

EXHIBIT A

Firm E-Mail: courtdocs@dickinsonwright.com

David N. Ferrucci (#027423)
dferrucci@dickinsonwright.com

David G. Bray (#014346)
dbray@dickinsonwright.com

Paxton D. Endres (#034796)
pendres@dickinsonwright.com

DICKINSON WRIGHT PLLC
1850 North Central Avenue, Suite 1400
Phoenix, Arizona 85004
Phone: (602) 285-5000
Facsimile: (844) 670-6009

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Renee Ivchenko, et al.,

Plaintiffs

vs.

Kyle David Grant, et al.,

Defendants.

No. CV-20-00674-PHX-MTL

**DECLARATION OF ANDREW
IVCHENKO**

(Assigned To Hon. Michael T. Liburdi)

DECLARATION OF ANDREW IVCHENKO

I, Andrew Ivchenko, hereby state and declare as follows:

1. I am an attorney at law duly licensed to practice before the courts of the State of Arizona, and make these statements based on my own personal knowledge. I have personal knowledge of the facts set forth herein, and if called to testify, could and would competently testify thereto. This declaration is made in support of Plaintiffs' Motion to Dismiss.

2. I am married to Renee Ivchenko, whom I represented in connection with the removal of her booking photos and arrest information from various mugshot websites after her arrest in April 2018. I was able to remove almost all of her booking photos and arrest information from these predatory sites.

3. After asserting her legal rights against several mugshot website operators, Renee Ivchenko's booking photo and arrest information was posted on a Twitter site on February 19, 2019, operated by an unknown individual with an apparently fake account name (the "Twitter site"), and on a second revenge site until such time as the site was taken down for unknown reasons a few months later.

4. After repeated requests, the owners of two affiliated websites, namely, rapsheets.com (presently named rapsheetz.com) and bailbondsearch.com (the "Websites"), refused to remove Renee Ivchenko's information. I filed suit against the owners of the Websites, Travis Paul Grant, Kyle David Grant, and Mariel Lizette Grant ("Defendants") on behalf of Renee Ivchenko in Maricopa County on May 9, 2019 (Case No. CV2019-090493) ("Case No. 1").

5. Defendant Mariel Lizette Grant was served with a Summons and Complaint in Case No. 1 on May 16, 2019. A copy of the Affidavit of Service is attached hereto as

Exhibit 1.

1 6. On or about May 18, 2109, I conducted an Internet search of Renee
2 Ivchenko's name, and her booking photo and arrest information no longer appeared on
3 the Websites.

4 7. I was contacted by Attorney David S. Gingras on May 23, 2019, who stated
5 that he was representing Defendants. Due to the Memorial Day holiday, we did not have
6 any further communication until May 28, 2019. The next day Defendants filed a Notice
7 of Removal, removing the case to the United States District Court for the District of
8 Arizona.

9 8. I exchanged several emails with Attorney Gingras discussing the case over
10 a period of three days. We were not in agreement concerning the merits of the case,
11 particularly the applicability of the Communications Decency Act, 47 U.S.C. § 230(c), as
12 a defense. Attorney Gingras cited *Doe v. Oesterblad*, 2015 WL 12940181 (D.Ariz. 2015)
13 as controlling authority, but this unpublished decision was of limited authority in an
14 Arizona state court proceeding and was contradicted by cases in the Ninth Circuit and
15 other jurisdictions. Attorney Gingras apparently believes that if his clients have an
16 arguable defense to a claim that means that the claim is frivolous.

17 9. Plaintiff Renee Ivchenko voluntarily dismissed her lawsuit under F.R.C.P.
18 41(a)(1)(A)(i) on May 31, 2019. Plaintiffs' main goal of getting her booking photo and
19 arrest information removed from the Websites had been achieved, and Defendants were
20 adamant that they had nothing to do with the two other revenge sites that reposted
21 Plaintiff's arrest information online (*See* Para. 3, *supra*). Moreover, I was not admitted in
22 the United States District Court for the District of Arizona, and had no real need to be so
23 admitted for purposes of my practice.

