion to strike-Affidavits and Experts	4	JSK	$275.00	$1,100.00	$1,100.00

Thomas v. County of Cook - EXHIBIT A

TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
2/20/2007	Preparation of Response in opposition to defendants motion to strike-Affidavits and Experts	5	DSA	$555.00	$2,775.00	$1,525.00
3/22/2007	Review of Hernandez reply and Review of motion to supplement review of Fact response Hernandez to plaintiffs facts	1	DSA	$555.00	$555.00	$555.00
3/22/2007	Review of Hernandez reply and Review of motion to supplement review of Fact response Hernandez to plaintiffs facts	1.25	JSK	$275.00	$343.75	$343.75
3/22/2007	Review of Hernandez reply and Review of motion to supplement review of Fact response Hernandez to plaintiffs facts	1.25	CRS	$555.00	$693.75	$381.25
3/22/2007	Review of Cook's responses to plaintiffs facts	1.5	DSA	$555.00	$832.50	$457.50
3/22/2007	Review of Cook's responses to plaintiffs facts	1.5	JSK	$275.00	$412.50	$412.50
3/22/2007	Review of Cook's responses to plaintiffs facts	1.5	CRS	$555.00	$832.50	$832.50
4/4/2007	Preparation and filing of response in opposition of Hernandez	1.75	CRS	$555.00	$971.25	$533.75
4/4/2007	Preparation and filing of response in opposition of Hernandez	3.25	JSK	$275.00	$893.75	$893.75
4/25/2007	Preparation and filing of Motion o [SIC] Compel HIPPA Documents	1	DSA	$555.00	$555.00	$305.00
4/25/2007	Preparation and filing of Motion to Compel HIPPA Documents	2	JSK	$275.00	$550.00	$550.00
7/11/2007	Preparation demand letter and notice of deposition	2.5	CRS	$555.00	$1,387.50	$762.50
7/11/2007	Review of demand letter and correspondence	2	DSA	$555.00	$1,110.00	$1,110.00
8/18/2007	Review of memorandum order and opinion	1.5	DSA	$555.00	$832.50	$832.50
8/18/2007	Review of memorandum order and opinion research	3.5	CRS	$555.00	$1,942.50	$1,067.50
8/18/2007	Review of memorandum order and opinion	1.25	JSK	$275.00	$343.75	$343.75
8/22/2007	Preparation and research to response to motion in limine	3.5	CRS	$555.00	$1,942.50	$1,067.50
8/22/2007	Preparation and research to response to motion in limine	3	JSK	$275.00	$825.00	$825.00
8/23/2007	Preparation of response to motion in limine	3.5	CRS	$555.00	$1,942.50	$1,067.50
8/23/2007	Research and preparation to response to motion in limine	5.25	DSA	$555.00	$2,913.75	$2,913.75
8/23/2007	Research and preparation to response to motion in limine	3	JSK	$275.00	$825.00	$825.00
8/24/2007	Filing and Preparation of response to motion in limine	2.5	JSK	$275.00	$687.50	$687.50
8/24/2007	Filing and Preparation of response to motion in limine	3	CRS	$555.00	$1,665.00	$1,665.00
8/24/2007	Filing and Preparation of response to motion in limine	4	DSA	$555.00	$2,220.00	$1,220.00
8/25/2007	Review of Defendant Response to Motion in Limine	0.75	JSK	$275.00	$206.25	$206.25

Thomas v. County of Cook - EXHIBIT A

TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
8/25/2007	Review of Defendant Response to Motion in Limine	1.75	DSA	$555.00	$971.25	$533.75
8/25/2007	Review of Defendant Response to Motion in Limine	0.25	CRS	$555.00	$138.75	$138.75
9/6/2007	Response to Motion to Clarify	1.5	CRS	$555.00	$832.50	$457.50
9/6/2007	Response to Motion to Clarify	0.25	JSK	$275.00	$68.75	$68.75
9/26/2007	Review order on Motion in Limine	0.5	DSA	$555.00	$277.50	$152.50
9/26/2007	Review order on Motion in Limine	0.05	JSK	$275.00	$13.75	$13.75
9/26/2007	Review memorandum order and opinion	0.5	DSA	$555.00	$277.50	$152.50
9/26/2007	Review memorandum order and opinion	0.5	JSK	$275.00	$137.50	$137.50
9/26/2007	Review memorandum order and opinion	0.25	CRS	$555.00	$138.75	$138.75
10/4/2007	Settlement Conference	1.5	CRS	$555.00	$832.50	$457.50
10/4/2007	Settlement Conference	1.5	DSA	$555.00	$832.50	$832.50
10/4/2007	Settlement Conference	1.5	PLC	$555.00	$832.50	$832.50
10/4/2007	Review of documents-relating to summary judgment and trial	3.25	CRS	$555.00	$1,803.75	$991.25
10/4/2007	Review of documents-relating to summary judgment and trial	3.25	JSK	$275.00	$893.75	$893.75
10/5/2007	Trial preparation and planning meeting	4	CRS	$555.00	$2,220.00	$1,220.00
10/5/2007	Trial preparation and planning meeting	4	DSA	$555.00	$2,220.00	$2,220.00
10/5/2007	Trial preparation and planning meeting	4	JSK	$275.00	$1,100.00	$1,100.00
10/20/2007	Review of offer of judgment	0.5	DSA	$555.00	$277.50	$152.50
10/20/2007	Review of offer of judgment	0.5	JSK	$275.00	$137.50	$137.50
10/20/2007	Review of offer of judgment	0.5	CRS	$555.00	$277.50	$277.50
10/20/2007	Review of offer of judgment	0.5	PLC	$555.00	$277.50	$277.50
11/1/2007	Settlement Conference	1	DSA	$555.00	$555.00	$305.00
11/1/2007	Settlement Conference	1	CRS	$555.00	$555.00	$555.00
11/1/2007	Planning meeting; trial preparation contacting client	3	CRS	$555.00	$1,665.00	$915.00
11/1/2007	Planning meeting; trial preparation contacting client	3	JSK	$275.00	$825.00	$825.00
11/1/2007	Planning meeting; trial preparation contacting client	0.5	DSA	$555.00	$277.50	$277.50
11/2/2007	Review Deposition transcripts of witness for trial and trial preparation	6	DSA	$555.00	$3,330.00	$1,830.00
11/2/2007	Review Deposition transcripts of witness for trial and trial preparation	4	JSK	$275.00	$1,100.00	$1,100.00
11/2/2007	Review Deposition transcripts of witness for trial and trial preparation	4	CRS	$555.00	$2,220.00	$2,220.00
11/7/2007	Trial preparation file organization	7.5	JSK	$275.00	$2,062.50	$2,062.50
11/7/2007	Trial preparation	8	DSA	$555.00	$4,440.00	$2,440.00
11/7/2007	Trial preparation	6	CRS	$555.00	$3,330.00	$3,330.00
11/8/2007	Trial preparation	8	JSK	$275.00	$2,200.00	$2,200.00
11/8/2007	Trial preparation review depositions	8	DSA	$555.00	$4,440.00	$2,440.00
11/8/2007	Trial preparation	5	CRS	$555.00	$2,775.00	$2,775.00

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TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
11/9/2007	Trial preparation	8	CRS	$555.00	$4,440.00	$2,440.00
11/9/2007	Trial preparation	8	JSK	$275.00	$2,200.00	$2,200.00
11/9/2007	Trial preparation	5	DSA	$555.00	$2,775.00	$2,775.00
11/9/2007	Motion re: production of prisoner witness	1	CRS	$555.00	$555.00	$305.00
11/9/2007	Motion re: production of prisoner witness	1.5	JSK	$275.00	$412.50	$412.50
11/10/2007	Trial preparation	10	JSK	$275.00	$2,750.00	$2,750.00
11/10/2007	Trial preparation	2	CRS	$555.00	$1,110.00	$1,110.00
11/10/2007	Trial preparation	5	DSA	$555.00	$2,775.00	$1,525.00
11/11/2007	Trial preparation	10	JSK	$275.00	$2,750.00	$2,750.00
11/11/2007	Trial preparation	2	CRS	$555.00	$1,110.00	$1,110.00
11/11/2007	Trial preparation review of deposition and file preparation	5	DSA	$555.00	$2,775.00	$1,525.00
11/12/2007	Trial preparation	9	DSA	$555.00	$4,995.00	$2,745.00
11/12/2007	Trial preparation	5	CRS	$555.00	$2,775.00	$2,775.00
11/12/2007	Trial preparation	5	JSK	$275.00	$1,375.00	$1,375.00
11/13/2007	Trial preparation review of deposition and file preparation	10	DSA	$555.00	$5,550.00	$3,050.00
11/13/2007	Trial preparation	7	CRS	$555.00	$3,885.00	$3,885.00
11/13/2007	Trial preparation	10	JSK	$275.00	$2,750.00	$2,750.00
11/13/2007	Preparation and Filing of Request for trial time	0.5	CRS	$555.00	$277.50	$152.50
11/13/2007	Preparation and Filing of Request for trial time	0.75	JSK	$275.00	$206.25	$206.25
11/14/2007	Trial preparation and file organization	8	DSA	$555.00	$4,440.00	$4,440.00
11/14/2007	Trial preparation	10	CRS	$555.00	$5,550.00	$3,050.00
11/14/2007	Trial preparation	10	JSK	$275.00	$2,750.00	$2,750.00
11/15/2007	Trial preparation review of deposition and file preparation	10.5	DSA	$555.00	$5,827.50	$3,202.50
11/15/2007	Trial preparation review of deposition and file preparation	6	JSK	$275.00	$1,650.00	$1,650.00
11/15/2007	Trial preparation	6	CRS	$555.00	$3,330.00	$3,330.00
11/16/2007	Trial preparation; witness examination preparation	10	DSA	$555.00	$5,550.00	$3,050.00
11/16/2007	Trial preparation	8	JSK	$275.00	$2,200.00	$2,200.00
11/16/2007	Trial preparation	6	CRS	$555.00	$3,330.00	$3,330.00
11/16/2007	Trial preparation	6	RJS	$670.00	$4,020.00	$4,020.00
11/17/2007	Trial preparation	9	CRS	$555.00	$4,995.00	$2,745.00
11/17/2007	Trial preparation	9	JSK	$275.00	$2,475.00	$2,475.00
11/17/2007	Trial preparation	8.5	DSA	$555.00	$4,717.50	$4,717.50
11/17/2007	Preparation and filing response to Rule 56 Statement of Cook	2	JSK	$275.00	$550.00	$550.00
11/18/2007	Trial preparation	8	CRS	$555.00	$4,440.00	$4,440.00
11/18/2007	Trial preparation	8	JSK	$275.00	$2,200.00	$2,200.00
11/18/2007	Trial preparation review of deposition and file preparation	8.5	DSA	$555.00	$4,717.50	$2,592.50
11/19/2007	Trial preparation	5	RJS	$670.00	$3,350.00	$3,350.00

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TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
11/19/2007	Trial preparation and jury instructions; witness preparation	10	DSA	$555.00	$5,550.00	$3,050.00
11/19/2007	Trial preparation and jury instructions; witness preparation	8	JSK	$275.00	$2,200.00	$2,200.00
11/19/2007	Trial preparation and jury instructions; witness preparation	8	CRS	$555.00	$4,440.00	$4,440.00
11/20/2007	Trial preparation and jury instructions; review of documents	8	DSA	$555.00	$4,440.00	$2,440.00
11/20/2007	Trial preparation and jury instructions; review of documents	7	CRS	$555.00	$3,885.00	$3,885.00
11/20/2007	Trial preparation and jury instructions; review of documents	9	JSK	$275.00	$2,475.00	$2,475.00
11/21/2007	Trial preparation	8	CRS	$555.00	$4,440.00	$4,440.00
11/21/2007	Trial preparation	10	JSK	$275.00	$2,750.00	$2,750.00
11/21/2007	Trial preparation review of deposition and file preparation and exhibits	9	DSA	$555.00	$4,995.00	$4,995.00
11/21/2007	Trial preparation	8	RJS	$670.00	$5,360.00	$3,360.00
11/22/2007	Trial preparation review of deposition and file exhibits	12	DSA	$555.00	$6,660.00	$3,660.00
11/22/2007	Trial preparation	8	CRS	$555.00	$4,440.00	$4,440.00
11/22/2007	Trial preparation	10	JSK	$275.00	$2,750.00	$2,750.00
11/22/2007	Trial preparation	7	RJS	$670.00	$4,690.00	$4,690.00
11/22/2007	Planning meeting	1.25	JSK	$275.00	$343.75	$343.75
11/22/2007	Planning meeting	1.25	CRS	$555.00	$693.75	$381.25
11/23/2007	Trial preparation	10	CRS	$555.00	$5,550.00	$5,550.00
11/23/2007	Trial preparation and jury instructions	11	DSA	$555.00	$6,105.00	$3,355.00
11/23/2007	Trial preparation and jury instructions	10	JSK	$275.00	$2,750.00	$2,750.00
11/23/2007	Trial preparation and jury instructions	6	RJS	$670.00	$4,020.00	$4,020.00
11/24/2007	Motion in Limine regarding undisclosed	1	CRS	$555.00	$555.00	$305.00
11/24/2007	Motion in Limine regarding undisclosed	0.5	DSA	$555.00	$277.50	$277.50
11/24/2007	Trial Preparation	10	JSK	$275.00	$2,750.00	$2,750.00
11/24/2007	Trial Preparation	9	CRS	$555.00	$4,995.00	$2,745.00
11/24/2007	Trial Preparation	8	DSA	$555.00	$4,440.00	$4,440.00
11/24/2007	Trial Preparation	7	RJS	$670.00	$4,690.00	$4,690.00
11/24/2007	Motion in Limine Re: Budget	1	CRS	$555.00	$555.00	$305.00
11/24/2007	Motion in Limine Re: Budget	0.75	DSA	$555.00	$416.25	$416.25
11/25/2007	Trial Preparation	3.5	RJS	$670.00	$2,345.00	$2,345.00
11/25/2007	Trial preparation and opening statement preparation	12	CRS	$555.00	$6,660.00	$3,660.00
11/25/2007	Trial preparation and opening statement and jury instructions	12	DSA	$555.00	$6,660.00	$6,660.00
11/26/2007	Preparation for opening; Jury selection	14	CRS	$555.00	$7,770.00	$4,270.00
11/26/2007	Preparation for trial jury Selection assistance with opening	12	DSA	$555.00	$6,660.00	$6,660.00
11/26/2007	Preparation for trial jury Selection assistance with opening	12	JSK	$275.00	$3,300.00	$3,300.00

