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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WEALTHY INC., and DALE BUCZKOWSKI, Plaintiffs, v. SPENCER CORNELIA, CORNELIA MEDIA LLC, and CORNELIA EDUCATION LLC, Defendants.	Case No. 2:21-cv-01173-JCM-EJY **DEFENDANTS' MOTION TO ALTER OR AMEND ORDER ON COSTS AND ATTORNEYS' FEES (ECF NO. 298)**
WEALTHY INC., and DALE BUCZKOWSKI, Plaintiffs, v. JOHN MULVEHILL, JOHN ANTHONY LIFESTYLE, LLC, and OPTIMIZED LIFESTYLE LLC, Defendants.	Consolidated With: Case No. 2:22-cv-00740-JCM-EJY

Defendants Spencer Cornelia, Cornelia Media LLC, and Cornelia Education LLC ("Defendants") move under Fed. R. Civ. P. 59(e) and LR 59-1 to alter or amend the October 19, 2026, Order (ECF No. 298) (the "Order") granting in part their Renewed Motion for Costs and Attorneys' Fees (ECF No. 293). This Motion concerns two parts of the award under NRS 41.670(1)(a): the hourly rates and the 40% reduction in hours. Defendants do not ask the Court to revisit its rulings on Lanham Act fees or expert costs, but they do preserve those issues for appeal.

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MEMORANDUM OF POINTS AND AUTHORITIES

1.0 INTRODUCTION

The Order addressed a large fee request on an unusual record, the kind of task that lends itself to inadvertent error. Defendants respectfully ask the Court to review several points that warrant being revisited. The Order recognizes that Defendants are entitled to fees under NRS 41.670(1)(a), and that under *Smith v. Zilverberg*, 137 Nev. 65, 73, 481 P.3d 1222, 1231 (2021), those fees run from the inception of the litigation, and all fees Defendants incurred, not just those directly related to a special motion to dismiss under NRS 41.660, are compensable. ECF No. 298 at 4. Both holdings are correct. The Order then departs from those very holdings in four key ways.

First, the rates. Defendants offered overwhelming evidence of the market rates, and Plaintiffs offered nothing to rebut that evidence. The Order then adopted outdated 2019–2021 rates without recognizing that Nevada courts have approved Mr. Randazza at $650 to $800 in every anti-SLAPP rate determination in the past decade; that this very Court and its colleagues have found higher rates of $650 to $1,135 reasonable rates in the past three years, including the $675 in *Gunn v. Drage* that the Ninth Circuit affirmed, *see Gunn v. Drage*, 2023 U.S. App. LEXIS 9588, at *2–3 (9th Cir. Apr. 21, 2023) (aff'g rates; No. 2:19-cv-02102-JCM); or that Nevada courts applying NRS 41.670 have approved rates of $700 to $1,000. The Order's determination that rates of $550 and below are reasonable has no basis and was a manifest error.

Second, the 40% reduction in compensable hours is based on the Court misreading ECF No. 251. The "38.3 hours" the Order treats as Defendants' original Anti-SLAPP figure is the difference between two columns that measured different things. The "substantial discrepancy" from which the Order infers an "attempt to take advantage of the underlying statute," ECF No. 298 at 5, does not exist. Defendants' original table collapsed three categories into two columns. That could well have inadvertently invited that reading; the categories were the same in both motions.

Third, the Order sweeps the 420.2 hours of work after October 13, 2023, into its 40% cut as post-motion fees, but those hours were incurred in the Ninth Circuit cross-appeal, the rehearing petition that was necessary to receive the superseding opinion, and the oppositions to Plaintiffs'

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post-decision motions. Without this work, the ruling granting the Anti-SLAPP relief would not exist. That work is not "unrelated" to the motion. It was the entirety of how the motion was granted. It *was* the Anti-SLAPP motion.

Fourth, the Order excludes "the majority" of the "intertwined" entries because they post-date the special motion and "therefore could not have reasonably been related to such matters." *Id.* Again, much of that time was spent on the appeal, and the same First Amendment that is in play for the state law claims is in play for the Lanham Act claims. Further, the Court is invoking a California state rule adopted in *Banerjee v. Cont'l Inc.*, 2018 U.S. Dist. LEXIS 158687, at *7 (D. Nev. Sept. 17, 2018), as a prediction of how the Nevada Supreme Court would rule. But the Nevada Supreme Court specifically and roundly rejected that in *Zilverberg*. It is not good law.

The errors share a flawed premise: that the Nevada Legislature "could not have possibly predicted" an award of this size, ECF No. 298 at 4. But the Nevada Supreme Court told us what the Legislature intended in *Zilverberg*, 137 Nev. at 73, 481 P.3d at 1231, and has since affirmed an award of roughly 600 hours and more than $400,000 in a similar case, including post-judgment fees being granted on a supplemental motion. *See Fore Stars, Ltd. v. Omerza*, 2024 Nev. Unpub. LEXIS 887, at *3, *5 (Nev. Nov. 13, 2024). The Order speculates about legislative intent, when the Nevada Supreme Court has already conclusively resolved it.

2.0 LEGAL STANDARD

Rule 59(e) is meant to correct manifest errors of law or fact, to prevent manifest injustice, or to account for an intervening change in law. *Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011); *Sch. Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993); LR 59-1(a).

It is an abuse of discretion to apply the wrong legal standard in a fee order, or to rest it on a clearly erroneous finding. *See Gonzalez v. City of Maywood*, 729 F.3d 1196, 1201 (9th Cir. 2013). A reduction of more than 10% requires "a concise but clear explanation of its reasons for choosing a given percentage reduction." *Id.* at 1203. "[T]he larger the difference between the fee requested and the fee awarded, the more specific articulation of the court's reasoning is expected." *Vargas v. Howell*, 949 F.3d 1188, 1195 (9th Cir. 2020) (rev'g 90% reduction, No. 2:14-cv-01942-JCM).

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Across-the-board cuts to "large fee requests are subject to heightened scrutiny." *Gates v. Deukmejian*, 987 F.2d 1392, 1399–1400 (9th Cir. 1992); *Hernandez v. Su*, 2026 U.S. App. LEXIS 18508, at *5 (9th Cir. June 25, 2026) (reversing 75% cut; remanding "for an upward adjustment").

The Ninth Circuit reverses fee awards for each error at issue here: (1) an hourly rate determined by a years-old award, *United States v. $28,000.00 in U.S. Currency*, 802 F.3d 1100, 1105–06 (9th Cir. 2015); *Welch v. Metro. Life Ins. Co.*, 480 F.3d 942, 946–47 (9th Cir. 2007); (2) a rate set lower than that established by unrebutted evidence, *$28,000.00*, 802 F.3d at 1106; *Roberts v. City of Honolulu*, 938 F.3d 1020, 1024–25 (9th Cir. 2019); (3) rates not adjusted for delay, *Bell v. Clackamas Cnty.*, 341 F.3d 858, 869 (9th Cir. 2003); (4) "categorically excluding the majority of [the] requested fees without adequate explanation," *Ryan v. Editions Ltd. W., Inc.*, 786 F.3d 754, 757 (9th Cir. 2015); (5) unexplained percentage cuts, *Moreno v. City of Sacramento*, 534 F.3d 1106, 1111–16 (9th Cir. 2008); *Gonzalez*, 729 F.3d at 1203–05; *Vargas*, 949 F.3d at 1195–99; and (6) reductions that misapply *Hensley v. Eckerhart*, 461 U.S. 424 (1983), *Ibrahim v. U.S. Dep't of Homeland Sec.*, 912 F.3d 1147, 1172–78 (9th Cir. 2019) (en banc). Under Nevada law, which governs the award, a fee ruling that "implicates a question of law" is subject to *de novo* review. *Rosenbrook v. Lloyd*, 142 Nev. Adv. Op. 36, 588 P.3d 1281, 1291 (2026).