24 10. Additional defamatory statements were made on the Twitter site on
25 September 15, 2019 and September 18, 2019, this time directed against both Renee
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1 Ivchenko and me. Based on information and belief, I concluded that Defendants or
2 someone associated with them made these postings. As a result, Renee Ivchenko and I
3 filed suit against Defendants in Maricopa County on December 17, 2019 for defamation
4 and additional causes of action related to the posting of Renee Ivchenko's booking photo
5 and arrest information on the Twitter site in question (Case No. CV2019-015355). We
6 have been represented in this case by Dickinson Wright PLLC.

7
8 11. During the course of this litigation, it became apparent that numerous other
9 parties adversely affected by the actions of Defendants wanted to join the lawsuit, and
10 assert their rights under A.R.S. §§ 44-7901, 7902; Mugshot website operators; prohibited
11 acts; exceptions (the "Arizona Mugshot Act"). Since the Arizona Mugshot Act only
12 became effective on August 27, 2019, Renee Ivchenko had no standing to assert a claim
13 under this statute, although she, and the twenty plaintiffs that joined the action, all
14 asserted common law claims against Defendants.

15 12. Renee Ivchenko filed an amended complaint on February 27, 2020, which
16 included the addition of the twenty Doe Plaintiffs. The Amended Complaint added a
17 count for violations of Arizona Revised Statute §§ 44-7901, 7902; Mugshot website
18 operators; prohibited acts; exceptions (the "Arizona Mugshot Act"). The Amended
19 Complaint no longer included a count for defamation, and accordingly dropped me as a
20 Plaintiff.

21
22 13. Renee Ivchenko and I decided to pursue our defamation claims involving
23 the Twitter site postings made in September 2019 through an independent action against
24 unknown Doe defendants, which was filed in Maricopa County on May 28, 2020 (Case
25 No. CV2020-093379).

26 14. Despite robust communication between the parties in this action, without
27 ever mentioning or requesting payment pursuant to Rule 41 in connection with Case No.
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1, Defendants unnecessarily filed an aggressive, multi-page motion on February 7, 2020 that sought recovery of approximately \$400 in costs. Had Defendants asked, we would have agreed to pay the requested \$400 rather than waste the parties' and the court's resources on that trivial matter. By all appearances, that motion was used only as a vehicle to intimidate and smear Renee Ivchenko and to create yet another public record containing Renee Ivchenko's arrest information and booking photo.

15. On February 21, 2020, Plaintiffs' attorney in this action, David N. Ferrucci, indicated to Defendants' attorney, David S. Gingras, in writing that Plaintiffs were planning on amending their complaint within the 21-day time-period provided by the rules, which would include dropping the defamation claim. Nonetheless, Defendants filed a summary judgment motion the following day, making aggressive arguments in connection with that defamation claim, and took that opportunity to once again insert Renee Ivchenko's booking photo and detailed arrest information, including court documents that had no bearing on this case, into the motion. The transparent purpose for doing this was to cause her further embarrassment, knowing full-well that various online reporting services would publish the case and thereby keep her booking photos and arrest information memorialized for eternity in yet another online publication. This gratuitous and vexatious litigation conduct clearly demonstrates the lengths Defendants and their attorney will go to smear and harass any litigant that dares to challenge them.

16. During the past two years, I have become known in the reputation management industry and have acquired clients seeking to have their mugshots removed from Defendants' (and similar) Websites. I filed suit in Maricopa County on May 1, 2020 against Defendants on behalf of twenty of these clients (Case No. CV2020-093006) (the "State Court Action").

