IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

COMMON CAUSE GEORGIA, as an organization, Plaintiff, vs. BRAD RAFFENSPERGER, SECRETARY OF STATE OF GEORGIA, Defendant.	Civil Action No.: 1:18-cv-05102-AT

DEFENDANT BRAD RAFFENSPERGER'S RESPONSE TO PLAINTIFF'S SPECIAL MOTION FOR AN AWARD OF ATTORNEYS' FEES

INTRODUCTION

This case was litigated on an extremely tight timeline. From the filing of the motion for Temporary Restraining Order on November 7, 2018 to this Court's Order on November 12, 2018 was a total of five days. The active portion of this case then effectively ended with certification of statewide results on November 17, 2018—ten days after the case was filed. When issuing the sole order on which Plaintiff seeks fees, [Doc. 62], this Court explained that it was only granting *partial* relief to Plaintiff. The vast majority of the relief was "narrowly tailored and does not disturb the status

quo for election certification deadline." [Doc. 62, p. 53]. Despite this quick, targeted relief, Plaintiff seeks to require Georgia taxpayers to pay $139,480 in legal fees and $4,527.59 in litigation expenses for their efforts. This Court should not grant any fees to Plaintiff because they did not change the legal relationship of the parties. But if the Court grants fees and expenses, any award must be reduced and targeted to the relief Plaintiff actually obtained against the State and that was properly accounted for and documented by Plaintiff's counsel, which, as explained below, is no more than $34,314.

ARGUMENT AND CITATION OF AUTHORITY

Recovery of fees and expenses requested is not automatic; a court may only award "reasonable" fees and expenses and must avoid being "generous with the money of others." *American Civil Liberties Union of Ga. v. Barnes*, 168 F. 3d 423, 428 (11th Cir. 1999). Applicants bear the burden of "establishing entitlement and documenting appropriate hours and hourly rates." *Barnes*, 168 F. 3d at 427; *Loranger v. Stierheim*, 10 F. 3d 776, 782 (11th Cir. 1994) (burden on submitting party to make a request that will enable the court to determine what time was spent on the litigation).

In this case, Plaintiff is moving for fees against a government entity, which will be paid with taxpayer dollars. It is important to remember that the purpose of fee statutes is not to "produce windfalls to attorneys," *Farrar*

v. Hobby, 506 U.S. 103, 115, 113 S. Ct. 566, 575 (1992), but rather to compensate *parties*. The fact that any compensation awarded by this Court against the Secretary of State will be paid by the taxpayers of the state of Georgia is also an important consideration. But if this Court determines that Plaintiff is entitled to fees, it must then proceed using a three-step process.

First, Plaintiff must demonstrate that is has prevailed on the claims for which it seeks fees. *Farrar*, 506 U.S. at 111-112; *Hensley v. Eckerhart*, 461 U.S. 424, 435, 103 S.Ct. 1933 (1983); *Duckworth v. Whisenant*, 97 F. 3d 1393, 1398 (11th Cir. 1996). Specifically, "[t]he plaintiff must obtain an enforceable judgment against the defendant from whom fees are sought." *Farrar*, 506 U.S. at 111. As discussed in more detail below, Plaintiff only prevailed as to the Defendant on two limited issues, the latter of which the Court specifically noted did not actually alter any legal relationship between the parties that existed prior to the filing of this lawsuit: (1) Establishing a hotline for provisional ballot voters to access to determine whether their provisional ballots were counted, and direct county superintendents to do the same; and (2) enjoining the Secretary from certifying results prior to a specific date that was already within the allowable dates for certification under state law and causing the Secretary to review the provisional ballot data independently or direct the county superintendents to do so. Because there was no change in

the legal relationship no fees are warranted. But any award of fees must be limited to those claims.

