IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CBS BROADCASTING INC., AMERICAN BROADCASTING COMPANIES, INC., THE ASSOCIATED PRESS, CABLE NEWS NETWORK LP, LLLP, FOX NEWS NETWORK, L.L.C. and NBC UNIVERSAL, INC.,

Plaintiffs,

- against -

SUE M. COBB, in her official capacity as Secretary of State of the State of Florida, and LESTER SOLA, in his official capacity as the Supervisor of Elections of Miami-Dade County, Florida and as proposed representative of a defendant class of all county Supervisors of Elections in the State of Florida,

Defendant.

Cause No.: 06-22463-CIV
District Judge Paul C. Huck

AFFIDAVIT OF SUSAN BUCKLEY IN SUPPORT OF PLAINTIFFS' MOTION FOR AN AWARD OF ATTORNEYS' FEES PURSUANT TO 42 U.S.C. § 1988

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

SUSAN BUCKLEY, being duly sworn, hereby deposes and says:

1. I am a member of the Bar of the State of New York and a member of the firm of Cahill Gordon & Reindel LLP, 80 Pine Street, New York, NY 10005. My firm, along

with Gunster, Yoakley & Stewart, P.A., has represented plaintiffs CBS Broadcasting Inc. ("CBS"), American Broadcasting Companies, Inc. ("ABC"), The Associated Press ("AP"), Cable News Network LP, LLLP ("CNN"), Fox News Network, L.L.C. ("Fox News") and NBC Universal, Inc. ("NBC") (collectively "Plaintiffs") in their action against the Secretary of State of Florida and a defendant class of all county Supervisors of Elections in the State of Florida (collectively, "Defendants") challenging, on constitutional grounds, the application of Fla. Stat. §102.031(4) (a), (b)(2005) to prohibit Plaintiffs' newsgathering and exit polling activities within 100 feet of polling places on November 7, 2006 and on election days in the future. I submit this Affidavit in support of Plaintiffs' motion for an award of attorneys' fees and expenses pursuant to 42 U.S.C. § 1988 (2000) ("section 1988"). Unless otherwise noted, I have personal knowledge of the facts set forth herein.

2. In a decision issued October 24, 2006, this Court declared that to the extent Fla. Stat. § 102.031(4)(a), (b), as amended, prohibits Plaintiffs from interviewing voters, after they have voted, within 100 feet of Florida polling places, the statute violates Plaintiffs' rights under the First Amendment to the United States Constitution as made applicable to the states through the Fourteenth Amendment. This Court also entered a permanent injunction barring Defendants from enforcing Fla. Stat. §102.031(4)(a) as applied to Plaintiffs' exit polling activities. *CBS Broadcasting, Inc.* v. *Cobb*, No. 06-22463-CIV-Huck/Simonton (S.D. Fla. Oct. 24, 2006).

3. The instant motion seeks an award for all fees and expenses incurred in this action. As is fully explained in the accompanying Memorandum of Law, Plaintiffs are enti-

tled to these fees and expenses as prevailing parties in an action brought pursuant to 42 U.S.C. § 1983 (1996).

4. The purpose of this affidavit is a) to describe the firm of Cahill Gordon & Reindel LLP ("Cahill Gordon") and its experience in constitutional litigation, b) to advise the Court of counsels' qualifications as lead counsel in this action, c) to set forth the background of this action, d) to explain the reasons why Plaintiffs believe that the issues raised here were important, e) to describe the work Cahill Gordon attorneys performed during the course of the action, f) to set forth the total amount of fees and expenses incurred by Plaintiffs during the course of the action, g) to detail the level of experience of each of the attorneys involved in this action, and h) to advise the Court of the prevailing rates in New York City for the kind of work performed by Cahill Gordon during the relevant period. The disbursements incurred by Plaintiffs — which are also recoverable under section 1988 — are detailed as well. Also accompanying Plaintiffs' motion is the Affidavit of Raymond V. Miller, Esq., which sets forth the work performed and the fees and expenses incurred by Gunster, Yoakley & Stewart, P.A. ("Gunster Yoakley").

Counsel's Experience

5. Cahill Gordon was established in 1918 and currently numbers more than 250 lawyers. The firm's principal office occupies seven floors at 80 Pine Street in New York City's financial district. Cahill Gordon's practice is national in scope and has a strong litigating tradition.

6. The firm has represented and continues to represent numerous media clients on a wide variety of communications law matters and is often retained by media clients in cases they view as particularly important or difficult. For example, ABC, CBS, CNN and NBC, four of the plaintiffs in this action, have in the past retained Cahill Gordon in numerous cases, some posing significant threats to their constitutional rights, others posing significant financial threats, including *Herbert* v. *Lando*, 441 U.S. 153 (1979); *Nixon* v. *Warner Communications, Inc.*, 435 U.S. 589 (1978); *CBS Inc.* v. *F.C.C.*, 453 U.S. 367 (1981); *Levan* v. *Capital Cities, Inc.*, 190 F.3d 1230 (11th Cir. 1999), *cert. denied*, 528 U.S. 1198 (2000); *Tilton* v. *Capital Cities, Inc.*, 95 F.3d 32 (10th Cir. 1996), *cert. denied*, 519 U.S. 1110 (1997); *Word of Faith* v. *Sawyer*, 90 F.3d 118 (5th Cir. 1996), *cert. denied*, 520 U.S. 1117 (1997), and; *Newton* v. *National Broadcasting Company, Inc.*, 930 F.2d 662 (9th Cir. 1990), *cert. denied*, 502 U.S. 866 (1991).

7. Cahill Gordon has acted as lead counsel in seven of the other eight actions instituted before this one — in Washington, Florida, Georgia, Montana, Minnesota, Ohio and Wyoming — challenging statutes that restricted the conduct of exit polls. *See* Affidavit of Raymond V. Miller, Esq., sworn to September 29, 2006, submitted in support of Plaintiffs' Motion for a Preliminary Injunction, at Exs. 6, 8-12, 14-15. The firm also represented its media clients as *amici curiae* in the litigation challenging restrictions on exit polling activities in Kentucky. *See id.*, Ex. 13. Since the filing of this action, Cahill Gordon acted as lead counsel in successful litigation challenging Nevada's efforts to prohibit exit polling within 100 feet of Nevada polling places on behalf of the same Plaintiffs in this action. *See American Broadcasting Cos., Inc.* v. *Heller*, No. 2-06-CV-01268-PMP-RJJ (D. Nev., November 1, 2006).

8. Cahill Gordon has acted as counsel or co-counsel on many of the most high-profile media law and First Amendment cases of the last 40 years, representing newspapers, journalists, and broadcasters in cases including *United States* v. *New York Times, Inc.*, 403 U.S. 713 (1971) (the "*Pentagon Papers*" case); *Nebraska Press Association* v. *Stuart*, 427 U.S. 539 (1976); *Landmark Communications, Inc.* v. *Virginia*, 435 U.S. 824 (1978); *Smith* v. *Daily Mail*, 433 U.S. 97 (1978); *Nixon* v. *Warner Communications, Inc.*, 435 U.S. 584 (1978); *Herbert* v. *Lando*, 441 U.S. 153 (1979); *Metromedia, Inc.* v. *City of San Diego*, 453 U.S. 490 (1981); *CBS Inc.* v. *F.C.C.*, 453 U.S. 367 (1981); *Harper & Row* v. *The Nation*, 471 U.S. 539 (1985); *United States* v. *Providence Journal*, 485 U.S. 693 (1988); *McConnell* v. *Federal Election Comm'n*, 540 U.S. 93 (2003); and, most recently, *In re Grand Jury Subpoena, Judith Miller*, 438 F.3d 1141 (D.D.C. 2006); and *New York Times Co.* v. *Gonzales*, 459 F.3d 160 (2d Cir. 2006).

9. I had ultimate responsibility for the representation of Plaintiffs in this action. My educational background is as follows: I received my undergraduate degree from Mount Holyoke College in 1973 and my law degree from the Fordham University School of Law in 1977, where I served as an Editor of the Fordham Law Review. I have been a partner at Cahill Gordon since 1985. I have worked on several First Amendment cases presented to the United States Supreme Court, including *Home Box Office* v. *Wilkinson*, 800 F.2d 989 (10th Cir. 1986), *aff'd*, 480 U.S. 926 (1987); *Metromedia*, *supra*; *Providence Journal*, *supra*; and *McConnell*, *supra*. I have also worked on each of the litigations challenging the constitutionality of restrictions on the conduct of exit polls, beginning with the *Daily Herald* v. *Munro* litigation instituted in 1983. I am a member of the ABA's Forum on Communications Law and the Federal Bar Coun-

cil, where I serve as a Master for the FBC Inn of Court. I have also served on the Communications and Media Law Committee of the Association of the Bar of the City of New York and the Media Law Committee of the New York State Bar Association.

10. My partner Kevin J. Burke assisted me in the early stages of this case. Mr. Burke received his undergraduate degree with high honors from the State University of New York at Oneonta in 1977, and received his law degree with distinction from Hofstra University School of Law in 1980. He joined Cahill Gordon as an associate in 1980, and has been a partner since 1989.

11. Mr. Brian T. Markley, a seventh-year associate, and Messrs. Kayvan Sadeghi and Peter Hawkes, both fourth-year associates, also assisted me during the course of this litigation.

