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, - v. - 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 representative of a defendant class of all county Supervisors of Elections in the State of Florida, Defendants.	Case No.: 06-22463-CIV Huck,J./Simonton,MJ

PLAINTIFFS MOTION AND ACCOMPANYING MEMORANDUM OF LAW IN SUPPORT OF AN AWARD OF ATTORNEYS' FEES AND EXPENSES PURSUANT TO 42 U.S.C. § 1988

Pursuant to 42 U.S.C. § 1988 and following this Court's Amended Final Judgment entered October 27, 2006, Plaintiffs 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. respectfully move this Court for an award of attorneys' fees and expenses in this action. The grounds supporting this motion are set forth in the Memorandum of Law in Support of Plaintiffs' Motion for an Award of Attorneys' Fees and Expenses Pursuant to 42 U.S.C. § 1988; the Affidavit of Susan Buckley in Support of Plaintiffs' Motion for an Award of Attorneys' Fees and Expenses Pursuant to 42 U.S.C. § 1988; and the Affidavit of Raymond V.

Miller in Support of Plaintiffs' Motion for an Award of Attorneys' Fees and Expenses Pursuant to 42 U.S.C. § 1988, each filed separately herewith.

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR AN AWARD OF ATTORNEY'S FEES AND EXPENSES PURSUANT TO 42 U.S.C. § 1988

This memorandum is respectfully submitted on behalf of 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 support of their motion for an award of attorneys' fees and expenses pursuant to 42 U.S.C. § 1988.

ARGUMENT

I. PLAINTIFFS ARE ENTITLED TO AN AWARD OF REASONABLE ATTORNEYS' FEES

As prevailing parties in an action brought pursuant to 42 U.S.C. § 1983 (2000) ("section 1983"), Plaintiffs are entitled to an award of reasonable attorneys' fees incurred in this action pursuant to the Civil Rights Attorney's Fees Awards Act of 1976, 42 U.S.C. § 1988 (2000) ("section 1988"). It cannot be disputed that Plaintiffs' claims in the present case arose under section 1983 and that the provisions of section 1988 are applicable. *See* Compl., ¶ 1.

Section 1988(b) provides that,

> [i]n any action or proceeding to enforce a provision of section[ ] . . . 1983 . . . of this title . . . the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

Congress and the courts have established a very liberal standard for awarding attorneys' fees to prevailing plaintiffs under section 1988. Indeed, the legislative history and case law make clear that prevailing plaintiffs are entitled to such an award "'unless special circumstances

would render such an award unjust.'" *Kentucky* v. *Graham*, 473 U.S. 159, 164 (1985) (quoting S. Rep. No. 94-1011, p. 4 (1976)). *See also Hensley* v. *Eckerhart*, 461 U.S. 424, 429 (1983). While an award of attorney fees under 42 U.S.C. § 1988 is within the discretion of the district court, courts have held that "the court's discretion is exceedingly narrow." *Church of Flag Service. Org., Inc. v. City of Clearwater*, 2 F.3d 1509, 1513 (11th Cir. 1993). *See also Maloney v. City of Marietta*, 822 F.2d 1023, 1025 (11th Cir. 1987) ("Our cases have made clear, however, that a court's discretion to deny fees to a prevailing party in these cases is 'exceedingly narrow'); *Solomon v. City of Gainesville*, 796 F.2d 1464, 1466 (11th Cir. 1986) ("Indeed, absent special circumstances that would render an award unjust, a prevailing plaintiff under section 1988 should be awarded fees 'as a matter of course.'").

In *Daily Herald v. Munro*, No. C83-840T (W.D. Wash. Oct. 5, 1987 and Mar. 31, 1989), the first litigation instituted challenging the constitutionality of restrictions on exit polling activities, the district court awarded plaintiffs $636,871.96 in fees and expenses incurred in that action.[1] Similarly, in *CBS Inc. v. Smith*, No. 88-0283-CIV-Marcus (S.D. Fla. Mar. 26, 1993), the first exit polling case litigated in the Southern District of Florida, this Court awarded plaintiffs $133,673.58 in fees and expenses — the full amount requested by plaintiffs.[2]

There can be no question that, here too, Plaintiffs are the prevailing parties within the meaning of section 1988. The test of whether one is a prevailing party is whether he or she has received substantially the relief requested or has been successful on the central issue. *See Solomon*, 796 F.2d at 1466; *See also Farrar v. Hobby*, 506 U.S. 103, 11-12 (1992) ("a plaintiff

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1 *See* Exhibits C and D and ¶ 36 of the Affidavit of Susan Buckley, sworn to on November 9, 2006 and submitted herewith.

