IN THE CIRCUIT COURT FOR THE STATE OF OREGON

IN THE COUNTY OF JOSEPHINE

CASEY MARIE HOUTSINGER, an individual, Plaintiff, v. US SUPPORT LLC, a Nevada limited liability company, and JASON WATSON, an individual; Defendants.	Case No. 24CV49697 **REPLY IN SUPPORT OF DEFENDANTS' MOTION FOR COSTS AND ATTORNEYS' FEES** O.R.S. 31.152, O.R.S. 20.190 Oral Argument Requested: 1 Hour

Defendants US Support LLC and Jason Watson file this Reply in support of their Motion for Costs and Attorneys' fees (the "Fee Motion").

1.0 INTRODUCTION

Plaintiff Casey Houtsinger has a problem with accountability. She was arrested for drunk driving. One of the consequences of that is that her drunk driving arrest became a public record. The press gets to publish public records. The defendant did just that. Houtsinger then, instead of accepting responsibility and accountability, brought this case to try and get rich off of the experience. Now that she lost, the accountability for that includes having to be responsible for Defendants' attorneys' fees. She still doesn't want to be accountable.[1]

This case began with Houtsinger making extortionate settlement demands and bad faith in continuing to prosecute a claim for violation of O.R.S. 133.875 despite her and her counsel

[1] Even if the proper award is issued, Houtsinger has made it clear that she intends to file for bankruptcy. She has a right to do that. If that means that Defendants wind up holding the bag, so to speak, after the due process that will be afforded in the bankruptcy process, then that is a result Defendants may need to accept. Nevertheless, her claim that she will do so should not reduce her accountability here.

knowing it was frivolous. Houtsinger doubles down on her bad faith in her Opposition to the Fee Motion, as she misrepresents the factual record, misrepresents the cases she cites, and, in an obvious sign of desperation, tries to sling mud at Defendants' counsel. Houtsinger fails to address most of the points in the Fee Motion and does not even dispute the reasonableness of the number of hours Defendants' counsel worked. The Court should award the requested $114,240 in attorneys' fees, $1,647.51 in costs, and $5,000 as a prevailing party fee under O.R.S. 20.190, for a total award of $120,887.51.[2]

2.0 ARGUMENT

The parties agree that O.R.S. 20.075(1) and (2) provide the relevant factors for determining a reasonable fee award.

2.1 Time and Labor Required, Novelty and Difficulty, and Skill Needed

The Fee Motion explains the difficulties of this case and the scope of work involved with the Anti-SLAPP Motion, which was made more difficult due to the lack of interpretive case law on multiple issues. Houtsinger provides no response. While she claims to incorporate by reference her arguments regarding other fee motion factors, those discussions have nothing to do with this factor. Houtsinger thus concedes that this factor weighs in Defendants' favor.

2.2 Preclusion of Attorney from Taking Other Cases

The Fee Motion explains how Randazza Legal Group, PLLC ("RLG") is a small firm, and that the amount of time spent on this precluded it from taking on other work. Houtsinger claims that a review of the hours worked on this case shows that it took up approximately 11.6% of the hours worked from January 24, 2025, to September 30, 2025. Even if we accept this math, it certainly shows a significant dedication of time and resources. If 11.6% of a business' resources are tied down by one case, that is pretty major. But Houtsinger's framing of this issue is misleading. The majority of the work on this case was performed in drafting and arguing the Anti-

[2] Again, Houtsinger has made it clear that she intends to declare bankruptcy if the award is imposed. However, the award itself is of value. Imposing a small award will simply embolden her to bring other frivolous claims, or at least encourage other plaintiffs with frivolous claims to do so.

SLAPP motion, which was heard on June 6, 2025, and RLG was not formally retained until February 2024, meaning such work took place over less than 4 months. The majority of the post-hearing work was in connection with the Fee Motion, which did not begin until September 19 for a motion filed on October 3, providing a 2-week window for such work. The vast majority of hours billed on this case were thus worked in approximately a 4.5-month period, or about half the time Houtsinger used for her calculation – meaning that for that active period, about a quarter of the defendants' law firm's resources were tied up with this one case. This factor weighs in Defendants' favor.

