

**MEMORANDUM OF POINTS AND AUTHORITIES SUBMITTED
BY PLAINTIFF ██████████ IN OPPOSITION TO
MOTION FOR ORDER FIXING THE AMOUNT OF DEFENDANT
██████████'S ATTORNEYS' FEES AND COSTS**

1. Introduction.

Plaintiff ██████████ (“██████████”) filed this action against defendant ██████████ ██████████ (“██████████”) after ██████████, a former tenant in an apartment building owned by ██████████, slammed his car into a supporting pillar in the garage of the building. This caused the building to partially collapse, and it is estimated that repair and reconstruction costs, together with the diminution in the value of ██████████’s property due to certain building code changes since the structure was first erected, will be well in excess of \$250,000.

Prior to the time this action was brought, ██████████ brought a small claims action against ██████████ for \$1,000, claiming the right to a refund of his security deposit. The small claims court found against ██████████ and in favor of ██████████. Following a hearing in that proceeding, ██████████, as ██████████’s pleadings allege, said loudly in the hallway outside the courtroom: “██████████ ██████████ committed insurance fraud.”

██████████ amended her complaint to add a cause of action for slander. ██████████ responded with an anti-SLAPP motion, which this court granted. The 1992 anti-SLAPP legislation adopted in California provides for the award of reasonable attorneys’ fees to parties who prevail on anti-SLAPP motions. ██████████, incredibly, has brought before this Court a motion in which he seeks the unbelievably outrageous sum of \$66,758.32 for the bringing of a single, relatively straightforward motion. Of this amount, \$66,047.50 consists of attorneys’ fees, and \$710.82 consists of costs.

As hereafter set forth, the pending motion represents nothing less than an attempt at a “shake-down” of ██████████ for an outrageous amount.

2. Summary of ██████'s Argument.

█████ objects to █████'s motion on two separate grounds. First, the hourly rate claimed by █████'s counsel is far above the norm for services of the type that were rendered, after taking into account █████'s counsel's particular expertise in the area of law involved, and the attempt to include an arbitrary multiplier of 1/3rd of the fees in addition to the already outrageous hourly rate is totally inappropriate. Second, the number of hours alleged to have been spent in the preparation of the motion are obviously padded -- to an extraordinary degree.

3. The Hourly Rate Claimed by █████'s Counsel is Far Above the Norm for Services of the Type That Were Rendered, After Taking Into Account █████'s Counsel's Particular Expertise in the Area of Law Involved, and the Attempt to Include an Arbitrary Multiplier of 1/3rd of the Fees in Addition to the Already Outrageous Hourly Rate is Totally Inappropriate.

Of the total of 136.05 hours of attorney time billed, all but 20.00 hours were purportedly expended by attorney ██████, Esq. Mr. █████ is a 1978 graduate of Western State College of Law. He has declared under penalty of perjury, in his declaration that accompanies the motion for attorneys' fees and costs ("█████ Declaration"), that "For the past 28 years I practiced civil litigation with a primary emphasis on business litigation involving intellectual property, especially the defense of defamation and invasion of privacy claims." █████ Declaration at p. 20, lns. 23-26. Based on this claimed expertise, the motion seeks recompense at the rate of \$450.00 per hour for Mr. █████'s time purportedly spent in preparing and arguing the anti-SLAPP motion, and the instant motion for attorneys' fees.

Mr. █████'s claim in his sworn declaration regarding his supposed 28 years of expertise practicing in the areas of defamation and invasion of privacy claims does not square very well

with other information about him that is a matter of public record. According to the most recently updated website for the [REDACTED], of which Mr. [REDACTED] is a member and for which he serves as counsel:

“[REDACTED] is especially well suited to counsel advertising photographers, having done so in all aspects of their business for over 20 years. We are often called upon to guide photographers through the complex issues that can arise in matters involving their relationships with insurance companies, reps, assistants, employees, contractors, third-party suppliers, clients, model, advertising and design agencies, models, stock agents, publishers and other players in the industry, as well as in matters involving technology, e-commerce and the Internet. We use our litigation experience, traditional intellectual property background and technical knowledge to counsel clients in the areas of strategic intellectual property assessment and management in anticipation of, and through litigation. We enforce and defend our clients' rights before the U.S. Copyright Office, the U.S. Trademark Trial and Appeal Board, the California Labor Commissioner, and trial and appellate courts through out the United States. We frequently advise clients on employment and business law matters and dispute resolution.”