1 17. The plaintiffs in the State Court Action, which includes Florida residents,
2 had the option of joining in this action, but prefer the state court forum. The plaintiffs
3 also filed their complaint as John and Jane Does, largely because of the manner in which
4 Plaintiff Renee Ivchenko was harassed by Defendants by having her detailed arrest
5 records and booking photo unnecessarily inserted into the pleadings. The Doe plaintiffs
6 recognize that a pending Motion to Proceed Under Pseudonym may go against them, in
7 which case the Complaint would need to be filed under their names. The state court
8 forum would afford them more privacy, since Federal court cases are typically reported
9 online under the parties' names by services such as Pacermonitor.com, Law360.com,
10 and Justia.com. These show up in any Google search of an individual's name, in the
11 same manner as Defendants' Websites.
12

13 18. Regardless of the outcome of the pending Pseudonym Motion in the State
14 Court Action, the Doe plaintiffs realize that their names would eventually have to be
15 disclosed as the case progresses, for example, in order to obtain a judgment for
16 violations of the Arizona Mugshot Act or to obtain injunctive relief. Once the case
17 progresses to that stage, Defendants will likely insert the Doe plaintiffs' names,
18 mugshots and arrest information and documentation into any pleadings, which would
19 defeat the purpose of the lawsuit if said pleadings were published online by the various
20 online Federal court case reporters.
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22 19. Defendants' attorney, David S. Gingras, has repeatedly and aggressively
23 threatened me and my attorneys with Rule 11 sanctions, motions for attorney's fees, and
24 lawsuits for alleged wrongful institution of civil proceedings. Attorney Gingras
25 threatened me along those lines in an e-mail dated May 15, 2020 [See Exhibit 2] and
26 told me in a phone conversation on May 28, 2020 that he will most certainly sue me,
27 Renee Ivchenko and our attorneys for wrongful institution of civil proceedings at his
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1 earliest convenience. These threats strike me as both outrageous and preposterous under
2 the case law, and I have never seen such hostile behavior from opposing counsel in 31
3 years of practice.

4 20. Attorney Gingras has stretched the bounds of zealous advocacy and has
5 tried to use threats and intimidation as a tactic to get Plaintiffs to drop their lawsuit
6 against Defendants, largely because they face huge civil penalties under the Arizona
7 Mugshot Act and have no viable defense for their violations of the statute. Defendants
8 appear to be following a scorched-earth policy designed to deter others from asserting
9 their legitimate rights under Arizona law. Defendants' request for fees is part and parcel
10 of their efforts to deter any potential plaintiff from pursuing their right to be free from
11 Defendants' harrassment.
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13 21. Attorney David S. Gingras will evidently stop at nothing to save his clients
14 from financial ruin, as there are millions of affected parties on the Websites. I was
15 recently notified that Attorney Gingras had filed a complaint against me with the
16 Arizona Bar (File No: 20-1100), which was dismissed on May 28, 2020.

17 22. As to my spouse, I have noted that Renee Ivchenko has experienced
18 tremendous abuse, stress and anxiety at the hands of Defendants. The common law
19 claims she asserts would likely entail minimal damages, compared to the significant
20 statutory damages available under the Arizona Mugshot Statute (which she cannot avail
21 herself to). Since she is pursuing her defamation claims in a separate action, it is not
22 longer economically practical for her to pursue this action, as her information is no
23 longer on the Defendants' Websites.
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25 23. On May 30, 2020, I reviewed the booking photos and arrest information of
26 Arizona arrestees that appeared on rapsheetz.com. Defendants had already posted the
27 booking photos and arrest information of approximately 105 people arrested the previous
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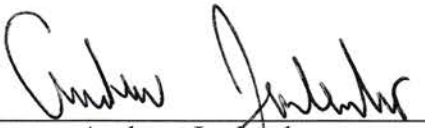
1 day in Maricopa County alone, and continue to post such information from other counties
2 in Arizona. Defendants publish the booking photos and arrest information of over
3 200,000 Maricopa County residents.

4 24. I have reviewed Defendants' Billing Statements and requests for attorneys'
5 fees. Attached hereto as Exhibit 3, and incorporated herein by reference, is an analysis
6 and evaluation of Defendants' claimed fees. As Exhibit 3 demonstrates, most of the fees
7 requested were not germane to any claim brought by Plaintiff Renee Ivchenko, and/or
8 involves work which is useful in continuing litigation between the parties.
9

10 25. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the
11 laws of the United State of America that the foregoing is true and correct.