Background of the Action

12. This action was instituted by Plaintiffs on September 29, 2006, in response to the 2005 amendments to Fla. Stat. §102.031(4) (a), (b), pursuant to which it became unlawful for any person to "solicit voters inside the polling place or within 100 feet of the entrance to any polling place . . ." The term "solicit" was defined to include "seeking or attempting to seek any vote, fact, opinion, or contribution; [or] conducting a poll . . ." Fla. Stat. §102.031(b). Plaintiffs and their counsel believed that this restriction as applied to their exit polling activities could not be reconciled with constitutional principles or prior precedent in this Court, the Eleventh Circuit

and the Supreme Court of Florida and that the restriction was plainly directed to the suppression of expression.

13. In addition to their concern about the constitutional implications of the application of Fla. Stat. §102.031 to prohibit communication on political matters between exit poll reporters and willing voters, Plaintiffs were also disturbed about the practical effects of the application of the statute to their exit polling activities. As Mr. Lenski testified, if exit polling could not be conducted within 100 feet of polling places, uniquely reliable and valuable demographic and social information derived from exit polls would, as a result, be forever lost. (*See* Affidavit of Joseph Lenski, submitted in support of Plaintiffs' Motion for a Preliminary Injunction, sworn to on September 28, 2006 ("Lenski Aff't"), at ¶¶ 8-9, 23.) This concern was magnified by Plaintiffs' knowledge that the vast array of uniquely reliable information obtained from exit polls could not be obtained from other sources. (*See* Lenski Aff't ¶ 8.)

14. After a hearing on Plaintiffs' Motion for a Preliminary Injunction on October 20, 2004, this Court granted Plaintiffs' request for a declaration that to the extent Fla. Stat. § 102.031(4)(a), (b), as amended, prohibits Plaintiffs from interviewing voters, after they have voted, within 100 feet of Florida polling places, the statute violates Plaintiffs' rights under the First Amendment to the United States Constitution as made applicable to the states through the Fourteenth Amendment, and permanently enjoined Defendants from enforcing Fla. Stat. §102.031(4)(a) as applied to Plaintiffs' exit polling activities. *CBS Broadcasting, Inc.* v. *Cobb*, No. 06-22463-CIV-Huck/Simonton (S.D. Fla. Oct. 24, 2006).

15. Plaintiffs' victory has vindicated their right to engage in political discourse. It has also benefited the public generally by ensuring the availability of exit polling data as a source of uniquely reliable information about the American electoral process and voters' views. Having successfully vindicated their constitutional rights, Plaintiffs are entitled to recover the reasonable fees and expenses incurred in doing so under section 1988.

Work Performed and Expenses Incurred in this Action

16. The work performed and expenses incurred in this action are detailed below. First, the respective roles of each of the Cahill Gordon attorneys who assisted in this litigation is described. (*See* ¶¶ 17-21) The contemporaneous line-item billing summaries setting forth each attorney's daily time records in connection with this litigation are also included as Exhibit A . I have carefully reviewed those summaries and have eliminated all hours that are not properly subject to a section 1988 claim typically because the work performed or expense incurred was tangentially rather than directly related to this action. In addition to the daily time summaries, for the convenience of the Court, the specific fees incurred are also detailed below for each phase of the litigation. (*See* ¶¶ 22-31)

17. As the partner in charge of this matter, I was responsible for managing and overseeing the day-to-day progress of the litigation. I was principally responsible for communications with and coordination with Gunster Yoakley, with the clients, with Defendants and their counsel, with witnesses and with the Court. I had ultimate responsibility for preparing the Complaint, the motion papers, and the supporting affidavits. I revised and edited all papers filed in support of Plaintiffs' Motion for a Preliminary Injunction and Plaintiffs' Motion to Certify a De-

fendant Class. I also participated in both the drafting and revising of the papers submitted in support of the instant motion. I participated in the hearing on the Preliminary Injunction and in our clients' efforts to disseminate this Court's ruling and injunction to Florida election officials before Election Day. My daily time records in connection with this litigation as detailed in the contemporaneous line-item billing entries are included in Exhibit A.

18. Kevin J. Burke was responsible for the initial draft of the Complaint in this matter and for working with Professor Robert Shapiro in presenting his written testimony to the Court. His hours are also detailed in the line-item billing entries attached hereto as Exhibit A.

19. Brian T. Markley was responsible for the initial drafts of the Memorandum of Law in Support of Plaintiffs' Motion for a Preliminary Injunction and the Reply Memorandum of Law in Further Support of that Motion. He also assisted me in communication and coordination with our colleagues at Gunster Yoakley. Mr. Markley also assisted me in preparing for and presenting the argument at the hearing on the Preliminary Injunction, and in preparing the papers in connection with the present motion. His hours are also detailed in Exhibit A.

20. Kayvan Sadeghi assisted in drafting the affidavits in support of Plaintiffs' Motion for a Preliminary Injunction. Mr. Sadeghi was also responsible for conducting some of the legal research in connection with the Motion for a Preliminary Injunction. His hours are detailed in Exhibit A.

21. Peter Hawkes was responsible for conducting some of the legal research in connection with Plaintiffs' Motion for a Preliminary Injunction and for initially drafting this affidavit. His hours are also detailed in Exhibit A.

PHASE I: September 1, 2006 - September 29, 2006

22. In Phase I of the litigation, Plaintiffs prepared for and filed the Complaint, the Motion for a Preliminary Injunction (and all supporting papers) and the Motion for Certification of a Defendant Class (and supporting papers). Fact gathering was accomplished quickly and efficiently. Mr. Lenski and members of his staff were interviewed and consulted. The affidavits of Mr. Lenski, Mr. Shapiro, and Mr. Miller were drafted and executed. Counsel consulted with counsel for each of the six individual plaintiffs concerning factual questions, litigation strategy and corporate disclosure requirements.

23. At the same time the brief in support of the motion for a preliminary injunction was prepared, legal research on various questions of both federal and Florida law was undertaken. Drafts of all papers were circulated to in house counsel for the six clients; comments were received and incorporated.

24. The following papers were prepared and filed by Plaintiffs during this phase of the litigation: the Summons and Complaint, the Motion to Certify a Defendant Class Pursuant to Fed. R. Civ. P. 23 and the Accompanying Memorandum of Law; the Motion for a Preliminary Injunction, the Affidavit of Joseph Lenski (with accompanying exhibits), the Affidavit of Robert Y. Shapiro (with accompanying exhibits), the Affidavit of Raymond V. Miller,

Esq. (with accompanying exhibits), the Memorandum of Law in Support of Plaintiffs' Motion for a Preliminary Injunction, and other documents attendant to the institution of the litigation.

25. The following is a breakdown of individual attorney time during Phase I of the litigation:

ATTORNEY	RATE	HOURS	AMOUNT
S. Buckley	712.00	45.75	32,574.00
K. Burke	688.00	6.7	4,609.60
B. Markley	496.00	68.25	33,852.00
P. Hawkes	428.00	6.0	2,568.00
K. Sadeghi	428.00	5.25	2,247.00
	TOTAL		$ 75,850.60

PHASE II: September 30, 2006 - October 20, 2006

26. During Phase II of the litigation, counsel participated in a conference call with the Court and Defendants, analyzed Defendants' Opposition to Plaintiffs' Motion for a Preliminary Injunction, prepared Plaintiffs' Reply Memorandum and participated in the hearing on the Motion.

27. With the assistance of Mr. Hawkes, Mr. Markley focused his efforts on the reply brief in support of the motion. In addition to supervising the work of Messrs. Markley and Hawkes, I was primarily responsible for participating in the conference call with the Court and Defendants' counsel, informing our clients of the results of that conference call, consulting with Gunster Yoakley attorneys concerning the preparation of the Affidavit of Mark Workman and

preparing for and conducting the oral argument in support of the motion for a preliminary injunction. Mr. Markley also assisted me in preparing for and presenting the argument at that hearing.

28. Plaintiffs' Reply Memorandum of Law in Further Support of Their Motion for a Preliminary Injunction and the Affidavit of Mark Workman were prepared and filed by Plaintiffs during this phase of the litigation.

29. The following is a breakdown of individual attorney time during Phase II of the litigation:

ATTORNEY	RATE	HOURS	AMOUNT
S. Buckley	768.00[1]	37.25	28,608.00
B. Markley	560.00	41.0	22,960.00
P. Hawkes	460.00	8.5	3,910.00
	TOTAL		$ 55,478.00

PHASE III: October 21, 2006 - the present

30. During this phase of the litigation, the Court's decision of October 24, 2006 and its judgment of October 26, 2006 were reviewed, Plaintiffs' motion to amend the judgment was prepared and filed and this application for an award of attorneys' fees pursuant to section 1988 was researched, prepared and filed.

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[1] The firm's minimum billing rates were increased for all billings effective October 1, 2006. Time incurred before then was incurred at the lower rate; time incurred thereafter was incurred at the higher rate.

31. The following is a breakdown of individual attorney time during Phase III of the litigation:

ATTORNEY	RATE	HOURS	AMOUNT
S. Buckley	768.00	10.5	8,064.00
B. Markley	560.00	2.75	1,540.00
P. Hawkes	460.00	2.75	1,265.00
	TOTAL		$ 10,869.00

The Recoverable Amount

32. Cahill Gordon has two rate structures for client billing. The hourly rates being billed to the clients in this action are the minimum rates charged by the firm. These hourly rates are comparable to the generally prevailing rates of similar firms in New York. A recent survey of such rates is attached hereto as Exhibit B.

33. Plaintiffs will be billed all of the fees and expenses requested in this Affidavit.

34. In my opinion, the sum of $142,197.60, requested as the Cahill Gordon component of an attorneys' fee award, represents a reasonable fee for the services rendered by Cahill Gordon in the circumstances of this case.