Note that no mention of any expertise relating to “defamation” or “invasion of privacy” claims is mentioned. It thus appears that Mr. [REDACTED] has, at least in this instance, simply attempted to tailor-make his declaration in order to justify his extraordinarily high \$450 hourly rate. The averments as to expertise in the declaration, simply stated, are bald faced lies.

Other publicly available sources also indicate that Mr. [REDACTED] spends a great deal of his time engaging in activities other than representing clients in defamation and invasion of privacy suits. According to the website for the [REDACTED], in an entry dated July 5, 2005, Mr. [REDACTED] was one of the attendees of the following described event:

<p style="text-align: center;">ESCAPE OF THE FREELANCE CONSCIENCE</p>
--

THE TRIALS AND TRIBULATIONS OF ONE FREELANCE CONSCIENCE IN
LOS ANGELES

[JEN CHAU PHOTOGRAPHY]
[FREELANCE CONSCIENCE ON MYSPACE]
[CREATIVE FORGE AND THE TINY WASTELAND]

This activity, too, seems to indicate that Mr. ██████'s main interests are not in studiously parsing the latest developments in defamation and invasion of privacy law. Two months after attending the above-described event, Mr. ██████ was mentioned in the ██████, 2005 edition of ██████ *Magazine* as having become newly affiliated with one of the many suborganizations that collectively make up the "World Institute of Scientology Enterprises." So there is no doubt that Mr. ██████ is a busy fellow; he is just not busy doing what he claims he does in his sworn declaration.

The Court need not rely on these third-party organizations for a recapitulation of Mr. ██████'s true areas of expertise; indeed, they are set forth on his firm's very own website. According to that source, the firm, of which Mr. ██████ is the lead principal, devotes its energies to:

"Civil Litigation in all State and Federal Courts, Intellectual Property including Unfair Competition, Copyright, Trademark, Internet and Technology Law; Advertising, Antitrust and Trade Regulation, Art and Photography Law; Complex and Multi-District Litigation; Computers and Software; Business Law; Contracts; Entertainment and the Arts; Internet Law; Labor and Employment; Libel; Slander and Defamation; Media Law; Real Estate; Probate, Trust and Estate Litigation; Technology and Science; Trade Secrets; and Prosecution of Intellectual Property Applications."

It is true that the website does mention "Slander and Defamation" in passing; but then again, it claims expertise in just about every other conceivable area of the law, too.

Mr. ██████'s primary activities were the subject of a ██████, 1998 article in the *Los Angeles Times* by Ms. Denise Hamilton. According to that profile:

“Is someone reproducing your corporate logo on the Net? Downloading personal information you thought was private? Defaming you in an electronic gossip column? Then you may need a cyber lawyer, one of the most dynamic professions in law today. As Web sites proliferate and millions of individuals and businesses go online, demand for lawyers versed in the emerging field of internet law has grown correspondingly, providing a good living to attorneys such as ██████.

Specializing in intellectual copyright, ██████ is a relative old-timer in high-tech law. He began representing software developers in the mid-1980s, grew alongside the industry and now spends almost half his time on cyber law.

That includes representing Web site owners, content suppliers, developers, designers and visual artists. Legal experts say top performers in this field combine a grounding in traditional telecommunications law with a technical understanding of the Net.”

As the Court well knows from its own file in the action at bar, none of the issues presented herein, or presented by ██████'s anti-SLAPP motion, have anything whatsoever to do with “cyberlaw.”

Mr. ██████'s niche as part of the ██████ website, presumably prepared by the ██████ firm itself, paints the firm as specializing in the following areas:

“We handle all arts related issues, including:

- Copyright
- Contract drafting, review and negotiation
- Nonprofit Organization Issues
- Landlord/Tenant
- Organizational Tax (not individual tax)
- Employee/independent contractor
- Mediation and Arbitration
- And more”

A sort of smorgasbord of widely diverse areas of the law, but without any mention of the expertise in “defamation” and “invasion of privacy” claimed in the [REDACTED] Declaration. Insofar as [REDACTED]’s specific expertise in bringing anti-SLAPP motions, a thorough review of public court records indicate that at the present time, there are a total of 861 SLAPP-related lawsuits pending in the Superior Court of Los Angeles County; 255 in the Superior Court of Orange County; 82 in the Superior Court of Riverside County; 70 in the Superior Court of Sacramento County; 73 in the Superior Court of San Bernardino County; 250 in the Superior Court of San Diego County; 158 in the Superior Court of San Francisco County; 29 in the Superior Court of Ventura County; and 18 in the Superior Court of Kern County. The only one of these actions in which Mr. [REDACTED] is listed as counsel of record for any party is the present action at bar.