2.3 Fee Customarily Charged

The Fee Motion sets out the hourly rates for RLG's attorneys which are, admittedly, above the median rates in Southern Oregon. But the Fee Motion also explains how these rates are justified, as RLG's attorneys have significant experience in First Amendment, internet, and Anti-SLAPP litigation, all of which was essential to obtaining early dismissal of this case under Oregon's Anti-SLAPP law. It would be extremely difficult, and Houtsinger does not even suggest it would be *possible*, to find similarly skilled counsel in Southern Oregon charging median rates who could obtain such results for Defendants. Firms with particular skill and experience in relevant legal areas may charge hourly rates much higher than the norm. *Moro v. State*, 360 Or. 467, 484-85 (2016) (approving rates above 95th percentile in region because attorneys had "substantial experience in appellate matters" and were "uniquely knowledgeable about the mechanics of PERS benefits and the relevant legal arguments"). Houtsinger does not address the particular experience of RLG's attorneys and how it affects what a reasonable hourly rate is; she simply notes the undisputed fact that these rates are above the norm and calls it a day. Houtsinger also strangely argues that hourly rates of $600 per hour might be appropriate, but that RLG's partners should bill only $300 per hour. Accordingly, by her logic, for the privilege of defending this case, RLG should have taken about a 70% discount on its rates, for no real reason.

Another consideration is the location of the parties and Houtsinger's knowledge of Defendants' location. While the Court found it proper to exercise personal jurisdiction over

Defendants, it is worth keeping in mind that all parties to this dispute are located in Las Vegas, Nevada, which Houtsinger acknowledged in her own Complaint. It unquestionably would have been appropriate to bring this suit in Nevada, where—as noted in the Fee Motion—the courts have found that the hourly rates of RLG's attorneys, or rates similar to those sought here, are reasonable. Fee Motion at 5-6. Filing suit here, where Houtsinger and her counsel knew median hourly rates are lower than in Vegas, may very well have been a strategic attempt to deprive Defendants of full recovery of their fees. The Court should not encourage this kind of targeted forum shopping meant to subvert the purpose of Oregon's Anti-SLAPP law. In fact, if this Court decides that it will give a discount to SLAPP plaintiffs who forum shop themselves into this area, a perverse incentive might be created. Find a hook to file in Josephine County if you have a frivolous case, and the consequences will be less there than if you file at home.

Houtsinger addresses a number of other issues in discussing this factor. She argues that fees unrelated to the Anti-SLAPP motion should not be recoverable, but cites no authority supporting this point. Her cases are either on unrelated principles or deal with entirely different scenarios, such as a plaintiff's entitlement to fees after prevailing on only one of multiple claims or an Anti-SLAPP defendant who did not obtain a ruling on an Anti-SLAPP motion. The closest to a relevant case Plaintiff cites is *Mouktabis v. Clackamas Cty.*, No. 21CV14422 (June 27, 2024), a Multnomah County Circuit Court decision. Aside from having essentially no persuasive value, Houtsinger misrepresents this case. The court did not, as she claims, find "it reasonable to withdraw time requests unrelated to anti-SLAPP proceedings." Opp. at 15 (quoting Opp. Exh. 4 at p. 4). Rather, the court merely observed that the moving defendant *voluntarily withdrew* some time entries unrelated to its Anti-SLAPP motion. There was no discussion as to why it withdrew such time entries, the propriety of doing so, or whether time entries not related to an Anti-SLAPP motion are compensable. Many attorneys have been disciplined recently for using AI when that AI misstates a case. *Green Bldg. Initiative, Inc. v. Peacock*, No. 3:24-cv-298-SI, 2025 U.S. Dist. LEXIS 211010, *3-6 (D. Or. Oct. 27, 2025) (issuing show-cause order as to why party and counsel should not be sanctioned for citing hallucinated cases provided by AI); *Tercero v. Sacramento*