Thomas v. County of Cook - EXHIBIT A

TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
11/26/2007	Preparation for trial jury Selection assistance with opening	9	RJS	$670.00	$6,030.00	$6,030.00
11/27/2007	Trial and Witness preparation; trial attendance	6	CRS	$555.00	$3,330.00	$3,330.00
11/27/2007	Trial and Witness preparation; trial attendance	14	DSA	$555.00	$7,770.00	$4,270.00
11/27/2007	Trial and Witness preparation; trail attendance	10	JSK	$275.00	$2,750.00	$2,750.00
11/27/2007	Trial and Witness preparation; trial attendance	8	RJS	$670.00	$5,360.00	$5,360.00
11/28/2007	Trial and Witness preparation; trial attendance	5	CRS	$555.00	$2,775.00	$2,775.00
11/28/2007	Trial and Witness preparation; trial attendance	12.5	DSA	$555.00	$6,937.50	$3,812.50
11/28/2007	Trial and Witness preparation; trial attendance	8	JSK	$275.00	$2,200.00	$2,200.00
11/28/2007	Trial and Witness preparation; trial attendance	8	RJS	$670.00	$5,360.00	$3,360.00
11/29/2007	Trial and Witness preparation; trial attendance	4	CRS	$555.00	$2,220.00	$2,220.00
11/29/2007	Trial and Witness preparation; trial attendance	13.5	DSA	$555.00	$7,492.50	$4,117.50
11/29/2007	Trial and Witness preparation; trial attendance	12	JSK	$275.00	$3,300.00	$3,300.00
11/29/2007	Trial and Witness preparation; trial attendance	10	RJS	$670.00	$6,700.00	$4,200.00
11/30/2007	Telephone discussion with JSK and RJS	0.75	CRS	$555.00	$416.25	$416.25
11/30/2007	Trial Preparation; witness preparation and trial attendance	12	DSA	$555.00	$6,660.00	$3,660.00
11/30/2007	Trial Preparation; Witness preparation and trial attendance	12	JSK	$275.00	$3,300.00	$3,300.00
11/30/2007	Trial Preparation; Witness preparation and trial attendance	9	RJS	$670.00	$6,030.00	$3,780.00
12/2/2007	Trial Preparation	0.5	CRS	$555.00	$277.50	$277.50
12/2/2007	Trial Preparation	1	CRS	$555.00	$555.00	$555.00
12/2/2007	Trial Preparation	9	RJS	$670.00	$6,030.00	$3,780.00
12/2/2007	Trial Preparation	6	JSK	$275.00	$1,650.00	$1,650.00
12/2/2007	Trial Preparation	2	RJS	$670.00	$1,340.00	$1,340.00
12/3/2007	Trial Preparation	0.75	CRS	$555.00	$416.25	$416.25
12/3/2007	Trial Preparation	10	DSA	$555.00	$5,550.00	$3,050.00
12/3/2007	Trial Preparation	10	JSK	$275.00	$2,750.00	$2,750.00
12/3/2007	Trial Preparation	4.25	RJS	$670.00	$2,847.50	$2,847.50
12/5/2007	Preparation for trial and attendance of court preparation for witnesses	10	CRS	$555.00	$5,550.00	$3,050.00
12/5/2007	Preparation for trial and attendance of court preparation for witnesses	14	DSA	$555.00	$7,770.00	$4,270.00
12/5/2007	Preparation for trial and attendance of court preparation for witnesses	12	JSK	$275.00	$3,300.00	$3,300.00
12/5/2007	Preparation for trial and attendance of court preparation for witnesses	8	RJS	$670.00	$5,360.00	$5,360.00
12/6/2007	Trial Preparation	8	CRS	$555.00	$4,440.00	$4,440.00
12/6/2007	Trial Preparation	10	DSA	$555.00	$5,550.00	$3,050.00
12/6/2007	Trial Preparation	8	JSK	$275.00	$2,200.00	$2,200.00
12/6/2007	Trial Preparation	8	RJS	$670.00	$5,360.00	$5,360.00
12/7/2007	Preparation for witness; trial attendance; trial preparation	10	CRS	$555.00	$5,550.00	$5,550.00
12/7/2007	Preparation for witness; trial attendance; trial preparation	10	DSA	$555.00	$5,550.00	$3,050.00
12/7/2007	Preparation for witness; trail attendance; trail preparation	12	JSK	$275.00	$3,300.00	$3,300.00

Thomas v. County of Cook - EXHIBIT A

TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
12/7/2007	Preparation for witness; trial attendance; trial preparation	9	RJS	$670.00	$6,030.00	$3,780.00
12/8/2007	Preparation for trial	5	CRS	$555.00	$2,775.00	$2,775.00
12/8/2007	Preparation for trial	6	DSA	$555.00	$3,330.00	$1,830.00
12/8/2007	Preparation for trial	8	JSK	$275.00	$2,200.00	$2,200.00
12/8/2007	Preparation for trial	4	RJS	$670.00	$2,680.00	$2,680.00
12/9/2007	Preparation for trial	10	CRS	$555.00	$5,550.00	$5,550.00
12/9/2007	Preparation for trial	9	DSA	$555.00	$4,995.00	$2,745.00
12/9/2007	Preparation for trial	10	JSK	$275.00	$2,750.00	$2,750.00
12/9/2007	Preparation for trial	5	RJS	$670.00	$3,350.00	$3,350.00
12/10/2007	Preparation for witnesses; attend trial jury instructions	10	CRS	$555.00	$5,550.00	$5,550.00
12/10/2007	Preparation for witness; Attend trial; jury instruction content organization of documentation; prep for closing	12	CRS	$555.00	$6,660.00	$3,660.00
12/10/2007	Preparation for witnesses; attend trial jury instructions	10	DSA	$555.00	$5,550.00	$5,550.00
12/10/2007	Preparation for witnesses; attend trial jury instructions	10	JSK	$275.00	$2,750.00	$2,750.00
12/10/2007	Preparation for witnesses; attend trial jury instructions	10	RJS	$670.00	$6,700.00	$4,200.00
12/11/2007	Preparation for closing and jury practice with JSK DSA RJS	14	CRS	$555.00	$7,770.00	$4,270.00
12/11/2007	Assisting with closing and Final Jury Instructions	7.25	DSA	$555.00	$4,023.75	$2,211.25
12/11/2007	Organization for exhibits documents and assisting with closing	9.5	JSK	$275.00	$2,612.50	$2,612.50
12/11/2007	Assisting with closing arguments	2	RJS	$670.00	$1,340.00	$1,340.00
12/12/2007	Meeting with client and family	1	CRS	$555.00	$555.00	$305.00
12/12/2007	Meeting with client and family	1	DSA	$555.00	$555.00	$555.00
12/12/2007	Preparation for closing and closing argument; Review of exhibits documentation	9	CRS	$555.00	$4,995.00	$2,745.00
12/12/2007	Attendance trial review plaintiffs exhibits and conference	6	DSA	$555.00	$3,330.00	$1,830.00
12/12/2007	Meeting with client and family	1	JSK	$275.00	$275.00	$275.00
12/12/2007	Attendance trial review plaintiffs exhibits and conference	4	JSK	$275.00	$1,100.00	$1,100.00
12/12/2007	Attendance trial review plaintiffs exhibits and conference	6	RJS	$670.00	$4,020.00	$4,020.00
12/13/2007	Discussion with Marlita Thomas re: Verdict and Possible settlement	1	CRS	$555.00	$555.00	$305.00
12/13/2007	Discussion with Marlita Thomas re: Verdict and Possible settlement	1	DSA	$555.00	$555.00	$555.00
12/13/2007	In Court for Verdict	1	DSA	$555.00	$555.00	$305.00
12/13/2007	In Court for Verdict	1	JSK	$275.00	$275.00	$275.00
12/13/2007	In Court for Verdict	1	PLC	$555.00	$555.00	$555.00
12/13/2007	In Court for Verdict	1	CRS	$555.00	$555.00	$555.00
12/13/2007	In Court for Verdict	1	RJS	$670.00	$670.00	$420.00

Thomas v. County of Cook - EXHIBIT A

TABLE 4 - OVERLAPPING/DUPLICATIVE TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL	ADJUST
12/13/2007	In Court Jury Questions	2	CRS	$555.00	$1,110.00	$610.00
12/13/2007	In Court Jury Questions	2	JSK	$275.00	$550.00	$550.00
12/13/2007	In Court Jury Questions	2	RJS	$670.00	$1,340.00	$840.00
2/3/2008	Preparation of fee petition	4	DSA	$555.00	$2,220.00	$1,220.00
2/3/2008	Preparation of fee petition	1	CRS	$555.00	$555.00	$555.00
2/3/2008	Preparation of fee petition	1	JSK	$275.00	$275.00	$275.00
2/4/2008	Preparation of fee petition	3.5	DSA	$555.00	$1,942.50	$1,067.50
2/4/2008	Preparation of fee petition	1	JSK	$275.00	$275.00	$275.00
2/4/2008	Preparation of fee petition	1	CRS	$555.00	$555.00	$555.00
2/8/2008	Preparation of memorandum in support of fee petition	3	CRS	$555.00	$1,665.00	$915.00
2/8/2008	Preparation of fee petition	3	JSK	$275.00	$825.00	$825.00
2/9/2008	Preparation of memorandum in support of fee petition	2	CRS	$555.00	$1,110.00	$610.00
2/10/2008	Preparation of memorandum in support of fee petition	1	CRS	$555.00	$555.00	$305.00
2/12/2008	Preparation of memorandum in support of fee petition	1	JSK	$275.00	$275.00	$275.00
					$996,084.75	**$768,272.25**

Thomas v. County of Cook - EXHIBIT A

TABLE 5 - CLERICAL/SECRETARIAL TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL
5/21/2004	Filing of Complaint	0.75	CRS	$555.00	$416.25
5/21/2004	Service on County	0.5	DSA	$555.00	$277.50
5/21/2004	Filing of Complaint	0.75	DSA	$555.00	$416.25
10/14/2004	Locate Ruth Rotherstein	2.25	PLC	$555.00	$1,248.75
1/24/2005	Review of Discovery Organization for Deposition	2.75	CRS	$555.00	$1,526.25
11/3/2005	Calls re: Depositions	0.5	DSA	$555.00	$277.50
11/7/2005	Preparation of Correspondence re: Verification	0.25	CRS	$555.00	$138.75
11/9/2005	Preparation of Correspondence re: Deposition	0.5	CRS	$555.00	$277.50
1/29/2006	Service of Remaining Sheriff Department	1.5	DSA	$555.00	$832.50
2/1/2006	Call re: Deposition of Johnson and Facundo	0.25	DSA	$555.00	$138.75
3/20/2006	Review of file and Organization	2	CRS	$555.00	$1,110.00
3/20/2006	Review of file and Organization	6	JSK	$275.00	$1,650.00
3/23/2006	Preparation of case binders	8	JSK	$275.00	$2,200.00
3/23/2006	Call to clients and obtain contract information of witness	0.75	CRS	$555.00	$416.25
3/25/2006	Preparation of summaries and tables	6	JSK	$275.00	$1,650.00
3/26/2006	Preparation of binders and log summaries	4	JSK	$275.00	$1,100.00
4/18/2006	Preparation and Filings of Motion to Compel by date	4.25	DSA	$555.00	$2,358.75
7/21/2006	Preparation of settlement enclosures	0.25	JSK	$275.00	$68.75
7/21/2006	Letter re: Katzs bill	0.25	JSK	$275.00	$68.75
9/11/2006	Correspondence re: cost of Naber deposition	0.5	JSK	$275.00	$137.50
9/6/2006	Correspondence re: address of Titus Haynes	0.25	JSK	$275.00	$68.75
9/9/2006	Correspondence re: Hernandez cancellation of Hernandez deposition	0.25	JSK	$275.00	$68.75
9/11/2006	Call and correspondence re: Raher Deposition and Sgt. Hernandez	0.75	JSK	$275.00	$206.25
9/23/2006	Review document and organize file for pre-trial	3	JSK	$275.00	$825.00
9/25/2006	Review and organize file for pre-trail submission	4	CRS	$555.00	$2,220.00
9/25/2006	Review and organize file for pre-trail submission	6	JSK	$275.00	$1,650.00
10/4/2006	Preparation of correspondence re: Johnson address	0.5	JSK	$275.00	$137.50
10/13/2006	Calls arranging Rusanski deposition	0.5	JSK	$275.00	$137.50
10/23/2006	Call and correspondence to arranging telephone conference with Darius Parker	1	JSK	$275.00	$275.00
11/8/2006	Setting up deposition of Patton and Hladick	0.5	JSK	$275.00	$137.50
12/5/2006	Setting up deposition	0.5	JSK	$275.00	$137.50
2/14/2007	Drafting letter and calls re; scheduled motions and depositions	1.5	DSA	$555.00	$832.50
2/23/2007	Review discovery and file organization	5	CRS	$555.00	$2,775.00
2/23/2007	Review discovery and file organization	5	DSA	$555.00	$2,775.00
2/23/2007	Review discovery and file organization	5	PLC	$555.00	$2,775.00
3/7/2007	Review Correspondence re: Johnson Dep Scheduling	0.25	CRS	$555.00	$138.75
11/4/2007	File organization	2.5	JSK	$275.00	$687.50
11/4/2007	Witness location	2.5	CRS	$555.00	$1,387.50
11/6/2007	File organization and trial preparation	4	JSK	$275.00	$1,100.00
11/6/2007	File organization and trial preparation	2	CRS	$555.00	$1,110.00
11/6/2007	File organization and trial preparation	5.25	DSA	$555.00	$2,913.75
11/7/2007	information and witness location	1	CRS	$555.00	$555.00

Thomas v. County of Cook - EXHIBIT A

TABLE 5 - CLERICAL/SECRETARIAL TIME

DATE	DISCUSSION	TIME	ATTY	RATE	TOTAL
11/8/2007	Locating witnesses	2	CRS	$555.00	$1,110.00
					$40,333.75