Second, a court must calculate the "lodestar" amount of the fees, which is the product of the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate. *Bivins v. Wrap It Up, Inc.*, 548 F. 3d 1348, 1350 (11th Cir. 2008); *Hensley*, 461 U.S. at 433. The court first must determine the reasonable hourly rate, which is the "prevailing market rate in the relevant legal community." *Barnes*, 168 F. 3d at 436. After determining that rate, the court then evaluates the tasks performed, determines what time was spent "on the litigation," and excludes both time that would be unreasonable to bill to a client and time spent on discrete and unsuccessful claims. *Duckworth*, 97 F. 3d at 1397; *Bivins*, 548 F. 3d at 1351. As detailed below, the fee application includes time that would be unreasonable to bill a client, such as (1) time entries for duplicative work, (2) excessive amounts of time for tasks performed by lawyers with expertise in voting-rights cases, (3) time entries for work performed on matters not related to the TRO, and (4) other work not necessary to successful resolution of the litigation. An example of the point (2), above, are the entries related to the drafting and filing of the Complaint itself [Doc. 119, p. 21], which total more than 70 hours

of time to draft a 25-page complaint which was based largely on media accounts.

As the third and final step, a court may adjust the lodestar amount up or down, considering the 12 factors enumerated in *Johnson v. Georgia Highway Express, Inc.*, 488 F. 2d 714 (5th Cir. 1974).[1] *Duckworth*, 97 F. 3d at 1399; *Norman v. Housing Auth. of City of Montgomery*, 836 F. 2d 1292, 1302 (11th Cir. 1988). Plaintiff is apparently not seeking an enhancement above the lodestar.[2] This brief focuses primarily the determination of the correct amount of an award using the lodestar if this Court determines that Plaintiff is entitled to fees as a prevailing party.

I. Plaintiff is not entitled to any fees.

Plaintiff sought dramatic relief in their motion. Specifically, it sought to prevent the rejection of *any* provisional ballot when the voter's name did not appear on the voter registration rolls and to require the production of

[1] In *Bonner v. City of Prichard*, 661 F. 2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted all decisions of the former Fifth Circuit handed down prior to September 30, 1981 as binding precedent.

[2] As the Supreme Court explains, enhancements above the lodestar are for "rare" and "exceptional" circumstances. *Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 552, 130 S. Ct. 1662, 1673 (2010). If this Court elects to review the *Johnson* factors, the majority of them are already captured by the lodestar, with the exception of the factor regarding the undesirability of the case. That factor is not applicable here, as Plaintiff's lawyers' practice is built around such cases.

information from *every* county in the state of Georgia. [Doc. 15-13]. When this Court ultimately ruled, it did not provide any of that relief.

In contrast to what Plaintiff requested, the Court ultimately ordered extremely limited relief that it specifically found was "narrowly crafted and does not disturb the status quo for election certification deadline." [Doc. 62, p. 53]. First, the Court required the establishment of a provisional ballot hotline. [Doc. 62, p. 52]. Second, the Court required a review of a limited subset of counties to determine whether there were other records related to the provisional ballots cast because a voter did not appear on the voter-registration list. *Id.* While the Court also directed some limited discovery, no further relief was sought or required by the Court and the certification of the elections ultimately occurred in accordance with the Court's instructions.

Ultimately, Plaintiff did not obtain an "enforceable judgment against the defendant" because they did not receive the relief sought and only received a limited scope of relief that did not change election certification deadlines. *Farrar*, 506 U.S. at 111. The Court's order did not actually alter the legal relationship because the review of the data provided did not result in any change in the elections processes in use in Georgia. Because this relief was extremely limited, this Court should deny the fee request in its entirety.

II. Plaintiff's proposed hourly rates should be reduced.

But if this Court ultimately determines it will award fees, Plaintiff only supports their proposed rates with declarations that provide conclusory or otherwise unsupported evidence that those rates are in line with other rates in the Atlanta market for attorneys with similar skill. *Norman*, 836 F. 2d at 1299. Accordingly, there is some usefulness in considering the *Johnson* factors to determine the proper hourly rate, especially in an election case. *Carey v. Rudeseal*, 721 F. Supp. 294, 298-99 (N.D. Ga. 1989). Two of the *Johnson* factors are the novelty and difficulty of the questions presented and the skill requisite to perform the legal service properly. 488 F. 2d at 717-719. As the Eleventh Circuit makes clear, this Court is an expert on attorney's fees and the proper hourly rate. *Norman*, 836 F. 2d at 1303.