Logistics, LLC, No. 2:24-cv-00953-DC-JDP, 2025 U.S. Dist. LEXIS 175962, *40 (E.D. Cal. Sept. 8, 2025) (imposing sanctions on counsel for "egregious" use of hallucinated case citations provided by AI). Is it not worse when the case is not accidentally misstated because of a poor tool, but it is misstated on purpose in order to try and mislead the court? *See Kinney v. Lindsey*, No. 25CV17061, 2025 Ore. Cir. LEXIS 9375, *2-3 (Multnomah Cty. Cir. Ct. Sept. 22, 2025) (noting parties' obligations to verify all citations in a brief, whether or not generated by artificial intelligence, and that "[i]f a party or attorney cites an authority for a particular proposition but the authority does not support for that proposition - which would mean that the party either did not read the authority before providing it to the Court, or worse that the party is actively making a misrepresentation to the Court - the Court may impose monetary sanctions per ORCP 17D").

O.R.S. 31.152(3) does not have any language limiting the scope of recoverable fees: it provides that "[a] defendant who prevails on a special motion to strike made under ORS 31.150 (Special motion to strike) shall be awarded reasonable attorney fees and costs." Given that the statute's purpose is to deter meritless SLAPP suits, and given the lack of authority directly addressing this question, a good place to look is other states' Anti-SLAPP laws. Nevada, for example (whose Anti-SLAPP law is modeled on Oregon's), permits recovery of all the defendants' fees once an Anti-SLAPP motion is granted, whether or not related to the Anti-SLAPP motion. *Smith v. Zilverberg*, 481 P.3d 1222, 1231 (Nev. 2021) (prevailing Anti-SLAPP movant is entitled to an award of **all** fees incurred in defending against an action).[3] Texas's Anti-SLAPP law also permits recovery of all the defendant's fees. *Centurion Logistics LLC v. Brenner*, No. 05-23-00578-CV, 2024 Tex. App. LEXIS 9139, *55-56 (Tex. App. Dec. 30, 2024) (finding no basis to exclude from Anti-SLAPP fee award time spent on motion to transfer and motion for summary judgment that was never ruled on).

[3] Nevada's language on fee entitlement mirrors O.R.S. 31.152(3). *See* NRS 41.670(1)(a) (providing that if the court grants an Anti-SLAPP motion, "[t]he court shall award reasonable costs and attorney's fees to the person against whom the action was brought").

Houtsinger then argues that the Court should not award Defendants any of the fees incurred in connection with the Fee Motion, citing *Anderson v. Sullivan*, 311 Ore. App. 406 (2021), for the proposition that a trial court has discretion in whether to award fees on fees at all. Houtsinger again, without artificial intelligence as an apparent excuse, tries to mislead the Court. The court in *Sullivan* found that it was erroneous for the trial court to conclude that awarding fees on fees was an "all-or-nothing proposition," the same error Houtsinger insists on here. Rather, the court found it was appropriate for the trial court to award at least some fees on fees even in a situation where the trial court sustained most of the non-prevailing party's objections to the prevailing party's fee motion. *Id.* at 413-14. Houtsinger mis-states the case law, as a reduction is only *potentially* warranted if the Court finds *most* of Houtsinger's objections to the requested fees meritorious. Furthermore, *Sullivan* dealt with a fee-shifting statute about *rental agreements*, not the Anti-SLAPP statute. The purpose of fee shifting in the Anti-SLAPP law is to neuter the effect of and to deter SLAPP suits. When an Anti-SLAPP movant prevails, they should be allowed to recover all the costs of their defense, as to do otherwise would award a SLAPP plaintiff trying to punish the defendant with litigation costs, and thus severely weaken the Anti-SLAPP statute's disincentive against SLAPP plaintiffs. Accordingly, the Court should award Defendants *all* fees incurred in their defense, as doing so would further the purpose of Oregon's Anti-SLAPP law.

Relatedly, Houtsinger argues that discounting all fees in connection with the Fee Motion is warranted because it is impossible to discern work on the Fee Motion related to Anti-SLAPP issues as opposed to other work. This is nonsensical. The Fee Motion itself has no discussion of work related to matters unrelated to the Anti-SLAPP motion, and thus there is no basis for Houtsinger to claim there was any work done on the Fee Motion unrelated to Anti-SLAPP issues. Nor does Houtsinger identify any briefing or argument that could possibly be attributable specifically to issues unrelated to the Anti-SLAPP Motion or Defendants' entitlement to fees under that statute. All such fees are recoverable.