Thomas v. County of Cook - EXHIBIT A

ADJUST
$416.25
$277.50
$416.25
$1,248.75
$1,526.25
$277.50
$138.75
$277.50
$832.50
$138.75
$1,110.00
$1,650.00
$2,200.00
$416.25
$1,650.00
$1,100.00
$2,358.75
$68.75
$68.75
$137.50
$68.75
$68.75
$206.25
$825.00
$2,220.00
$1,650.00
$137.50
$137.50
$275.00
$137.50
$137.50
$832.50
$2,775.00
$2,775.00
$2,775.00
$138.75
$687.50
$1,387.50
$1,100.00
$1,110.00
$2,913.75
$555.00

Thomas v. County of Cook - EXHIBIT A

ADJUST
$1,110.00
$40,333.75

Thomas v. County of Cook - EXHIBIT A

TABLE 6 - DISBURSEMENTS

ITEM	DATE	CATAGORIZATION	AMOUNT	ADJUSTMENT	BASIS
Darryl Ellis (Exhibit Ll)	9/2/2004	Investigator	$300.00	$300.00	Investigator fees not recoverable. Costs connected to finding plainitff heirs. Not properly chargeable.
Darryl Ellis (Exhibit L 2)	1/10/2005	Investigator	$1,700.00	$1,700.00	Investigator fees not recoverable. All charges appear related to other cases.
Darryl Ellis (Exhibit L3)	2/6/2006	Investigator	$150.00	$150.00	Investigator fees not recoverable.
Darryl Ellis (Exhibit L4)	5/19/2006	Investigator	$700.00	$700.00	Investigator fees not recoverable. All charges appear related to other cases.
Darryl Ellis (Exhibit L5)	6/1/2006	Investigator	$1,725.00	$1,725.00	Investigator fees not recoverable.
Darryl Ellis (Exhibit L6)	9/912006	Investigator	$2,250.00	$2,250.00	Investigator fees not recoverable.
Darryl Ellis (Exhibit L 7)	12/21/2006	Investigator	$250.00	$250.00	Investigator fees not recoverable.
Darryl Ellis (Exhibit L8)	12/12/2007	Investigator	$3,400.00	$3,400.00	Investigator fees not recoverable. Object to expenses directed to Carlos Matias. Matias never called to court despite it being clear investigator located and served same.
Fedex (Exhibit L9)	12/1212005	Courier Services	$86.70	$86.70	No apparent reason for using expedited FedEx shipping in December 2005.
Fedex (Exhibit L10)	2/15/2006	Courier Services	$9.30	$9.30	No description provided for necessity or purpose of this billing.
Fedex (Exhibit L11)	5/1/2006	Courier Services	$401.38	$401.38	No description provided for necessity or purpose of this billing.
Fedex (Exhibit L12)	11/28/2006	Courier Services	$236.09	$236.09	No description provided for necessity or purpose of this billing.
William Naber (Exhibit L13) Expert	1/10/2008	Expert Witness	$21,704.56	$21,704.56	Expert witness fees not allowed under Section 1988. Alternatively, Nabers barred at trial and charges of $1,026.65 for "Interest Due" are not taxable expenses.
Staples (Exhibit L14)	11/23/2007	Copy Services	$384.46	$384.46	No description provided for necessity or purpose of this billing.
Staples (Exhibit L15)	11/23/20007	Copy Services	$95.32	$95.32	No description provided for necessity or purpose of this billing.
Office of States Attorney (Exhibit L16)	1120/2007	Deposition Reimbursement	$1,800.00	$1,800.00	Plaintiff never paid this bill.
Childrens Memorial Hospital/Dr. Ben Katz MD (Exhibit L17)	12/4/2007	Expert Witness	$4,025.00	$4,025.00	Expert fees not allowed in Section 1983 cases. Dr. Katz's fees not paid.
Childrens Memorial Hospital/Dr. Ben Katz MD (Exhibit L18)	3/6/2006	Expert Witness	$1,412.50	$1,412.50	Expert fees not allowed in Section 1983 cases. Dr. Katz's fees not paid.
			$40,630.31	**$40,630.31**	

RESOLUTION

Sponsored by

THE HONORABLE PETER N. SILVESTRI, MIKE QUIGLEY,
GREGG GOSLIN AND PRESIDENT JOHN H. STROGER, JR.,
COUNTY COMMISSIONERS

Co-Sponsored by

THE HONORABLE JERRY BUTLER, ALLAN C. CARR, EARLEAN COLLINS,
JOHN P. DALEY, CARL R. HANSEN, TED LECHOWICZ, ROBERTO MALDONADO,
WILLIAM R. MORAN, JOSEPH MARIO MORENO, HERBERT T. SCHUMANN,
DEBORAH SIMS, BOBBIE L. STEELE AND CALVIN R. SUTKER,
COUNTY COMMISSIONERS

COOK COUNTY GUIDELINES FOR SPECIAL STATE'S ATTORNEY'S

WHEREAS, Illinois law provides for the appointment of a Special State's Attorney, in civil or criminal cases, when the Cook County State's Attorney is sick, absent, unable to attend to a case or has an interest in a case (see 55 ILCA 5-3-9008); and

WHEREAS, the County of Cook, Illinois ("County") is responsible for the payment of legal fees generated by a Special State's Attorney and is generally accountable for the satisfaction of monetary judgments or settlements resulting from the civil matters for which the Special State's Attorney was appointed; and

WHEREAS, the Cook County Guidelines for Special State's Attorney's ("Guidelines") will enable the County to be fiscally responsible and budget effectively in these matters; and

WHEREAS, the Guidelines were prepared in consultation with the Litigation Subcommittee, the Cook County State's Attorney's Office and representatives of the legal community in Cook County;

NOW THEREFORE BE IT RESOLVED, that the Cook County Board of Commissioners ("Board") approve and adopt the Cook County Guidelines for Special State's Attorney's as follows:

APPLICATION

The party for whom a Special State's Attorney have been appointed shall provide the Guidelines to the Special State's Attorney. When the court appoints a Special State's Attorney, the County directs the Cook County State's Attorney to ask the court to order the Special State's Attorney to comply with the Guidelines. The County also directs the Cook County State's Attorney to forward a copy of the Guidelines to prospective Special State's Attorneys in a given matter and to advise them of the County's request that they comply with the Guidelines if appointed by the court.

Exhibit 1

There may be circumstances under which the Guidelines require modification due to the relationship of the Board to the litigation. The Litigation Subcommittee shall examine these situations on a case-by-case basis and shall modify the Guidelines accordingly.

Moreover, in unusual circumstances in which Special State's Attorney's believe that strict compliance with these Guidelines would interfere with the exercise of their professional judgment or otherwise violate their professional responsibilities, they shall promptly seek appropriate guidance from the court. Pending the receipt of such guidance, they shall be relieved of the obligation to comply with the Guidelines, but only to the extent necessary to avoid the perceived problems that prompted the request for guidance.

CASE MANAGEMENT

The Special State's Attorney shall submit a Case Summary and Budget to the County Board through its Litigation Subcommittee within 30 days of the Special State's Attorney's appointment or as soon thereafter as the Subcommittee meets. This information and other communications between the Special State's Attorney and the Board or Litigation Subcommittee shall constitute privileged and confidential attorney-client communications.

The Subcommittee shall review the Case Summary and Budget. Requiring submission of the Case Summary and Budget for review does not prohibit the Special State's Attorney from initiating, immediately upon appointment, legal activities the Special State's Attorney deems necessary to advance the legal interests of the represented party. Special State's Attorney's appointed in criminal matters shall not be required to submit a Case Summary to the Litigation Subcommittee.

Case Summary. The scope and detail of Case Summaries may vary, depending upon the complexity of the matter. The Case Summary shall set forth the major activities anticipated for the successful defense or prosecution of the case. The Case Summary shall also include whether the case is appropriate for settlement. In addition, the Case Summary shall include estimates of potential liability, the expected judgment or completion date and an assessment of the probable outcome of the litigation.

Case Budget. The Budget shall include an estimate of legal fees and expenses through the time of judgment or other completion and shall allocate the fees and expenses associated with each phase. The Special State's Attorney shall report unusually expensive activities to the Litigation Subcommittee in a timely manner. In addition, the Budget should identify the year the fees and expenses are anticipated to be included on fee petitions. The Subcommittee may request a more detailed Budget. The initial Budget and updates shall include projected attorneys' fees and expenses including, but not limited to, costs associated with the use of third-party vendors.

Modification of Approved Case Summary or Budget: Quarterly Status Reports. The initial Case Summary and Budget may change as the litigation progresses. The Special State's Attorney shall report to the Subcommittee any major deviation that would significantly expand the planned activities set forth in the Case Summary or that would materially increase the Budget.

Special State's Attorney's shall submit to the Litigation Subcommittee brief quarterly Status Reports, which describe the status of the case, including any change in litigation strategy or anticipated expense.

FEES: EXPENSES, RATES AND FEE PETITIONS

Fees and Expenses. Special State's Attorney's shall be paid reasonable fees and costs based on the type and nature of the case. Such fees and costs shall conform to the fees and costs paid by governmental bodies in major metropolitan regions. The Special State's Attorney must pay for all expenses in advance unless otherwise expressly directed by the court or agreed to in writing by the Litigation Subcommittee. Reimbursement of expenses shall be requested as part of the Special State's Attorney's fee petitions. Expenses shall be reimbursed as follows:

Photocopying: Reasonable photocopying at actual cost, not to exceed 10 cents per page.

Messenger Service: The use of messengers when there is a genuine need for expedited delivery, at actual charges of a third-party vendor or, when an in-house firm messenger is used, at actual cost.

Computerized Research: Actual costs of reasonably necessary computerized research services.

Experts: The reasonable fees of qualified consulting and testifying experts retained to provide opinions necessary to the defense or prosecution of the litigation.

Travel: Air travel expenses must not exceed the highest fare coach rate for the flight. Mileage expenses shall be at the IRS deductible rates. Hotels, car rental companies and airlines offering moderate prices and discounted corporate rates shall be used. Special State's Attorney's shall reduce the hourly rate charged by 50 percent while an attorney or paraprofessional is traveling, unless legal work in being performed and is documented.

Law firm overhead expenses including, but not limited to, rent, electricity, supplies, secretarial and support services, computer system expenses, overtime expenses, local telephone service and other similar expenses, shall be considered part of the Special State's Attorney's hourly rate.

Special State's Attorney's shall not seek reimbursement of fees for preparing a fee petition or conducting a conflicts check or for entertainment expenses, excessive staffing or work resulting from Special State's Attorney error. Special State's Attorney's fees for court appearances and depositions shall, under most circumstances, be based on the work of a single attorney.

Rate Structure. Unless otherwise expressly directed by the court or the Subcommittee, Special State's Attorney's shall bill for their services on an hourly basis and in accordance with the Special State's Attorney Fee Schedule ("Fee Schedule") as approved and amended from time to time by the Board. The Fee Schedule shall establish the maximum hourly charges payable for the type of service provided. Special State's Attorney's may propose alternative fee structures such as blended, flat or contingent rate proposals.

Fee Petitions. Unless otherwise expressly directed by the court, Special State's Attorney's shall submit fee petitions quarterly unless the charges for a quarter are less than $500.00, in which case such charges shall be included in the next quarterly fee petition. Special State's Attorney's shall submit all fee petitions to the Litigation Subcommittee through the County Board in a time appropriate for referral to and review by the Subcommittee prior to filing the fee petition with the court. The time spent performing chargeable services shall be recorded on a daily basis to the nearest 1/10 of an hour and shall be broken down in detail, describing the work performed by each individual during that time period. The fee petition shall contain the amount charged for each attorney and paraprofessional, including the time, the hourly rate and a summary total for each. The fee petition shall itemize expenses according to categories including the following: photocopying, messenger service, computerized research, experts and travel.

LITIGATION RESOLUTION

Alternative Dispute Resolution. If a Special State's Attorney appointed in a civil matter believes that alternative dispute resolution, such as arbitration or mediation, is appropriate, the Special State's Attorney shall bring a proposal recommending such action to the Litigation Subcommittee for its consideration and prior approval.

Settlement. Special State's Attorney's appointed in civil matters shall communicate all settlement proposals to the Subcommittee in a timely manner. The Special State's Attorney's shall provide a written settlement analysis and recommendation to the Litigation Subcommittee and shall be prepared to present that recommendation at a meeting of the Subcommittee.

Permission to Try. Special State's Attorney's appointed in civil matters shall obtain the approval of the Litigation Subcommittee prior to taking a matter to trial. When a Special State's Attorney recommends that a civil matter proceed to trial, the Special State's Attorney shall provide a revised Case Summary and recommendation to the Litigation Subcommittee. The Special State's Attorney shall be prepared to present that recommendation at a meeting of the Subcommittee.

Appeals. Special State's Attorney's must promptly notify the Litigation Subcommittee of any final and appealable ruling in civil matters. If an appeal may result in the imposition of accrued interest upon the County, the Special State's Attorney must obtain authorization from the Litigation Subcommittee before pursuing the appeal. However, Special State's Attorney's shall take all steps necessary to protect the interests and preserve the appeal rights of the parties they represent pending a decision to appeal, including the filing of appropriate post-trial motions or a notice of appeal when necessary.

CONFLICTS OF INTEREST

Before accepting a court appointment, when applicable, or before rendering any services, Special State's Attorney's must conduct a conflict of interest review and provide the Litigation Subcommittee with a written list of all actual or potential conflicts of interest and matters that may present the appearance of a conflict. As soon as a Special State's Attorney learns of any actual or potential conflict or of the appearance of a conflict, the Special State's Attorney must disclose such conflict in writing to the Litigation Subcommittee. Special State's Attorneys must be free of any conflict of interest unless the conflict is waived by the Litigation Subcommittee and the party represented by the Special State's Attorney.

SPECIAL STATE'S ATTORNEY FEE SCHEDULE

The Special State's Attorney Fee Schedule is provided pursuant to the Cook County Guidelines for Special State's Attorney's.

Partner Hourly Rate:	$170.00-$185.00
Associate Hourly Rate:	$140.00-$155.00
Paralegal/Law Clerk Hourly Rate:	$65.00

The Guidelines shall become effective immediately upon approval by the Cook County Board of Commissioners.

Approved and adopted this 23rd day of March, 2000.