2 *See id.* Exhibit E and ¶ 37.

prevails when actual relief on the merits of his claim materially alters the legal relationship between the parties by modifying the defendants' behavior in a way that directly benefits the plaintiff."). Here, Plaintiffs received all the relief they requested. This Court declared that Fla. Stat. § 102.031(4)(a) (2005) impermissibly proscribed constitutionally protected exit polling and that the statute was not narrowly tailored to address the interests of the state. This Court granted Plaintiffs' request for declaratory relief and issued a permanent injunction barring defendants from enforcing the Statute as applied to Plaintiffs' exit polling activities. *CBS Broadcasting Inc. v. Cobb*, No. 06-22463 (S.D. Fla. October 24, 2006). Plainly, the Court granted Plaintiffs' requested relief and "modified the defendants' behavior in a way that directly benefited the plaintiff." Accordingly, an award of attorneys' fees pursuant to section 1988 should be made as a matter of course.

As noted, a district court may deny a fee application only in the most limited circumstances, none of which is present here. *Johnson v. State of Mississippi*, 606 F.2d 635, 636 (Former 5th Cir. 1979) ("the prevailing plaintiff should ordinarily recover an attorney's fees unless special circumstances would render such an award unjust"). Special circumstances may exist where, for example, a prevailing party "declines to proffer any substantiation" of the fee amount, or where the application is "grossly and intolerably exaggerated" or "manifestly filed in bad faith." *Jordan* v. *Department of Justice*, 691 F.2d 514, 518 (D.C. Cir. 1982). Obviously, these narrow exceptions do not apply here.[3]

Even where state officers act in good faith in seeking to defend a state statute later held to

[3] It is Defendant's burden to show that such unusual circumstances exist. *Martin v. Heckler*, 773 F.2d 1145, 1150 (11th Cir. 1985), rev'd on other grounds by *Texas Teachers Assoc. v. Garland Independent School District*, 498 U.S. 782 (1989). To justify denial of section 1988 fees to prevailing plaintiffs, defendants must make a strong showing. *Martin*, 773 F.2d at 1150.

be unconstitutional, such good faith is not a "special circumstance" sufficient to deny an award of fees to the prevailing party and is, indeed, irrelevant to the fee award issue. *See Hutto* v. *Finney*, 437 U.S. 678, 699 n.32 (1978); *See also Martin,* 773 F.2d at 1150 ("Defendants' good faith, lack of culpability, or prompt remedial actions do not warrant a denial of fees under the special circumstances preclusion."); *Ellwest Stereo Theatre, Inc.* v. *Jackson*, 653 F.2d 954, 956 (5th Cir. Unit B 1981) ("The good faith of government defendants acting in their official capacity is not a relevant factor for the district court to consider when determining whether special circumstances exist.").

Nor is Plaintiffs' ability to pay their own counsel fees relevant to the analysis. *Ellwest*, 653 F.2d at 956 (5th Cir. 1981) ("prevailing plaintiffs' ability to pay is not a special circumstance rendering an award under § 1988 unjust"). *See also, Democratic Party v. Reed*, 388 F.3d 1281, 1285 (9th Cir. 2004) ("People and entities whose civil rights have been unconstitutionally abridged are generally entitled to attorneys' fees under § 1988 regardless of their ability to pay their attorneys"); *Jones v. Wilkinson*, 800 F.2d 989, 991 (10th Cir. 1986) ("the ability of a party to bring a suit without a fee award is not a special circumstance rendering a fee award unjust"); *Milwe v. Cavuoto*, 653 F.2d 80, 83 (2d Cir. 1981) ("That plaintiff was fortunate enough to be financially able to retain private counsel is irrelevant.").