In view of the overwhelming evidence from third-party sources -- most of who’s information was presumably furnished by Mr. [REDACTED] himself -- the [REDACTED] Declaration’s claim that the hourly rate of \$450 is justified because Mr. [REDACTED] is an expert in anti-SLAPP litigation falls flat on its face. The question thus becomes: Given that he is not in fact an expert in anti-SLAPP litigation, what hourly rate would be appropriate?

The standard that governs in California was set out in *Serrano v. Priest*, 20 Cal.3d 25 (1977) (known to most commentators as “*Serrano III*”). Under *Serrano III*, a court assessing attorney fees begins with a touchstone or lodestar figure, based on the “careful compilation of the time spent and reasonable hourly compensation of each attorney...involved in the presentation of the case.” *Serrano III, supra*, 20 Cal.3d at p. 48. The court in *Serrano III* expressly approved the use of prevailing hourly rates as a basis for the lodestar, noting that anchoring the calculation of attorneys’ fees to the lodestar adjustment method “...is the only way of approaching the problem that can claim objectivity, a claim which is obviously vital to the prestige of the bar and

the courts." *Id.* at p. 48, fn. 23. In referring to "reasonable" compensation, the California Supreme Court indicated that trial courts must carefully review attorney documentation of hours expended; and it specifically pointed out that "padding" in the form of inefficient or duplicative efforts cannot serve as a basis of recovering attorney compensation. See *id.* at p. 48.

Later, in *Press v. Lucky Stores Inc.*, 34 Cal.3d 311, 322 (1983), the Court emphasized the importance of the "...proper determination and use of the lodestar figure..." in calculating awards of attorneys' fees. The court acknowledged the discretion of the trial court in establishing fees, but emphasized that because the determination of the lodestar figures is so fundamental to arriving at an objectively reasonable amount, "...the exercise of that discretion must be based on the lodestar adjustment method." (*Ibid.*)

There is a strong presumption that the lodestar figure itself, by definition, constitutes a reasonable attorneys' fee. To determine a reasonable attorneys' fee, the court must multiply the number of hours reasonably expended on the litigation by a reasonable hourly rate. *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). There is a "strong presumption" that this "lodestar" figure constitutes a reasonable attorneys' fee because most relevant considerations are subsumed within this initial calculation. *Pennsylvania v. Delaware Valley Citizens' Council for Clean Air*, 478 U.S. 568, 564-65 (1986). Only in "rare" or "exceptional" cases will adjustment of the lodestar be appropriate. *Id.* at 565.

In addition to establishing a reasonable hourly rate, the fee applicant also "...bears the burden of...documenting the appropriate hours expended." *Hensley, supra*, 461 U.S. at 437. As part of that burden, the applicant should exercise "billing judgment" regarding the number of hours worked and also provide the court with billing records supporting the time claimed. *Id.* at 433, 437.

The question just becomes what hourly rate should be appropriate given that, contrary to the claims made in the [REDACTED] Declaration, [REDACTED]'s counsel is not in fact an expert, or even particularly well-versed, in anti-SLAPP litigation. The Court is undoubtedly familiar with the firm Altman Weil, Inc., a company regarded as one of the premier consultants to law firms throughout the world. According to the *Altman Weil Survey of Law Firm Economics* (2005 Edition), the median billing rate for partners with 21 or more years of experience was \$295 per hour in 2004.¹ But the same source points out that there are marked differences that depend, among other things, about whether the attorney is a member of a large firm versus a small firm. According to the *Altman Weil Survey* performed for 1999, the following results attained:

Average Law Firm Billing Rates

Hourly Billing Rates

For law firms with less than nine lawyers, the following guide provides the national average and median hourly billing rates for lawyers, associates, and paralegals. Of course, local firm rates will vary, depending on location and the specifics of your situation.