JOHN H. STROGER, JR., President
Cook County Board of Commissioners

(S E A L)

Attest: _____
DAVID ORR, County Clerk

APPROVED BY BOARD OF
COOK COUNTY COMMISSIONERS

MAR 2 3 2000

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ENTERTAINMENT SOFTWARE ASSOCIATION; VIDEO SOFTWARE DEALERS ASSOCIATION; and ILLINOIS RETAIL MERCHANTS ASSOCIATION,	)	
Plaintiffs,	)	
v.	)	**Case No. 05 C 4265**
ROD BLAGOJEVICH, in his official capacity as Governor of the State of Illinois; LISA MADIGAN, in her official capacity as Attorney General of the State of Illinois; and RICHARD A. DEVINE, in his official capacity as State's Attorney of Cook County,	)	
Defendants.	)	

MEMORANDUM OPINION AND ORDER

MATTHEW F. KENNELLY, District Judge:

The Entertainment Software Association, Video Software Dealers Association, and Illinois Retail Merchants Association sued several state and local officials seeking to enjoin the enforcement of Illinois's Violent Video Games Law (VVGL) and Sexually Explicit Video Games Law (SEVGL). The Court issued a permanent injunction barring the enforcement of these laws. Plaintiffs now seek $644,545.90 in attorney's fees, expenses, and costs pursuant to 42 U.S.C. § 1988, 28 U.S.C. § 1920, Fed. R. Civ. P. 54(d), and Northern District of Illinois Local Rule 54.3.[1] For the reasons stated below, the Court reduces plaintiffs' request by $134,287.26

[1] In their reply brief, plaintiffs seek an additional $39,154.07 for work on this fee petition. Because plaintiffs did not request such fees in their opening memorandum, they have forfeited the point.

Exhibit 2

and awards plaintiffs $510,258.64.

Procedural Background

Illinois Governor Rod Blagojevich signed the VVGL and the SEVGL into law on July 25, 2005. On that same date, the plaintiffs, which are associations of video game creators, publishers, and retailers, filed this action, claiming that the statutes violated the First and Fourteenth Amendments. They requested preliminary and permanent injunctive relief.

The defendants, Governor Blagojevich, Attorney General Lisa Madigan, and Cook County State's Attorney Richard Devine, filed motions to dismiss on various grounds. The Governor argued that the plaintiffs lacked standing; the Attorney General maintained that she was immune from suit under the Eleventh Amendment; and the Cook County State's Attorney argued that the case did not present an actual controversy under Article III. In their motions to dismiss, the Governor and the Attorney General also contended that certain counts in the complaint failed to state a claim under Federal Rule of Civil Procedure 12(b)(6). Finally, the Governor filed a motion for partial summary judgment, in which the Attorney General joined, requesting the Court to find the SEVGL constitutional.

Pursuant to Rule 65(a)(2) of the Federal Rules of Civil Procedure, the Court consolidated the hearing on the motion for preliminary injunction with the trial on the merits. The evidence presented at trial primarily concerned the justifications for the VVGL. Two expert witnesses testified for the defendants, and three expert witnesses testified for the plaintiffs. They addressed two issues: whether minors who play violent video games experience an increase in aggressive thoughts, affect, and behavior, and whether minors who play such games experience a decline in brain activity in the region controlling behavior. The plaintiffs also submitted affidavits

discussing the chilling effect that both the VVGL and the SEVGL would have on their members' expression.

On December 2, 2005, the Court issued a ruling denying defendants' motions to dismiss and for partial summary judgment and granting plaintiffs' request for a permanent injunction. The defendants have appealed from the denial of the Attorney General's claim of sovereign immunity and the entry of the injunction against enforcement of the SEVGL. The defendants did not appeal the Court's entry of an injunction barring enforcement of the VVGL. The Court of Appeals heard oral arguments on June 5, 2006 but has yet to issue its decision.

Discussion

Courts are authorized to award attorney's fees, expenses, and costs to the prevailing parties in an action brought under section 1983. *See* 42 U.S.C. § 1988; 28 U.S.C. § 1920; Fed. R. Civ. P. 54(d); Local Rule 54.3. Defendants contend that plaintiffs' claimed attorney's fees are not reasonable and that their costs are not justified.

A. Prevailing party

The defendants argue that it is too early to tell whether the plaintiffs prevailed on the two issues on appeal, namely whether the Attorney General was immune from suit and whether the SEVGL was unconstitutional. The plaintiffs concede this point and offer an affidavit stating that at most, six percent of the fees and costs in this case were attributable to work on those issues. The defendants do not challenge this estimation. In the event that the defendants succeed in their appeal, the Court will reduce the plaintiffs' award by six percent upon remand of the case.

B. Attorney's fees

Plaintiffs seek reimbursement for 1,453.75 hours of attorney time and 167.5 hours of

paralegal time, at hourly rates ranging from $215.00 to $585.00 for the attorneys and $100.00 to $210.00 for the paralegals. Defendants contend that the rates and the number of hours are unreasonable. "The most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate." *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983).

1. Rates

a. Attorneys

The reasonable hourly rate for an attorney is the market rate for her services. *See Fogle v. William Chevrolet/ Geo, Inc.*, 275 F.3d 613, 615 (7th Cir. 2001). "An attorney's market rate is the rate that lawyers of similar ability and experience in the community normally charge their paying clients for the type of work in question." *Spegon v. Catholic Bishop of Chic.*, 175 F.3d 544, 555 (7th Cir. 1999) (citations omitted). The Seventh Circuit has made it clear that an attorney's actual billing rate is presumptively the best measure of the market rate for her services. *See People Who Care v. Rockford Bd. of Educ.*, 90 F.3d 1307, 1310 (7th Cir. 1996) (citing *Gusman v. Unisys Corp.*, 986 F.2d 1146, 1150 (7th Cir. 1993)). An attorney seeking fees has the burden of proving her market rate, but once she does, opposing counsel bears the burden of showing why the hourly rate should be lower. *Spegon*, 175 F.3d at 554-555.

Plaintiffs claim the following market rates for their attorneys:

Attorney	Practice/Experience	Rate
Paul M. Smith	Former managing partner, Jenner & Block Washington D.C. office Co-chair Media/First Amendment and Supreme Court/Appellate practices 1979 law graduate *See* Sanders Decl. ¶ 6.	$585.00
David P. Sanders	Co-chair Media/First Amendment practice 1974 law graduate *See* Sanders Decl. ¶ 5.	$495.00
Katherine A. Fallow (2005)	Partner 1996 law graduate *See* Sanders Decl. ¶ 7.	$425.00
Katherine A. Fallow (2006)	same	$450.00
Kathleen R. Hartnett	Associate 2000 law graduate *See* Sanders Decl. ¶ 8.	$340.00
Amy L. Tenney	Associate 2000 law graduate *See* Jenner & Block, Our People, Amy L. Tenney, http://www.jenner.com/people/bio.asp?id=1013 (last visited Aug. 8, 2006).	$340.00
Matthew A. Albaugh	Associate 2001 law graduate *See* Baker & Daniels, Professionals, Matthew A. Albaugh, http://www.bakerd.com/professionals/bio.cfm?id=657 (last visited Aug. 8, 2006).	$310.00
Matthew Hellman	Associate 2002 law graduate *See* Jenner & Block, Our People, Matthew Hellman http://www.jenner.com/people/bio.asp?id=1655 (last visited Aug. 8, 2006).	$275.00

Duane C. Pozza (2005)	Associate 2002 law graduate *See* Jenner & Block, Our People, Duane Pozza http://www.jenner.com/people/bio.asp?id=1234 (last visited Aug. 8, 2006).	$275.00
Duane C. Pozza (2005)	same	$325.00
Wade A. Thomson	Associate 2003 law graduate *See* Jenner & Block, Our People, Wade Thomson http://www.jenner.com/people/bio.asp?id=1267 (last visited Aug. 8, 2006).	$215.00
Thomas G. Pulham	The Court was unable to find specific information about Pulham.	$215.00

Defendants argue that counsel's self-serving affidavits are insufficient to establish their market rates. *See Spegon*, 175 F.3d at 556. Plaintiffs' counsel respond that these are their normal rates and that Jenner & Block charged and plaintiffs paid these rates. This is evidenced by the seventy-one pages of invoices submitted by plaintiffs' counsel. Plaintiffs' counsel also assert that the plaintiffs paid them at the same hourly rates for similar litigation in California and Michigan. Sanders Decl. ¶ 11; Second Fallow Decl. ¶ 2; ESA Mem., Ex. 1. Because Jenner & Block normally charges clients at the above rates and plaintiffs actually paid counsel at these rates, the Court concludes that the plaintiffs have established the rates set forth above as their attorneys' market rates.

Defendants nonetheless respond that the actual market rate for plaintiffs' attorneys is far below the amount they billed plaintiffs. Defendants initially contend that the hourly rate for plaintiffs' counsel is $200.00 per hour because Jenner & Block charges only that amount when

its attorneys represent the State of Illinois in similar cases. Quinlan Decl. ¶¶ 5, 12, 13.

In response, plaintiffs cite *People Who Care*, a case in which the plaintiffs' attorneys had charged the Chicago Board of Education (CBOE), one of their largest clients, lower rates than those charged to its other clients. *See People Who Care*, 90 F.3d at 1313. According to the Seventh Circuit, "atypical billing arrangements with certain clients should enter a court's calculation in a manner that is consistent with the attorney's overall practice." *Id.* The court recognized that work for the CBOE may have constituted fifty to sixty percent of the plaintiffs' attorneys' practice but found that this was irrelevant because "there [was] no indication that [plaintiffs' counsel] would have billed any more hours to the CBOE" had it spent less time working for plaintiffs and more time working for other clients. *Id.* The court found that the lower rate charged to the CBOE should at most constitute five percent of plaintiffs' counsel's hourly rate. *Id.*

Defendants cite evidence that Jenner & Block received $2.3 million in legal fees from the state in fiscal year 2002 and had $1.4 million in contracts with the state for fiscal years 2005 and 2006 combined. Quinlan Decl. ¶¶ 10-11. Defendants, however, present no evidence about what percentage of Jenner & Block's work – particularly what percentage of the work done by the attorneys in this case – is done on behalf of the State of Illinois at below-market rates. The Court is persuaded by plaintiffs' counsel's affidavits that Jenner & Block spends a small portion of its time representing the state and that the attorneys in this case have not represented the state during the time periods relevant to this lawsuit. *See* Sanders Decl. ¶ 11; Second Fallow Decl. ¶¶ 2, 4-5. For these reasons, the Court concludes it is inappropriate to reduce plaintiffs' counsel's hourly rates on this basis.

Defendants also contend that the hourly rate for plaintiffs' attorneys, some of whom have their offices in the District of Columbia, is too high for the Chicago market. Based on hourly rates awarded in other cases in this district, defendants suggest the following rates for the attorneys and paralegals in this case: $325.00 to $350.00 for plaintiffs' primary attorneys, Paul Smith, David Sanders, Katherine Fallow, and Kathleen Hartnett; $200.00 for other associates; and $100.00 for paralegals. In support of this argument, defendants cite several cases in which courts, lacking evidence of an attorney's actual rates, were forced to rely on the billing rates of other attorneys doing similar work to approximate the attorney in question's market rate. *See, e.g., Williams v. Viking Dodge, Inc.*, No. 05 C 5281, 2006 WL 1156396, at *3-4 (N.D. Ill. Apr. 26, 2006); *Curtean v. Fed. Mortgage, Inc.*, No. 05 C 292, 2005 WL 1661992, at *5 (N.D. Ill. July 13, 2005). These cases are inapposite, however, because plaintiffs have submitted evidence establishing their market rates.

The other cases cited by the defendants undermine their position. The courts in those cases (including this Court) applied hourly rates that were far less than those sought here because those were the market rates of the attorneys who were petitioning for fees in those cases. *See Bull v. Coyner,* No. 98 C 7583, 2001 WL 630669, at *1-2 (N.D. Ill. June 4, 2001) (rejecting attorney's request for a higher than usual hourly rate); *Woodard v. Chicago Bd. of Educ.*, No. 00 C 5155, 2002 WL 31749179, at *2 (N.D. Ill. Dec. 6, 2002) (rejecting opposing party's request to reduce established hourly rate based on affidavits regarding other attorneys' rates). The courts in those cases found that the attorneys' market rates were clearly established and therefore declined to depart upward or downward based on evidence of the rates of other attorneys in comparable cases.

Defendants also cite *In re Subpoenas Issued to Danze,* No. 05 C 4538, 2006 WL 211942, at *2-3 (N.D.Ill. Jan. 18, 2006), a case in which one of our colleagues concluded that an attorney was not entitled to his usual hourly rate of $495.00 even though his clients paid him at that rate. The Court recognized that the attorney – a partner in his law firm with thirty-eight years of experience – was well-qualified. Because the case in question did not involve the attorney's area of expertise, however, the Court concluded that he was only entitled $425.00 per hour for his work on the case. *Id.*

The same is not true in this case. For the most part, the primary attorneys in this case performed work in their area of expertise – First Amendment law. Sanders Decl. ¶¶ 5-8. Smith and Fallow have extensive experience litigating First Amendment cases throughout the country, including before the United States Supreme Court. *Id.* ¶¶ 6-7. Smith, Fallow, and Hartnett have particular expertise litigating cases challenging laws regulating violent video games. *Id.* ¶¶ 6-8. Smith has practiced law for twenty-seven years, serves as the co-chair of Jenner & Block's First Amendment and Appellate Practice, has argued before the Supreme Court twelve times, and clerked for a federal appellate court and the Supreme Court. *Id.* ¶ 6. Fallow is a partner who has practiced law for ten years and clerked for federal district and appellate courts. *Id.* ¶ 7. Hartnett is an associate who has practiced law for six years and clerked for a federal appellate court and the Supreme Court. *Id.* ¶ 8. The five other associates who worked on the case ranged from senior to junior associates, and their rates, which went from $310.00 to $215.00, reflected both their years of practice and other experiences, including First Amendment expertise and clerkships in both the state and federal courts.