3.0 ARGUMENT

3.1 The Rates Are Contrary to the Record and the Law

3.1.1 Plaintiffs Offered No Rebuttal Evidence

A fee applicant must show that their counsel's hourly rates match those prevailing in the community for similar services by comparable lawyers. *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 980 (9th Cir. 2008). Declarations of counsel and "rate determinations in other cases, particularly those setting a rate for the [party's] attorney, are satisfactory evidence of the prevailing market rate." *United Steelworkers of Am. v. Phelps Dodge Corp.*, 896 F.2d 403, 407 (9th Cir. 1990); *Welch*, 480 F.3d at 947. The opponent then "has a burden of rebuttal that requires submission of evidence . . . challenging the accuracy and reasonableness of the . . . facts asserted by the prevailing party in its submitted affidavits." *Camacho*, 523 F.3d at 980; *Beauchamp v.*

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Anaheim Union High Sch. Dist., 816 F.3d 1216, 1224 (9th Cir. 2016); *Chaudhry v. City of Los Angeles*, 751 F.3d 1096, 1110–11 (9th Cir. 2014).

Defendants met their burden by citing anti-SLAPP cases in Las Vegas establishing reasonable hourly rates for Defendants' counsel, as well as other evidence. *See* ECF No. 293-5 ¶¶ 13–14, 18–26 (the $800 rate "was approved of in 2020 in Las Vegas in *Guo v. Cheng*"); four Nevada state court orders and one federal order from Florida approving these attorneys' rates, ECF No. 293-9; ECF Nos. 251-5 to 251-8; and the Adjusted Laffey Matrix, ECF No. 293 at 18–26.

Plaintiffs responded by just saying the rates "exceed the prevailing Las Vegas market." ECF No. 294 at 18. No declaration. No evidence. Not even a proposed rate. *See* ECF No. 296 at 14 n.6. Plaintiffs did not comply with LR 54-14(d), which requires an opposition to a fee motion to "set forth the specific charges that are disputed and state with reasonable particularity the basis for the opposition." ECF No. 296 at 11–14. Where the opponent "did not contest the market fee rate supported by [the applicant's] declarations, the district court was required to presume that rate reasonable." *$28,000.00*, 802 F.3d at 1106; *Welch*, 480 F.3d at 947 ("[i]n the absence of contrary evidence . . . the district court must presume those rates are reasonable"). A court's "wholesale rejection of the relevant attorney declarations" in favor of "singular reliance on the hourly rates previously awarded" is "legal error, resulting in an abuse of discretion." *Roberts*, 938 F.3d at 1025. Nor does any discount Defendants received matter: a reasonable rate "is not made by reference to the rates actually charged the prevailing party." *Welch*, 480 F.3d at 946.

The Order excused Plaintiffs from their burden in opposing the fee motion. It instead relies on very old rates found in a compilation of cases from 2020. *See* ECF No. 298 at 7 (*citing Scott v. Smith's Food & Drug Ctrs., Inc.*, 2020 U.S. Dist. LEXIS 9644, at *3 (D. Nev. Jan. 21, 2020), as quoted in *Kajan Johnson v. Zuffa, LLC*, 2026 U.S. Dist. LEXIS 211124, at *21 (D. Nev. Sept. 16, 2026)). The Order also cites rates from 2019, 2021, and 2024. ECF No. 298 at 7. A court abuses its discretion if it sets aside uncontroverted evidence for a general sense that rates should be lower. *Roberts*, 938 F.3d at 1024–25. The Order made no finding that the Defendants' evidence on rates

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is unreliable, and thus the Defendants' evidence on rates should have prevailed. It was manifest error and unjust to not accord such evidence and rates.

Plaintiffs did not contest Randazza Legal Group's ("RLG") rates with anything. ECF No. 294 at 18. Their counsel's own rates explain why. Nine years ago, this District approved $495 for Ms. Peterson. *E&R Venture Partners, LLC v. Park Cent. Plaza 32, LLC*, No. 2:16-cv-02959-RFB-GWF, 2017 U.S. Dist. LEXIS 150711, at *3 (D. Nev. Sept. 18, 2017). In 2018, testifying in this District as a witness on prevailing Nevada rates, she swore that she billed up to $590 per hour, that $665 was reasonable in Nevada, and that Nevada specialists charge "in excess of $700." Declaration of Tamara Beatty Peterson in *U.S. ex rel. Cretney-Tsosie v. Creekside Hospice II, LLC*, No. 2:13-cv-00167-APG-PAL, ECF No. 215-10 (D. Nev. Feb. 15, 2018), attached as **Exhibit 1**, ¶¶ 9, 13–14. In August 2026 dollars, those figures run from $672 to $942 per hour. Yet the Order sets $550 for Mr. Randazza, a specialist who helped draft the very statute at issue, persuaded the Ninth Circuit to apply it (on panel rehearing), and defeated Plaintiffs' petition for *certiorari*. Plaintiffs never asked for a rate as low as $550 for any attorney. Because Plaintiffs offered no competing rate, the record supports only the rates Defendants proved. *$28,000.00*, 802 F.3d at 1106.

3.1.2 Courts Have Approved Mr. Randazza at $650 to $800 for a Decade

The record contains five judicial determinations of RLG's attorneys' rates. The Order does not acknowledge any of them. For Mr. Randazza, they are as follows, with each rate and its August 2026 adjustment for inflation (with no adjustment for Mr. Randazza's increase in experience).

Case	Date	Rate approved	In 2026 dollars
iQTAXX, LLC v. Boling, No. A-15-728426-C (Nev. Dist. Ct.) (ECF No. 251-8)	May 2016	$650	$906
Tobinick v. Novella, 207 F. Supp. 3d 1332 (S.D. Fla.)	Sept. 2016	$650	$902
Guo v. Cheng, No. A-18-779172-C (Nev. Dist. Ct.) (ECF No. 293-9)	June 2020	$800	$1,040
Las Vegas Resort Holdings v. Roeben, No. A-20-819171-C (Nev. Dist. Ct.) (ECF No. 251-6)	Dec. 2020	$800	$1,029
Lazer v. Williams, No. A-19-797156-C (Nev. Dist. Ct.) (ECF No. 251-7)	Feb. 2022	$650	$767
Order (ECF No. 298)	**Oct. 2026**	**$550**	**$550**

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The inflation calculations use the CPI-U, 240.229 in May 2016 and 334.980 in August 2026. U.S. Bureau of Lab. Stat., Consumer Price Index – August 2026 (Sept. 11, 2026). No court in this community in a decade has set Mr. Randazza's rate below $650 in nominal dollars, much less inflation-adjusted dollars. The Order's rate of $550 is about $395 in 2016 dollars, well below what a Las Vegas court approved in *iQTAXX* **ten years ago**. The $1,000 requested for 2026 is less than the June 2020 *Guo* rate in 2026-adjusted dollars. ECF No. 293-5 ¶ 19. This evidence was unrebutted, *Phelps Dodge*, 896 F.2d at 407, and the Order gives no reason for applying a deflationary number that has no support. The Order does not mention this Court's own anti-SLAPP rate determination in *Gunn v. Drage*, where in March 2021 it found rates of $525 to $675 per hour reasonable, 2021 U.S. Dist. LEXIS 41577, at *10–11 (D. Nev. Mar. 5, 2021), and rates (along with everything else) have gone up in the intervening five years.

These prior fee awards also made findings as to reasonable hourly rates for RLG's other attorneys: $550 for Mr. Green, $450 for Mr. Shepard, $200 for Mr. Rothell as a clerk, and $175 for paralegals in *Guo* and *Roeben* (2020); $500, $350, $200, and $175 in *Lazer* (2022); $500 and $325 in *iQTAXX* (2016); and $325 and $180 in *Tobinick* (2016). ECF No. 293-9 at 2–4; ECF Nos. 251-6 to 251-8; ECF No. 293 at 23 & n.21. But these actual awards appear nowhere in the Order.