Since no special circumstances exist in this case, Plaintiffs are entitled to an award of their reasonable attorneys' fees they have incurred. It remains only for the Court to determine reasonable attorneys' fees within the meaning of section 1988.

II. THE ATTORNEYS' FEES CLAIMED BY PLAINTIFFS ARE REASONABLE AND SHOULD BE AWARDED IN THEIR ENTIRETY

The Supreme Court has stated that "'[t]he most useful starting point for [determination of] the amount of a reasonable fee [payable to a prevailing party] is the number of hours

reasonably expended on the litigation multiplied by a reasonable hourly rate.'" *Gisbrecht* v. *Barnhart*, 535 U.S. 789, 802 (2002) (quoting *Hensley*, 461 U.S. at 433). The Eleventh Circuit and this Court have agreed. *See, e.g.*, *Mayson v. Pierce*, 806 F.2d 1556 (11th Cir. 1987). *Smith*, No. 88-0283-CIV-Marcus. The product of the two numbers is commonly referred to as the lodestar figure. *Camden I Condominium Assoc. Inc. v. Dunkle*, 946 F.2d 768, 772 (11th Cir. 1991).

The Supreme Court has also made clear that

> [w]hen . . . the applicant for a fee has carried his burden of showing that the claimed rate and number of hours are reasonable, the resulting product is presumed to be the reasonable fee contemplated by § 1988.

Blum v. Stenson, 465 U.S. 886, 897 (1984). *See also Pennsylvania v. Delaware Valley Citizens' Council for Clean Air*, 478 U.S. 546, 563-66 (1986); *Lattimore v. Oman Construction*, 795 F.2d 930, 931 (11th Cir. 1986).

As the first step in the lodestar determination, the Court must determine whether plaintiffs' attorneys' hours were reasonably expended. With respect to hours reasonably expended, "[t]he fee applicant bears the burden of establishing entitlement and documenting the appropriate hours and hourly rates." *Norman v. Housing Authority*, 836 F.2d 1292, 1303 (11th Cir. 1988). This proof must be sufficiently detailed to enable the courts to evaluate the reasonableness of the hours expended. *Id*. *See also, American Civil Liberties Union of Georgia v. Barnes*, 168 F.3d 423, 427 (11th Cir. 1999) ("[f]ee counsel should have maintained records to show the time spent on the different claims. . . so that the district court can assess the time claimed for each activity.").

In support of Plaintiffs' motion, the following affidavits have been submitted herewith:

- The Affidavit of Susan Buckley ("Buckley Affidavit"). Ms. Buckley describes in detail the background of this litigation, the practice of Cahill Gordon & Reindel LLP ("Cahill Gordon"), the professional background and experience of the members of the litigation team and the specific responsibilities of each Cahill Gordon attorney who worked on the case. Ms. Buckley also summarizes the tasks performed by individual Cahill Gordon attorneys during the course of the litigation and includes, as Exhibit A to her affidavit, the actual line-item contemporaneous daily time reports for the litigation. Ms. Buckley also describes, in detail, the tasks performed during the phases of the litigation and sets forth the sum of fees requested for work performed by each Cahill Gordon attorney during each phase, as well as the total of recoverable expenses incurred by that firm.

- The Affidavit of Raymond v. Miller ("Miller Affidavit"). Mr. Miller describes the role of co-counsel Gunster, Yoakley & Stewart P.A. ("Gunster Yoakley") in this action, and provides similar detail for fees requested and the recoverable expenses incurred by that firm.

Plaintiffs respectfully submit that the affidavits of Ms. Buckley and Mr. Miller more than satisfy the requirements articulated by the Supreme Court and the Eleventh Circuit and demonstrate that the hours expended by counsel for Plaintiffs are reasonable.