The Seventh Circuit has warned that "there is no single, market-wide fee for a given

case." *Fogle*, 275 F.3d at 615. The court has also stated that "lawyers who fetch above-average rates are presumptively entitled to them, rather than to some rate devised by the court." *Gusman*, 986 F.2d at 1150. In this case, the Court recognizes that plaintiffs' hourly rates, particularly those for its primary attorneys, are above average for attorneys with the same number of years of experience. Nevertheless, the plaintiffs considered their attorneys to be better than average and paid them accordingly. The Court agrees with this evaluation and concludes that plaintiffs' counsel's hourly rates reflect the market value of their services.[2]

Defendants finally argue that plaintiffs' attorneys' hourly rates should be reduced because the questions presented in this case were neither novel nor difficult. *See Entm't Concepts III v. Maciejewski*, 514 F. Supp. 1378, 1380 (N.D. Ill. 1981). Defendants primarily rely on statements by ESA describing the VVGL and the SEVGL as "virtually identical" to laws that have been found unconstitutional in other jurisdictions. Gvt. Resp., Exs. D-F. The Court agrees with plaintiffs that this argument is belied by the defendants' own actions. At trial, defendants conceded that every other court that had considered laws regulating violent video games had declared the laws unconstitutional. *See, e.g., Interactive Digital Video Ass'n v. St. Louis County*,

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[2] The one partial exception is Sanders. Sanders is unquestionably a highly qualified attorney: he has thirty-two years of experience and, along with Smith, he is co-chair of Jenner & Block's Media and First Amendment practice. *Id.* ¶ 5. In this case, however, it is unclear how much value Sanders' expertise added. Based on plaintiffs' counsel's invoices, Sanders billed at least 8.75 hours for advising Washington counsel on matters of local practice and procedure. There was no need for Sanders to provide this advice when an associate could have provided it while billing at half his hourly rate. *See Smith v. Richard Wolf Med. Instruments*, 264 F.3d 702, 708 (7th Cir. 2001) (upholding reduction of fees because partner performed many tasks that could have been delegated to an associate). And as we discuss later, the Court also believes that Sanders billed several unnecessary hours in the case. For these reasons, rather than lowering Sanders' billing rate and reducing his hours, the Court will lower his hours to account for the fact that an associate could have done many of his tasks and for the fact that some of his contributions to the case were redundant.

329 F.3d 954 (8th Cir. 2003); *James v. Meow Media, Inc.*, 300 F.3d 683 (6th Cir. 2002); *Am. Amusement Machine Ass'n v. Kendrick*, 244 F.3d 572 (7th Cir. 2001). Defendants nevertheless argued that the VVGL withstood strict scrutiny because new social scientific and neuropsychological research that was unavailable in the previous cases provided a compelling justification for regulating violent video games. As a result of defendants' claims, plaintiffs' attorneys had to familiarize themselves with these scientific fields, find their own experts, and refute the bases for the VVGL within the course of a few months. In short, the factual and legal issues presented in this case were anything but simple. We therefore conclude that there is no basis for reducing plaintiffs' counsel's normal hourly rates.

b. Paralegals

The reasonable hourly rates for paralegals are also the market rates for their services. *See Spegon*, 173 F.3d at 556. Jenner & Block billed and plaintiffs paid for paralegal services at the following rates:

Paralegal	**Rate**
Cheryl L. Olson	$210.00
Jessica Jurinek	$150.00
Jennifer Q. Lee	$110.00
Maria Giakoumis	$110.00
Helder G. Agostinho	$110.00
Leslie C. Kendrick	$100.00
Benjamin Shultz	$100.00

ESA Mem., Ex. 1.

Defendants argue that the reasonable hourly rate for paralegals is actually $100.00. The most recent case cited by defendants upheld a $105.00 hourly rate for paralegals. *See Williams*, 2006 WL 1156396 at *3-4. The Court finds that the $100.00 hourly rate for Kendrick and Schultz and the $110.00 hourly rate for Agostinho, Giakoumis, and Lee are reasonable. The Court is concerned, however, about allowing the higher hourly rates for Jurinek and Olson. Olson's claimed hourly rate, for example, is only $5.00 less than the claimed hourly rate of Thomson, a third-year attorney. *See* ESA Mem. at 8. These paralegals' experience may well justify their high rates, but plaintiffs have provided no evidence to support such a conclusion. For these reasons, the Court reduces the hourly rates for Jurinek and Olson to $110.00.

2. Hours

The prevailing party has the burden of proving the reasonableness of the hours worked by counsel. *Spegon*, 175 F.3d at 555. Plaintiffs maintain that the number of hours claimed is reasonable based on the amount of work required to draft and file the complaint, draft and file a motion for preliminary injunction, respond to multiple motions to dismiss, conduct and respond to extensive expert discovery, and conduct the trial. Defendants respond that plaintiffs' counsel began preparing for this case prematurely, performed duplicative work, overstaffed the case, and provided vague records documenting the hours claimed. For these reasons, defendants argue that the Court should allow plaintiffs to recover for only 1,202 attorney hours and 120.35 paralegal hours.

Before addressing the defendants' specific arguments, it is important to provide some context about the pace of this litigation. The VVGL and the SEVGL were enacted on July 24,

2005 and were set to go into effect less than six months later, on January 1, 2006. The plaintiffs faced a tight deadline for obtaining an injunction barring the enforcement of these statutes. It is not surprising, therefore, that plaintiffs' counsel began working on the case even before the VVGL and SEVGL became law.

Defendants nonetheless contend that the Court should disallow any hours billed prior to July 24, 2005, the date the Governor signed the VVGL and the SEVGL.[3] *See Turner v. Carothers*, No. 83 C 1166, 1986 WL 1433, at *1-2 (N.D. Ill. Jan. 15, 1986) (denying request for "investigatory work" performed before filing of complaint). Defendants maintain that it was unreasonable for plaintiffs to draft and revise their pleadings during a time period in which the legislature was revising and amending the proposed legislation. Defendants single out 47.25 hours spent preparing a motion for temporary restraining order that was never filed. Plaintiffs demonstrate, however, that this early preparation was necessary. Because proposed versions of the legislation had an immediate effective date, plaintiffs had to be prepared to seek a temporary restraining order immediately upon adoption. *See* Second Fallow Decl. ¶ 13. When the bills were passed and plaintiffs learned that the effective date was January 1, 2006, counsel converted the draft motion for a temporary restraining order into a motion for a preliminary injunction. The Court is persuaded that for the most part, the work performed between April and July 2005 was both reasonable and necessary to the case: if it had not been performed during that period, it would have been conducted in the few months between the enactment of the Illinois legislation

[3] Defendants note that plaintiffs' attorneys' invoices reflect that Fallow spent 1.4 hours researching "proposed Illinois tax law" on April 12, 2005, and that as a result, it is unclear whether subsequent references to Illinois legislation and litigation refer to the tax law or the video game laws at issue in this case. In their reply, plaintiffs state that this entry was erroneously included in the fee petition and therefore reduced their fee request by $637.50.

and the trial before this Court. To the extent that plaintiffs' counsel performed redundant work, the Court discusses it below.

Defendants also argue that plaintiffs' counsel's hours working on the VVGL are unreasonable because they duplicated work done for two other cases challenging the constitutionality of violent video game laws. *See Entm't Software Assoc. v. Granholm*, 426 F. Supp. 2d 646 (E.D. Mich. 2006) (granting plaintiff's motion for summary judgment); *Video Software Dealers Assoc. v. Schwarzenegger*, 401 F. Supp. 2d 1034 (N.D. Cal. 2005) (granting plaintiffs' motion for preliminary injunction). Plaintiffs respond that defendants have mischaracterized the trajectories of these three cases. According to plaintiffs, because Illinois passed its legislation before Michigan or California, all of the briefing and discovery occurred first or only in this case.

The Court agrees with plaintiffs. Illinois enacted the VVGL on July 25, 2005, almost two months before Michigan and almost three months before California enacted corresponding statutes. Briefing and discovery were first conducted in this case, though plaintiffs subsequently filed pleadings, depositions, and testimonial evidence from this case in the California and Michigan lawsuits. Only this case required plaintiffs to conduct a two-day trial; no trial or evidentiary hearing took place in California or Michigan. Plaintiffs concede that they used their work product from this case in subsequent cases. This may be a basis for reducing attorney's fees in those cases, but not in this one.

Defendants also argue that plaintiffs' counsel overstaffed this case and performed redundant work. Plaintiffs' counsel claim they staffed the case leanly with a senior partner (Smith), a junior partner (Fallow), and a senior associate (Hartnett). Based on the pace of the

litigation, the Court believes that plaintiffs were warranted in employing more than one or two attorneys to prepare this case. Plaintiffs' counsel's invoices indicate, however, that some overstaffing took place.

First, there was no reason for a third partner – let alone the other co-chair of Jenner & Block's First Amendment and Media Practice – to contribute over eighty hours to the case. As discussed earlier, Sanders' main function appeared to be advising the Washington attorneys on local practice and procedure. Though he also served as an additional partner to discuss strategy and revise written submissions, plaintiffs have not shown why they reasonably needed another partner to perform these functions when Smith and Fallow, two highly skilled attorneys, were already performing them.

That said, Sanders made reasonable and necessary contributions to the case in preparing for and defending two depositions. Because of the expedited nature of the litigation, it was reasonable for a third partner to assist with these proceedings. For these reasons, the Court allows the plaintiffs to recover for the 23.75 hours that Sanders spent working on depositions. The Court also allows the plaintiffs to recover for half of the 8.75 hours (4.38 hours) Sanders spent advising Washington counsel on local procedure; this was likely necessary, but as discussed earlier, it could have been done by an associate. The Court otherwise denies Sanders' hours because they were redundant and unnecessary.

Second, in addition to Hartnett, five other associates contributed a total of 129 hours to the case. The plaintiffs claim that they needed these attorneys to replace individuals who left the firm and to work on discrete tasks throughout the litigation. The Court does not believe, however, that the inclusion of these attorneys' time is consistent with the requirement that

counsel petitioning for fees exercise "billing judgment" in making the petition. *See Hensley*, 461 U.S. at 434.

Pulham, who drafted the initial complaint and the motion for a temporary restraining order, spent 80.5 hours on this case; Hartnett, who completed the complaint and the motion for a preliminary injunction that was ultimately filed, spent forty-four hours researching, drafting, and revising these submissions. Plaintiffs have not shown that it is reasonable that associates alone spent over 120 hours on the complaint and what ultimately became the motion for preliminary injunction. Under the circumstances, the Court concludes that these hours likely reflect redundant work performed by Pulham and Hartnett. For that reason, the Court will allow the plaintiffs to recover only for sixty hours of Pulham's work.

Additionally, Thomson, who was responsible for filing documents with the Court, reviewed each of the plaintiffs' submissions before he filed them, even though three partners and one senior associate had already revised them multiple times. *See, e.g.,* Thomson entry for 4.5 hours on 8/23/05 ("Prepared, reviewed, and filed memorandum in support of motion for preliminary injunction and appendix regarding same."). The Court believes that it was unnecessary for Thomson to review these documents before filing them and therefore denies six of Thomson's hours on this basis.

The fact that the case was overstaffed and that attorneys performed redundant work becomes even more obvious when one examines the number of attorneys who attended depositions, status hearings, and the trial. *See Chic. Messenger Service v. Nextel Commc'ns, Inc.*, No. 01 C 8820, 2005 WL 643270, at *3 (N.D. Ill. Mar. 16, 2005) (billing for two lawyers at depositions and status hearings was unreasonable). Two or three attorneys regularly attended

depositions when one would have sufficed. *See* Fallow entry for 8.25 hours, Hartnett entry for 9.75 hours, and Thomson entry for 6.5 hours on 11/07/05 (Goldstein Dep.); Fallow entry for 14 hours and Hartnett entry for 10.5 hours on 11/02/05 (Williams Dep.); Smith entry for 8 hours and Thomson entry for 3 hours on 10/13/05 (Anderson Dep.); Smith entry for 7 hours and Hartnett entry for 9.25 hours on 9/13/05 (Andersen Dep.); Smith and Hartnett entries for 8 hours on 9/12/05 (Lowenstein Dep.).

In addition, both Washington and Chicago attorneys also regularly participated in status hearings, even though the Court made this unnecessary by granting plaintiffs' Washington counsel leave to appear *pro hac vice*. *See* Smith and Fallow entries for 1 hour and Sanders entry for 0.75 hours on 10/26/05 (telephone status hearing); Smith entry for 3 hours and Sanders entry for 3.5 hours on 10/20/05; Smith entry for 0.75 hours and Sanders entry for 0.50 hours on 9/19/05; Sanders entry for 3.25 hours and Fallow entry for 4.25 hours on 8/23/05.

Finally, up to five attorneys attended the trial at any given time, though the plaintiffs' fee petition provides no justification for their presence. *See* entries for 11/14/05 (Smith - 16 hours; Sanders - 7.75 hours; Fallow - 11.5 hours; and Hartnett - 12.25 hours); 11/15/05 (Smith - 17 hours; Sanders - 8 hours; Fallow - 16 hours; Hartnett - 12.5 hours; and Thomson - 4.75 hours); and 11/16/05 (Smith - 6 hours; Sanders - 2.75 hours; Hartnett - 11.5 hours; and Thomson - 4.25 hours). The plaintiffs note that the defendants also sent multiple attorneys to status hearings, depositions, and the trial, but that does not justify plaintiffs' counsel's overstaffing.

In sum, the Court allows plaintiffs to recover for the presence of the primary attorney at each deposition and status hearing. The Court also allows plaintiffs to recover for the hours Smith, Fallow, and Hartnett billed during the trial. The Court denies the hours of any additional

attorneys present at these proceedings.