35. Disbursements have been incurred by Cahill Gordon in the amount of $7,365.37. This sum reflects disbursements actually and necessarily incurred. These disbursements — all of which are costs routinely billed to all of the firm's clients — are set forth and itemized in the last page of Exhibit A hereto.

Awards in Similar Cases

36. For the Court's information, attached hereto as Exhibit C is the order of the district court in the *Daily Herald* case awarding plaintiffs there $412,921.27 for fees and expenses incurred through the conclusion of the trial in that action. Attached hereto as Exhibit D is another order from that district court awarding plaintiffs an additional $223,950.69 for fees and expenses incurred in defending the appeal.

37. Also for the Court's information, attached hereto as Exhibit E is the order of the district court in the *Smith* case awarding plaintiffs there $133,673.58 in fees and expenses incurred in that action. That case was resolved after the hearing on Plaintiffs' motion for a preliminary injunction.

Susan Buckley

Sworn to before me this
9th day of November, 2006.

Maureen P. Murphy
Notary Public

MAUREEN P. MURPHY
Notary Public, State of New York
No. 24-4798844
Qualified In Richmond County
Certificate Filed In New York County
Commission Expires March 30, 2007

EXHIBIT A

CBS INC.
FLORIDA II
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September 8, 2006 - November 8, 2006

FOR PROFESSIONAL SERVICES RENDERED

DATE	NAME	DESCRIPTION	HOURS
09/08/06	BUCKLEY, S	Tel. c. JZucker re filing suit; tel. c. KS; tel. c. KJB; conf. KS; conf. KJB; forward briefs and materials.	2.00
09/08/06	BURKE, K	Tel.C. Buckley; Review Ohio materials	.80
09/11/06	BUCKLEY, S	Tel. c. RMiller; e-corr. JZucker; rev. Fla. statute; tel. c. RMiller; e-corr. to/from PW.	1.00
09/12/06	BUCKLEY, S	Tel. c. Joe Lenski; tel. c. RMiller; rev. Fla. leg. history; tel. c. KJB; conf. KSadeghi; rev. prior record in Smith; forward stuff to KJB; rev. Shapiro aff't.	4.00
09/13/06	BUCKLEY, S	Preparing lit. papers; tel. cs. RMiller; tel. c. RShapiro; e-corr. team; conf. KS; tel. c. JZ; working on Shap. aff't; e-corr. JLenski.	3.50
09/13/06	SADEGHI, KB	Compile Affidavit exhibits; research articles re: 2004 election; discuss same w/ S. Buckley; revise Shapiro Affidavit; I.L. re: preliminary injunction standard and recent First Amendment cases in 11th Circuit.	2.00
09/13/06	BURKE, K	Review Shapiro affidavit; Review corr.	.60
09/15/06	MARKLEY, BT	Conf. w/ S. Buckley re: Florida arguments; review of Ohio briefs & other materials.	1.50
09/15/06	BUCKLEY, S	Fact gathering; tel. c. clients; I.F.; conf. BMarkley; e-corr. re fact issues; tel. cs. Edison.	3.50
09/15/06	BURKE, K	Draft Florida complaint; Tel.C. Buckley;	1.30

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September 8, 2006 - November 8, 2006

DATE	NAME	DESCRIPTION	HOURS
		Review corr.	
09/17/06	MARKLEY, BT	Reviewed case law & other materials.	3.00
09/17/06	BUCKLEY, S	Rev. Julin aff't.; e-corr. BMarkley.	.50
09/18/06	MARKLEY, BT	Reviewed background materials & drafted brief.	9.00
09/18/06	BUCKLEY, S	Tel. c. BMarkley; e-corr. RMiller; conf. c. clients; I.F. re distance issues; rev. AG ops.; rev. MY mem.; e-corr. to/from Lenski.	3.00
09/18/06	BURKE, K	Revise complaint; Review Shapiro affidavit	1.10
09/19/06	MARKLEY, BT	Rev. brief; mult. conf. w/ S. Buckley re: same.	12.00
09/19/06	BUCKLEY, S	Tel. c. BM re progress; e-corr. RM; e-corr. to/from Edison Research folks; tel. cs. KJB; conf. KJB and Lenski; tel. c. FA.	3.25
09/19/06	BURKE, K	Meeting w/Lenski re affidavit; Conf. Buckley; Review corr.; Corr.	1.50
09/20/06	MARKLEY, BT	Rev. brief; confs. w/ S. Buckley & P. Hawkes re: same.	12.00
09/20/06	SADEGHI, KB	Call w/S. Buckley; draft rider to complaint; review articles for same; send rider to S. Buckley.	1.00
09/20/06	BURKE, K	Revise draft Lenski affidavit; 2 Tel.Cs. Buckley; Revise Florida complaint	1.40
09/21/06	MARKLEY, BT	Rev. brief; conf. w/ S. Buckley re: same; rev. class cert. motion.	2.50

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September 8, 2006 - November 8, 2006

DATE	NAME	DESCRIPTION	HOURS
09/22/06	MARKLEY, BT	Mult. emails & tel. cs. w/ S. Buckley & local csl.; re: briefs and afft's; reviewed leg. history.	5.00
09/22/06	BUCKLEY, S	Preparing papers for new litigation; e-corr. re same and re disclosure info; e-corr. re affidavits; revise docs.	3.25
09/25/06	MARKLEY, BT	Rev. Miller Afft; rev. brief; mult confs. w/ S. Buckley re: same.	7.00
09/25/06	BUCKLEY, S	Review and revise all papers in Florida; circulation; e-corr. to/from RMiller; e-corr. to/from team; tel. cs. BM re Firestone and other cases.	7.50
09/26/06	MARKLEY, BT	Mult. confs. w/ S. Buckley re: brief & supporting docs.; reviewed same; reviewed Ohio decision.	4.25
09/26/06	HAWKES, PD	Cite-checking/ Shepardizing/ Keyciting brief.	1.50
09/26/06	BUCKLEY, S	Working on all docs.; e-corr. RMiller; circulate Ohio decision to Florida team; revise briefs; attend to pro hac applications.	5.50
09/27/06	MARKLEY, BT	Rev. brief and supporting docs; mult. confs. w/ S. Buckley, P. Hawkes, K. Sadeghi, and R. Miller re: same.	3.50
09/27/06	HAWKES, PD	Editing brief.	1.50
09/27/06	BUCKLEY, S	Numerous tel. cs. re affidavits and revisions; e-corr. Lenski and Shapiro; review substantive docs.; e-corr. all docs. to Ray Miller; tel. cs. RM and FD; revisions to Miller affidavit.	3.50
09/27/06	SADEGHI, KB	Compile affidavit exhibits and originals of	2.25

DATE	NAME	DESCRIPTION	HOURS
		affidavits; draft letter to Miller sending same; meet w/ B. Markley re: same.	
09/28/06	MARKLEY, BT	Rev. brief and supporting docs; mult. conf. w/ S. Buckley, P. Hawkes, K. Sadeghi, and local counsel re: same.	6.50
09/28/06	HAWKES, PD	Finalizing brief and Miller affidavit.	3.00
09/28/06	BUCKLEY, S	E-corr. to/from FD re motion papers and class brief; final revisions on Lenski affidavit; tel. cs. Joe Lenski; additional I.F.; rev. Farrah draft; e-corr. to/from BM re relief; tel. cs. FD.	3.25
09/29/06	MARKLEY, BT	Mult. conf. w/ S. Buckley and local counsel re: brief and filing; rev. format of brief.	2.00
09/29/06	BUCKLEY, S	Tel. cs. FD about filing matters re Florida; tel. c. RMiller; e-corr. all clients with Fla. developments; tel c. RMiller; circulate complaint and pi motion; tel. cs. clients.	2.00
10/02/06	BUCKLEY, S	Two tel. cs. RMiller re filing and call from law clerk.	.50
10/03/06	BUCKLEY, S	Memo to clients re status conference, counsel for defendants and Sola proposal; tel. cs. RMiller ; rev. mem. from FD; memo to Lenski.	1.00
10/04/06	MARKLEY, BT	Gathered cases and docs for S. Buckley in prep for conference.	.25
10/04/06	BUCKLEY, S	Rev. mem. from NM re exit poll plans and communications in Florida; mem. to RM and KJB re class issue; 2d tel. c. RM; e-corr. BM re status conf. scheduled.	3.00

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September 8, 2006 - November 8, 2006

DATE	NAME	DESCRIPTION	HOURS
10/05/06	MARKLEY, BT	Conf. w/ S. Buckley re: court tel. conference; IL re: potential deal with County Supervisor.	3.00
10/05/06	BUCKLEY, S	Tel. cs. RM; tel. c. state counsel; tel. c. county counsel; rev. Fla. cases for conf. c.; tel. c. RM; participate in status conference; tel. c. BM re fee issue; tel. c. RM re same; e-corr. clients re conference.	4.50
10/06/06	BUCKLEY, S	Tel. c. KJB re county proposal; tel. c. RMiller re same; review SOS submission; tel. c. RMiller tel. c. Lenski re fact gathering.	1.75
10/11/06	BUCKLEY, S	Tel. c. RM re hearing and I.F.; mem. to clients.	.75
10/12/06	MARKLEY, BT	Conf. w/ S. Buckley re: reply brief.	.25
10/12/06	BUCKLEY, S	E-corr. to/from BM re Florida papers; e-corr. JZ re hearing; mem. to clients.	.50
10/13/06	MARKLEY, BT	Reviewed opposition to PI; mult. conf. re: reply; IL re: same.	5.00
10/13/06	HAWKES, PD	Review of opposition brief; legal research for reply brief; conf. w/ B. Markley re: same.	6.25
10/13/06	BUCKLEY, S	Begin review of opp. briefs filed by SOS and Sola; e-corr. RM re same; conf. BM re drafting our response and what it should cover; circulate briefs w/ memo to clients; circulate Sola brief with memo.	3.75
10/14/06	MARKLEY, BT	Drafted reply in support of PI.	6.00
10/15/06	MARKLEY, BT	Rev. reply in support of PI.	6.00
10/16/06	MARKLEY, BT	Rev. reply; mult. conf. w/ S. Buckley re: same;	4.00