12 **DATED** this 5th day of June, 2020.

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14 Respectfully submitted,

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16 
17 _____
18 Andrew Ivchenko
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document on June 5, 2020 via the Court's ECF system, thereby causing a true copy of said document to be served electronically upon each other party registered through ECF. In addition, copies of the foregoing were emailed to:

David S. Gingras, #021097
Gingras Law Office, PLLC
4802 E. Ray Road, #23-271
Phoenix, AZ 85044
Attorney for Defendants

EXHIBIT 1

Andrew Ivchenko, Esq.
Law Offices Of Andrew Ivchenko
4960 South Gilbert Road
Suite 1-226
Chandler, AZ 85249
(482) 250-4514
Bar No. SBN 021145

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

RENEE IVCHENKO

Plaintiff,

Case Number: CV2019-090493

vs.

AFFIDAVIT OF SERVICE

KYLE DAVID GRANT; ET AL.

Defendant.

Received by Investigative Process Service, Inc. on the 10th day of May, 2019 at 11:34 am to be served on **Mariel Lizette Grant, 4960 Longmeadow Park Street, Orlando, FL 32811.**

I, Erica Austin, being duly sworn, depose and say that on the **16th day of May, 2019 at 4:17 pm, I:**

INDIVIDUALLY SERVED: Served the within named person by delivering a true copy of this **Summons; Complaint for Damages; Certificate Regarding Compulsory Arbitration; Plaintiff's Demand for Jury Trial** with the date and hour of service endorsed thereon by me at **558 North Semoran Boulevard, Regents Park Of Winter Park, Winter Park, FL 32792**, pursuant to F.S. 48.031(1).

Military Status: Based upon inquiry of party served, defendant is not in the military service of the United States.

Description of Person Served: Age: 25+, Sex: F, Race/Skin Color: White, Height: 5'3", Weight: 115, Hair: BROWN, Glasses: N

I certify that I am over the age of eighteen, and I have no interest in the above action.



Erica Austin
CPS #18-0026

Investigative Process Service, Inc.
P. O. Box 3551
Orlando, FL 32802-3551
(407) 426-7433

Our Job Serial Number: ILS-2019001842

Subscribed and Sworn to before me on the 17th day of
May, 2019 by the affiant who is personally known to me.

NOTARY PUBLIC

 JACKIE L. DAGDAYAN
MY COMMISSION # QQ 073244
EXPIRES: March 16, 2021
Bonded Thru Budget Notary Services

EXHIBIT 2

From: David Gingras <david@gingraslaw.com>
To: Andrew Ivchenko <aivchenkopllc@gmail.com>
Sent: 5/15/2020 10:11 AM
Attachments: image003.jpg (image/jpeg, 25 KB), image004.jpg (image/jpeg, 105 KB)
Subject: RE: Rapsheetz lawsuit

Andrew,

At this point, the only thing I can do is to remind you that any person (including a lawyer) may face liability for malicious prosecution if they commence or continue a civil proceeding without probable cause and with malice. The Arizona jury instruction for this claim is shown below. If you haven't read this or familiarized yourself with the law of malicious prosecution and abuse of process, I strongly encourage you to do so immediately.

Here, there is no question about your malice towards the Grants; that is not even disputable. You are angry at them because your wife was arrested and the Grants published her mugshot. That's obvious malice. Making false statements in lawsuits against the Grants is also proof of malice.