Ms. Buckley's affidavit makes clear that a significant proportion of the hours spent by Cahill Gordon attorneys was spent preparing the action for filing and preparing the Motion for Preliminary Injunction. (Buckley Affidavit ¶¶ 20-25.) Thereafter, in view of the Court's decision to proceed promptly to final hearing, most of the remaining hours spent by Cahill Gordon attorneys were spent on preparing a Reply to Defendants' Response to Plaintiffs' Motion for Preliminary Injunction, and preparing for oral arguments. (*Id.* at ¶¶ 26-29.) The other tasks undertaken were assistance in preparation of the Motion to Amend the Final Judgment and the

preparation of the present submission, both of which were quickly and efficiently done. Those fees as well are fully reimbursable under section 1988. *Johnson*, 606 F.2d at 638. ("We conclude that attorney's fees may be awarded for time spent litigating the fee claim.").

The affidavits of Ms. Buckley and Mr. Miller also demonstrate that care was taken to allocate responsibility for the various tasks required in handling the matter. Ms. Buckley, in light of the breadth and depth of her experience in handling these matters, was heavily involved in supervising all aspects of the case. She handled client conferences and communications, directed strategy, final preparation of all papers and made the oral presentation to the Court. Both firms took care to prevent duplication of efforts in the handling of the case. Mr. Miller and Gunster Yoakley principally focused their efforts on preparation of the papers related to class certification, researched Florida law and legislative history, and in connection with the reply papers, conducted the factual investigation and support for the October 17, 2006 Declaration of Mark Workman.

As the Buckley and Miller affidavits also demonstrate, care was taken to delegate tasks to the qualified professional whose hourly rate was the lowest. Thus much of the drafting of papers was handled by associates at Cahill Gordon & Reindel LLP and Gunster Yoakley & Stewart, P.A. Factual and historical research was handled by paralegal staff when possible.

As the second step in the lodestar determination, the Court must also determine a reasonable hourly rate. "A district court has broad discretion to determine what constitutes a reasonable hourly rate for an attorney." *Norman*, 836 F.2d at 1301. "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'" *Id*. (quoting *Blum*, 465 U.S. at 896 n.11) (citation omitted); *See also Gaines v. Dougherty Co. Board of Education*, 775 F.2d 1565,

1571 (11th Cir. 1985) ("[r]reasonable fees under § 1988 are to be calculated according to the prevailing market rates in the relevant community, regardless of whether plaintiff is represented by private or nonprofit counsel ") (quoting *Blum*, 465 U.S. at 895) (emphasis removed). A logical starting place for the Court is the hourly rate normally charged by the applicant. *Hadix v. Johnson*, 65 F.3d 532, 536 (6th Cir. 1995) ("where an attorney requesting fees has well-defined billing rates, those rates can be used to help calculate a reasonable rate for the fee award . . . [N]ormal billing rates usually 'provide an efficient and fair short cut for determining the market rate.'); S*ee also Mayson,* 806 F.2d at 1563, (Clark, J dissenting) ("The starting point in assessing reasonable fees when the successful litigant is represented by private counsel is his regular hourly billing rate. . .").

As the affidavits of Ms. Buckley and Mr. Miller demonstrate, the rates charged Plaintiffs by both Cahill Gordon and Gunster Yoakley are the rates normally charged by those firms for work performed. The rates reflect counsel's experience level and the quality of their work, consistent with the prevailing market rates for similar competent counsel in New York and Miami, respectively.

Although the hourly rate should normally be determined by rates prevailing in the place where the district court is located, this Court has also made it clear that such a rule 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." *Smith,* No. 88-0283-CIV-Marcus, at 5. The Eleventh Circuit has noted that:

> . . . there might be a case where use of an attorney from a higher-rate market who had extensive prior experience with a particular factual situation could be justified because of efficiencies resulting from that prior experience. That could be reasonable and cost sensible, especially if it resulted in lower costs than would otherwise be necessary.

*Barne*s, 168 F.3d at 438.