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September 8, 2006 - November 8, 2006

DATE	NAME	DESCRIPTION	HOURS
		rev. Workman aff't.	
10/16/06	BUCKLEY, S	Review and revise reply brief; circulate to RM and clients for comments/revisions; tel. cs. BM re various issues.	6.00
10/17/06	MARKLEY, BT	Rev. & finalized brief; mult. conf. and emails w/ local counsel re: same.	2.50
10/17/06	HAWKES, PD	Cite-checking/keyciting/shepardizing brief; conf. w/ B. Markley re: same; other revisions to brief.	2.00
10/17/06	BUCKLEY, S	Rev. BM revisions on Workman affidavit; rev. final draft reply brief per BM; e-corr. BM and RM; conf. BM and PH.	1.50
10/18/06	MARKLEY, BT	Gathered docs & prepared for hearing; mult. conf. w/ S. Buckley re: same.	4.00
10/18/06	BUCKLEY, S	Review corr. from Fla. officials in response to E/M letters; corr. RMiller re same; memo to all clients attaching final reply brief and Workman affidavit; begin drafting some oral argument thoughts; materials for argument.	3.50
10/19/06	MARKLEY, BT	Prepped for hearing; mult. conf. w/ S. Buckley & R. Miller re: same; drafted memos re: same.	7.00
10/19/06	HAWKES, PD	Tel. conf. w/ B. Markley re: hearing.	.25
10/19/06	BUCKLEY, S	Travel to Florida (working on plane); confs. RM, FD and BM re same; outline oral argument notes; review Fla. case law cited in briefs; prep. for oral argument; confs. BMarkley.	7.00

CBS INC.
FLORIDA II
PAGE 7

September 8, 2006 - November 8, 2006

DATE	NAME	DESCRIPTION	HOURS
10/20/06	MARKLEY, BT	Prepped for & attended hearing.	3.00
10/20/06	BUCKLEY, S	Prep. for and participate in hearing before Judge Huck; e-corr. all clients re hearing.	3.50
10/23/06	MARKLEY, BT	Conf. w/ S. Buckley re: class cert. order, rev. same, tel. msgs. for R. Miller re: same.	.75
10/23/06	BUCKLEY, S	Tel. cs. to clients re Florida proceedings; tel. c. RMiller re same and review RM draft of class cert. order.	.50
10/24/06	BUCKLEY, S	Rev. e-corr. re defs. response to proposed class cert. order; rev. Judge Huck's decision; tel. c. RMiller; corr. all clients re decision; tel. c. RMiller; conf. BMarkley.	1.00
10/26/06	BUCKLEY, S	Tel. c. RM re judgment; rev. same; tel. c. RM.	.50
10/27/06	MARKLEY, BT	Mult. conf. w/ S. Buckley re: Miami-Dade poll workers.	.50
10/28/06	BUCKLEY, S	Review draft letter to all election officials; Ray revisions, client revisions; tel. c. RM re Sola issue.	1.00
10/30/06	MARKLEY, BT	Rev. poll worker letter; mult. confs. w/ clients re: same.	.50
10/30/06	BUCKLEY, S	Review FD draft of motion to amend judgment; send comments; 3 tel. cs. RM; rev. court's order; rev. mem. re Miami - Dade new requirements; e-corr. RM and FD; conf. BM.	3.00
10/31/06	MARKLEY, BT	Mult. emails to clients re: poll worker letter; rev. same.	1.00

CBS INC.
FLORIDA II
PAGE 8

September 8, 2006 - November 8, 2006

DATE	NAME	DESCRIPTION	HOURS
11/02/06	BUCKLEY, S	E-corr. to/from Tomlin re Fla. compliance on Election Day and steps to take re same; tel. c. JLenski re Fla. report.	.50
11/03/06	BUCKLEY, S	Tel. c. RM re election day plans in Fla.; mem. to clients re same.	.50
11/06/06	HAWKES, PD	Drafting Buckley Affidavit for fee application; confs. w/ B. Markley, S. Buckley re: same.	2.00
11/06/06	BUCKLEY, S	Briefly rev. GY draft of fee brief; conf. BM re revising same; briefly rev. PH first draft of Buckley aff't.	1.00
11/07/06	HAWKES, PD	Editing Buckley Affidavit.	.75
11/07/06	BUCKLEY, S	Pull and review all time sheets for privilege and confirm all directly related to Fla. litigation; conf. PHawkes re additions to Buckley aff't.; tel. cs. JK re time and expenses; tel. c. RMiller re his affidavit.	1.50
11/08/06	BUCKLEY, S	Revisions to fee brief; revisions to Buckley aff't.; e-mems. RMiller re all docs.	1.00
		TOTAL TIME	234.70

CBS INC.
FLORIDA II
PAGE 9

September 8, 2006 - November 8, 2006

---------- TIME RECAP ----------

INIT	NAME	RATE	HOURS	AMOUNT
SB	BUCKLEY, S	768.00	47.75	36,672.00
SB	BUCKLEY, S	712.00	45.75	32,574.00
KJB	BURKE, K	688.00	6.70	4,609.60
BTM	MARKLEY, B	560.00	43.75	24,500.00
BTM	MARKLEY, B	496.00	68.25	33,852.00
PDH	HAWKES, P	460.00	11.25	5,175.00
PDH	HAWKES, P	428.00	6.00	2,568.00
KBS	SADEGHI, K	428.00	5.25	2,247.00
	TOTAL		234.70	$ 142,197.60

CBS INC.
FLORIDA II
PAGE 10

September 8, 2006 - November 8, 2006

DISBURSEMENTS AND CHARGES	AMOUNT
Air Freight Delivery Charge	55.76
Exhibit Tabs	3.00
Lexis and Database Charges	319.29
Local Transportation	390.52
Overtime Meals	172.64
Rapifax	43.50
Reproduction	592.80
Telephone Charges	1.20
Travel-Out-Of-Town (T&E)	2,154.06
Velo Bind	6.00
Westlaw Searches	2,960.35
Word Processing	666.25
TOTAL DISBURSEMENTS AND CHARGES	$7,365.37

EXHIBIT B

Firm-by-firm sampling of billing rates nationwide

The National Law Journal asked the respondents to its 2005 survey of the nation's 250 largest law firms to provide a range of hourly billing rates for partners and associates. The firms that supplied this information—including some firms that are not in the NLJ 250—are listed below in alphabetical order. This year we also asked firms to provide average and median billing rates; several firms provided this information as well. The number after a firm's name indicates the total number of attorneys at the firm. The city listed below the name of a firm is the location of its principal or largest office. Unless otherwise indicated, the rates provided are firmwide rates; an asterisk indicates rates at the principal or largest office only.

A B C

Adams and Reese (300)
(New Orleans)
Partners $205-$385 (average $279) (median $275)
Associates $155-$235 (average $185) (median $180)
Firmwide (average $247) (median $240)

Andrews Kurth (465)
(Houston)
Partners $350-$695 (average $464) (median $450)
Associates $180-$400 (average $272) (median $258)
Firmwide (average $377) (median $380)

Arnold Fox (274)
(Washington)
Partners $350-$580
Associates $195-$395

Armstrong Teasdale (245)
(St. Louis)
Partners $235-$400
Associates $135-$260

Baker, Donelson, Bearman, Caldwell & Berkowitz (426)
(Memphis, Tenn.)
Partners $200-$525
Associates $120-$290

Ballard Spahr Andrews & Ingersoll (452)
(Philadelphia)
Partners $330-$655
Associates $165-$360

Bass, Berry & Sims (182)
(Nashville, Tenn.)
Partners $220-$475
Associates $140-$235

Bell, Boyd & Lloyd (265)
(Chicago)
Partners $310-$650
Associates $215-$350

Blank Rome (401)
(Philadelphia)
Partners $320-$700
Associates $195-$430

Bond, Schoeneck & King (152)
(Syracuse, N.Y.)
Partners $200-$425
Associates $140-$305

Brinks Hofer Gilson & Lione (163)
(Chicago)
Partners $350-$600 (average $449) (median $440)
Associates $190-$365 (average $270) (median $250)
Firmwide (average $355) (median $350)

Brown Raysman Millstein Felder & Steiner (255)
(New York)
Partners $315-$690 (average $452)
Associates $190-$400 (average $296)
Firmwide (average $351)

Brown Rudnick Berlack Israels (194)
(Boston)
Partners $475-$790*
Associates $260-$460*

Bryan Cave (750)
(St. Louis)
Partners $300-$695 (average $423)
Associates $145-$430 (average $269)
Firmwide (average $316)

Buchanan Ingersoll (404)
(Pittsburgh)
Partners $240-$750
Associates $150-$400

Buckingham, Doolittle & Burroughs (148)
(Akron, Ohio)
Partners $175-$315 (average $225) (median $225)
Associates $125-$225 (average $156) (median $150)
Firmwide (average $175) (median $185)