As for probable cause, this requires showing that you have both factual and legal grounds for each and every claim you pursue. If probable cause is lacking for even a single claim in a case, you face liability for malicious prosecution; "the rule is that a malicious prosecution suit may be maintained where only one of several claims in the prior action lacked probable cause ..." *Citi-Wide Preferred Couriers, Inc. v. Golden Eagle Ins. Co.*, 114 Cal.App.4th 906, 914, 8 Cal.Rptr.3d 199 (Cal. 2nd Dist. 2004) (emphasis added) (citing *Crowley v. Katleman*, 8 Cal.4th 666, 676, 34 Cal.Rptr.2d 386, 881 P.2d 1083 (Cal. 1994)); see also *Bertero v. National General Corp.*, 13 Cal.3d 43, 55 n.4, 157 Cal.App.4th 1385, 69 Cal.Rptr.3d 561 (Cal. 1974) ("a defendant in a malicious prosecution action cannot escape liability for the malicious prosecution of a claim for which he did not have probable cause by joining it with a claim for which he did have probable cause to assert.")

At this time, it should come as no surprise that the Grants intend to sue you, your wife, and your attorneys for malicious prosecution as soon as the Grants prevail in one or more of the existing lawsuits you've commenced. When this happens, you will face liability for all attorney's fees, costs, punitive damages, and other damages resulting from each case.

If you want to *increase* your exposure by filing another new case, that is your decision. If you are certain that probable cause exists for one or more new claims, then you have nothing to worry about. I guess given the liability you are already facing, the thought of adding to the substantial damages you already face might not seem like a big risk. However, bear in mind – a judgment for malicious prosecution is not dischargeable in bankruptcy, so if we go down that road and if you lose, the judgment will follow you for the rest of your life until it is paid. That is not a risk I would be willing to take, but you are free to make your own decision.

In any case, I assure you – given the facts and the law as I currently understand them, there is no probable cause for even a single claim you've brought, much less all of the claims you're brought. The same is true with respect to the new case you are threatening to pursue. As I have explained to you repeatedly, republishing mugshots or other criminal records **IS NOT ILLEGAL**, as long as the publisher is not also charging money to remove the mugshots and as long as mugshots are not being used directly in a commercial advertisement. I have seen no legal authority to the contrary, nor have I seen any evidence showing the Grants charge money for removals or use mugshots directly in commercial ads (if such evidence existed, I would not be defending them on this issue).

But we don't need to debate that point at this time. If you believe you have probable cause for a new case, then you may proceed. Just be aware that it appears you are breaking the law and violating my clients' rights, and those actions will not go unanswered. The Grants are fully prepared to prosecute their claims against you to the fullest extent of the law. If you want to face that risk, the decision is yours.

REVISED ARIZONA JURY INSTRUCTIONS (CIVIL), 6TH

INTENTIONAL TORTS 19

Malicious Prosecution

[Name of plaintiff] claims that [name of defendant] is liable for malicious prosecution. In this claim [name of plaintiff] must prove:

1. [Name of defendant] initiated or took active part in the prosecution of a [criminal action] [civil proceeding] against [name of plaintiff];
2. The action or proceeding terminated in [name of plaintiff]'s favor;
3. [Name of defendant] acted without probable cause;
4. [Name of defendant] acted with malice; and
5. [Name of defendant]'s malicious conduct was a cause of injury, damage, loss or harm to [name of plaintiff].

David Gingras, Esq.
Gingras Law Office, PLLC
David@GingrasLaw.com
<https://twitter.com/DavidSGingras>
<http://gingraslaw.com>
Tel.: (480) 264-1400
Fax: (480) 248-3196

*Licensed in Arizona and California



EXHIBIT 3

Evaluation of Defendants' Billing Statements

The billing entries in each of the following invoices are not compensable for the reasons stated herein:

Invoice 1417 (05/31/19)

Defendants concede that they are not entitled to any attorney's fees for this invoice pertaining to Case No. 1. [See Doc. 15-1 ¶ 11].