The Court is also concerned that the case was overlawyered. Plaintiffs' primary attorneys in the case – Smith, Fallow, and Hartnett – claim 216 hours, 431.75 hours, and 509.25 hours respectively. Based on plaintiffs' counsel's invoices, however, the Court has difficulty determining whether these hours were reasonable. Many of Smith's billing descriptions are quite vague, making it impossible for the Court to ascertain what he was doing and whether he spent a reasonable amount of time doing it.[4] Many of Fallow's and Hartnett's entries contain examples of block billing, making it difficult for the Court to determine whether they spent a reasonable amount of time on each of the listed tasks. *See, e.g.,* Fallow entry for 6.5 hours on 8/08/05 ("Telephone conference with G. Markels, edited and reviewed PI motion, conferred with K. Hartnett; revised and edited brief in support of PI; reviewed game declarations and emailed contact people re same; conferred with K. Hartnett re B. Andersen declaration; emailed B. Andersen re same; incorporated G. Markets' edits into draft brief and emailed to G. Markels."); Hartnett entry for 6.25 hours on 9/26/05 ("Call with Goldstein re expert report schedule; corresponded with D. Vite and D. Sanders re materials for deposition preparation and scheduling

[4] The plaintiffs contend that the defendants cannot criticize Smith's vague billing descriptions because their billing records are equally vague. *See Farfaras v. Citizens Bank & Trust of Chic.*, 433 F.3d 558, 569 (7th Cir. 2006) (noting that defendants' objection to plaintiffs' counsel's allegedly vague billing records were hypocritical where defendants' counsel's descriptions were similarly vague); ESA Reply, Ex. A (Kasper 10/5 entry for 6.75 hours on "Preparation of pleadings and exhibits to pleadings"; Deady 11/10 entry for 6 hours on "Review of case authority and preparation for hearing"). In this Court's view, however, defendants' counsel's allegedly poor record keeping cannot be viewed the same way as that of plaintiffs' counsel. The defendants had virtually no chance of obtaining attorney's fees had they won the case and thus there was no reason for them to keep records any more detailed than their clients might have wanted or needed. By contrast, plaintiffs' attorneys knew that they would petition the Court for attorney's fees if they won. It was therefore incumbent upon them to maintain more detailed records of their work during the course of the litigation.

of deposition preparation session and deposition; (redacted); read/responded to correspondence from P. Smith and K. Fallow re case developments; sent T. Price deposition transcript for review; drafted response to governor's motion to dismiss re standing and due process claim."). This was also true of Thomson, an associate on the case, who evidently spent 5.75 hours drafting a two-page motion for leave to file an oversized brief. *See* Thomson entry for 5.75 hours on 8/15/05 ("Reviewed and revised motion to file an oversized brief; discussed same with D. Sanders; prepared for filing of motion; filed an appearance"). The Court will disallow 4.75 hours of the time claimed for this task.

"When a fee petition is vague or inadequately documented, a district court may either strike the problematic entries or (in recognition of the impracticalities of requiring courts to do an item-by-item accounting) reduce the proposed fee by a reasonable percentage." *Harper v. City of Chicago Heights*, 223 F.3d 593, 605 (7th Cir. 2000). Because the Court concludes that the time entries for Smith, Fallow, and Hartnett are vague and because of the difficulty of detailed recalculation, the Court further reduces their hours by fifteen percent.[5]

In summary, the Court reduces the time claimed by plaintiffs' counsel as follows:

Attorney	**Hours Allowed**	**Total Recovery**
Paul M. Smith	183.6	$107,406.00
David P. Sanders	28.13	$13,924.35

[5] This fifteen percent reduction is made from the net figure resulting from reductions discussed earlier.

Katherine A. Fallow	366.15[6]	$155,651.25
Kathleen R. Hartnett	401[7]	$136,340.00
Amy L. Tenney	15.50	$5,270.00
Matthew A. Albaugh	3.00	$930.00
Thomas G. Pulham	60	$12,900.00
Matthew Hellman	7.00	$3,368.75
Duane C. Pozza	23	$6,862.50
Wade A. Thomson	54.5[8]	$11,717.50

The Court declines to reduce the hours for plaintiffs' paralegals. The defendants contend that the Court should reduce the claimed hours from 167 to 120.35 hours. All of the defendants' arguments about disallowing hours, however, relate to overstaffing of and overlawyering by attorneys, not paralegals. For this reason, the Court finds no basis for reducing the claimed paralegal hours.

3. Costs considered part of attorney's fees

The defendants argue that the Court should categorically disallow plaintiffs' research,

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[6] The Court reduced Fallow's hours by one because her presence at a status hearing on October 26, 2005 was unnecessary. The Court then reduced her 2005 and 2006 hours by fifteen percent, to 364.65 hours and 1.5 hours respectively. After multiplying Fallow's hours for each year by her billing rate for the year, the Court arrived at the total figure of $155,638.50.

[7] The Court reduced Hartnett's hours by 37.5 hours for depositions at which she was the second chair. The Court then reduced Hartnett's remaining hours by fifteen percent, to 401 hours. After multiplying these hours by Hartnett's billing rate, the Court arrived at the total figure of $136,340.

[8] The Court reduced Thomson's hours by six hours for redundant work, 4.75 hours for work on the motion to file an oversized brief, and by 18.5 hours for unnecessary attendance at depositions and at trial. The Court then multiplied Thomson's remaining 54.5 hours by his billing rate to arrive at the total figure of $11,717.50.

photocopying, telephone, postage, and travel costs. The Seventh Circuit has held that "expenses of litigation that are distinct from either statutory costs or the costs of the lawyer's time reflected in his hourly billing rates – expenses for such things as postage, long-distance calls, xeroxing, travel, paralegals, and expert witnesses – are part of the reasonable attorney's fee allowed by [section 1988]." *Heiar v. Crawford County, Wisc.*, 746 F.2d 1190, 1203 (7th Cir. 1984). The Court therefore allows these costs but addresses the defendants' arguments as to the reasonableness of plaintiffs' overhead, travel, and meeting expenses.

a. Overhead

Defendants argue that the Court should disallow $15,685 for plaintiffs' messenger, long distance, and photocopying costs because the plaintiffs have failed to provide sufficient detail about these activities. For the most part, plaintiffs' records do not provide great detail about these expenses, other than providing the number of pages and the per page rates for photocopies. As plaintiffs point out, they are petitioning for attorney's fees under section 1988, not costs under section 1920. They are therefore entitled to recovery of reasonable expenses, not simply those costs that are necessary for the litigation. *See Heiar*, 746 F.2d at 1203; *Henry v. Webermeier*, 738 F.2d 188, 192-93 (7th Cir. 1984). Nonetheless, as with a number of their hours, plaintiffs' counsel has provided little explanation as to why these expenses were reasonable. For that reason, the Court disallows fifteen percent of plaintiffs' request and awards them $13,332.25.

b. Attorney travel

Defendants contend that plaintiffs' counsel's travel expenses of $12,437.10 are unreasonable. Courts may award attorney travel expenses as part of an award of attorney's fees under section 1988 so long as they are not "unnecessarily luxurious." *See Henry*, 738 F.2d at

194. Plaintiffs' contend that plaintiffs' counsel's airline expenses, hotel expenses, and meal expenses were exorbitant and that the Court should therefore reduce their travel costs by fifty percent.

The Court agrees that at least Smith's stay at the Park Hyatt Chicago on October 19 for $364.00 was unnecessarily luxurious; we therefore reduce this amount to $179.00, the daily rate charged to plaintiffs' counsel by the Le Meridien, the hotel plaintiffs' counsel normally stayed at when in Chicago. The Court also concludes that many of plaintiffs' counsel's meals – even accounting for the presence of multiple individuals – were unnecessarily expensive. *See, e.g.,* $155.21 at Shaw's Crab House on 11/01; $72.69 at Shaw's on 11/14; and $78.27 at PF Chang's on 11/15. We therefore reduce their business meal expenses by fifteen percent, from $1,428.07 to $1,213.86. The Court also finds no support in plaintiff's submission for $2,598.79 in out-of-town travel expenses for Fallow on August 22 and 23. The Court has located documentation showing that she paid $633.00 for airfare, $230.31 for a hotel room, and $88.00 in cab fare, but the Court denies the remaining $1,647.48 claimed for this trip.

The Court therefore reduces plaintiffs' counsel's travel expenses by $2,046.69. The Court otherwise allows the claimed expenses, given the expedited nature of the litigation and the need to make last-minute travel arrangements.

c. Meeting costs

Defendants argue that the Court should disallow $396.87 in charges for Jenner & Block's in-house catering services at meetings and depositions. Plaintiffs do not respond to this argument. The Court therefore excludes these costs.

C. Costs under section 1920

The defendants contend that the Court should also reduce plaintiffs' deposition costs to conform with the rates set by the Judicial Conference. The Judicial Conference has established maximum per page deposition transcript rates at $5.50 for daily originals, $4.40 for expedited originals, $3.30 for regular originals, $1.10 for daily and expedited copies, and $0.83 for regular copies. Court reporters must deliver daily transcripts by the next business day, expedited transcripts within seven days, and regular transcripts within thirty days. United States District Court for the Northern District of Illinois, Maximum Transcript Rates- All Parties (Per Page), http://10.205.15.104/CLERKS_OFFICE/CrtReporter/trnscrpt.htm (last updated Feb. 28, 2003).

Plaintiffs agree that the Judicial Conference rates apply but respond that they are entitled to recover their full deposition costs due to the expedited nature of the litigation. Other than this argument, however, plaintiff provide scant information about the nature of their deposition transcripts. Several of their invoices do not include the number of pages in a transcript, and others do not itemize the services rendered. Specifically, plaintiffs seek the following deposition costs:

Date	**Deponent**	**Pages/Rate**[9]	**Requested Amount**
9/15/05	Doug Lowenstein (Copy)	143 pages	$446.40

[9] For some of the depositions, including those for Lowenstein, Price, Vite, and Williams, the defendants listed the number of pages in the transcript in a letter to plaintiffs included as one of plaintiffs' exhibits. ESA Mem., Ex. 2. For the depositions of Andersen, Goldstein, and Nusbaum, the Court was unable to ascertain the number of pages in the transcript.

9/13/05	Crossan Andersen (Copy)	Number of pages and rate unavailable	$385.50
9/16/05	Ted Price (Copy)	118 pages	$352.70
9/29/05	David Vite (Copy)	109 pages	$430.20
10/11/05	William Kronenberger (Original)	350 pages at $5.70 per page 168 pages of exhibits at $0.25 per page Rough ASCI- 350 pages at $1.75 per page Postage- $25.90 Sales tax- $1.49	$2,801.89
10/25/05	Craig Anderson (Original)	241 pages at $5.18 per page Attendance- $234.78 Exhibits- $45.00 Shipping- $8.00	$1,536.16
11/4/05	Howard Nusbaum (Copy)	Number of pages and rate unavailable	$1152.30
11/7/05	Jeffrey Goldstein (Copy)	Number of pages and rate unavailable	$875.20
11/8/05	Dmitri Williams (Copy)	252 pages at $5.55 per page	$1399.70
TOTAL			$9,380.05

Based on the expedited schedule in the case, the Court agrees with plaintiffs that they are entitled to recover for expedited transcripts for depositions that were taken within five weeks of the November trial date, and for daily transcripts for depositions taken in November 2005. The Court declines, however, to award plaintiffs the rate for originals in situations where they obtained only copies. Moreover, where the Court has been unable to ascertain the number of pages in a transcript, we award plaintiffs only a portion of their requested costs. We based this calculation on whether plaintiffs were entitled to a regular, expedited, or daily copy at the time each of these depositions was taken. Finally, because the plaintiffs have failed to demonstrate

the need for the extra ASCII version of the Kronenberger transcript, the expense is disallowed. *See, e.g., Fait v. Hummel*, No. 01 C 2771, 2002 WL 31433424, at *2 (N.D. Ill. Oct. 30, 2002); *EEOC v. Yellow Freight Sys., Inc.*, No. 98 C 2725, 1999 WL 965854, at *3 (N.D. Ill. Oct. 14, 1999). The chart below reflects the adjusted award.

Date	**Deponent**	**Pages**	**Rate/ Percentage of Claimed Amount**	**Amount Allowed**
9/15/05	Doug Lowenstein (Copy)	143 pages	$0.83	$118.69
9/13/05	Crossan Andersen (Copy)	Number of pages and rate unavailable	25%[10] of $385.50	$96.38
9/16/05	Ted Price (Copy)	118 pages	$0.83	$97.94
9/29/05	David Vite (Copy)	109 pages	$0.83	$90.47
10/11/05	William Kronenberger (Original)	350 pages	$4.40	$1,609.39 (including 168 pages of exhibits at $0.25 per page; postage of $25.90; and sales tax of $1.49)
10/25/05	Craig Anderson (Original)	241 pages	$4.40	$1,348.18 (including $234.78 for attendance; $45.00 for exhibits; and $8.00 for shipping)

[10] The Court arrived at the twenty-five percent figure based on the fact that the costs allowed for other depositions in September 2005 were between twenty to twenty-seven percent of the amount claimed by plaintiffs. The Court will therefore allow twenty-five percent of the claimed amount for the Crossan Andersen deposition.

11/4/05	Howard Nusbaum (Copy)	Number of pages and rate unavailable	20%[11] of $1,152.30	$230.46
11/7/05	Jeffrey Goldstein (Copy)	Number of pages and rate unavailable	20%[5] of $875.20	$175.04
11/8/05	Dmitri Williams (Copy)	252 pages	$1.10	$277.20
TOTAL				$4043.75

D. Allocation of fees

In his response, State's Attorney Devine requests the Court to allocate the fee award solely against the State of Illinois. Devine cites *Herbst v. Ryan*, 90 F.3d 1300 (7th Cir. 1996), a case involving a challenge to an Illinois abortion statute. In *Herbst*, Plaintiffs sued the Attorney General, the Director of the Illinois Department of Public Health, and all Illinois State's Attorneys. After the parties entered a consent decree, the district court awarded the plaintiffs attorney's fees and also assigned the State of Illinois sole responsibility for paying them. *Id.* at 1301.

The Seventh Circuit upheld the district court's decision to hold the State of Illinois responsible for paying plaintiffs' attorney's fees. Noting that "the allocation of liability for attorney's fees remains an area in which there is no simple formula of universal applicability," the court identified four guideposts to direct district courts: 1) the remedial purposes of the Civil Rights Act and the role of section 1988 in accomplishing those goals; 2) the relative

[11] The Court arrived at this figure based on the fact that amount allowed for the Williams deposition, the only other deposition taken in November 2005, was twenty percent of the amount claimed by plaintiffs. The Court will therefore allow twenty percent of the claimed amount for the Nusbaum and Goldstein depositions.

responsibility of the defendants; 3) institutional concerns; and 4) fairness and practicability. *Id.* at 1304-05. Applying these factors to the case at hand, the court stated:

> It is clear that the State's Attorneys, when bringing an action under the criminal laws of the State of Illinois, also are operating as officers of the state. In short, the undertaking was a defense of a state policy by state officers on behalf of the state. The district court certainly committed no abuse of discretion in determining that the "moving force" behind the statute was the State of Illinois.

Id. at 1306.