Bullivant Houser Bailey (175)
(Portland, Ore.)
Partners $170-$500 (average $275) (median $265)
Associates $150-$300 (average $195) (median $195)
Firmwide (average $225) (median $220)

Burr & Forman (181)
(Birmingham, Ala.)
Partners $200-$395 (average $312) (median $310)
Associates $160-$275 (average $201) (median $190)
Firmwide (average $208) (median $190)

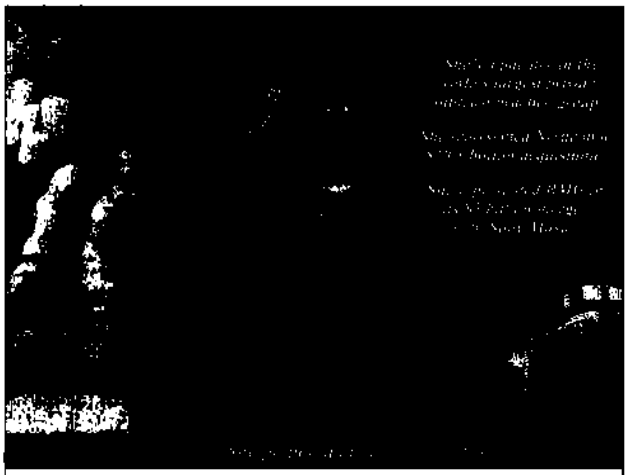
Butzel Long (218)
(Detroit)
Partners $225-$500
Associates $160-$300

Carlton Fields (225)
(Tampa, Fla.)
Partners $245-$520 (average $368) (median $370)
Associates $175-$300 (average $226) (median $220)
Firmwide (average $284) (median $290)

Cooley Godward (421)
(Palo Alto, Calif.)
Partners $395-$700 (average $515)
Associates $215-$550 (average $350)
Firmwide (average $404)

Covington & Burling (531)
(Washington)
Partners $420-$720
Associates $190-$440

Cozen O'Connor (307)
(Philadelphia)
Partners $105-$700 (average $292) (median $250)
Associates $75-$395 (average $181) (median $177)
Firmwide (average $249)



Jacqueline I. Grise
Partner, Howrey LLP
New England School of Law Class of 1995

Jacqueline Grise has relied on her New England School of Law education throughout her meteoric rise from staff attorney to partner at Howrey, where she is a member of the world's largest antitrust practice group. Having counseled numerous Fortune 500 clients on antitrust matters in multi-billion dollar acquisitions around the world, Ms. Grise continues to enjoy both the business and legal challenges of counseling high-profile clients in a broad range of industries.

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Curtis, Mallet-Prevost, Colt & Mosle (198)
(New York)
Partners $340-$675 (average $553) (median $593)
Associates $160-$470 (average $340) (median $348)
Firmwide (average $432) (median $450)

DEF

Davis Wright Tremaine (386)
(Seattle)
Partners $250-$625 (average $374) (median $370)
Associates $155-$350 (average $242) (median $230)
Firmwide (average $330) (median $330)

Day, Berry & Howard (218)
(Hartford, Conn.)
Partners $320-$565 (average $425) (median $420)
Associates $190-$395 (average $284) (median $290)
Firmwide (average $355) (median $350)

Dickinson Wright (280)
(Detroit)
Partners $275-$490
Associates $155-$245

Dickstein Shapiro Morin & Oshinsky (353)
(Washington)
Partners $400-$675
Associates $210-$390

Dinsmore & Shohl (294)
(Cincinnati)
Partners $205-$420 (average $304) (median $295)
Associates $130-$250 (average $180) (median $165)
Firmwide (average $226) (median $215)

DLA Piper Rudnick Gray Cary (3,150)
(Chicago)
Partners $345-$800 (average $497) (median $495)
Associates $200-$500 (average $336) (median $340)
Firmwide (average $383) (median $395)

Dorsey & Whitney (634)
(Minneapolis)
Partners $200-$876.75 (average $416.19) (median $418.61)
Associates $145-$835 (average $272.18) (median $265)
Firmwide (average $343.84) (median $346.39)

Drinker Biddle & Reath (413)
(Philadelphia)
Partners $325-$600 (average $402)
Associates $175-$360 (average $270)

Duane Morris (615)
(Philadelphia)
Partners $295-$665
Associates $125-$400

Dykema Gossett (334)
(Detroit)
Partners $250-$550
Associates $165-$280

Edwards & Angell (344) (Boston)
Partners $325-$600 (average $451.15) (median $450)
Associates $115-$400 (average $253) (media $250)
Firmwide (average $350.50) (median $347.50)

Epstein Becker & Green (352)
(New York)
Partners $275-$600 (average $436.89) (median $420)
Associates $140-$390 (average $267.11) (median $280)
Firmwide (average $300.31)

Fenwick & West (248)
(Mountain View, Calif.)
Partners $450-$725 (average $540) (median $540)
Associates $235-$440 (average $345) (median $385)

Fowler White Boggs Banker (224)
(Tampa, Fla.)
Partners $250-$415
Associates $150-$250

Fredrikson & Byron (185)
(Minneapolis)
Partners $250-$515
Associates $145-$240

Frost Brown Todd (380)
(Louisville, Ky.)
Partners $190-$410 (average $279) (median $275)
Associates $135-$260 (average $180) (median $180)
Firmwide (average $208)

GHI

Gardere Wynne Sewell (280)
(Dallas)
Partners $315-$625 (average $414) (median $415)
Associates $170-$380 (average $250) (median $255)
Firmwide (average $347) (median $345)

Gibbons, Del Deo, Dolan, Griffinger & Vecchione (188) (Newark, N.J.)
Partners $300-$660 (average $397) (median $380)
Associates $160-$340 (average $233) (median $245)

Gordon & Rees (200)
(San Francisco)
Partners $140-$450
Associates $125-$325

Greenberg Traurig (1,402)
(Miami)
Partners $250-$750 (average $437) (median $450)
Associates $140-$455 (average $279) (median $275)
Firmwide (average $364) (median $375)

Harris Beach (180)
(Rochester, N.Y.)
Partners $200-$350
Associates $135-$235

Haynes and Boone (440)
(Dallas)
Partners $330-$750
Associates $140-$410

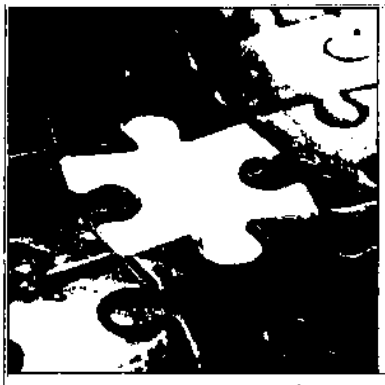
Hodgson Russ (221)
(Buffalo, N.Y.)
Partners $220-$595 (average $304)
Associates $130-$290 (average $188)
Firmwide (average $249)

Hogan & Hartson (1,012)
(Washington)
Partners $250-$750
Associates $130-$475

Holland & Knight (1,224)
(New York)
Partners $260-$700 (average $419) (median $410)
Associates $155-$475 (average $252) (median $245)
Firmwide (average $358) (median $365)

Holme Roberts & Owen (219)
(Denver)
Partners $250-$565 (average $375) (median $350)
Associates $185-$395 (average $250) (median $240)
Firmwide (average $322) (median $325)

SEE 'NATIONWIDE' PAGE S4



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Billing rates set by law firms across the country

'NATIONWIDE' FROM PAGE S3

Husch & Eppenberger (302)
(St. Louis)
Partners $185-$390 (average $267) (median $260)
Associates $125-$230 (average $161) (median $155)
Firmwide (average $223) (median $220)

JKL

Jackson Lewis (375)
(White Plains, N.Y.)
Partners $265-$500
Associates $185-$395

Jackson & Walker (282)
(Dallas)
Partners $315-$580 (average $411)
Associates $195-$370 (average $266)

Jenner & Block (443)
(Chicago)
Partners $410-$750 (average $496) (median $475)
Associates $215-$390 (average $290) (median $275)

Jones, Walker, Waechter, Poitevent, Carrère & Denègre (218)
(New Orleans)
Partners $190-$425
Associates $130-$200

Kelley Drye & Warren (321)
(New York)
Partners $375-$730
Associates $200-$450

Kramer Levin Naftalis & Frankel (325)
(New York)
Partners $530-$775 (average $598) (median $590)
Associates $275-$520 (average $422) (median $440)
Firmwide (average $427) (median $440)

Lane Powell (172) (Seattle)
Partners $275-$440 (average $338) (median $330)
Associates $190-$350 (average $232) (median $233)
Firmwide (average $307) (median $310)

Lewis, Rice & Fingersh (172)
(St. Louis)
Partners $215-$395
Associates $140-$285

Littler Mendelson (433)
(San Francisco)
Partners $240-$550
Associates $165-$375

Locke Liddell & Sapp (304) (Houston)
Partners $340-$795 (average $432) (median $425)
Associates $150-$370 (average $237) (median $230)
Firmwide (average $347) (median $360)

Loeb & Loeb (206) (Los Angeles)
Partners $375-$775
Associates $200-$425

Lord, Bissell & Brook (208)
(Chicago)
Partners $285-$645 (average $448) (median $430)
Associates $200-$350 (average $256) (median $255)
Firmwide (average $363) (median $365)

Lowenstein Sandler (242)
(Roseland, N.J.)
Partners $325-$595
Associates $165-$375

Luce, Forward, Hamilton & Scripps (188)
(San Diego)
Partners $325-$575
Associates $210-$350