In this case, the legal issues were straightforward—whether the state should be allowed to reject provisional ballots on the basis that a voter's name was not found on the electronic voter registration list. In a similar case, this Court reduced hourly rates for similarly situated plaintiffs by 25%, focusing on the similarity of other election-related cases where such a reduction was found appropriate. *Ga. State Conf. of the NAACP v. Kemp*, Case No. 1:17-cv-1397-TCB, Order on Fees at *7-8 (N.D. Ga. April 11, 2018). Further, a significant portion of the attorneys' fees requested by Plaintiff was

devoted to issues of standing—a ubiquitous feature of litigation and one with which all lawyers are doubtless acquainted.

Although the Plaintiff attempts to shield itself from reduction in rates by the Court by claiming in their Motion they have preemptively reduced their rates, the "customary rate" cited by counsel for Plaintiff is nowhere near what similarly situated attorneys in the Atlanta market could reasonably charge. Plaintiff seeks hourly rates that are excessive for the amount of time the individuals have been admitted to practice: (1) $400 an hour for individuals with five years of experience (M. Feldman) and three years of experience (W. Freeland); (2) $300 per hour for an individual with two years of experience (M. Layerenza); and (3) $250 for an individual with one year of experience (J. Fuhrman) and an individual not yet admitted to practice (K. Sieber). Even these alleged "reduced rates" are well outside the norms for election law cases, and if this Court deems an award of fees appropriate, it should be significantly reduced.

Given the straightforward remedies granted by this Court in this case, a 25% reduction in the hourly rates for each timekeeper is appropriate. Defendant submits that the following rates should apply (rates proposed by Plaintiff, reduced by 25%):

Attorney	Year of Bar Admission	Rate Sought by Plaintiff	Proposed 25% Reduction Rate
Robert Atkins	1988	$700	$525
Myrna Perez	2003	$600	$450
Farrah Berse	2003	$600	$450
Maximillian Feldman	2014	$400	$300
Sean Morales-Doyle	2007	$550	$413
Lawrence Norden	1997	$600	$450
Makiko Hiromi	2012	$400	$300
William Freeland	2016	$400	$300
Melina Meneguin Layerenza	2017	$300	$225
Jessica Fuhrman[3]	2019	$250	$200
Kyle Sieber[4]	Not yet admitted	$250	$187.5

III. Plaintiff's submitted hours should be reduced.

Plaintiff's counsel seeks recovery for 335.7 hours of attorney time [Doc. 119, pp. 26-27[5]] accrued over less than one week of time. That amount of

[3] There is a conflict between the Plaintiff's brief and their fee expert regarding Ms. Furhman's rate. The expert found a $300 per hour rate was reasonable [Doc. 119-7, p. 10] while the brief seeks $250 per hour [Doc. 119, p. 27].

[4] The chart provided by Plaintiff in its Motion indicates the "customary rate" of Kyle Sieber is $640/hr. [Doc. 119, p. 27]. While Defendant does not call Mr. Sieber's capability into question, that fact that Plaintiff would charge such a high rate for an individual who has not even been admitted to practice law in any court demonstrates counsel for Plaintiff is disconnected from reality when it comes to the issue of reasonable attorneys' fees in the Atlanta market.

[5] Page references to Plaintiff's Brief are to court-generated header at the top of each page.

hours is equal to 42 eight-hour days or 8.4 weeks of attorney time. For a motion that required no discovery that number alone shows a lack of billing judgment.

As discussed below, a court faced with a fee application can only include in its award those hours that were reasonably expended on the litigation. *Barnes*, 168 F. 3d at 428. The burden is on the fee applicant to submit a request in a manner that allows a court to conduct a "task-by-task examination of the hours billed." *Id*. at 429. The request should also include a "summary, grouping the time entries by the nature of the activity or stage of the case." *Id*. at 427.

While Plaintiff included specific time entries, there was an overreliance on "block billing" especially on entries for the Paul Weiss billing records. The use of block billing for some time entries makes it difficult for others to assign tasks to categories. "'Block billing' occurs when an attorney lists all the day's tasks on a case in a single entry, without separately identifying the time spent on each task." *Ceres Envtl. Servs., Inc. v. Colonel McCrary Trucking, LLC*, 476 F. App'x 198, 203 (11th Cir. 2012). Block billing leads to imprecision and also makes it difficult to determine the reasonableness of particular entries, which, in turn, can lead to a determination that the

applicant failed to carry his or her burden. *Id.*; *see Welch v. Metro Life Ins. Co.*, 480 F. 3d 942, 948 (9th Cir. 2007).