This case is the perfect example of just such a case. As lead counsel in six of the seven prior litigations challenging statutes that restricted the conduct of exit polls (and counsel for *amici curiae* in the seventh), Cahill Gordon attorneys gathered valuable experience that was indispensable in bringing this action to a successful conclusion in the most efficient way possible. (*See* Buckley Affidavit ¶ 7-8.) Ms. Buckley's experience was particularly valuable, as she was personally involved in each of those seven prior litigations. (*Id.* ¶ 9.) Plaintiffs should not be penalized for retaining a New York firm as counsel in this action when the very reason for doing so was to minimize the time necessary to prepare and present their case. *See, e.g.*, *Chrapliwy* v. *Uniroyal, Inc.*, 670 F.2d 760, 770 (7th Cir. 1982), *cert. denied*, 461 U.S. 956 (1983); *Maceira* v. *Pagan*, 698 F.2d 38, 40 (1st Cir. 1983). In *CBS v. Smith* this Court, in finding sufficient grounds to apply the Cahill Gordon rates ordinarily billed, stated that based on its "familiarity with the First Amendment work of the Cahill Gordon firm, . . . we find sufficient grounds to apply the Cahill Gordon rates ordinarily billed[,]" because the firm "is unquestionably pre-eminent in the field of First Amendment litigation." *Smith*, No. 88-0283-CIV-Marcus, at 5 (attached as Exhibit E to the Buckley Affidavit). It cannot be disputed that Ms. Buckley's and Cahill Gordon's experience in cases concerning the constitutionality of state restrictions on exit polling activities is unmatched by any firm in the country. In determining Plaintiffs' fee award in the instant matter, the Court, as in *CBS v. Smith*, should apply the Cahill Gordon rates ordinarily billed.

Having demonstrated the reasonableness of the time spent and the reasonableness of the rates charged, the lodestar amount — the product of the two — is established. There is a "strong presumption" that this lodestar figure represents a reasonable fee. *Smith*, No. 88-0283-CIV-

Marcus, at 6. (citing *Delaware Valley I*, 478 U.S. at 565). The district court may adjust the fee award upward or downward from the lodestar amount based on other considerations. *Hensley*, 461 U.S. at 434; *Dunkle*, 946 F.2d at 772. The factors governing such adjustments were first articulated in *Johnson* v. *Georgia Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974), and have been adopted by the Eleventh Circuit.[4] *See*, *e.g.*, *Mayson*, 806 F.2d at 1559;

In the instant matter Plaintiffs prevailed on their claim for relief. The Eleventh Circuit has held that if a "plaintiff obtains 'excellent results,' his attorney should be fully compensated for all time reasonably expended on the litigation." *Popham v. City of Kennesaw*, 820 F.2d 1570, 1578-79 (11th Cir. 1987) (quoting *Hensley*, 461 U.S. at 435). Here, it cannot be disputed that Plaintiffs obtained "excellent results," since Plaintiffs completely prevailed on the their claim that exit polling is an activity protected by the First Amendment within the 100-foot zone around Florida polling places, and obtained a permanent injunction barring the Secretary of State and county Supervisors of Elections from enforcing Fla. Stat. § 102.031(4)(a) as applied to Plaintiffs exit polling activities. Thus, application of the "results obtained" factor supports Plaintiffs' fee award.

The most critical factor in determining the award of attorney's fees is the degree of success the party obtained. *Mills v. Freeman*, 118 F.3d 727, 733 (11th Cir. 1997). As discussed above, Plaintiffs obtained the highest success possible in the instant matter and should be fully

[4] As summarized in *Hensley*, the twelve factors are: "(1) the time and labor required; (2) the novelty and difficulty of the questions; (3) the skill requisite to perform the legal service properly; (4) the preclusion of employment by the attorney due to 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 attorneys; (10) the 'undesirability' of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases." 461 U.S. at 430 n.3. The *Hensley* Court also observed that "many of these factors usually are subsumed within the initial calculation of hours reasonably expended at a reasonable hourly rate." *Id.* at 434 n.9.

compensated. A review of some of the other relevant factors articulated in *Johnson* v. *Georgia Highway*, however, also supports the award of the fee amount requested by Plaintiffs. The "time and labor" factor — the factor most obviously subsumed in the lodestar analysis — has been discussed at length above. As detailed in the affidavits of Ms. Buckley and Mr. Miller, the fees charged by Cahill Gordon and Gunster Yoakley are the customary rates charged by those firms. The question raised by this litigation was of state-wide importance. The issue had, of course, been raised and decided in previous cases dealing with the constitutionality of exit polling restrictions. For just that reason, however, the experience and research gleaned from Cahill Gordon's representation of the plaintiffs in the seven prior exit polling litigations, beginning with *Daily Herald* v. *Munro*, served the clients well in terms of both expertise and efficiency. Indeed, the skills necessary for this case were honed in those seven prior cases and are unique to Plaintiffs' counsel.