TOTAL DEDUCTION: 8.8 Hours

Invoice 1446 (31/01/2020)

- 1/9/2020: There was no reason for Defendants to investigate this prior lawsuit.
- 1/10/2020: This entry is too vague and lacking in detail to assess its reasonableness, and therefore, should be disallowed. *See Em v. Astrue*, No. 1:10-CV-01414-LJO, 2012 WL 691669, at *6 (E.D. Cal. Mar. 2, 2012), report and recommendation adopted, No. 1:10-CV-01414-LJO, 2012 WL 1019963 (E.D. Cal. Mar. 26, 2012)
- 1/11/2020: This entry is too vague and lacking in detail to assess its reasonableness, and therefore, should be disallowed. *See Em v. Astrue*, No. 1:10-CV-01414-LJO, 2012 WL 691669, at *6 (E.D. Cal. Mar. 2, 2012), report and recommendation adopted, No. 1:10-CV-01414-LJO, 2012 WL 1019963 (E.D. Cal. Mar. 26, 2012)
- 1/13/2020: This issue did not relate to Plaintiffs' defamation claim, which involved Twitter postings that occurred within the one-year limitations period for defamation claims under A.R.S. § 12-541.
- 1/14/2020: The Florida Mugshot Law has nothing to do with this case.

- 1/17/2020: Case research of *Gabiola v. Sarid* involves work which is useful in continuing litigation between the parties, and was cited by Defendants in a motion to dismiss in the State Court Action.
- 1/21/2020: There was no reason for Defendants to investigate materials submitted to the U.S. Copyright Office, since Defendants denied they were behind the Twitter postings that was the object of this investigation.
- 1/24/2020: This entry is too vague and lacking in detail to assess its reasonableness, and therefore, should be disallowed. *See Em v. Astrue*, No. 1:10-CV-01414-LJO, 2012 WL 691669, at *6 (E.D. Cal. Mar. 2, 2012), report and recommendation adopted, No. 1:10-CV-01414-LJO, 2012 WL 1019963 (E.D. Cal. Mar. 26, 2012).
- 1/25/2020: There was no reason for Defendants to investigate materials related to this previous lawsuit.
- 1/30/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 1/31/2020: This entry is too vague and lacking in detail to assess its reasonableness, and therefore, should be disallowed. *See Em v. Astrue*, No. 1:10-CV-01414-LJO, 2012 WL 691669, at *6 (E.D. Cal. Mar. 2, 2012), report and recommendation adopted, No. 1:10-CV-01414-LJO, 2012 WL 1019963 (E.D. Cal. Mar. 26, 2012).
- **TOTAL DEDUCTION: 7.9 Hours**

Invoice 1449 (2/29/2020)

- 2/2/2020: This was not billed to Defendants, and therefore, cannot be billed to Plaintiffs. *See Roberts v. Comm'r of Soc. Sec.*, 522 F. App'x 387, 388 (9th Cir. 2013) (citations omitted).
- 2/3/2020: This involves issues that should not have been raised, since Defendants were making statute of limitations arguments regarding claims that were not being pursued by Plaintiffs.
- 2/5/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 2/5/2020: This entry is too vague and lacking in detail to assess its reasonableness, and therefore, should be disallowed. *See Em v. Astrue*, No. 1:10-CV-01414-LJO, 2012 WL 691669, at *6 (E.D. Cal. Mar. 2, 2012), report and recommendation adopted, No. 1:10-CV-01414-LJO, 2012 WL 1019963 (E.D. Cal. Mar. 26, 2012).
- 2/6/2020: This entry is too vague and lacking in detail to assess its reasonableness, and therefore, should be disallowed. *See Em v. Astrue*, No. 1:10-CV-01414-LJO, 2012 WL 691669, at *6 (E.D. Cal. Mar. 2, 2012), report and recommendation adopted, No. 1:10-CV-01414-LJO, 2012 WL 1019963 (E.D. Cal. Mar. 26, 2012).
- 2/6/2020: The Motion for Costs was unnecessary and only designed to harass Plaintiffs. Defendants never requested Plaintiffs to pay the costs prior to filing the motion and Plaintiffs nonetheless paid the costs without responding to the motion.

- 2/7/2020: This entry is too vague and lacking in detail to assess its reasonableness, and therefore, should be disallowed. *See Em v. Astrue*, No. 1:10-CV-01414-LJO, 2012 WL 691669, at *6 (E.D. Cal. Mar. 2, 2012), report and recommendation adopted, No. 1:10-CV-01414-LJO, 2012 WL 1019963 (E.D. Cal. Mar. 26, 2012).
- 2/7/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 2/7/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 2/12/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 2/14/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that

was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).