The Order's comparative rates are out of date, coming from 2019 to 2021. ECF No. 298 at 7 (citing *Scott* (2020); *Soule* (2019); *Wunderlich* (2021); *Sciara* (2021)). The Ninth Circuit tells us that applying old hourly rates without adjusting for delay or inflation is an abuse of discretion. *Bell*, 341 F.3d at 869; *Christensen v. Stevedoring Servs. of Am.*, 557 F.3d 1049, 1055 (9th Cir. 2009) (fee awards must be based on "current rather than merely historical market conditions"); *Missouri v. Jenkins*, 491 U.S. 274, 283–84 (1989). This District applies the rule: "a previously awarded rate may be adjusted upward to reflect the passage of time and intervening inflation." *Llera v. Las Vegas Metro. Police Dep't*, 2026 U.S. Dist. LEXIS 225326, at *70 (D. Nev. Sept. 30, 2026) (*citing Humphries v. Button*, 2025 U.S. Dist. LEXIS 50920, at *5 (D. Nev. Mar. 20, 2025)). The Order does not take inflation into account. A previously awarded rate should be adjusted *upward*, and should certainly not be adjusted downward so drastically.

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The Order applies a rate of $385 to Mr. Shepard, *citing Sciara v. Campbell*, 2021 U.S. Dist. LEXIS 257757, at *1 (D. Nev. Apr. 28, 2021), which found $380 to $390 appropriate for "an associate with 10 years of experience" in 2021. ECF No. 298 at 7. Mr. Shepard has 13 years of experience, and made partner three years ago, ECF No. 293 at 19 n.16, and did much of the appellate drafting as a partner. The Order incorrectly values 2026 partner work at a 2021 associate rate. And this is to say nothing of the particular, specialized experience of RLG's attorneys in defamation and anti-SLAPP cases, which allows them to command a premium.

For Mr. Rothell, the Order says that he is worth $275. ECF No. 298 at 7. Ten months earlier, in *Broadcast Music, Inc. v. Pure Mexican Grill, LLC*, No. 2:25-cv-727-JCM-DJA, 2025 U.S. Dist. LEXIS 261621, at *7 (D. Nev. Dec. 17, 2025), this very Court found "Attorney Trey A. Rothell's hourly rate of $325 per hour is reasonable for the Las Vegas market, given his skill and experience." Nothing in the record suggests Mr. Rothell's value declined in the ten months since this Court found $325 reasonable.

3.1.3 The "$250 to $400" Benchmark Is Out of Date

The Order says, "[f]or the Las Vegas market, this court generally awards fees where the hourly rates at issue were between $250 and $400," and that "all of Cornelia's attorney rates exceed the upper threshold for the Las Vegas market." ECF No. 298 at 6–7. The first statement is a string of 2012–2014 citations carried forward from earlier orders for more than a decade, *see United States ex rel. Wells Cargo, Inc. v. Alpha Energy & Elec., Inc.,* No. 2:18-cv-1182-JCM-EJY, 2023 U.S. Dist. LEXIS 46228, at *15 (D. Nev. Mar. 20, 2023). It is not an accurate finding about the market in 2026.

This carried-forward string cite of old cases cannot support a finding about the market *today*. Four months before the Order, in *Feldman v. Sawyer*, No. 2:24-cv-526-JCM-MDC, 2026 U.S. Dist. LEXIS 143257, at *6 (D. Nev. June 26, 2026), the Court stated that it "has regularly awarded fees where the hourly rates at issue were between $200 and $600." In *Gunn v. Drage*, 2021 U.S. Dist. LEXIS 41577, at *10, the Court found $675, $615, and $525 for attorneys, and $265 for a paralegal "reasonable and appropriate," rejecting the argument "that the rate is too high

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for the local Las Vegas market." In *Yuga Labs, Inc. v. Hickman*, 2024 U.S. Dist. LEXIS 96813, at *7–8 (D. Nev. May 31, 2024), **it approved up to $1,135**. The "$500 to $550" range the Order applies comes from *Energy Enhancement Sys. LLC v. Shurka*, No. 2:25-cv-00633-CDS-NJK, 2026 U.S. Dist. LEXIS 57313, at *5 (D. Nev. Mar. 19, 2026), which was a fee award based on a meritless notice of removal under 28 U.S.C. § 1447(c) and 21.7 hours of work on a simple motion to remand. Four months later, the same judge rejected the argument that rates of $550 to $635 should be adjusted downward because they were "relatively high" for Las Vegas. *H&H Pharms., LLC v. Chattem Chems., Inc.*, No. 2:16-cv-02148-CDS-EJY, 2026 U.S. Dist. LEXIS 171844, at *17 (D. Nev. July 30, 2026). Adopting the hourly rates from a remand fee award, one of the most routine and simple legal issues we encounter, is not a finding about the market for lead counsel in a five-year First Amendment case that went to the Ninth Circuit and the Supreme Court that was led by a specialty firm, and where the case required that specialty firm's horsepower in order to win.

3.1.4 Judges in This District Find $650 to $1,135 Reasonable

The premise that counsel's rates "exceed the upper threshold for the Las Vegas market," ECF No. 298 at 6, cannot be reconciled with recent decisions of this Court and its colleagues:

Rate	Case	Judge	Date
$1,135	*Yuga Labs, Inc. v. Hickman*, 2024 U.S. Dist. LEXIS 96813, at *7–8	Mahan	May 2024
$1,050	*Llera v. Las Vegas Metro. Police Dep't*, 2026 U.S. Dist. LEXIS 225326, at *69–70	Boulware	Sept. 2026
$850	*Mayorga v. Ronaldo*, 656 F. Supp. 3d 1218, 1232–33	Dorsey	2023
$807.70	*U.S.A. Dawgs, Inc. v. Crocs, Inc.*, 2019 U.S. Dist. LEXIS 91369, at *8 (rates "found to be reasonable")	Mahan	May 2019
$765	*Polaris Processing, LLC v. New Rise Renewables Reno, LLC*, No. 2:24-cv-01907-JAD-MDC, 2026 U.S. Dist. LEXIS 99999, at *5 (D. Nev. May 5, 2026)	Dorsey	May 2026
$750	*Humphries v. Button*, 2025 U.S. Dist. LEXIS 50920, at *5	Youchah	Mar. 2025
$750	*Boca Park Marketplace Syndications Grp. v. Ross Dress for Less, Inc.*, 2020 U.S. Dist. LEXIS 96597, at *7	Boulware	May 2020
$675	*Gunn v. Drage*, 2021 U.S. Dist. LEXIS 41577, at *10 (anti-SLAPP)	Mahan	Mar. 2021
$650	*Ignite Spirits, Inc. v. Consulting by AR, LLC*, 2024 U.S. Dist. LEXIS 54641, at *9	Mahan	Mar. 2024
$635	*H&H Pharms., LLC v. Chattem Chems., Inc.*, 2026 U.S. Dist. LEXIS 171844, at *17	Silva	July 2026
$550	**Order (ECF No. 298)**	**Mahan**	**Oct. 2026**

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Three weeks before the Order, Judge Boulware found that "$550 to $750 have recently been found reasonable for attorneys with thirty-eight or more years of experience, and $500 to $641 for attorneys with seventeen to thirty-eight years," ***but*** that a lawyer with a recognized specialty "should be treated differently than a generalist litigator of comparable seniority." *Llera*, 2026 U.S. Dist. LEXIS 225326, at *69–70.