MNO

Manatt, Phelps & Phillips (301)
(Los Angeles)
Partners $475-$710 (average $563) (median $530)
Associates $295-$440 (average $314) (median $355)
Firmwide (average $439) (median $443)

Marshall, Dennehey, Warner, Coleman & Goggin (300) (Philadelphia)
Partners $140-$275
Associates $130-$230

McCarter & English (378)
(Newark, N.J.)
Partners $270-$600
Associates $175-$360

McGuireWoods (600)
(Richmond, Va.)
Partners $260-$675
Associates $180-$375

McKenna Long & Aldridge (322)
(Washington)
Partners $290-$575
Associates $175-$385

Michael Best & Friedrich (206)
(Milwaukee)
Partners $195-$500
Associates $160-$290

Miles & Stockbridge (284)
(Baltimore)
Partners $280-$450 (average $328)
Associates $180-$350 (average $216)

Miller & Martin (167)
(Chattanooga, Tenn.)
Partners $220-$395 (average $305) (median $310)
Associates $140-$285 (average $190) (median $180)
Firmwide (average $270) (median $285)

Miller, Canfield, Paddock and Stone (268)
(Detroit)
Partners $275-$540
Associates $145-$290

Montgomery, McCracken, Walker & Rhoads (136) (Philadelphia)
Partners $300-$550 (average $406)
Associates $190-$295 (average $227)

Morris, Manning & Martin (178)
(Atlanta)
Partners $330-$495
Associates $175-$325

Nelson Mullins Riley & Scarborough (248)
(Columbia, S.C.)
Partners $215-$600
Associates $150-$325

Ogletree, Deakins, Nash, Smoak & Stewart (208) (Greenville, S.C.)
Partners $230-$500 (average $308) (median $305)
Associates $150-$300 (average $231) (median $235)
Firmwide (average $251) (median $260)

Orrick, Herrington & Sutcliffe (764)
(New York)
Partners $355-$715 (average $566) (median $570)
Associates $225-$465 (average $361) (median $385)
Firmwide (average $451) (median $445)

PQR

Parker Poe Adams & Bernstein (174)
(Charlotte, N.C.)
Partners $170-$450
Associates $130-$260

Patton Boggs (486) (Washington)
Partners $275-$800 (average $421) (median $537)
Associates $190-$380 (average $272) (median $285)
Firmwide (average $343) (median $495)

Pepper Hamilton (431) (Philadelphia)
Partners $285-$650
Associates $180-$370

Perkins Coie (585) (Seattle)
Partners $205-$600
Associates $160-$440

Phelps Dunbar (240) (New Orleans)
Partners $160-$450 (average $214.87) (median $230)
Associates $125-$200 (average $151.86) (median $155)
Firmwide (average $153.23) (median $185)

Phillips Lytle (178) (Buffalo, N.Y.)
Partners $210-$395 (average $280) (median $275)
Associates $145-$295 (average $190) (median $185)
Firmwide (average $195) (median $185)

Pitney Hardin (170) (Florham Park, N.J.)
Partners $350-$595
Associates $190-$345

Polsinelli Shalton Welte Suelthaus (218)
(Kansas City, Mo.)
Partners $200-$500
Associates $140-$250

Powell Goldstein (297) (Atlanta)
Partners $290-$550 (average $404) (median $405)
Associates $165-$335 (average $235) (median $230)
Firmwide (average $304) (median $295)

Preston Gates & Ellis (426) (Seattle)
Partners $190-$595
Associates $95-$372

Quarles & Brady (412) (Milwaukee)
Partners $240-$500 (average $335.57) (median $335)
Associates $180-$300 (average $217) (median $215)
Firmwide (average $298.56) (median $305)

Reed Smith (396) (Pittsburgh)
Partners $280-$675 (average $425) (median $412)
Associates $185-$435 (average $255) (median $245)
Firmwide (average $346) (median $338)

Robinson & Cole (223)
(Hartford, Conn.)
Partners $260-$525 (average $376) (median $380)
Associates $160-$450 (average $241) (median $230)
Firmwide (average $278) (median $240)

Help Provide Legal Relief for the Gulf Coast

Equal Justice Works, in partnership with ALM, the Association of Corporate Counsel (ACC) and the JEHT Foundation, announces the Hurricane Legal Assistance Initiative.

Through this program, Equal Justice Works is sending a team of up to 15 experienced public interest lawyers for two years to the areas hardest hit by hurricanes Katrina and Rita in Louisiana, Mississippi, Texas and Alabama. The Hurricane Legal Assistance Initiative will provide critical representation to hurricane victims who face homelessness, consumer fraud, lack of health care, and other personal tragedies.

The JEHT Foundation has pledged $1 million in matching funds over the next two years. Already, ACC, Greenberg Traurig, LLP, and Latham & Watkins LLP have each committed $75,000, all of which will be matched by JEHT.

You Can Help Too.

An additional $775,000 is needed to fully fund this initiative. It will take many contributions of varying sizes and from various sources to make this initiative successful. We hope you will help.

To contribute to the Hurricane Legal Assistance Initiative, please contact John Dyess at jdyess@equaljusticeworks.org, or 202-466-3686 x115.

*Progress reports, including the names of generous firms and individuals, will be published in The National Law Journal and other ALM publications.

ALM ACC Association of Corporate Counsel EQUAL JUSTICE WORKS

Buckley & Andrews (182)
(Akron, Ohio)
Partners $190-$375 (average $238) (median $250)
Associates $105-$230 (average $168) (median $190)
Firmwide (average $214) (median $235)

Buller & Tucker (148)
(Costa Mesa, Calif.)
Partners $285-$500
Associates $190-$325

STU

Saul Ewing (245)
(Philadelphia)
Partners $270-$625 (average $379) (median $375)
Associates $165-$300 (average $215) (median $205)
Firmwide (average $316) (median $325)

Schnader Harrison (183)
(Philadelphia)
Partners $270-$700
Associates $145-$315

Shook, Hardy & Bacon (403)
(Kansas City, Mo.)
Partners $220-$627 (average $327) (median $315)
Associates $160-$387 (average $200) (median $190)

Shumaker, Loop & Kendrick (164)
(Toledo, Ohio)
Partners $215-$435 (average $280) (median $280)
Associates $150-$330 (average $195) (median $185)
Firmwide (average $260) (median $270)

Sills Cummis Epstein & Gross (164)
(Newark, N.J.)
Partners $300-$575
Associates $175-$350

Smith, Gambrell & Russell (160)
(Atlanta)
Partners $265-$515
Associates $155-$300

Stinson Morrison Hecker (321)
(Kansas City, Mo.)
Partners $225-$425 (average $292) (median $295)
Associates $140-$230 (average $171) (median $165)
Firmwide (average $210) (median $270)

Stoel Rives (344)
(Portland, Ore.)
Partners $250-$450 (average $349) (median $350)
Associates $160-$300 (average $225) (median $215)
Firmwide (average $301) (median $300)

Strasburger & Price (181)
(Dallas)
Partners $215-$485 (average $348) (median $350)
Associates $185-$280 (average $213) (median $205)
Firmwide (average $299) (median $290)

Sutherland Asbill & Brennan (429) (Atlanta)
Partners $395-$740 (average $457) (median $450)
Associates $210-$450 (average $257) (median $250)
Firmwide (average $347) (median $315)

Swidler Berlin (188)
(Washington)
Partners $385-$660 (average $502) (median $502)
Associates $215-$400 (average $322) (median $330)
Firmwide (average $402) (median $402)

Thompson & Knight (205)
(Dallas)
Partners $300-$625 (average $420) (median $425)
Associates $185-$365 (average $228) (median $225)
Firmwide (average $306) (median $260)

Thompson Coburn (235)
(St. Louis)
Partners $280-$450
Associates $150-$275

Thompson Hine (370)
(Cleveland)
Partners $195-$610 (average $396) (median $390)
Associates $160-$400 (average $235) (median $210)
Firmwide (average $337) (median $305)

Tucker & Burns (174)
(Cleveland)
Partners $230-$410 (average $302)
Associates $150-$270 (average $192)
Firmwide (average $214)

VWXYZ

Venable (441)
(Washington)
Partners $285-$1,000 (average $430)
Associates $200-$440 (average $286)

White & Case (1,063) (New York)
Partners $560-$830* (average $590)
Associates $290-$555* (average $362)
Firmwide (average $381)

Wiggin & Dana (142) (New Haven, Conn.)
Partners $260-$475
Associates $170-$355

Wiley Rein & Fielding (253) (Washington)
Partners $325-$660 (average $425) (median $425)
Associates $205-$335 (average $240) (median $240)
Firmwide (average $333) (median $350)

Williams Mullen (253) (Richmond, Va.)
Partners $225-$550
Associates $150-$250

Winstead Sechrest & Minick (304) (Dallas)
Partners $300-$600
Associates $180-$350

Womble Carlyle Sandridge & Rice (535)
(Winston-Salem, N.C.)
Partners $240-$525 (average $365) (median $365)
Associates $165-$325 (average $225) (median $220)
Firmwide (average $315) (median $325)