- 2/14/2020: This entry is too vague and lacking in detail to assess its reasonableness, and therefore, should be disallowed. *See Em v. Astrue*, No. 1:10-CV-01414-LJO, 2012 WL 691669, at *6 (E.D. Cal. Mar. 2, 2012), report and recommendation adopted, No. 1:10-CV-01414-LJO, 2012 WL 1019963 (E.D. Cal. Mar. 26, 2012)
- 2/15/2020: This entry is too vague and lacking in detail to assess its reasonableness, and therefore, should be disallowed. *See Em v. Astrue*, No. 1:10-CV-01414-LJO, 2012 WL 691669, at *6 (E.D. Cal. Mar. 2, 2012), report and recommendation adopted, No. 1:10-CV-01414-LJO, 2012 WL 1019963 (E.D. Cal. Mar. 26, 2012).
- 2/20/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 2/21/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).

- 2/23/2020: This was not billed to Defendants, and therefore, cannot be billed to Plaintiffs. *See Roberts v. Comm'r of Soc. Sec.*, 522 F. App'x 387, 388 (9th Cir. 2013) (citations omitted).
- 2/24/2020: This entry is too vague and lacking in detail to assess its reasonableness, and therefore, should be disallowed. *See Em v. Astrue*, No. 1:10-CV-01414-LJO, 2012 WL 691669, at *6 (E.D. Cal. Mar. 2, 2012), report and recommendation adopted, No. 1:10-CV-01414-LJO, 2012 WL 1019963 (E.D. Cal. Mar. 26, 2012)
- 2/28/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 2/29/2020: This was not billed to Defendants, and therefore, cannot be billed to Plaintiffs. *See Roberts v. Comm'r of Soc. Sec.*, 522 F. App'x 387, 388 (9th Cir. 2013) (citations omitted).
- **TOTAL DEDUCTION: 16.5 Hours**

Invoice 1455 (4/17/2020)

- 3/9/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 3/10/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the

district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).

- 3/10/2020: Defendants concede that they are not entitled to any attorney’s fees for the Motion to Proceed Under Pseudonym [See Doc. 15-1 ¶ 15].
- 3/10/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 3/12/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 3/13/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 3/13/2020: Plaintiffs paid Defendants \$418.11 in costs for Case No. 1.
- 3/17/2020: If, as Defendants contend, their motion for summary judgment became moot after Plaintiffs filed the Amended Answer, then Defendants should have informed Plaintiffs rather than stipulate to the extension. Requiring Plaintiffs

to pay Defendants' fees here would award Defendants for their own vexatious conduct.

- 3/18/2020: If, as Defendants contend, their motion for summary judgment became moot after Plaintiffs filed the Amended Answer, then Defendants should have informed Plaintiffs rather than stipulate to the extension. Requiring Plaintiffs to pay Defendants' fees here would award Defendants for their own vexatious conduct.
- 3/19/2020: Defendants concede that they are not entitled to any attorney's fees for the Motion to Proceed Under Pseudonym [See Doc. 15-1 ¶ 15].
- 3/23/2020: This involves work which is useful in continuing litigation between the parties.
- 3/24/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court "abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation").
- 3/26/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court "abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation").
- **TOTAL DEDUCTION: 15.10 Hours**

Invoice 1460 (5/14/2020)

All of these billings relate to client communications, issues relating to removal to Federal court at Defendants discretion, or involves work which is useful in continuing litigation between the parties. *Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993).