The Order did not find RLG's rates to be at the high end; it found they exceed the market's upper ceiling, citing nothing to support that finding, and not taking the firm's specialization into account at all. Meanwhile, this very District found rates of $650 to $1,135 reasonable. If specialization justified $1,050 in *Llera*, it justifies a specialist rate for a lawyer who was instrumental in crafting the very statute at issue and who teaches CLE courses on anti-SLAPP litigation. ECF No. 293-5 ¶¶ 21–23, 28; ECF No. 293-9 at 2–4. Specialist rates are appropriate, not a drastic reduction in rates.

3.1.5 Nevada Courts Applying NRS 41.670 Approve $700 to $1,000

The most relevant rate determinations are those of the Nevada courts that apply NRS 41.670. The rates in each of these cases are higher than the rates the Order found reasonable, and the Order does not address them:

Rate	Case	Court	Date
$1,000	*Wilson v. Rangen*, 2023 Nev. Dist. LEXIS 133	8th Jud. Dist. Ct.	Feb. 2023
$825	*Mohajer, M.D., PLLC v. Centeno*, 2022 Nev. Dist. LEXIS 780	8th Jud. Dist. Ct.	July 2022
$800	*Guo v. Cheng*, No. A-18-779172-C (Randazza)	8th Jud. Dist. Ct.	June 2020
$800	*Las Vegas Resort Holdings v. Roeben*, No. A-20-819171-C (Randazza)	8th Jud. Dist. Ct.	Dec. 2020
$750	*Byrd v. Jaffe*, 2022 Nev. Dist. LEXIS 881	8th Jud. Dist. Ct.	Aug. 2022
$700	*Fore Stars, Ltd. v. Omerza*, 2023 Nev. Dist. LEXIS 623, aff'd, 2024 Nev. Unpub. LEXIS 887 (Nev. 2024)	8th Jud. Dist. Ct.	Sept. 2023
$675	*Gunn v. Drage*, 2021 U.S. Dist. LEXIS 41577	D. Nev. (Mahan)	Mar. 2021
$650	*Lazer v. Williams*, No. A-19-797156-C (Randazza)	8th Jud. Dist. Ct.	Feb. 2022
$595	*Anderson Bus. Advisors v. Trenchak*, 2021 Nev. Dist. LEXIS 1645	8th Jud. Dist. Ct.	July 2021
$550	**Order (ECF No. 298)**	D. Nev. (Mahan)	**Oct. 2026**

Wilson v. Rangen is the most telling. In an anti-SLAPP case, in February 2023 the Eighth Judicial District Court awarded $1,000 per hour for lead counsel, applying *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 455 P.2d 31 (1969), and *Zilverberg*. 2023 Nev. Dist. LEXIS 133, at *13–

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16 (Nev. Dist. Ct. Feb. 17, 2023), *vacated in part on other grounds*, 550 P.3d 811 (Nev. 2024) (partial success). *Fore Stars* approved $655 to $700, calling those rates "lower than some rates approved on anti-SLAPP motions in this district," 2023 Nev. Dist. LEXIS 623, at *9, and the Nevada Supreme Court affirmed. 2024 Nev. Unpub. LEXIS 887, at *5. The Order's $550 is not at the low end of this range. It is below every rate in this range and below what any Nevada court has approved for lead anti-SLAPP counsel in any decision Defendants have found since 2016, including the $595 approved five years ago for a solo practitioner in *Anderson Bus. Advisors, LLC v. Trenchak*, 2021 Nev. Dist. LEXIS 1645, at *9 (Nev. Dist. Ct. July 1, 2021).

There is no "federal court discount." A reasonable hourly rate is "the prevailing market rate in the relevant community," and "the relevant community is the forum in which the district court sits"—Las Vegas, not the federal courthouse. *Roberts*, 938 F.3d at 1024 (*quoting Camacho*, 523 F.3d at 979). The same lawyers charge the same rates for the same statute in either courthouse, and the work in this Court—a five-year case through summary judgment, a Ninth Circuit cross-appeal, rehearing, an *en banc* opposition, and a *certiorari* opposition—sits at the higher end of that market. A Nevada court setting $800 six years ago for a state-court anti-SLAPP motion and this Court setting $550 today for the exact same lawyer under the same statute in a harder fought case are not both describing the same market. ECF No. 293-9. Three years ago, the Ninth Circuit held that the Las Vegas anti-SLAPP market supported $675, *Gunn*, 2023 U.S. App. LEXIS 9588, at *2 (affirming rates but reversing for unexplained hours determination), and that a rate "higher than past practice" must be awarded if the evidence supports it. *Moreno*, 534 F.3d at 1115.

3.1.6 The Rates Assigned to Each Timekeeper Do Not Reflect the Record

Randazza, Green, and Wolman. The Order assigns $550 because $500 to $550 has been approved for attorneys with fifteen to thirty years of experience. ECF No. 298 at 7. The first *Brunzell* factor is "the qualities of the advocate: his ability, his training, education, experience, professional standing and skill." *Brunzell*, 85 Nev. at 349, 455 P.2d at 33. The Order acknowledges this factor, ECF No. 298 at 3, but only considers the number of years each attorney has been licensed. Mr. Randazza has been practicing for 24 years, and those 24 years have not been as a

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generalist, but highly specialized in this area of law. Mr. Randazza helped draft the anti-SLAPP law both in 2013 and 2015, has assisted the legislatures of seven states with anti-SLAPP legislation, has taught First Amendment law, and has been recognized by a Nevada court as a national authority on the subject of this case. ECF No. 293 at 24–25; ECF No. 293-5 ¶¶ 20–27. *Thirteen years ago,* Senator Justin Jones, the sponsor of the 2013 amendments, told the Assembly Judiciary Committee that Mr. Randazza is "one of the preeminent experts on the issue," ECF No. 251-9 at 3, and Judge Rob Bare said the same in approving his $800 rate, ECF No. 293-9 at 2-3. Mr. Randazza has widely published on the subject. *See* Marc J. Randazza, *The Need for a Unified and Cohesive National Anti-SLAPP Law*, 91 Or. L. Rev. 627 (2012); Marc J. Randazza, *Nevada's New Anti-SLAPP Law: The Silver State Sets the Gold Standard*, 21 Nev. Law. 7 (2013); Marc J. Randazza, *The Nevada Anti-SLAPP Act and Its Role in Preserving First Amendment Rights in Nevada*, Communiqué (Clark Cnty. Bar Ass'n Aug. 2025); Marc J. Randazza, *Florida's Anti-SLAPP Law Turns 10 and Grows Into a Substantive Immunity*, MLRC MediaLawLetter (May 2025). He also teaches the subject to other lawyers. Six days before the Order, he presented "Litigating Under Arizona's Anti-SLAPP Statute: A Comparative and Practical Overview" for the State Bar of Arizona on October 13, 2026, and he has presented on anti-SLAPP litigation to the Media Law Resource Center and the Virgin Islands Bar Association and teaches a course on free speech at the University of Turin every year. ECF No. 293-5 ¶ 28. The requested rates—$800 to $1,000 for Mr. Randazza, $600 to $750 for Mr. Green and Mr. Wolman, $450 to $750 for Mr. Shepard, and $325 to $450 for Mr. Rothell—were supported by declaration, prior court orders, and the Laffey Matrix. ECF No. 293-5 ¶¶ 13, 29–32.

Plaintiffs presented nothing to contradict that besides a single general sentence. As they declined to contradict it, they waived any argument to the contrary.