The experience, ability and reputation of the firm of Gunster Yoakley is no doubt well-known to the Court. The experience, ability and reputation of Ms. Buckley and the other Cahill Gordon attorneys involved in this case are fully set forth in the Buckley Affidavit along with a brief description of the firm of Cahill Gordon and its experience in First Amendment litigation.

The final *Johnson* v. *Georgia Highway* factor looks to awards in similar cases. As indicated above, plaintiffs obtained $636,871.96 in fees and expenses in *Daily Herald* v. *Munro* and obtained the full amount requested, $133,673.58 in fees and expenses, in *CBS Inc.* v. *Smith.*[5] If these amounts are adjusted for inflation and compared to the amount requested here, it is clear that the fee award requested here is reasonable.

Thus, under the traditional "lodestar" analysis combined with the application of the

[5] *See* Buckley Affidavit ¶ 36-37, Ex C, D, E.

relevant *Johnson* factors, Plaintiffs respectfully submit that they have demonstrated that the fees incurred in seeing this litigation to a successful conclusion are reasonable and should be awarded in their entirety.

III. PLAINTIFFS' EXPENSES INCURRED IN PURSUING THIS ACTION SHOULD BE REIMBURSED AS PART OF AN AWARD OF ATTORNEYS' FEES UNDER SECTION 1988

Decisions in the courts of this circuit have awarded expense reimbursements liberally as appropriate to the specific litigation. *Dowdell v. City of Apopka*, 698 F.2d 1181, 1191 (11th Cir. 1983). In *Dowdell*, the Eleventh Circuit, in determining that travel, telephone, and postage were taxable expenses under section 1988 held:

> . . .with the exception of routine office overhead normally absorbed by the practicing attorney, all reasonable expenses incurred in case preparation, during the course of litigation, or as an aspect of settlement of the case may be taxed as costs under section 1988. As is true in other applications of section 1988, the standard of reasonableness is to be given a liberal interpretation. . .The guideline of what is includable must be that which is appropriate in the context of the attorney-client relationship, the substantive and procedural nature of the case, and the climate in which the litigation is conducted.

Dowdell, 698 F.2d at 1192 (citations omitted).

Thus, the Court must undertake the same general analysis employed to determine the reasonable attorneys' fee lodestar. Plaintiff is entitled to an award of reasonable expenses as a matter of course, and any reductions should occur only where the expenses sought are deemed unreasonable. *Dowdell*, 698 F.2d at 1191 (expenses are "liberally" dispensed as appropriate to the specific litigation and "even relatively large and unusual costs may be taxed when they are reasonably incurred").

In *CBS v. Smith*, this Court found it reasonable and appropriate to fully compensate Plaintiffs for photocopying, long-distance telephone charges and postage, courier charges, paralegal expenses, costs of transcripts, computerized legal research, travel expenses and docket

filing fees. *Smith*, No. 88-0283-CIV-Marcus, at 7-8. Plaintiffs in the instant matter are seeking recovery of similar expenses.

The expenses incurred by Cahill Gordon and Gunster Yoakley are described in detail in the affidavits of Ms. Buckley and Mr. Miller. All of these expenses were of the type "normally charged to a fee-paying client" and all are recoverable under section 1988. *See Dowdell*, 698 F.2d at 1192. Thus, Plaintiffs should be fully compensated for printing and photocopying expenses, facsimile and long distance telephone charges, postage, courier and air freight, computer-assisted research, overtime, word processing expenses, and travel expenses. *See id.*

CONCLUSION

Plaintiffs' motion for an award of reasonable attorneys' fees, including appropriate expenses, should be granted in its entirety.

WHEREFORE, pursuant to 42 U.S.C. §1988, Plaintiffs respectfully request that Defendants be held jointly and severally liable for Plaintiffs' attorney's fees and expenses associated with bringing and litigating the instant action.

Dated this 9th day of November, 2006.

Respectfully Submitted,

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