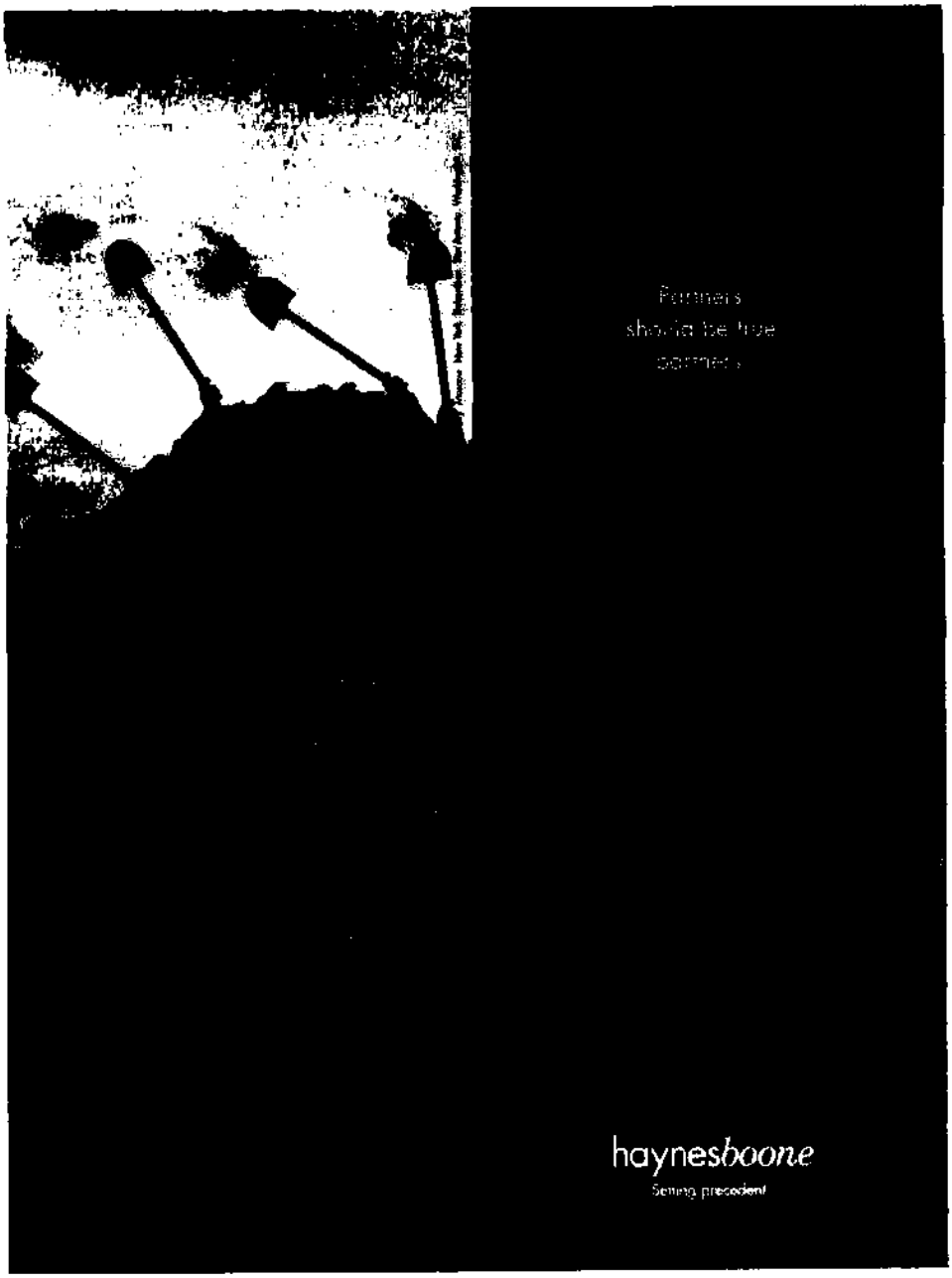

EXHIBIT C

Daily Herald - Munro

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OCT 9 1987

AO 450 (Rev. 5/85) Judgment in a Civil Case

FILED
LODGED
OCT - 5 1987
WESTERN DISTRICT OF WASHINGTON AT TACOMA
EDD 10-5

United States District Court

WESTERN DISTRICT OF WASHINGTON AT TACOMA

THE DAILY HERALD CO. et al

V.

RALPH MUNRO et al

JUDGMENT IN A CIVIL CASE

CASE NUMBER: C83-840T

☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

XXX **Decision by Court.** This action came ~~to trial or~~ hearing before the Court. The issues have been ~~tried or~~ heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

Plaintiff is awarded $ 412,921.27 for attorneys' fees and costs. Plaintiff and Defendant shall compensate Special Master Lane on an equal basis for the services provided to both parties.

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	DATE	INITIAL
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Docket	10-16	
Diary	6-16	
In Charge	10/16	

Date: Oct. 5, 1987

Clerk: BRUCE RIFKIN

(By) Deputy Clerk

184

EXHIBIT D

RCV. BY:Xerox Telecopier 7021 ; 4- 5-89 ; 1:39PM ;DAVIS WRIGHT & JONES→ CAMILL GORDON :# 2

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APR 3 - 1989
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA
BY DEPUTY

AO 450 (Rev. 5/85) Judgment in a Civil Case

United States District Court

WESTERN DISTRICT OF WASHINGTON AT TACOMA

THE DAILY HERALD CO., AMERICAN BROADCASTING COMPANIES, INC., CBS INC., NATIONAL BROADCASTING COMPANY, INC., AND THE NEW YORK TIMES COMPANY

V.

RALPH MUNRO, IN HIS OFFICIAL CAPACITY AS THE SECRETARY OF STATE OF THE STATE OF WASHINGTON ET AL

JUDGMENT IN A CIVIL CASE
ON ATTORNEYS' FEES

CASE NUMBER: C83-840T

Ent 4/3/89

☐ Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

CONSIDERATION

☒ Decision by Court. This action came to ~~trial or hearing~~ before the Court. The issues have been ~~tried or heard~~ CONSIDERED and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

PLAINTIFFS ARE AWARDED $ 223,950.69 AS ATTORNEYS' FEES AND EXPENSES.

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	DATE	INITIAL
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Docket		
Diary	4-11	MM
In Charge	4/12	SB

Date 3/31/89

Clerk BRUCE RIFKIN

(By) Deputy Clerk

EXHIBIT E

FILED by D.C.
MAR 26 1993
T. G. CHELEOTIS
CLERK U.S. DIST. CT.
S.D. OF FLA.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 88-0283-CIV-MARCUS

CBS, INC., et al.,

Plaintiffs,

v.

JIM SMITH, et al.,

Defendants.
_____/

ORDER ON AWARD OF FEES AND COSTS

THIS CAUSE comes before the Court upon Plaintiffs' motion for an award of attorneys' fees including expenses pursuant to 42 U.S.C. § 1988. Plaintiffs are the prevailing parties in the above-captioned action in which this Court held unconstitional Florida Statutes § 102.031(3) (as amended), which banned exit polling, and entered a preliminary injunction to that effect. See CBS, Inc. v. Smith, 681 F. Supp. 794 (S.D. Fla. 1988). The preliminary injunction was continued by a later opinion through December 1, 1988. See CBS, Inc. v. Smith, No. 88 0283-CIV-MARCUS, slip. op. (S.D. Fla. July 1, 1988). The Florida legislature subsequently amended the challenged statute, effective January 1, 1990, to permit the conducting of voter polls within 50 feet of the entrance of any polling place, so long as the polling does not interfere with voter access and is identified as voluntary. The amendment also allows polling when conducted on private property or any "property traditionally utilized as a public area for discussion." Fla. Stat. § 102.31(3)(c), (d). As a result of this change, Plaintiffs agreed to dismiss the action, and this Court issued a commensurate order. See CBS, Inc. v. Smith, No. 88-0283-CIV-

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MARCUS, slip. op. (S.D. Fla. Aug. 24, 1989). Pursuant to that order, this Court retained jurisdiction to determine the amount of legal fees due to the prevailing party. See id. The Court has accepted the stipulation of Defendant Smith and the Plaintiffs that Plaintiffs are the prevailing parties as that term applies to 42 U.S.C. § 1988 (unless the Court entered final judgment for Defendants, which it did not). See Order of July 1, 1988.

I. Reasonable Attorneys' Fees

Under 42 U.S.C. § 1988, the Court, in its discretion, may award the prevailing party in an action under 42 U.S.C. § 1983 reasonable attorneys' fees as part of its costs. Generally, prevailing parties are entitled to fees under section 1988 "unless special circumstances would render such an award unjust." Kentucky v. Graham, 473 U.S. 159, 164 (1985); see also Hensley v. Eckerhart, 461 U.S. 424, 429 (1983). As there are no special circumstances present here that would justify denial, and as Plaintiffs are clearly the prevailing party in this litigation, we find such an award appropriate in this case. See Martin v. Heckler, 773 F.2d 1145, 1150 (11th Cir. 1985) (in proving special circumstances, defendants bear a heavy burden and "must make a 'strong showing' to justify denial").

The starting point for a "reasonable attorneys' fees" analysis is the "lodestar" figure: the product of the number of hours reasonably expended on the litigation and the reasonable hourly rate. See Pennsylvania v. Delaware Valley Citizens Council II, 478

U.S. 546, 564 (1986) ("Delaware II"); Hensley v. Eckerhart, 461 U.S. 424, 433 (1983); Popham v. Kennesaw, 820 F.2d 1570, 1578 (11th Cir. 1987). The lodestar figure can be adjusted up or down based on an assessment of the results obtained, or the risk of nonpayment. See Pennsylvania v. Delaware Valley Citizens Council I, 478 U.S. 546, 564 (1986) ("Delaware I"). Where the objective sought was obtained, the full lodestar amount should be awarded. See Norman v. Montgomery Housing Auth., 836 F.2d 1292, 1302 (11th Cir. 1988). Further, "[i]f the result was excellent, then the court should compensate for all hours reasonably expended." Id. (citing Popham, 820 F.2d at 1578).