The Court agrees with State's Attorney Devine that the same circumstances are present in this case. Moreover, it would be particularly unfair for Cook County alone to foot part of the bill in this case. The Cook County State's Attorney was the only state's attorney named as a defendant, though there was no evidence that plaintiffs feared prosecution in Cook County any more than in other parts of the state. *See, e.g.,* Devine Resp., Ex. B (Lowenstein Dep.) at 1140-41; Ex. C. (Andersen Dep.) at 95-96; Ex. D (Vite Dep.) at 105-06. Neither the plaintiffs, the Governor, nor the Attorney General have responded to Devine's request to allocate the entire fee award to the state. The Court therefore allocates full responsibility for this fee award to the State of Illinois.

In sum, the Court awards plaintiffs $510,258.64 in attorney's fees and assigns the state of Illinois sole responsibility for paying those fees. The Court has calculated this fee by subtracting the disallowed costs from the plaintiffs' initial fee request as follows:

INITIAL REQUEST	$644,545.90
DISALLOWED EXPENSES	
Erroneous billing by Fallow	$ 637.50
Smith disallowed fees	$ 18,954.00
Sanders disallowed fees	$ 27,655.65
Fallow disallowed fees	$ 27,886.25
Hartnett disallowed fees	$ 36,805.00

Pulham disallowed fees	$ 4,407.50
Thomson disallowed fees	$ 6,288.75
Difference between Olson's claimed and allowed rate (8.5 hours multiplied by ($210.00-110.00))	$ 850.00
Difference between Jurinek's claimed and allowed rate (16.75 hours multiplied by ($150.00-110.00))	$ 670.00
Difference between claimed and allowed overhead costs ($15,685 minus $13,332.25)	$ 2,352.75
Difference between claimed and allowed rate for Park Hyatt ($364.00 minus $179.00)	$ 185.00
Difference between claimed and allowed meal expenses ($1,428.07 minus $1,213.86)	$ 214.21
Disallowed meeting expenses	$ 396.87
Difference between claimed and allowed expenses for Fallow trip ($2,598.79 minus $951.31)	$ 1,647.48
Difference between Lowenstein Dep. claimed and allowed rate ($446.40 minus $118.69)	$ 327.71
Difference between Andersen Dep. claimed and allowed rate ($385.50 minus $96.38)	$ 289.12
Difference between Price Dep. claimed and allowed rate ($352.70 minus $97.94)	$ 254.76
Difference between Vite Dep. claimed and allowed rate ($430.20 minus $90.47)	$ 339.73
Difference between Kronenberger Dep. claimed and allowed rate ($2,801.89 minus $1,609.39)	$ 1,192.50
Difference between Anderson Dep. claimed and allowed rate ($1,536.16 minus $1,348.18)	$ 187.98
Difference between Nusbaum Dep. claimed and allowed rate ($1,152.30 minus $230.46)	$ 921.84
Difference between Goldstein Dep. claimed and allowed rate ($875.20 minus $175.04)	$ 700.16
Difference between Williams Dep. claimed and allowed rate ($1,399.70 minus $277.20)	$ 1,122.50
ALLOWED FEES AND COSTS	**$510,258.64**

Conclusion

For the reasons stated above, the Court grants plaintiffs' motion for attorney's fees and costs [docket no. 133] and awards plaintiffs attorney's fees and costs of $510,258.64 against the State of Illinois.

MATTHEW F. KENNELLY
United States District Judge

Date: August 9, 2006

The Expert's Corner

Reasonable Rates: Time To Reload The (*Laffey*) Matrix

William B. Rubenstein*

What's an hour of your time worth? How would you know? How could you prove that to a federal judge? Ultimately, all class action fee petitions come down to these inquiries, either because fees are awarded on a lodestar (hours x rate) basis or because a percentage fee award is cross-checked using a lodestar calculation. The "hours" portion of the lodestar is fairly straightforward; judges may of course scrutinize counsel's submissions, but rarely does this lead to significant changes in sought-after fees. The "rate" portion of the lodestar has a lot more play in its joints in that there is no commonly-accepted and easily-identifiable standard by which to set the hourly rate.

There are, however, better and worse ways of establishing an acceptable hourly-rate. One methodology infrequently but recurrently used by courts – the so-called "*Laffey* matrix" – is a good example of a method that generally is pretty crummy. It may be surprising to learn, then, that Chief Judge Vaughan R. Walker, of the U.S. District Court for the Northern District of California, is the *Laffey* matrix's primary proponent in the federal courts. Judge Walker takes a greater interest in class action cases generally, and in fees issues specifically, than do most federal judges. His opinions are invariably thoughtful and often quite interesting and novel – usually, though not inevitably, to the detriment of the plaintiffs' counsel. Regardless of his bottom line, a Walker class action opinion is worth reading and considering. Since April 2005, Judge Walker has employed the *Laffey* matrix to determine fee awards in nine separate cases and referenced it in another four. This is rather remarkable in that the matrix appears in only 76 federal cases altogether in the same time period, meaning that Judge Walker accounts for about 1 of every 5 references to the matrix in this time period though he is only 1 of about 1,000 active and senior federal judges in the US.

*There are…better and worse ways of establishing an acceptable hourly-rate. One methodology infrequently but recurrently used by courts – the so-called "*Laffey *matrix" – is a good example of a method that generally is pretty crummy.*

A recent example of Judge Walker's use of the *Laffey* matrix is *In re Chiron Corp. Securities Litigation,* C-04-4293-VRW, 2007 WL 4249902 (N.D. Cal., Nov. 30, 2007). By this decision, Judge Walker denied preliminary approval to a class action settlement (how often do you hear about a judge doing that?). He gave four reasons for doing so, one of which was that "the settlement proposes to pay class counsel fees that, for the amount of time worked, are eight to ten times typical hourly attorney fees." The case – six consolidated class actions filed in 2004 and 2005 – alleged false and misleading statements by Chiron concerning its capacity to deliver flu vaccine from manufacturing plants in England. The lead plaintiff (a union pension fund) appointed Milberg Weiss to be lead counsel. Counsel eventually negotiated a $30 million settlement for which it sought approval from Judge Walker and from which it sought $7,500,000, or 25%, in fees.

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William B. Rubenstein, a law professor at Harvard Law School, specializes in class action law; he has litigated, and regularly writes about, consults, and serves as an expert witness in class action cases, particularly on fee-related issues. Professor Rubenstein provides regular reporting on class action issues, including fees, at* ***www.classactionprofessor.com**. The opinions expressed in this article are solely those of the author.*

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Exhibit 3

(continued from **Expert's Corner,** page 47)

Judge Walker provided more careful scrutiny to the fee request on this *preliminary* motion than most judges do in approving the fee at the final fairness hearing.[1] He first requested that counsel produce its lodestar to enable a cross-check. The lodestar amounted to $1,126,338.50, hence requiring a multiplier of 6.6 to reach the 25% figure. Judge Walker then began to take apart the petition. First, he extracted from the lodestar $227,209.25 that counsel had attributed to "professional support staff" (library service, investigators, economic analysts, etc.), stating that these services were more properly characterized as expenses, not costs – meaning that they would not be available to be multiplied. Once these hours were deleted from the lodestar, that number was diminished to $899,129.25 and hence a 8.34 multiplier was now needed to hit the $7.5 million, 25% figure.

But Judge Walker had only yet begun. He next scrutinized counsel's proposed sample billing rates, concluding that counsel had not "ma[d]e a case that these rates were truly representative and, still less, systematically compiled." To remedy that problem, Judge Walker employed the so-called "*Laffey*-matrix" fee rates – the critical move to which I return below – then adjusted these D.C.-based rates for the Los Angeles and New York setting of most counsel in this matter, and concluded that the $899,129.25 lodestar actually amounted to $718,236.81. Now counsel needed a 10.44 multiplier to reach the desired $7.5 million, 25% figure.

Judge Walker found that either of these multipliers (the 10.44 he ended up with, or the 8.34 counsel needed once he deducted the support staff hours) far exceeded those normally used in securities class actions under $50 million. In support of that conclusion, he cited two cases noting multiplier ranges of 3-4[2] and 2.26-4.5[3] and the 2003 Class Action Reports data (391 cases with multipliers, 353 with recoveries under $50 million) showing multipliers ranging from 0.5-3.0.[4] Hence Judge Walker concluded that "class counsel's fee request is patently unreasonable." For this – and several other reasons – he rejected the proposed settlement.

Judge Walker replaced counsel's proposed billing rate with the Laffey *matrix rates, implying the former were unreliable and the latter reliable.*

I could teach an entire seminar on all of the issues Judge Walker's decision raises, but for the limited purpose of this column, I want to focus in on the *Laffey* matrix. Judge Walker replaced counsel's proposed billing rate with the *Laffey* matrix rates, implying the former were unreliable and the latter reliable. Why? What's the *Laffey* matrix and what makes it so reliable?

Laffey v. Northwest Airlines[5] was a hard-fought Washington, D.C. sex discrimination class action case brought on behalf of female flight attendants that commenced in 1970 and led to the filing of a fee petition by plaintiffs' counsel (Bredhoff & Kaiser) in 1982. Counsel's fee award was based on a federal statute enabling fee-shifting. Counsel's request therefore triggered a vigorous opposition from the defendant that had to foot the bill (represented by Hughes Hubbard & Reed), and class counsel hired another large Washington law firm (Arnold & Porter) to represent it in soliciting the fee award. The fee litigation was "the most hotly contested" the District Court had ever encountered, engendering "the most extensive fee petition" the Court had ever seen, which included 36 affidavits, some detailing prevailing rates in the community for similar

1 Whether motions for preliminary approval ought to provoke such careful scrutiny is a debatable point for another column.

2 *Van Vranken v. Atlantic Richfield Corp.,* 901 F.Supp. 294, 298 (N.D. Cal. 1995).

3 *Behrens v. Wometco Enterprises, Inc.,* 118 F.R.D. 534, 549 (S.D. Fla. 1988).

4 Stuart J. Logan, Jack Moshman & Beverly C. Moore, Jr., *Attorney Fee Awards in Common Fund Class Actions,* 24 CLASS ACTION REP. 167, 197 (2003).

5 572 F. Supp. 354 (D.D.C. 1983), *aff'd in part, rev'd in part on other grounds,* 746 F.2d 4 (D.C. Cir. 1984), *cert. denied,* 472 U.S. 1021 (1985).

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work.[6] From this, the court culled a "matrix" of rates, as follows:

- $175/hour for lawyers 20+ years out of law school;
- $150/hour for lawyers 11-19 years out of law school;
- $125/hour for lawyers 8-10 years out of law school;
- $100/hour for lawyers 4-7 years out of law school;
- $75/hour for lawyers 1-3 years out of law school.[7]

The United States Attorney's Office for the District of Columbia regularly adjusts these *Laffey* matrix data for cost of living changes in the DC area, posting at its website the current equivalent rates of these 1981 rates.[8] Such updated *Laffey* rates have been approved in subsequent decisions within the D.C. Circuit[9] and are occasionally used, particularly in fee-shifting cases, outside that circuit as well.[10]

That said, I find Judge Walker's embrace of the *Laffey* matrix peculiarly at odds with his self-styled rigor in discerning the proper approach to fee awards. There are four problems that cast real doubt on the reliability of the (US Attorney's) *Laffey* matrix, some of which have induced other courts to stop using it.

First, the matrix was developed in the context of a fee-shifting statute, not in the context of a fee award paid by the plaintiff class from a common fund. Thus, the U.S. Attorney's website itself states: "The matrix is intended to be used in cases in which a 'fee-shifting' statute permits the prevailing party to recover 'reasonable' attorney's fees." In some circuits the standards in fee-shifting and common fund cases tend to merge, in that both look to prevailing market rates in the community for similar work; as Judge Walker notes only in passing, however, the Ninth Circuit is less fond of the market rate approach, although it may be willing to accept it in situations (not present here) where lawyers compete for lead counsel status.[11] But even assuming that the task was the same (find the local market rate for that type of work), generally speaking, fees awarded by fee-shifting statutes are far less than those awarded in common fund cases. Often, counsel securing a fee-shifted fee award works for a public interest organization at a relatively low salaried rate; convincing a court to approve commercial rates prevailing in the private market is difficult. Even if the prevailing rate is used, the prevailing rate for an employment discrimination attorney will likely pale in comparison to the prevailing rate for a securities class action attorney at a firm like Milberg. Moreover, fee shifting statutes tend not to permit risk be taken into account.

Second, the matrix was developed in a different time period than the present. Why imagine that the fees

6 572 F.Supp. at 360.

7 *Id*. at 371.

8 http://www.usdoj.gov/usao/dc/Divisions/Civil_Division/Laffey_Matrix_3.html.

9 The U.S. Attorney's website reports that: "[The] *Laffey* Matrix was implicitly endorsed by the Court of Appeals in *Save Our Cumberland Mountains v. Hodel,* 857 F.2d 1516, 1525 (D.C. Cir. 1988) (en banc). The Court of Appeals subsequently stated that parties may rely on the updated *Laffey* Matrix prepared by the United States Attorney's Office as evidence of prevailing market rates for litigation counsel in the Washington, D.C. area. *See Covington v. District of Columbia,* 57 F.3d 1101, 1105 & n. 14, 1109 (D.C. Cir. 1995), *cert. denied,* 516 U.S. 1115 (1996)." Later District of Columbia cases have employed a different version of the matrix that yields higher rates than does the matrix of the U.S. Attorney's Office. *See, e.g., Salazar v. District of Columbia,* 123 F.Supp.2d 8, 13 (D.D.C. 2000). I return to this point, *infra*, at text accompanying note 12.

10 *See, e.g., Anderson v. Penn Nat. Gaming, Inc.,* 3:04CV42, 2007 WL 2750679 (N.D. W.Va. 2007) (fee-shifting statute fee award); *Selph v. Bruno-Cusamano-Montesi-Tataglia-Pamlina-Capone & Associates, LLC*, 06-C-4090, 2007 WL 433103 (N.D. Ill. Feb. 2, 2007) (same).

11 *See Vizcaino v. Microsoft Corp.,* 290 F.3d 1043, 1049-1050 (9th Cir. 2002) (stating "[w]hile an exclusively market-based approach may have superficial appeal, in the context of class action litigation in which attorneys' fees are determined post hoc by the court (without regard to any private arrangement), it may in many cases be illusory. Unlike in cases where lawyers compete for lead counsel status and may even bid in a court-supervised auction, in employment class actions like this one, no ascertainable 'market' exists. The "market" is simply counsel's expectation of court-awarded fees."). Milberg originally appeared to be competing with the Lerach firm for lead counsel status in Chiron, but the Lerach firm's client withdrew its bid to be lead counsel.