A. Time expended on preparation of complaint.

Plaintiff seeks a total of 71.5 hours for the preparation of the complaint in this case [Doc. 119, p. 21]. Plaintiffs are traditionally entitled to recover some fees for work prior to the filing of the litigation, but the Supreme Court requires that compensable time must be time "reasonably expended on the litigation." *Hensley*, 461 U.S. at 433; *Webb v. Bd. of Educ. Of Dyer Cty., Tenn.*, 471 U.S. 234, 242, 105 S.Ct. 1923 (1985); *Barnes*, 168 F. 3d at 435-436 (time for finding plaintiffs is not time spent on the litigation). Moreover, the Plaintiff's motion in the instant case specifically limits its request to "litigation and expenses in connection with the TRO Motion, and legal fees in an amount to be determined later in connection with this Fee Motion." [Doc. 119, p. 7]. Plaintiff appears to have waived any request for fees related to filing the complaint and the Court should not consider that time to the extent it awards any fees to the Plaintiff.

But even if this Court awards fees for the preparation of the Complaint, it should award no more than 35 hours because of the extensive time taken and the excessive duplication of effort and time spent on emails with various individuals that were apparently unrelated to the drafting of the complaint

shown on the time records. Specifically, the Court should eliminate all of the entries for the Brennan Center on the preparation of the complaint (24.6 hours) because the vast majority of the time was spent sending emails instead of actually drafting the Complaint and because the time records indicate that Paul Weiss was apparently taking the lead on the actual drafting. Further, the Court should reduce each of the Paul Weiss time entries[6] by an additional 25% due to the excessive time spent on the drafting, which will yield a total of 35 hours and reduce the amount from the Paul Weiss entries from $12,581 to $9,435.94.

B. Phases covering preparing and filing TRO motion and oral argument.

The next phase of the case was the TRO, which covered the period from the filing of the case through this Court's order on November 12, 2018 [Doc. 62] and for which Plaintiff seeks 158 hours of time. Not only is this number excessive, but Defendant is unable to determine how much of the time was spent on the case.

Attorneys for Paul Weiss often inexplicably blended large blocks of time entries containing time related to the "TRO Motion Phase" and other phases

[6] For purposes of the remainder of this Brief, the "amount sought" is equal to the amount sought for that category, reduced by 25% for the adjustment to hourly billing rates.

of the litigation. This makes it exceedingly difficult to assess the reasonableness of the time entries. For example, on November 8, 2018, Makiko Hiromi entered a *single time entry of 21.9 hours* covering the following:

> Drafting of amended complaint; travel to Atlanta for TRO hearing; attended TRO hearing; work on declarations in connection with TRO hearing, including coordination of filing.

[Doc. 119-2, p. 2]. A 22-hour workday notwithstanding, it is impossible to determine the reasonableness of any individual portion of this time entry. Defendant and this Court are helpless to divine how many of the 22 hours went to the amended complaint, and how many went to "coordination of filing," which is surely a task that does not require $400 per hour from the taxpayers of the state of Georgia. Moreover, Plaintiff fails to demonstrate how drafting an Amended Complaint goes to fees related to a Motion for TRO. In short, this billing entry is a hodgepodge of unverifiable time, and includes a billable hour for nearly every hour of the day. It cannot form the basis of a fee award.

Other attorneys made similarly insufficient time entries. Farah Berse, for example, combined work for Phase 1 and Phase 2 into a single 10.8 hour block entry with the following description: "Drafting, revising and filing TRO papers; prepare for hearing on same." *Id.* Below is a sampling of other

questionable block-billed time without sufficient explanation for attorneys from Paul Weiss.

11/6/18	Fuhrman, Jessica B	Meeting with Georgia team to research potential motion	.4
11/7/18	Berse, Farrah	Drafting, revising and filing TRO papers; prepare for hearing on same.	10.8
11/8/18	Berse, Farrah	Continued prep for and attend TRO hearing; drafting and revising additional filings; travel to and from Atlanta for hearing.	16.5
11/8/18	Hiromi, Makiko	Drafting of amended complaint; travel to Atlanta for TRO hearing; attended TRO hearing; work on declarations in connection with TRO hearing, including coordination of filing	21.9
11/10/18	Freeland, William	Attention to team emails and documents	0.6
TOTAL			50.2

[Doc. 119-2]. These entries alone represent 50.2 hours billable time.