Paralegals. The Order sets all six paralegals at $75 per hour—the bottom of a $75 to $125 range—because "counsel has not presented any information regarding the qualifications or experience of the paralegals." ECF No. 298 at 7. But Marc Randazza's Declaration states each paralegal's experience: eighteen years for Ms. Holt, who billed 191.6 of the 269 paralegal hours;

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eight for Ms. Levenson; six for Ms. Flavin; and one to two for the rest. ECF No. 293-5 ¶¶ 33–38. The $75 to $125 range comes from *Sciara* (2021) and *Smith & Wesson Brands, Inc. v. SW N. Am., Inc.*, 2023 U.S. Dist. LEXIS 114832, at *8 (D. Nev. July 5, 2023), which rest on determinations from 2013 to 2015. *See Wells Cargo*, 2023 U.S. Dist. LEXIS 46228, at *15. This Court recently approved paralegal rates of $265 in *Gunn* (2021), $250 in *Yuga Labs* (2024), and $110 to $220 in *Board of Trustees v. Bottom Line Construction*, 2024 U.S. Dist. LEXIS 110309, at *13 (D. Nev. June 24, 2024). Other judges have approved $350, *Nanal, Inc. v. SMK Int'l Inc.*, No. 2:19-cv-2211-RFB-DJA, 2026 U.S. Dist. LEXIS 223822, at *15–16 (D. Nev. Sept. 30, 2026), and $200, *Humphries*, 2025 U.S. Dist. LEXIS 50920, at *5. And *Banerjee*, on which the Order relies, awarded $150 per hour in 2018. 2018 U.S. Dist. LEXIS 158687, at *7-8. Nevada courts have approved $175 for RLG's paralegals three times. $75 is below every paralegal rate in the record and below every paralegal rate any judge of this District has found reasonable since 2021.

3.2 The 40% Reduction in Time Is a Misreading of ECF No. 251

The Order's principal reason for the 40% reduction is a perceived inconsistency between Defendants' two fee motions:

> Specifically, Cornelia's initial motion for attorneys' fees reported only 38.3 hours of non-Lanham act work. See (ECF No. 251, at 11). Because the only work falling outside the Lanham Act claims was work related to the anti-SLAPP motion, those 38.3 hours must reflect the time Cornelia initially attributed to anti-SLAPP-related work. See id. By contrast, Cornelia's renewed motion asserts that its counsel spent 1,118 hours on anti-SLAPP work. (ECF No. 293, at 13). This substantial discrepancy, coupled with the attempt to classify essentially all of its work as anti-SLAPP related matters indicates its attempt to take advantage of the underlying statute.

ECF No. 298 at 5.

That is not what ECF No. 251 says. The original motion—filed before the Ninth Circuit reversed, and thus seeking fees under the Lanham Act and NRS 18.010(2)(b) rather than NRS 41.670—used the same three categories the Renewed Motion uses: (1) hours solely on the state-law claims and the anti-SLAPP motion; (2) hours solely on the Lanham Act claim; and (3) hours "inextricably connected to all claims." ECF No. 251 at 15. It explained that "hours in the second

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and third categories were reasonably spent in connection with Plaintiffs' Lanham Act claim and are thus compensable under the Lanham Act." *Id.* Its table had two columns: "Lanham Act Hours" (629.8), which by definition included Lanham-only time and all intertwined time, and "Total Hours" (668.1), which added the state-law-only time. *Id.* at 16. The 38.3-hour difference is category (1) alone.

The Renewed Motion reports the same categories in three columns instead of two: 125 hours of Anti-SLAPP-only time (category 1), 27.5 hours of Lanham-only time (category 2), and 993 hours of intertwined time (category 3). ECF No. 293 at 18. The 1,118 hours the Order treats as inconsistent with 38.3 hours is categories (1) and (3) combined. The motions line up as follows:

Category of time	ECF No. 251 (Oct. 13, 2023)	ECF No. 293 (Apr. 28, 2026)
(1) State-law claims / Anti-SLAPP only	38.3 ("Total Hours" less "Lanham Act Hours")	125.0 ("Anti-SLAPP")
(2) Lanham Act only, plus (3) inextricably intertwined	629.8 ("Lanham Act Hours")	1,020.5 (27.5 "Lanham Act" + 993.0 "Intertwined")
Total hours	**668.1**	**1,145.5**

The 38.3 hours in ECF No. 251 and the 125 hours in ECF No. 293 are in the same category. Of the 125, 49.4 hours post-date the original motion and are for Anti-SLAPP-only work of the Ninth Circuit appeal. The remainder reflects a 2026 re-review of the 2023 entries that moved approximately 36 hours of Anti-SLAPP motion drafting and summary-judgment opposition work from the intertwined column into the Anti-SLAPP-only column, reflecting more precision, not less. This re-allocation was immaterial to the final amount because both columns are compensable under NRS 41.670(1)(a). ECF No. 293-6. The 2026 spreadsheet also accounts for roughly 57 pre-2023 hours of timekeepers whose entries were omitted from the 2023 spreadsheet; Defendants wrote off nine timekeepers entirely and about 50 additional hours as a matter of billing discipline, ECF No. 293-5 ¶¶ 10, 39. None of this is an effort to "take advantage of the statute." It is the opposite. The intertwined hours were in the Lanham Act column in 2023 and in their own column in 2026. Defendants explained this in the reply, ECF No. 296 at 11, and the Order does not even acknowledge this explanation. An across-the-board cut based on a subset of claimed hours is

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reversible for that imprecision alone: for example, a 20% across-the-board reduction for block billing that affected half the entries "effectively served as a 40 percent penalty" on them and was vacated in *Welch*, 480 F.3d at 948. And a reduction may not rest on a reading of "ambiguous language in [the] Motion for Attorneys' Fees" once a later filing "clarified any ambiguity." *Gonzalez v. City of Maywood*, 671 F. App'x 564, 565 (9th Cir. 2016) (vacating 87.5% reduction as "without support in inferences that may be drawn from facts in the record").

This matters beyond money. The Order accuses counsel of "tak[ing] advantage of the underlying statute," ECF No. 298 at 5, and that finding is the foundation for the 40% cut. A finding about counsel's candor should relate accurately to the record. The Order presents an unfair characterization of the record, and Defendants respectfully ask the Court to withdraw it and the reduction that rests on it.

3.3 The Order Improperly Excludes Appellate Fees

Nothing in NRS 41.670 says a fee award is limited to fees incurred at the trial court. Nevada courts applying NRS 41.670 hold that the award includes "fees on fees, fees in connection with defending an award of fees, and fees on appeal of an order granting an Anti-SLAPP motion." *Bulen v. Sanson*, 2020 Nev. Dist. LEXIS 1509, at *3–4 (Nev. Dist. Ct. Dec. 18, 2020) (*citing Wanland v. Law Offices of Mastagni, Holstedt & Chiurazzi*, 141 Cal. App. 4th 15, 21 (2006)).

The Order treats all 1,145.5 hours as if they were incurred in the trial court. They were not. The spreadsheet shows 420.2 hours, $247,462.50 at the rates billed, dated after October 13, 2023, the day the original fee motion was filed. ECF No. 293-6. Then the Court criticizes Defendants for seeking the fees on appeal as if they were unnecessary fees incurred "after the special motion." Yes, they were incurred *after* the motion, because *they had to be.* Roughly 290 of those hours relate to the appeal: defending against Plaintiffs' appeal; the cross-appeal *from the denial of the Anti-SLAPP Motion*; the petition for panel rehearing that produced the superseding opinion directing that the Anti-SLAPP Motion be granted; and the oppositions to Plaintiffs' motion to stay the mandate, motion for leave to seek rehearing *en banc*, and petition for *certiorari*. About 52 hours are related to the Renewed Fee Motion itself. *Id.*; ECF No. 293 at 6 n.1, 9. This Court

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deferred the fee motion in 2024 for exactly this reason: "[g]iven the complexity of the plaintiffs' appeals," it found "it prudent to defer ruling," because "a mandate from the Ninth Circuit" might "affect[] its disposition of the motion." ECF No. 280 at 3. The appellate work was the cost of securing the relief the statute promises; excluding it leaves Defendants bearing the expense of the very appeal that vindicated their motion.