- 4/1/2020: If, as Defendants contend, their motion for summary judgment became moot after Plaintiffs filed the Amended Answer, then Defendants should have informed Plaintiffs rather than allow Plaintiffs to incur additional fees preparing a Response. Requiring Plaintiffs to pay Defendants' fees here would award Defendants for their own vexatious conduct.
- 4/2/2020: Defendants concede that they are not entitled to any attorney's fees for the Motion to Proceed Under Pseudonym [See Doc. 15-1 ¶ 15].
- 4/3/2020: If, as Defendants contend, their motion for summary judgment became moot after Plaintiffs filed the Amended Answer, then Defendants did not need to spend 1 hour reviewing Plaintiffs' response, drafting an email to his client regarding strategy in relation to the motion for summary judgment, or request Plaintiffs' Controverting Statement of Facts.
- 4/4/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court "abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation").
- 4/6/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court "abused its discretion in not differentiating between work product that

was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).

- 4/6/2020: Defendants concede that they are not entitled to any attorney’s fees for the Motion to Proceed Under Pseudonym [See Doc. 15-1 ¶ 15].
- 4/8/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 4/8/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 4/9/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 4/14/2020: Defendants concede that they are not entitled to any attorney’s fees for the Motion to Proceed Under Pseudonym [See Doc. 15-1 ¶ 15].
- 4/15/2020: Defendants concede that they are not entitled to any attorney’s fees for the Motion to Proceed Under Pseudonym [See Doc. 15-1 ¶ 15].

- 4/16/2020: This involves an issue that is not germane to Plaintiffs', including Mrs. Ivchenko's, claims.
- 4/16/2020: This involves an issue that is not germane to Plaintiffs', including Mrs. Ivchenko's, claims.
- 4/16/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court "abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation").
- 4/17/2020: This involves an issue that is not germane to Plaintiffs', including Mrs. Ivchenko's, claims.
- 4/17/2020: This involves an issue that is not germane to Plaintiffs', including Mrs. Ivchenko's, claims.
- 4/17/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court "abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation").
- 4/17/2020: This entry is too vague and lacking in detail to assess its reasonableness, and therefore, should be disallowed. *See Em v. Astrue*, No. 1:10-CV-01414-LJO, 2012 WL 691669, at *6 (E.D. Cal. Mar. 2, 2012), report and recommendation adopted, No. 1:10-CV-01414-LJO, 2012 WL 1019963 (E.D. Cal. Mar. 26, 2012). With respect to the Tim Donnelly issue, this involves an issue that is not germane to Plaintiffs', including Mrs. Ivchenko's, claims.

- 4/18/2020: If, as Defendants contend, their motion for summary judgment became moot after Plaintiffs filed the Amended Answer, then Defendants should have informed Plaintiffs, rather than allow Plaintiffs to incur substantial fees preparing their Response and Notice of Pending Motion. Thus, there should have no need for Defendants to incur any fees reviewing, strategizing, and/or responding to the Notice of Pending Motion.
- 4/19/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 4/20/2020: If, as Defendants contend, their motion for summary judgment became moot after Plaintiffs filed the Amended Answer, then Defendants should have informed Plaintiffs, rather than allow Plaintiffs to incur substantial fees preparing their Response and Notice of Pending Motion. Thus, there should have no need for Defendants to incur any fees reviewing, strategizing, and/or responding to the Notice of Pending Motion.
- 4/20/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 4/21/2020: This entry is too vague and lacking in detail to assess its reasonableness, and therefore, should be disallowed. *See Em v. Astrue*, No. 1:10-

CV-01414-LJO, 2012 WL 691669, at *6 (E.D. Cal. Mar. 2, 2012), report and recommendation adopted, No. 1:10-CV-01414-LJO, 2012 WL 1019963 (E.D. Cal. Mar. 26, 2012).

- 4/21/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 4/21/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 4/23/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 4/28/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).

- 4/29/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- 4/30/2020: This involves work which is useful in continuing litigation between the parties. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir. 1993) (holding that the district court “abused its discretion in not differentiating between work product that was rendered useless by dismissal of the federal action and that which might be of use in state litigation”).
- **TOTAL DEDUCTION: 13.6 Hours**

TOTAL HOURS CLAIMED	65.70
DEDUCTIONS	53.10
NET	12.60