<u>Status</u>	<u>Average</u>	<u>Median*</u>
Partners/Shareholders	\$183	\$175
Associates	\$139	\$130
Paralegals	\$72	\$70

*The middle value of data collected

¹ Other surveys have differed on this amount. According to Jennifer S. Lee, "Dot.Com, Esq.: Legal Guidance, Lawyer Optional," February 2, 2001, "At the same time, the online offerings have accelerated a movement toward "unbundled" legal services, with charges based on the service rather than the lawyer's time. The average hourly rate for a lawyer is about \$180."

Hourly billing rates also depend on the lawyer's professional experience. The following chart provides the average and median rates for law firms with less than nine lawyers.

<u>Years in Practice</u>	<u>Average</u>	<u>Median*</u>
Under 2 Years	\$121	\$105
2-3 Years	\$129	\$122
4-5 Years	\$142	\$150
6-7 Years	\$151	\$145
8-10 Years	\$150	\$150
11-15 Years	\$177	\$175
16-20 Years	\$177	\$160
21 or More Years	\$196	\$180

*The middle value of data collected

Even taking the absolute highest hourly rate given in the *Altman Weil* data and factoring in an increase compounded annually at 5%, the average hourly rate at the end of 2005 for partners with more than 21 years' experience in law firms with less than 9 attorneys would have been \$250.17.

Even assuming that Mr. ██████ really spent 116.05 hours in connection with the anti-SLAPP motion (that amount is clearly inflated; see #4 below), the amount to which he would be entitled would be diminished from \$52,222.50 to \$29,032.23, a reduction of \$23,190.27.

█████ argues in his points and authorities that "Defendant negotiated with ██████ an adjusted hourly rate of \$300, which reduced by one-third or \$150 the specified current rate of \$450. The contingent hourly rate of \$150 should be awarded because it has accrued on defendant's behalf and is reasonable under the circumstances." ██████ Memorandum of Points and Authorities at p. 11, Ins. 14-18. This exact argument has been resoundingly rejected by the courts.

In *Ketchum v. Moses*, 24 Cal.4th 1122, 1132 (2001), cited with approval in *Metabolife Intern., Inc. v. Wornick*, 213 F.Supp.2d 1220 (S.D. Cal. 2002), the court said:

“We emphasize that when determining the appropriate enhancement, a trial court should not consider these factors to the extent they are already encompassed within the lodestar. The factor of extraordinary skill, in particular, appears susceptible to improper double counting; for the most part, the difficulty of a legal question and the quality of representation are already encompassed in the lodestar. A more difficult legal question typically requires more attorney hours, and a more skillful and experienced attorney will command a higher hourly rate. (See *Margolin v. Regional Planning Com.* (1982) 134 Cal.App.3d 999, 1004.) Indeed, the 'reasonable hourly rate [used to calculate the lodestar] is the product of a multiplicity of factors...the level of skill necessary, time limitations, the amount to be obtained in the litigation, the attorney's reputation, and the undesirability of the case.' (*Ibid.*) Thus, a trial court should award a multiplier for exceptional representation only when the quality of representation far exceeds the quality of representation that would have been provided by an attorney of comparable skill and experience billing at the hourly rate used in the lodestar calculation. Otherwise, the fee award will result in unfair double counting and be

unreasonable. Nor should a fee enhancement be imposed for the purpose of punishing the losing party.”

In addition to the fact that the application of a multiplier would be inappropriate here, ██████ has, in his calculations in the pending motion, actually applied the multiplier *twice*. He first argues that the fee arrangement with his client was \$300 per hour; he then argues that a 1/3rd multiplier of an additional \$150 per hour should be applied. He then attempts to deliberately mislead the Court when, on page 3 of the pending motion, he seeks to again add a multiplier of \$150 per hour to the 72.50 hours he claims he spent with reference to the anti-SLAPP motion, resulting in an additional \$10,875 in attorneys’ fees. This is nothing short of outright deception and should be dealt with as such.