The Order sweeps all appellate hours into the 40% cut because it says that entries after the Anti-SLAPP Motion "could not have reasonably been related to such matters." ECF No. 298 at 5.

The appeal *is the Anti-SLAPP win*.

The sole question on the cross-appeal was whether this Court erred in denying the Anti-SLAPP remedy. The Ninth Circuit held that it did and remanded, ordering that this Court provide that remedy. ECF No. 291 at 7, 14. Defendants are only able to seek fees *because* of that successful appeal. An appeal that is the predicate for the award cannot possibly be "unrelated" to it. The Order itself cites *Northon v. Rule*, 637 F.3d 937, 938 (9th Cir. 2011), for the rule that state law governs an anti-SLAPP fee award. ECF No. 298 at 3. *Northon* is the Ninth Circuit granting a prevailing anti-SLAPP defendant's "motion for an award . . . for fees on appeal" under the state statute. 637 F.3d at 938–39. The same is true of the summary judgment work. The Anti-SLAPP and summary judgment motions were *the same document*, ECF No. 293-5 ¶ 6, and this Court decided both on the same record—finding on that record that Cornelia "published his videos based on reasonable information he received from reliable sources," ECF No. 247 at 11 (citing ECF No. 62-3 at 34–35, 114, 116), while denying the Anti-SLAPP Motion on prong one, *id.* at 7. The Ninth Circuit reversed the prong-one ruling on that record.

The Ninth Circuit held that the second prong of the Anti-SLAPP analysis "is simply 'collapsed' into the summary judgment standard under Fed. R. Civ. P. 56," and granted the motion because it affirmed summary judgment: "Since . . . this panel affirms the district court's grant of summary judgment for the Cornelia Defendants, the second prong is satisfied." ECF No. 291 at 14. In deciding prong one, it found that Cornelia "reasonably researched and corroborated the statements and testified" to his sources. *Id.* at 13. In this Court, the discovery and the summary

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judgment motion were not "unrelated" to the special motion. They *were* the special motion. In *Gunn*, this Court awarded fees for post-judgment practice that "attempted to unwind this court's decision on [the] anti-SLAPP motion" because that work was "directly related" to the motion, 2021 U.S. Dist. LEXIS 41577, at *15, and the Ninth Circuit affirmed that part of the award. *See Gunn*, 2023 U.S. App. LEXIS 9588, at *5. This Court should follow its own logic in *Gunn*.

3.4 The Order Applies the Motion-Only Rule That *Zilverberg* Rejected

The Order's second basis for excluding intertwined time is that "the majority of the entries categorized as 'inextricably intertwined' with anti-SLAPP work incurred after the special motion was filed, and therefore could not have reasonably been related to such matters." ECF No. 298 at 5. It cites *Banerjee*, 2018 U.S. Dist. LEXIS 158687, at *7; *Century Sur. Co. v. Prince*, 782 F. App'x 553, 558 (9th Cir. 2019); and *Platypus Wear, Inc. v. Goldberg*, 166 Cal. App. 4th 772 (2008). ECF No. 298 at 5–6. Each of these cases applies California's rule that a prevailing anti-SLAPP defendant can recover only fees directly connected to the anti-SLAPP motion. *Platypus Wear* is a California decision, and *Banerjee* and *Century* adopted the rule only because Nevada had not yet weighed in on the question.

The Nevada Supreme Court then issued a decision specifically departing from the California rule. *Zilverberg* held that a prevailing defendant recovers fees "incurred from the inception of the litigation, rather than just those incurred in litigating the anti-SLAPP motion," 137 Nev. at 73, 481 P.3d at 1231, and, addressing *Lafayette Morehouse, Inc. v. Chronicle Publishing Co.*, 39 Cal. App. 4th 1379 (1995), wrote: "while the California statutory language is similar to ours, *Lafayette Morehouse* largely based its holding on California's legislative history. Nevada has no similar express legislative statement limiting the fees a prevailing defendant can recover. Accordingly, we decline to follow *Lafayette Morehouse*." *Id.* at 73 n.8, 481 P.3d at 1231 n.8.

The Ninth Circuit's reading of a state statute is binding "only in the absence of any subsequent indication from the [state] courts that our interpretation was incorrect," *Century*, 782 F. App'x at 558 (*quoting In re Watts*, 298 F.3d 1077, 1083 (9th Cir. 2002)). In *Zilverberg*, the Nevada Supreme Court clearly indicated that cases applying the California rule on recoverable

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anti-SLAPP fees were wrong. The judge in *Banerjee* now recognizes that *Zilverberg* is controlling. *See Sternberg v. Warneck*, 2025 U.S. Dist. LEXIS 98503, at *18-19 (D. Nev. May 22, 2025) (Gordon, C.J.). The Nevada Supreme Court has continued to recognize it. *See Daley v. Shields*, 2024 Nev. Unpub. LEXIS 163, at *8 (Nev. Mar. 1, 2024). The only *limit Zilverberg* recognizes is where an anti-SLAPP motion is only partially successful. *See Rosenbrook*, 588 P.3d at 1291–92. Defendants' Anti-SLAPP Motion was granted in full and was part of a decision granting summary judgment in Defendants' favor on all claims. ECF No. 291 at 14.

The Order quotes *Zilverberg*, ECF No. 298 at 4, then commits manifest error when it applies the California rule from *Banerjee* that *Zilverberg* rejected. Applying an old standard the state supreme court specifically rejected is a manifest error of law. The Nevada Supreme Court said: "California's interpretation of its statutory attorney-fees provision has no bearing on Nevada's," and a court applying NRS 41.670(1) is "constrained by the plain language" of the statute, because "[i]t is the prerogative of the Legislature, not this court, to change or rewrite a statute." *Padda v. Hendrick*, 461 P.3d 160, 4-5 (Nev. 2020) (unpublished) (*quoting Holiday Ret. Corp. v. State, Div. of Indus. Relations*, 128 Nev. 150, 154, 274 P.3d 759, 761 (2012)).

This very Court has applied NRS 41.670 the same way. In *Century Sur. Co. v. Prince*, No. 2:16-cv-2465-JCM-PAL, 2018 U.S. Dist. LEXIS 51382, at *12 (D. Nev. Mar. 28, 2018), it held that a prevailing anti-SLAPP defendant was "entitled to recover all reasonable attorney's fees incurred in defending this action, even those not directly related to the anti-SLAPP motion," because the defendants "would not need to litigate this suit whatsoever but for plaintiff's baseless allegations." Defendants quoted that holding in their reply. ECF No. 296 at 9. The Order does not mention it, and it is this Court's own holding.

The Order also states that paying for 1,145.5 hours "would impose an unfair deterrent effect inconsistent with the statute's objectives." ECF No. 298 at 5. Deterrence of meritless lawsuits, like the one Plaintiffs filed here, is the statute's purpose, not a reason to reduce the award. The Order says so two pages earlier—NRS 41.670(1)(b) exists "to deter future SLAPP suits," ECF No. 298 at 3—and awards the maximum $30,000 under that subsection for that purpose. ECF No. 298 at

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8. When a fee award deters SLAPP suits, the statute is doing its job. Cornelia, who did nothing but use his First Amendment rights, is not the one that should be forced to pay for the appeal that preserved them. The "unfair deterrent effect" the current Order creates is an unfair deterrent to speaking on matters of public concern.

