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10 UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 ROBERT JACOBSEN,) No. C-06-1905-JSW
14 Plaintiff,) **OBJECTIONS TO DECLARATION OF**
15 v.) **R. SCOTT JERGER**
16 MATTHEW KATZER, et al.,) Courtroom: 2, 17th Floor
17 Defendants.) Judge: Hon. Jeffrey S. White
18)
19)
20)

21 Plaintiff Robert Jacobsen objects to the Declaration of R. Scott Jerger for attorneys fees for
22 the following reasons.

23
24 Plaintiff objects to the declaration for attorneys' fees because plaintiff believes the amount
25 is excessive, and because Mr. Jerger has not provided substantial evidence for his attorney fee
26 petition. The amount Mr. Jerger now claims is nearly three times what he claimed after first filing
27 the anti-SLAPP motion, and nearly twice what he initially estimated the total to be. Dkt 14. The
28 total estimate included an assumption that Mr. Jerger would argue the motion during a separate

1 hearing, and would have separate expenses and fees as a result. Because the motion was combined
2 with a motion to dismiss and the initial case management conference, Mr. Jerger had to travel to
3 San Francisco and be present in court anyway. Thus, the total should not include any travel or
4 court time, except that court time needed to argue the anti-SLAPP motion. Lafayette Morehouse,
5 Inc. v. Chronicle Publ'g Co., 39 Cal. App. 4th 1379, 1383 (Cal. App. 1995). For this reason,
6 plaintiff believes the amount claimed to be excessive, which is a basis for reducing the amount.
7 Hensley v. Eckerhart, 461 U.S. 424, 434 (1983). In an attempt to resolve the matter, plaintiff made
8 a request for back-up information/data that serves as a basis for the declaration. Plaintiff is entitled
9 to that data under the rules of evidence, since the declaration is a compilation of data. Fed. R.
10 Evid. 1006. Mr. Jerger refused. Mr. Jerger also has not offered any evidence of comparable
11 awards to support the estimate, nor any evidence that Mr. Gorman's rate is reasonable for an
12 attorney of his experience and at his size firm.

13 Plaintiff's counsel corresponded via email with Mr. Jerger regarding his declaration for
14 attorneys' fees, but Mr. Jerger and plaintiff's counsel came to an impasse over whether plaintiff
15 was entitled to more detailed information such as time records. Plaintiff believes that he is entitled
16 to see more detailed evidence, or in the alternative, asks the Court to reduce in the fee award to an
17 amount that the Court finds just. As a final note, once the Court issues its written ruling, plaintiff
18 will seek a stay on the order to pay the fees to allow him to time to review the ruling and determine
19 his next course of action.

20 DATED: September 7, 2006

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22 By _____ /s/
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