Plaintiff seeks 158 hours of reimbursement for this phase, but the reliance on block-billed entries and the incredibly quick turnaround by this Court demonstrates that the time sought is excessive. As discussed above, the limited nature of the relief obtained by Plaintiff also demonstrates that much

of the time sought was not reasonably expended on the litigation. *Barnes*, 168 F. 3d at 428.

Because these entries cannot be adequately vetted for reasonableness or duplicative billing, they should be reduced by 75% as shown below. *See Martin v. Raffensperger*, Order [Doc. 101], Case No. 1:18-cv-04776-LMM (July 24, 2019) (reducing award by 75%).

Billing Entity	**Amount with reduced hourly rate**	**Reduced rate with 75% reduction**
Paul Weiss Preparing TRO	$20,198	$5,049
Brennan Center Preparing TRO	$6,210	$1,553
Paul Weiss Oral Argument	$15,855	$3,964
Brennan Center Oral Argument	$9,630	$2,408
TOTAL	$51,893	$12,974

C. Phase covering post-argument briefing.

Finally, Plaintiff seeks to recover 103.1 hours for "post-argument briefing" prior to the Court's ruling on the motion for temporary restraining order. This time should also be significantly reduced.

Like the other Paul Weiss entries, block billing makes it impossible to determine how much of this time was actually spent on the litigation or related to the claims in the case. For example, Melina Meneguin Layerenza

spent 2.1 hours doing a variety of tasks 11/10/2018 which cannot be broken out by task. Similarly, Kyle Sieber spent 3.1 hours on 11/11/2018 on tasks as diverse as preparing documents for declarants to sign and searching news articles. Similarly, Mr. Sieber apparently spent a significant portion of a day researching standing, but Defendant cannot determine what time was spent on the case because it is a single, 12.1-hour entry with multiple topics included.

Both entities seek reimbursement for tasks related to client communication and involve significant duplication of effort among the lawyers involved (see generally, entries on 11/9 and 11/10). The Brennan Center also seeks reimbursement for preparing a summary of the ruling to share with clients [Doc. 119-5, p. 7] (11/12/2018 entry of S. Morales-Doyle).

Further, a significant amount of time was billed on responding to Defendant's motion to strike, which this Court denied in a footnote [Doc. 62, p. 3 n.3], and on declarations from individuals. This Court ultimately relied on some of the declarations, but due to the block billing and lack of specificity in billing, Defendant cannot determine which declaration Plaintiff's counsel was preparing in many of the entries. As a result, this Court cannot determine what time was reasonably spent on the case and what was not ultimately relied on in the Court's order.

Because of the billing problems and limited nature of the relief obtained by Plaintiff, *Barnes*, 168 F. 3d at 428, this Court should also reduce the entries for the "post-argument briefing" by 75%, as noted below:

Billing Entity	**Amount with reduced hourly rate**	**Reduced rate with 75% reduction**
Paul Weiss Post-Argument Briefing	$19,609	$4,902
Brennan Center Post-Argument Briefing	$10,440	$2,610
TOTAL	$30,049	$7,512

D. Summary of recommendations.

In summary, this Court should not award any fees to Plaintiff. But if this Court determines that Plaintiff is entitled to fees, the Secretary recommends that this Court reduce the hourly rate by 25% and the fee entries proposed by Plaintiff, so that the amount of reasonable hours at the appropriate rates attributable to the Defendant will be as follows:

Billing Entity	**Amount Sought**	**Amount with Reduced Hourly Rate**	**Total with All Recommended Reductions**
Paul Weiss Preparing Complaint (Phase 1)	$16,775	$12,581	$9,436
Brennan Center Preparing Complaint (Phase 1)	$13,450	$10,088	$0
Paul Weiss Preparing TRO (Phase 2)	$26,930	$20,198	$5,049