The Order's observation that "[m]any hours were spent on unrelated reply briefs, motions, and trial prep work," ECF No. 298 at 5, is neither supported by the record, nor a basis for the cut. "A conclusory statement about inefficiency can justify 'no more than a haircut' in a fee award," *Vargas*, 949 F.3d at 1197 (*quoting Moreno*, 534 F.3d at 1116), and a court "may not reduce a fee award based on 'speculation as to how other firms would have staffed the case.'" *Id.* (*quoting Moreno*, 534 F.3d at 1114–15). Under *Zilverberg*, work on the case is not "unrelated" because it was not performed on the anti-SLAPP motion. And the Order does not identify a single time entry, category, or amount it considers unrelated to the Anti-SLAPP Motion; it just slashed the whole thing by 40%. That is the categorical cut the Ninth Circuit vacates. *Gonzalez*, 729 F.3d at 1203. The Court may not categorically exclude work that the Nevada Supreme Court has explicitly found to be compensable.

3.5 Nevada Law Does Not Support the "Could Not Have Predicted" Premise

The Order states that the Legislature "could not have possibly predicted that over 1000 hours of work could have been conducted in relation to an anti-SLAPP motion." ECF No. 298 at 4. That is a conclusion of Nevada law, citing no Nevada authority. Where the Nevada Supreme Court has already addressed the question, as it has here, a federal court applying Nevada law follows its answer.

The statute mandates "reasonable costs and attorney's fees," NRS 41.670(1)(a), and permits an additional award of up to $10,000 per defendant, NRS 41.670(1)(b). It also authorizes a separate action for compensatory and punitive damages. *See* NRS 41.670(1)(c). To effect the statute's purpose, it also gives the movant the right to an immediate interlocutory appeal of an order denying an anti-SLAPP motion. NRS 41.670(4). A Legislature that authorized interlocutory appeals and a whole second lawsuit for punitive damages against the SLAPP plaintiff did not

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assume a SLAPP plaintiff's financial exposure would be limited to a few dozen hours at rates below any this market has approved.

The 2013 amendments to the anti-SLAPP law, which Mr. Randazza helped secure, ECF No. 293-5 ¶ 21, responded to the Ninth Circuit's decision in *Metabolic Research, Inc. v. Ferrell*, 693 F.3d 795 (9th Cir. 2012), which found no right to an interlocutory appeal from the denial of an anti-SLAPP motion. The Legislature amended the statute because "the Ninth Circuit [c]ourt has said that [Nevada's anti-SLAPP law] does not protect people in the way that it should." *Delucchi v. Songer*, 133 Nev. 290, 296, 396 P.3d 826, 830–31 (2017). The sponsor told the Assembly Judiciary Committee that if the motion is granted the court "must also award attorney's fees," and that the defendant "may also file a new lawsuit for compensatory damages, punitive damages, and attorney's fees." ECF No. 251-9 at 3. The Committee heard that a media company defending a SLAPP through trial would "spend on average $100,000 in attorney's fees," *id.* at 6, asked whether the $10,000 additional award should be *higher* "to really be a detriment," and was told by the sponsor that he "certainly would" entertain it. *Id.* at 5–6. It is not the case that the Legislature failed to predict six-figure defense costs or appellate litigation; it heard testimony that a single defense through trial would cost "on average" $100,000 in 2013 dollars and intended to ensure defendants would be compensated for it.

The Nevada Supreme Court affirmed an award of the size this Order calls inconceivable, in a case with a similar history. In *Fore Stars*, the trial court denied the anti-SLAPP motion, the defendants appealed, the Nevada Supreme Court reversed, and the complaint was dismissed on remand. The trial court awarded $363,244 for work "required to overcome the Court's initial rulings," much of it "necessitated by Plaintiffs' litigation strategy." *Fore Stars, Ltd. v. Omerza*, 2022 Nev. Dist. LEXIS 908, at *5–7 (Nev. Dist. Ct. Sept. 19, 2022). It then awarded $43,620.50 *more* for the appeal. *Fore Stars*, 2023 Nev. Dist. LEXIS 623, at *9–10. The Nevada Supreme Court affirmed both—over an objection that defendants had not directly incurred the fees, noting "roughly 600 hours of fees" and holding that counsel's "extensive expertise in First Amendment litigation" and success in "secur[ing] a successful dismissal of the prolonged action" supported

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"the district court's finding that the time spent and fees incurred were reasonable." 2024 Nev. Unpub. LEXIS 887, at *3, *5. A defendant wrongly denied the statute's protection, who spends years of appeals fighting for it, should not recover less than one whose motion was granted at the first instance. Such a rule would provide the least relief to defendants subjected to the greatest burden, a result inconsistent with the statute's design. This Court has said as much: the anti-SLAPP statute's fee shifting provisions are "broadly construed so as to effectuate the legislative purpose of reimbursing the prevailing defendant." *Smith & Wesson*, 2023 U.S. Dist. LEXIS 114832, at *8 (D. Nev. July 5, 2023).

3.6 The Comparative Awards Are Pleading-Stage Cases

The Order tries to justify its reduction by noting that "[t]he most hours that have been awarded in this district were 144.35 hours," and that "[u]sually, the hours awarded in anti-SLAPP motions are between 15-55 hours." ECF No. 298 at 4. Every one of those cases was resolved at the pleading stage. This case did not follow that path. It was apparent that Defendants would need to rely on extrinsic evidence to prevail, meaning they could not reasonably file the anti-SLAPP motion except as a motion for summary judgment, rather than a motion to dismiss under Rule 12(b)(6). This required factual development and responding to discovery propounded by Plaintiffs. The amount of work was also significantly increased by the initial denial of the Anti-SLAPP Motion, which the Ninth Circuit reversed, in addition to Plaintiffs appealing summary judgment, rehearing petitions, and Plaintiffs' *certiorari* petition.

The question under *Hensley*, 461 U.S. at 433–34, and *Brunzell*, 85 Nev. at 349, is whether the claimed time was reasonably spent on necessary work. The Order makes no finding that any of this work was unnecessary. Much of it followed from the initial denial of the special motion, which the Ninth Circuit reversed, and from defending this Court's correct ruling on summary judgment. No court has ever held there is a ceiling on anti-SLAPP fee awards. *Gunn* awarded more than $350,000, 2021 U.S. Dist. LEXIS 41577, at *10–12, and *United States ex rel. Barnes v. Clark County*, 2020 U.S. Dist. LEXIS 241619, at *9–13 (D. Nev. July 31, 2020) (*rev'd*, 2022 U.S. App.

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LEXIS 505 (9th Cir. Jan. 7, 2022), as to entitlement but not reasonableness determination), awarded $283,251.46 for 1,590.9 hours on a motion to dismiss and appeal.

Nor can the hours spent be blamed on the Defendants. In awarding the full $30,000 under NRS 41.670(1)(b), the Order finds that "many, if not a majority, of the hours spent in this case were necessitated by Wealthy Inc.'s litigation tactics," including the "motion for summary judgement, and appeal to the Ninth Circuit." ECF No. 298 at 8. That finding cannot be reconciled with a 40% cut imposed on the theory that the same appellate hours were "unrelated" to the defense. ECF No. 298 at 5. This Court has drawn the right conclusion from the same finding before. *See Ignite Spirits, Inc. v. Consulting by AR, LLC*, 2024 U.S. Dist. LEXIS 54641, at *9 (D. Nev. Mar. 27, 2024) (506.1 hours reasonable in full because "[m]any, if not a majority, of the hours . . . were necessitated by the counter-defendants' litigation tactics").

3.7 The Wolman Computation and the Form of Judgment

The Order's table applies a 60% reduction to Mr. Wolman's 12.2 hours rather than the 40% it describes, awarding 4.88 hours ($2,684) instead of 7.32 ($4,026 at $550). ECF No. 298 at 9; ECF No. 293 at 18. That arithmetic should be corrected whatever the disposition of the rest of this Motion. Fed. R. Civ. P. 60(a).