Plaintiffs have submitted detailed and itemized breakdowns of the services rendered through the affidavits of Susan Buckley, Donald M. Middlebrooks and Joseph P. Averill in support of the motion for attorneys' fees of the New York law firm of Cahill Gordon & Reindel ("Cahill Gordon"), the Miami law firm of Steel Hector & Davis ("Steel Hector"), and Miami lawyer Mr. Averill, respectively. Cahill Gordon requests reimbursement for 387 hours of attorney time at New York rates for a total of $81,240.75; Steel Hector requests reimbursement for 122.8 hours of attorney time at Miami rates for a total of $25,750.00; and Mr. Averill requests reimbursement for 49.75 hours of attorney time at Miami rates for a total award of $10,000.

The Eleventh Circuit Court of Appeals holds that a "reasonable hourly rate is the prevailing market rate in the relevant legal community for similar services by lawyers of reasonably comparable

skills, experience, and reputation." Norman, 838 F.2d at 1299 (citing Blum v. Stenson, 465 U.S. 886, 895-96 n.11); see also N.A.A.C.P. v. City of Evergreen, 812 F.2d 1332, 1338 (11th Cir. 1987); Gaines v. Dougherty Co. Bd. of Educ., 775 F.2d 1565, 1571 (11th Cir. 1985). When analyzing the market rates attested to by affidavit, the court may consider any of the twelve factors enumerated in Johson v. Georgia Highway Express, Inc., 488 F.2d 714 (5th Cir. 1974).[1] See Delaware I, 478 U.S. at 564-569.

We award the request of Cahill Gordon in full. The expertise of the law firm and of its partner in charge of this case, Mr. Floyd Abrams, in the area of First Amendment law is extensive and well-known. The Buckley affidavit and attached timesheets document the services performed in great detail, breaking down the litigation into three phases, and describing the necessity for each service rendered. In light of the difficulty and novelty of the legal questions presented by this litigation and from a thorough review of the Buckley affidavit and attached exhibits detailing the nature of the charges, we find that the number of hours that attorneys of various levels of experience worked on this case is

[1] The twelve factors enumerated by the Johnson Court are: (1) the time and labor required; (2) the novelty and difficulty of the question; (3) the skill requisite to perform the legal service properly; (4) the preclusion of other employment by the attorney because of acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation and ability of the attorney; (10) the "undesireability" of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases. See Johnson, 488 F.2d at 717-719 (drawing from American Bar Association Code of Professional Responsibility, Disciplinary Rule 2-106 (1980)).

reasonable.

The next question is the appropriate hourly rate to factor into the lodestar equation to calculate reasonable fees for Cahill Gordon. Although the hourly rate should normally reflect those prevailing in the district where the litigation was conducted, this does not pre-empt a rate determination based on the actual rate charged where the rate was reasonable "based on the attorney's experience and the locale in which he practices." Avirgan v. Hall, 705 F. Supp. 1544, 1550 (S.D. Fla. 1989); see also Chrapliwy v. Uniroyal, Inc., 670 F.2d 760, 770 (7th Cir. 1982), cert. denied, 461 U.S. 956 (1983) (trial court erred in limiting the hourly rate, as a matter of law, to that charged by attorneys in the district where the court sat); Macgirla v. Pagan, 698 F.2d 38, 40 (1st Cir. 1983) (award of higher out-of-town rates was not excessive where attorney specialized in the area and there was no evidence that lawyers with the same degree of experience and specialization were available, or that they charged significantly lower fees).

Based on this Court's familiarity with the First Amendment work of the Cahill Gordon firm, and of its partner Mr. Abrams, we find sufficient grounds to apply the Cahill Gordon rates ordinarily billed. There are, no doubt, a multitude of highly qualified First Amendment lawyers in South Florida whom Plaintiffs could have enlisted to ably and vigorously prosecute their claim. Few if any, however, have the stellar track record or can boast the national reputation of Mr. Abrams. Similarly, his firm is unquestionably pre-eminent in the field of First Amendment litigation. As a

result of the combined efforts of Cahill Gordon and the other lawyers on the team, a truly significant constitutional right was fully vindicated. Consequently, it would be inappropriate to designate Plaintiff's selection of Cahill Gordon over a Miami law firm as a luxury. See Dowdell v. y. City of Apopka, 698 F.2d 1181, 1192 (11th Cir. 1983) ("Civil rights litigants may not be charged with selecting the nearest and cheapest attorney.").

In accordance with the analysis of the hours billed and rates charged by Steel Hector and Mr. Averill, the Court also finds it appropriate to allow the full amount requested by Steel Hector and Mr. Averill. Detailed billing summaries of the work performed by Steel Hector were submitted with the Middlebrooks affidavit, and Mr. Middlebrooks indicated that he "carefully reviewed those summaries and have eliminated all hours that are not properly subject to a section 1988 claim typically because the work performed or expense incurred was tangentially rather than directly related to this action." Middlebrooks Aff. at ¶ 18. Mr. Averill also exhaustively detailed the nature and extent of each particular service performed in connection with this case. See Averill Aff., Ex. A. A careful review of the hours charged by Steel Hector attorneys and by Mr. Averill reveals that they are altogether reasonable. Further, as the affidavit of Parker D. Thompson attests, and we independently note, the rates requested by Steel Hector and Mr. Averill in this action are fair and consistent with the prevailing market rates in Miami. See Thompson Aff. at ¶ 13. In accordance with the "strong presumption that the lodestar figure

represents a 'reasonable' fee," Delaware I, 478 U.S. at 565, we see no reason to adjust the lodestar figure downward, and as Plaintiffs have achieved the objective sought, we shall award the full amount requested.

II. Costs

Plaintiffs here rely on section 1988 as the authority for an award of the reasonable expenses of this litigation, in addition to attorneys' fees. Awards of fees under this section are granted liberally in this Circuit. See Dowdell v. City of Apopka, 698 F.2d 1181 (11th Cir. 1983). Unlike the restrictive scope of awards of costs under 28 U.S.C. § 1920, an award of costs under section 1988 is determined, not by a designated checklist of particular allowable items, but with an eye towards the facilitation of the enforcement of constitutional rights the purposes of section 1988 and the nature of the particular case. See id. at 1189 ("Because civil rights litigants are often poor, and judicial remedies are often non-monetary, the [Attorney's Fees Awards] Act shifts the costs of litigation from civil rights victim to civil rights violator."). As such, "[w]ith the exception of routine office overhead normally absorbed by the practicing attorney," prevailing plaintiffs and their attorneys should be compensated for "all reasonable expenses incurred in case preparation, during the course of litigation, or as an aspect of settlement of the case ...." Id. at 1192.

From a review of the affidavits submitted, it is reasonable

and appropriate to fully compensate Plaintiffs for photocopying expenses, see Northcross v. Board of Education, 611 F.2d 624, 639 (6th Cir. 1979), cert. denied, 447 U.S. 911 (1980); Henry v. Webermeier, 738 F.2d 188, 192 (7th Cir. 1984); long-distance telephone charges and postage, see Miller v. Carson, 628 F.2d 346, 349 (5th Cir. 1980); courier charges, see Alexander v. Nat'l Farmers Org., 696 F.2d 1210, 1212 (8th Cir. 1982), cert. denied, 461 U.S. 937 (1983); paralegal expenses, see Northcross, 611 F.2d at 639; Kirsey v. Danks, 608 F. Supp. 1448, 1460 (S.D. Miss. 1985); costs of transcripts (including expedited requests), see Virginia Academy of Clinical Psychologists v. Blue Shield, 543 F. Supp. 126, 151 (E.D. Va. 1982); computerized legal research, see Allen v. Freeman, 122 F.R.D. 589, 592 (S.D. Fla. 1988); travel expenses, see Guajardo v. Estelle, 432 F. Supp. 1373, 1388 (S.D. Tex. 1977), aff'd in part, rev'd in part on other grounds, 580 F.2d 748 (5th Cir. 1978); Lowen v. Turpinseed, 505 F. Supp. 512, 517-519 (N.D. Miss. 1980); and docket filing fees. We decline to award costs of word processing because they are part of "routine office overhead normally absorbed by the practicing attorney." Dowdell, 698 F.2d at 1192.[2]

Accordingly, it is hereby

ORDERED AND ADJUDGED that Plaintiffs' motion for an award of

[2] Because Cahill Gordon has described part of its cost request only as "Stenographic and Word Processing Services" without further breakdown or detail to allow differentiation between the two, we here decline to award this $6,177.75 item in its entirety. See Buckley Aff. at Ex. C. Should Cahill Gordon wish to submit further documentation of this charge, it is directed to so file within fifteen (15) days of the date of this Order.

attorneys' fees is GRANTED as follows:

Plaintiffs shall recover from Defendants the sum of $81,240.75 in attorneys' fees for the services of Cahill Gordon & Reindel; $25,750.00 in attorneys' fees for the services of Steel Hector & Davis; and $10,000 in attorneys' fees for the services of Joseph P. Averill, Esq.

Plaintiffs shall further recover from Defendants the sum of $12,536.16 as the incidental expenses of Cahill Gordon & Reindel; $3,958.65 as the incidental expenses of Steel Hector & Davis; and $188.02 as the incidental expenses of Mr. Averill.

Plaintiffs are directed to submit a proposed order of judgment on the award of attorneys' fees and costs within fifteen (15) days of the date of this Order.

DONE AND ORDERED in Miami, this 25th day of March, 1993.

STANLEY MARCUS
UNITED STATES DISTRICT JUDGE

copies to:
counsel of record