Properly performed, the calculation of attorneys’ fees at the rate of \$250.17 per hour should be conducted as follows:

Amount claimed by ██████:	\$ 52,222.50
Less discount as set forth in these points and authorities at pp. 9, Ins. 9 through 7 above:	\$ 23,190.27
Less double-counted amount of multiplier as set forth on page 3 of ██████ points and authorities:	\$ 10,875.00
Correct amount of ██████ fees:	\$ <u>18,157.23</u>

If this were a First Amendment case, and Alan Dershowitz had been retained to represent ██████, a legitimate argument could be made for imposing a “multiplier” on top of the lodestar. But it is a garden variety² anti-SLAPP case in which attorney ██████, by all unbiased available

² Considering that the anti-SLAPP statute has only been in place since 1992, it has spawned enough litigation to have earned the designation “garden variety.” As of this writing, there have been a total of 290 reported and unreported appellate cases in California dealing with one aspect

accounts, has no special or particular expertise. The lodestar amount of \$250.17 per hour would accordingly be appropriate here -- but only to the extent that real, legitimate, and necessary hours were expended by [REDACTED].

4. The Number of Hours Alleged to Have Been Spent by [REDACTED] is Obviously Inflated.

The motion claims that attorney [REDACTED] spent a total of 116.05 hours in connection with the anti-SLAPP motion; that attorney [REDACTED], Esq. spent a total of 20.00 hours on the same project; and that .50 paralegal hours were also expended. The total attorney hours claimed between Messrs. [REDACTED] and [REDACTED] is alleged to be 136.05.

The anti-SLAPP motion itself was comprised of two pages consisting of the Notice of Motion; nine pages of points and authorities; and a two-page declaration of [REDACTED]. In the Memorandum of Points and Authorities, a total of fifteen cases were cited.

There are several ways of looking at the outrageous attorneys' fees [REDACTED] is now attempting to claim:

- 136.05 attorney hours divided by 15 cases would indicate that an average of over 9 hours was spent reviewing each case.
- 136.05 attorney hours divided by 9 pages of points and authorities would indicate that it took over 15 hours to write each page.

or another of the anti-SLAPP statute. The Legislature itself seemed to belatedly have recognized that in its original inception as *Code of Civil Procedure* § 425.16, the lawmakers had gone far overboard; subsequently, *Code of Civil Procedure* § 425.17(a) was adopted, which provides: "The Legislature finds and declares that there has been a disturbing abuse of Section 425.16, the California Anti-SLAPP Law, which has undermined the exercise of the constitutional rights of freedom of speech and petition for the redress of grievances, contrary to the purpose and intent of Section 425.16."

More importantly, according to the [REDACTED] Declaration, his law firm became co-counsel of record in these proceedings for [REDACTED] on December 7, 2005. [REDACTED] Declaration at p. 18, Ins. 6-7. The anti-SLAPP motion was dated December 27, 2005. On page 3 of the motion's points and authorities [REDACTED] claims to have spent 72.50 hours preparing the motion, and his co-counsel, Mr. [REDACTED], claims to have spent 20.00 hours of his own time in this same endeavor. [REDACTED] is thus attempting to persuade this Court that in the 21 days that elapsed from the time of [REDACTED]'s first appearance in this action to the date of the anti-SLAPP motion, a total of 92.50 attorney hours were devoted to the cause. That would mean that 4.40 attorney hours were spent each and every day, including weekends, Christmas Eve, Christmas Day, and Hanukkah. During these supposed hours, a total of 9 pages of points and authorities citing a grand total of 15 cases got produced.

In *Environmental Defense Fund, Inc. v. Reilly*, 1 F.3d 1254 (C.A.D.C. 1993), the court declared, in a statement applicable to all scenarios in which a court is called upon to determine the reasonableness of an attorneys' fee award:

“As already mentioned, we determine an attorney's fee by multiplying the prevailing hourly rate (or ‘lodestar’) by the number of attorney hours reasonably expended. See *Hensley*, 461 U.S. at 433, 103 S.Ct. at 1939. In deciding the reasonableness of the hours reported, we properly disallow ‘time spent in duplicative, unorganized or otherwise unproductive effort.’ *Jordan v. Department of Justice*, 691 F.2d 514, 518 (D.C.Cir.1982). We may deny in its entirety a request for an ‘outrageously unreasonable’ amount, lest claimants feel free to make

‘unreasonable demands, knowing that the only unfavorable consequence of such misconduct would be reduction of their fee to what they should have asked for in the first place.’ Brown v. Stackler, 612 F.2d 1057, 1059 (7th Cir.1980); accord Jordan, 691 F.2d at 518; Trichilo v. Secretary of Health and Human Services, 823 F.2d 702, 708 (2d Cir.1987). In a case of less egregious overbilling, we may impose a lesser sanction, such as awarding a fee below what a ‘reasonable’ fee would have been in order to discourage fee petitioners from submitting an excessive request. Farris v. Cox, 508 F.Supp. 222, 227 (N.D.Cal.1981) (denying attorney's fee for work on fee petition in order to ‘curb the practice of padding fee requests’ but awarding fee for work on merits).”