The terms of the fee award also require clarification. First, the Order directs that the award be "paid by Plaintiff," singular. ECF No. 298 at 11. Defendants ask the Court to amend the Order to clarify that it obligates both Plaintiffs Wealthy Inc. and Dale Buczkowski jointly and severally. *Mohajer*, 2022 Nev. Dist. LEXIS 780, at *9. Second, the amended order should provide for post-judgment interest. 28 U.S.C. § 1961; *Friend v. Kolodzieczak*, 72 F.3d 1386, 1391–92 (9th Cir. 1995). Third, Defendants ask under Rule 58(d) for a single judgment setting out the fee award and the $30,000 under NRS 41.670(1)(b), so that it may be executed upon and registered under 28 U.S.C. § 1963.

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4.0 CONCLUSION

At the rates requested in the Renewed Motion, with the time restored except the 27.5 hours attributable *solely* to the Lanham Act claim, the fee under NRS 41.670(1)(a) is $573,910.00. ECF No. 293 at 18; ECF No. 293-5 ¶¶ 9, 15. Defendants recognize that five years of litigation will contain some inefficiency, and rather than invite a line-by-line audit, they propose that the Court apply a ten-percent reduction to that figure, for an award of $516,519.00. This is the sort of "haircut" the Ninth Circuit permits for generalized inefficiency, *Moreno*, 534 F.3d at 1116. Added to the $30,000.00 awarded under NRS 41.670(1)(b), the amended judgment should be $546,519.00, against both Plaintiffs jointly and severally, with post-judgment interest under 28 U.S.C. § 1961 from October 19, 2026.

Defendants respectfully request that the Court alter or amend the Order (ECF No. 298) to (1) award fees at the rates requested in the Renewed Motion, subject to the ten-percent reduction proposed above; (2) withdraw the finding that Defendants' categorization of time reflected an attempt to take advantage of NRS 41.670; (3) withdraw the categorical exclusion of work performed after the special motion was filed, award all hours other than the 27.5 attributable solely to the Lanham Act claim, and, if the Court finds any entries duplicative or inefficient, reduce only those entries and state the basis for doing so; (4) correct the computation of Mr. Wolman's hours; and (5) provide that the award runs against both Plaintiffs jointly and severally, bears post-judgment interest under 28 U.S.C. § 1961, and is set out in a single judgment.

Dated: October 26, 2026.

Respectfully submitted,

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and Cornelia Education LLC

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Case No. 2:21-cv-01173-JCM-EJY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 26, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I further certify that a true and correct copy of the foregoing document is being served via transmission of Notices of Electronic Filing generated by CM/ECF.

Respectfully submitted,

/s/ Marc J. Randazza

Marc J. Randazza

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Exhibit 1

Declaration of Tamara Beatty Peterson in
U.S. ex rel. Cretney-Tsosie v. Creekside Hospice II, LLC,
No. 2:13-cv-00167-APG-PAL, ECF No. 215-10 (D. Nev. Feb. 15, 2018)

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA, *ex rel.* JOANNE CRETNEY-TSOSIE., Plaintiffs, v. CREEKSIDE HOSPICE II, LLC, SKILLED HEALTHCARE GROUP INC. and SKILLED HEALTHCARE, LLC, Defendants.	Case No.: 2:13-cv-00167-APG-PAL (Consolidated Case) **DECLARATION OF TAMARA BEATTY PETERSON**

DECLARATION OF TAMARA BEATTY PETERSON

I, Tamara Beatty Peterson, declare as follows:

1. I am providing this declaration in support of Relator's Motion for Attorneys' Fees and Expenses in this action by Relator Joanne Cretney-Tsosie.

2. I have personal knowledge of the facts set forth in this declaration and could and would testify competently to them.

3. I am a graduate of UCLA (B.A. 1991) and the University of Arizona College of Law (J.D. 1994).

4. I am a member of the bar of Nevada and admitted to practice before all courts in the State of Nevada, the United States District Court for the District of Nevada, and the Ninth Circuit Court of Appeals.

5. I am a co-founder and partner at Peterson Baker, PLLC in Las Vegas, Nevada.

6. I have more than 23 years of litigation experience in federal and state courts. My practice focuses on complex and multi-party trial and appellate litigation of all types, including in the areas of commercial and business litigation, business torts, professional liability, corporate matters, class action litigation, and intellectual property disputes. I have litigated extensively in state and federal court, including taking over 30 jury trials to verdict, numerous bench trials, and appeals before the Nevada Supreme Court and the Ninth Circuit Court of Appeals. I am also a

former prosecutor with the Clark County District Attorney's office, and former law clerk to the Honorable Philip M. Pro, United States District Court, District of Nevada.

7. I am a Fellow with the American College of Trial Lawyers, Litigation Counsel of America, and American Bar Foundation. I have also been listed among the *Best Lawyers in America* from 2014 to the present, and recognized by *Chambers USA* and *Benchmark Litigation* since 2014.

8. As a practicing attorney, co-founder of my current law firm, and former partner at a Nevada law firm and an Am Law 200 law firm with offices in Las Vegas, I am familiar with current and historical hourly billing rates of Nevada attorneys, including those who practice complex litigation generally and in specialized areas.

9. My current hourly billing rate is between $495 and $590 per hour, which are the actual rates that I have charged and collected from clients of my firm who pay me by the hour. The hourly rate of my law partner, an experienced complex litigator and 1998 law school graduate is between $475 and $570 per hour. The hourly rate of my associate, a 2013 law school graduate, is between $270 and $400 per hour. I have also been awarded fees by the District Court of Nevada in *E&R Venture Partners, LLC v. Park Cent. Plaza 32, LLC*, Case No. 216-CV-02959, 2017 WL 4127659, at *2 (D. Nev. Sept. 18, 2017). Based on my knowledge of the Nevada legal market, these hourly rates are consistent with market rates.

10. I understand that the Relator in this case was represented by Timothy Terry of the Terry Law Firm, Steven H. Cohen of the Cohen Law Group, and several attorneys from Hughes Socol Piers Resnick & Dym, including Matthew J. Piers and Juliet Berger-White.

11. I have reviewed the educational backgrounds, qualifications, and professional achievements of Timothy Terry, Steve Cohen and the attorneys from Hughes Socol Piers Resnick & Dym, Ltd. (collectively "Relator's Counsel") whose time is included in the fees sought in this action.

12. I have reviewed the following table of current hourly rates of the attorneys for whose time an award of fees will be sought in this action.

Name	*Firm*	*Attorney JD Year*	*2017 Hourly Rate*
Timothy Terry	TLF	1978	$600
Steve Cohen	CLG	1979	$665
Matthew J. Piers	HSPRD	1974	$665
Juliet Berger-White	HSPRD	1999	$445
Caryn Lederer	HSPRD	2004	$375
Jenna Miara	HSPRD	2004	$375
Chirag Badlani	HSPRD	2009	$360
Charlie Wysong	HSPRD	2012	$300
Paralegals	HSPRD		$150

13. In my opinion, these hourly rates are within the range of reasonableness of current market rates in Nevada for attorneys of comparable ability, experience, and reputation, especially for attorneys who are experienced complex litigators with specialized expertise and experience.

14. In my experience, the current hourly rate of Mr. Terry, is on par or below current market rates for attorneys in Nevada of comparable ability, experience, and reputation, given his significant experience with the False Claims Act and matters involving Medicare and Medicaid fraud. For example, I am aware of Nevada attorneys who charge in excess of $700 based on their specialized expertise or experience, including business litigators and appellate litigators.

15. Similarly, the hourly rate of $150 for the paralegals for whose time fees will be sought is consistent with the market rates in Nevada for such persons involved in complex litigation similar to the action at issue.

I declare under penalty of perjury under the laws of the United States that the foregoing statements are true and correct to the best of my knowledge, information, and belief. 28 U.S.C. § 1746.

2/13/18
Date

Tamara Beatty Peterson