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[T]he Laffey *matrix employs data:*

(1) from a different context (fee shifting vs. common fund, employment vs. securities);

(2) from a different era, updated poorly; and

(3) from a different part of the country, adjusted incorrectly.

charged in 1981-2 have any relation to current fees, a quarter of a century later? If the *Laffey* court had, in 1984, relied on fees from 1957, it is unlikely its decision would have much salience. The *Laffey* matrix assures its users that the 1981-2 fees are relevant because they are updated regularly by the U.S. Attorney's Office according to the Consumer Price Index, which employs data from the Bureau of Labor Statistics. However, the US Attorney's website uses the full CPI change in the Washington area to adjust its data; it does not isolate the CPI changes in *attorney's* fees. It therefore will fail to capture times in which lawyer's fees in the prevailing *market* rise faster than the CPI itself – in other words, attorney's fees occur in a particular market not captured by the general CPI itself. For this reason, some subsequent cases have replaced reliance on the US Attorney's data and employed lawyer-specific CPI adjusted data in its place,[12] a fact that Judge Walker does not acknowledge.

Third, the matrix was developed in a different geographic location. It is based on fees in the Washington, D.C. area. Judge Walker assured his readers that he was cognizant of this as he adjusted the current matrix numbers according to current differentials in cost-of-living between DC and the NY and LA markets where the class action counsel in this case worked. But this barely begins to grapple with the real geographic problem: the *Laffey* matrix has been updated regularly for 25 years based solely on CPI data *from the Washington, D.C. area*. This means that if the CPI changes differently in different parts of the country, the US Attorney's data will not reflect that. Correcting geographic CPI differences that exist now will not atone for the geographic CPI differences that have infected each year's adjustment to the *Laffey* matrix for the past quarter century.

So far, I have shown that use of the *Laffey* matrix employs data (1) from a different context (fee shifting vs. common fund, employment vs. securities); (2) from a different era, updated poorly; and (3) from a different part of the country, adjusted incorrectly. Nothing Judge Walker did truly fixed any of these problems. But these three problems do not even cut to the heart of the matter, which is this: the extraordinary efforts Judge Walker takes to employ the *Laffey* matrix - update it, CPI it to different parts of the country, etc. – imply that there is something magical about the *Laffey* matrix data. The implication is that the original numbers that commenced the matrix in 1981 were so perfect that any other set of numbers subsequently developed (even those in relevant case types, time periods, and regions) could not match the careful methodology that went into the *Laffey* numbers and therefore the best we can ever do is desperately attempt to update and contextualize those numbers. But here's the rub: there was nothing magical about the *Laffey* data at its inception. The numbers were not handed down from Mt. Sinai.

The *Laffey* matrix numbers were based on evidence presented by affidavits in that legal community at that time. Milberg propounded evidence of this sort (albeit not a lot of it) in its fee petition in *Chiron*, but Judge Walker stated that they had "failed to make a case that these rates were truly representative and, still less, systematically compiled." This implies that the data in the *Laffey* case were "truly representative and systematically compiled," though the case itself does not necessarily

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12 *See, e.g., Salazar, supra; Interfaith Community Organization v. Honeywell Intern., Inc.,* 426 F.3d 694 (3d Cir. 2005); *North Carolina Alliance For Transportation Reform, Inc. v. U.S. Dept. of Transp.,* 168 F.Supp.2d 569 (M.D. N.C. 2001); *Smith v. District of Columbia,* 466 F.Supp.2d 151 (D.D.C. 2006).

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support that assumption.[13] Is the 1981 *Laffey* evidence any better than the 2007 Milberg evidence? Well, it is true that the *Laffey* evidence was developed in an adversary proceeding (though in the case the defendants did not challenge as inaccurate the plaintiffs' proposed matrix data).[14] Moreover, there are lots of cases with hourly rates developed adversarially subsequent to *Laffey*. And of course, this fee award could have been subject to adversarial dispute as well had Judge Walker permitted the settlement to be sent to the class and had objectors emerged. If they hadn't, Judge Walker could also have appointed an advocate to contest the hours or rate on behalf of the absent class members or a special master to review the situation.[15] Rather than attempt one of these means for assessing *current* fee rates *for this type of litigation* in the *relevant legal markets*, Judge Walker simply fell back on the data developed in a different kind of case, in a different legal market, at a different time – with all kinds of mathematical hocus pocus to make it look relevant to the case before him.

I begrudge neither Judge Walker nor the US Attorney's office that keeps the *Laffey* matrix for their efforts. The latter may in fact be providing a useful template for fee awards in employment discrimination matters in the Washington, D.C. area, though frankly, a new systematic survey would be better than the 1981 data with general CPI updates for a quarter century. Judge Walker should also be commended for taking seriously his responsibility to safeguard the class's interest in a class action, particularly where the fee award may be extracted from a common fund. That said, it may have been premature for Judge Walker to take such an active role at the preliminary review stage and it was surely misguided of him to destroy the preliminary settlement on the basis that its fee request deviated from the relatively useless data in the DC US Attorney's *Laffey* matrix. Worse still, Judge Walker's mathematical efforts have the appearance of lending legitimacy to his final numbers, though those numbers are really very meaningless in the context of the task before him. The bind he's in, however, is that he is understandably suspicious of numbers that will be submitted to him in one-sided submissions from plaintiffs' counsel. The ideal solution to the judicial dilemma may well be a truly independent study of fee rates in particular markets, updated regularly within those markets – but of course this is an expensive undertaking without a great market to support it. Short of that, Judge Walker might have encouraged the attorneys to provide more thorough current and relevant data and/or, as noted above, waited for objectors or appointed a special master to look into the real data. He also might have heeded more closely the Ninth Circuit's stance that relevant data in this circumstance may well be other common fund fee awards in class actions, not private market rates.

Ω

13 A lot of data was submitted in *Laffey, see Laffey,* 572 F.Supp. at 371-72 (noting that plaintiffs supported their fee request "with a barrage of data, including twenty-five attorney affidavits secured specifically for this litigation, information gleaned from affidavits filed in other cases, and fee data reflected in previous judicial decisions"), but nothing suggests it was any more or less one-sided than such data submitted by plaintiffs in other cases.

14 *Laffey*, 572 F. Supp. at 372.

15 *See* William B. Rubenstein, *The Fairness Hearing: Adversarial and Regulatory Approaches,* 53 U.C.L.A. L. REV. 1435 (2006).

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IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

MARLITA THOMAS, as Mother, Next Friend, and Special Administrator of NORMAN L. SMITH, JR., deceased, Plaintiff,	)	No. 04 C 3563
v.	)	Judge Castillo
SHERIFF OF COOK COUNTY, et al. Defendants.	)	

AFFIDAVIT

I, Andrew J. Creighton, being first duly sworn on oath do depose and state that if I was called to testify in this matter, I could competently testify to the following.

1. I am one of the attorneys charged with the defense of the County of Cook in this matter.

2. I have reviewed Plaintiff's Exhibit L16 submitted in support of the cost portion of plaintiff's Petition for Fees and Costs filed in this matter [Document 491 filed March 4, 2008].

3. Plaintiff counsel did not pay the $1,800.00 charge of Dr. Vescio set out as a cost in the cost portion of the Petition for Fees and Costs.

4. Attached as Exhibit 1 to this Affidavit is my letter of January 30, 2007 to plaintiff counsel documenting that the charge for Dr. Vescio has not been paid.

5. I have reviewed our files on this matter and show no evidence that plaintiff counsel, or anyone acting on their behalf, has made payment on the charges of Dr. Vescio.

Exhibit 4

6. Rather, review of my file reflects that Cook County paid the entire $1,800.00 charged by Dr. Vescio. (See, Invoice dated August 23, 2006 attached as Exhibit 2.)

7. Plaintiff's jail expert William Naber was paid the amount of $4,534.87 for his deposition time in this matter by the defendants. Attached as Exhibit 3 hereto is a January 30, 2007 letter between defense counsel agreeing to pay Naber's bill.

FURTHER AFFIANT SAYETH NOT.

Signed,

Andrew J. Creighton

Signed before me this 20 day of March 2008.

NOTARY PUBLIC

OFFICIAL SEAL
SEME VENDOLA
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 9-18-2010

OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS

RICHARD A. DEVINE
STATE'S ATTORNEY

500 RICHARD J. DALEY CENTER
CHICAGO, ILLINOIS 60602
AREA 312-603-5440

January 30, 2007

Mr. Daniel S. Alexander, Esq.
Smith, Coffey, & Alexander
119 North Peoria Street, Suite 3A
Chicago, Illinois 60607

Re: *Thomas as Spec. Admin. Est. Norman Smith v. Cook County Sheriff, et al.*
No. 04 C 3563
Re: Dr. Vescio's deposition statement

Dear Mr. Alexander:

You have not paid Dr. Vescio's statement for his deposition time in the amount of $1800.00. I have not paid Dr. Katz's statement for his deposition time in the amount of $1050. As these statements offset to the amount of $1050, you still owe $750.00. Please forward a check in that amount payable to the County of Cook as required by FRCP 26(b)(4). (Copies of Dr. Vescio's and Dr. Katz' statement are enclosed.)

For your information I have approved and submitted for payment Mr. Naber's statement as to the Defendants' portion, which is being paid equally between Cook County and Sheriff defendants. Mr. Kolwalczyk has advised that he has also approved and submitted for payment the Sheriff defendants' portion of the Nabor statement.

Very truly yours,

RICHARD A. DEVINE
State's Attorney of Cook County

By: _____
Andrew J. Creighton
Assistant State's Attorney
300 Richard J. Daley Center
Chicago, Illinois 60602
(312) 603-5111

cc Daniel F. Gallagher
Larry Kowalczyk
Querry Harrow Ltd.

Exhibit 1

OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS

RICHARD A. DEVINE
STATE'S ATTORNEY

500 RICHARD J. DALEY CENTER
CHICAGO, ILLINOIS 60602
AREA 312-603-5440

January 30, 2007

Mr. Larry Kowalczyk
Querry & Harrow Ltd.
Suite 1600
175 W. Jackson Blvd.
Chicago, IL 60604

Re: Thomas as Spec. Admin. of Est. Norman Smith v. Cook County Sheriff, et al.
No. 04 C 3563: Nabor's bill.

Dear Larry:

This will confirm our phone conversation that your office will approve payment for half of Nabor's bill being $2267.43. I have enclosed a copy of my approval of the other half. Thanks.

Very truly yours,

RICHARD A. DEVINE
State's Attorney of Cook County

By: _____

Andrew J. Creighton
Assistant State's Attorney
300 Richard J. Daley Center
Chicago, Illinois 60602
(312) 603-5111

Exhibit 2

Mr Creighton 1/23/07

NABER TECHNICAL ENTERPRISES
581 Sawka Drive, Suite B, Anburn, CA 95603
530-887-0122 Office 530-887-1092 FAX
Website nteusa.org E-Mail bnaber@nteusa.org
Serving Criminal Justice Professionals Since 1974

Reference / Case

Marlita Thomas (Mother) Norman L. Smith, Jr. V. Sheriff of Cook County, Il., et.al. U.S.D.C. No. District Illinois, No. 04 C3563 Judge Castillo,,Magistrate Judge Mason

Item, Service, Reference	Quanity & Rate

Recap of Defense Deposition Billing

Special Billing for Split between Cook County Defendant and plaintiff law firm. Understanding is that Defendant Counsel will pay one half of expert travel expenses and for deposition time in Chicago, IL.

Yours Show

	Plaintiff	Defense	Total
Travel expenses, Ground, Air, Lodging and Per Diem	$1,034.87	$1,034.87	2,069.74
Travel Time 19 hours @ $200	$1,900.00	$1,900.00	$3,800.00
Deposition Time 8 hours @$200	0	$1,600.00	$1,600.00
	$2,934.87	**$4,534.87**	**$7,469.74**

Defense has requested separate copies of digital photos taken by expert on August 8, 2006. Which were sent at my expense per law officies request.

I require payment for expenses and deposition time **before** additional work is performed.

Please advise me as how to proceed.

Approved for $2267.44
ASA Andrea Creighton
Jan 29, 07
Thomas v Cook County 04 C 3563

August 31, 2006

William F. Naber

Billing sent to Coffee 8/31/06 for Transmission to Defense Counsel

My Tax ID is 555-60-4316

INVOICE

To: Cook County State's Attorney
Andy Creighton

From: Thomas Vescio

Case: Norman Smith Thomas v Cesmak et al 04C3563

Deposition Preparation 8/7/06, 8/13/06 6.5 hrs @ $ 350.00/hr
Meeting Mr. Creighton 8/21/06 45 minutes @ $ 350.00/hr
Meeting Mr. Creighton and Mr. Gallagher 8/22/06 1 hr @ $ 350.00/hr
Deposition 8/22/06 4 hours @ $ 450.00/hr

Total Amount: $ 4687.50

Please send remittance to: Thomas Vescio, MD
765 Citadel Ct.
Des Plaines, IL 60016

Thanks!

received
8.23.06mo

Exhibit 3

OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS

RICHARD A. DEVINE
STATE'S ATTORNEY

500 RICHARD J. DALEY CENTER
CHICAGO, ILLINOIS 60602
AREA 312-603-5440

Aug. 24, 2006

Mr. Daniel S. Alexander, Esq.
Smith, Coffey, & Alexander
119 North Peoria Street, Suite 3A
Chicago, Illinois 60607

Re: *Thomas as Spec. Admin. Est. Norman Smith v. Cook County Sheriff, et al.*
No. 04 C 3563
Re: Dr. Vescio's deposition statement

Dear Mr. Alexander:

Enclosed is Dr. Vescio's statement. Pursuant to the Federal rule, please forward a check for the 8/22/06 deposition 4 hr. @ $450 totaling $1800.00.

Very truly yours,

RICHARD A. DEVINE
State's Attorney of Cook County

By: _____
Andrew J. Creighton
Assistant State's Attorney
300 Richard J. Daley Center
Chicago, Illinois 60602
(312) 603-5111

cc Daniel F. Gallagher
Larry Kowalczyk
Querry Harrow Ltd.