[Emphasis added]

Another court noted that "Hours that are not properly billed to one's client are also not properly billed to one's adversary pursuant to statutory authority." Copeland v. Marshall, 641 F.2d 880, 891 (D.C. Cir. 1980). Still another court observed that "...there is a point at which thorough and diligent litigation efforts become overkill." Okla. Aerotronics, Inc. v. United States, 943 F.2d 1344, 1347 (D.C. Cir. 1991). In Environmental Defense Fund, supra, the court referred to the number of hours logged by one particular attorney who worked on the case in these terms: “While we ordinarily probe a petition for attorneys' fees with particular care, EDF v. EPA, 672 F.2d 42, 54 (D.C.Cir.1982), even a perfunctory examination of Engel's time entries would show that she billed on a Brobdingnabian scale.” 1 F.3d 1254 at 1259. ██████ has done nothing less in the action at bar.

Further proof that the hours have been spectacularly inflated is evidenced by a letter dated March 14, 2006, sent by co-counsel for ██████ to ██████'s counsel. A copy of that letter is attached hereto as Exhibit "A". One sentence in the letter reads: "Currently, his attorneys have expended approximately \$43,000 in fees and costs related to the Motion." Three days later, on March 17, 2006, the pending motion was filed, asking for \$66,758.32. Somehow, within a mere three-day period, ██████'s attorneys managed to run up an additional \$23,758.32 in attorneys' fees. ██████'s duplicity as evidenced by his own counsel's letter is so outrageous as to border upon the obscene. At the very least, it amounts to a wholesale fraud on both the Court as well as on ██████. This fraud was further perpetuated when, on March 16, 2006, *one day* before the motion for attorneys' fees was filed, ██████'s counsel wrote to ██████'s counsel, inquiring: "In any event, your letter did not respond to the pending offer. Is your client still considering accepting the proposal? Please let me know." A copy of this letter is attached hereto as Exhibit "B".

In March 14, 2006 letter, ██████'s counsel offered to settle the entire matter for \$21,500. That is within \$3,500 of ██████'s calculation of what the *real* fees should be as set forth on page 11 of these points and authorities above. The offer was still open one day before the motion for attorneys' fees was filed. ██████ submits that the amount reflected in the settlement proposal affords the Court a glimpse of what ██████ and his counsel truly believe their claim to be worth, as opposed to the obviously inflated amounts claimed in the pending motion.

5. Conclusion.

██████ respectfully submits that it is obvious that spending \$66,758.32 to bring a single motion responding to a single cause of action is patently ridiculous.³ The Court should

follow the language in *Brown, supra*, as quoted in *Environmental Defense Fund, Inc., supra*, when the court admonished: “We may deny in its entirety a request for an ‘outrageously unreasonable’ amount, lest claimants feel free to make ‘unreasonable demands, knowing that the only unfavorable consequence of such misconduct would be reduction of their fee to what they should have asked for in the first place.’” 612 F.2d at 1059. [REDACTED] should receive nothing by way of attorneys’ fees or costs.

Alternatively, should the Court reject the policy expressed in *Brown, supra*, [REDACTED] respectfully submits that, at most, \$18,157.23 should be awarded as calculated above.

Dated: April 5, 2006

[REDACTED]

[REDACTED]
Attorney at Law
[REDACTED]
[REDACTED]
[REDACTED], California [REDACTED]

Attorney for Plaintiff [REDACTED]

³ Given that *Code of Civil Procedure* § 425.16 provides for a mandatory award of attorneys’ fees to prevailing parties on anti-SLAPP motions, [REDACTED] could simply have included, as a portion of his motion, a request for attorneys’ fees together with an attachment itemizing the hours expended and the work performed. This would have permitted the Court to make a determination of the amount of the award concurrently with the granting of the motion, without the necessity for [REDACTED]’s counsel spending what he claims to be an additional 43.55 hours preparing the instant motion for fees.