Brennan Center Preparing TRO (Phase 2)	$8,280	$6,210	$1,553
Paul Weiss Oral Argument (Phase 3)	$21,140	$15,855	$3,964
Brennan Center Oral Argument (Phase 3)	$12,840	$9,630	$2,408
Paul Weiss Post-Argument Briefing (Phase 4)	$26,145	$19,609	$4,902
Brennan Center Post-Argument Briefing (Phase 4)	$13,920	$10,440	$2,610
TOTALS	$139,480	$104,610	$29,921

IV. Plaintiff's expenses must be reduced.

In addition to attorneys' fees, a prevailing plaintiff is also entitled to recover reasonable expert fees and reasonable litigation expenses in the discretion of the court. 42 U.S.C. § 1988. As with attorneys' fees, the burden is on the applicant to submit a request that allows this Court to determine "what expenses were incurred" on this litigation. *Loranger*, 10 F. 3d at 784. Plaintiff did not file a bill of costs in accordance with 28 U.S.C. § 1920 and Fed. R. Civ. P. 54, instead electing to seek costs through their fee petition. Any reasonable expenses, with the exception of routine office overhead, may be taxed as costs, but the expenses must be reasonable in order to allow recovery. *Barnes*, 168 F. 3d at 438-439. In order for reasonableness to be

determined, expenses must be documented. *Dzwonkowski v. Dzwonkowski*, CIV.A. 05-0544-KD-C, 2008 WL 2163916 at *19 (S.D. Ala. May 16, 2008) (refusing to award expenses when no documentation was provided); *Wales v. Jack M. Berry, Inc.*, 192 F. Supp. 2d 1313, 1330 (M.D. Fla. 2001) ("As with an attorneys' fee, expense requests unaccompanied by adequate supporting documentation will result in a reduction or elimination of the expense."); Local Rule 54.2.A(2) (movant must file "other supporting documentation").

Plaintiff's brief says they seek expenses totaling $4,527.59. Plaintiff's fees include the required documentation and most do not appear to be for categories of expenses that are unrecoverable.

Defendant only disputes one of the expense entries sought by Plaintiff. The Brennan Center seeks reimbursement of a $134.76 taxi fare from LaGuardia Airport to the individual's home. This does not appear to be reasonably necessary as it is far in excess of the similar taxi fare sought by Paul Weiss ($20.17). The amount sought is also far in excess of what a state employee would be eligible for under the State Travel Policy (available at https://sao.georgia.gov/sites/sao.georgia.gov/files/related_files/site_page/SOG_Statewide_Travel_Policy_121517_FINAL.pdf) (requiring "most reasonable and customary means of transportation" when traveling at Section 2.4).

V. Conclusion and summary of calculations.

The Secretary continues to maintain that no award of fees should be made against him. The Secretary followed state law, immediately complied with every direction from this Court, and this Court's ruling did not change the relevant deadlines for the election certification. But if this Court grants fees and expenses, it should grant no more than $34,314 as the total recovery for Plaintiff against the Secretary, as outlined below:

Billing Entity	**Amount Sought**	**Amount with Reduced Hourly Rate**	**Total with All Recommended Reductions**
Paul Weiss Preparing Complaint (Phase 1)	$16,775	$12,581	$9,436
Brennan Center Preparing Complaint (Phase 1)	$13,450	$10,088	$0
Paul Weiss Preparing TRO (Phase 2)	$26,930	$20,198	$5,049
Brennan Center Preparing TRO (Phase 2)	$8,280	$6,210	$1,553
Paul Weiss Oral Argument (Phase 3)	$21,140	$15,855	$3,964
Brennan Center Oral Argument (Phase 3)	$12,840	$9,630	$2,408
Paul Weiss Post-Argument Briefing (Phase 4)	$26,145	$19,609	$4,902

Brennan Center Post-Argument Briefing (Phase 4)	$13,920	$10,440	$2,610
TOTAL FEES	**$139,480**	**$104,610**	**$29,921**
Brennan Center Expenses	$1,104.05		$969.29
Paul Weiss Expenses	$3,423.54		$3,423.54
TOTAL EXPENSES	**$4,527.59**		**$4,392.83**
TOTAL OF ALL FEES AND EXPENSES	**$144,008**		**$34,314**

This 12th day of August, 2019.

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing DEFENDANT BRAD RAFFENSPERGER'S RESPONSE TO PLAINTIFF'S SPECIAL MOTION FOR AN AWARD OF ATTORNEYS' FEES has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson
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