Houtsinger finally argues that 5.8 hours of claimed time constitute block billing, but she does not explain her position and there is nothing apparent from the billing entries she highlighted

in red that show impermissible block billing. She just makes it up out of thin air. Houtsinger has not developed this argument, and the Court should ignore it.

2.4 Amount Involved and Results Obtained

Houtsinger argues that the real amount in dispute was $318,000 and, given the fees incurred to have the case dismissed, Defendants would have incurred more than that in defending themselves if the case were to go to trial. First, this is a curious admission that (1) the initial settlement demand of $500,000 was extortionate and completely unjustified; and (2) the purpose of the suit was to make Defendants incur significant defense fees, or at least to settle out of fear of defending themselves from Houtsinger's suit. Those admissions by themselves counsel in favor of granting Defendants' fee request and for additional sanctions.

Houtsinger's argument is also unsupported. She cites no authority for the proposition that the amount involved is based on a projected post-trial award in the case, rather than what the plaintiff sought. Taken to its logical conclusion, Houtsinger's argument would mean that the real amount in controversy was $0 because her claim was factually impossible. That would be a convenient way for a SLAPP plaintiff to try and terrorize a defendant, claiming over $1 million in damages, but once it blows up in their face, they say "just kidding, we couldn't have won anything" and thus evade any fee liability. And as for the argument that the fees sought in the Fee Motion somehow represent a minority of the fees that would have been incurred had the case gone to trial, that is also unsupported. There would be little, if any, discovery involved in this case, as evidenced by the fact that Houtsinger did not dispute the factual issues core to the Court's decision and did not feel any discovery was necessary to oppose the equivalent of a summary judgment motion. But even if we were to accept Houtsinger's claim as true, it would still not help her, because Defendants' counsel obtained an early dismissal that prevented them from incurring all those additional fees.

2.5 Time Limitations

As noted in the Fee Motion, Oregon's Anti-SLAPP law imposes a 60-day deadline to file an Anti-SLAPP motion, which involves an amount of work comparable to a motion for summary

judgment. Despite this statutory time constraint, Houtsinger argues that this factor does not weigh in Defendants' favor because Defendants had a long time to file the Anti-SLAPP motion. But this argument ignores the actual focus of this factor: the time constraints on Defendants' *counsel*, not Defendants themselves. Once they were retained, Defendants' counsel entered into a stipulation setting deadlines to respond to the Complaint and filed the Anti-SLAPP motion in fewer than 60 days. There is nothing to support the implication that, just because Houtsinger made the strategic decision not to seek default against one Defendant, the time limitations of the Anti-SLAPP statute somehow did not apply. Indeed, before amending the Complaint, thereby resetting the Anti-SLAPP clock, Houtsinger argued the initial Anti-SLAPP Motion by US Support should have been denied because it was filed outside the statutory 60-day window. Defendants wisely withdrew this argument following amendment. This factor weighs in Defendants' favor.

2.6 Nature and Length of Relationship with Client

The parties agree that this factor is neutral.

2.7 Experience, Reputation, and Ability of the Attorney

The Fee Motion discusses the experience, reputation, and ability of Defendants' counsel. Houtsinger largely does not address this evidence, with the exception of quibbling with whether attorney Randazza, who twice made presentations before the Nevada Legislature regarding its Anti-SLAPP law, and who negotiated the final language of the existing law, was actually "instrumental" to the passage of its current law. Instead of addressing this evidence, Houtsinger makes a legal error and a strategic one.

Houtsinger's first error is relying on *Northon v. Rule*, 494 F. Supp. 2d 1183 (D. Or. 2007), for the proposition that using experienced counsel somehow merits a reduced fee award. This decision is not good law. While the district court's order was initially affirmed on appeal to the Ninth Circuit, that opinion was withdrawn in *Northon v. Rule*, No. 07-35319, 2010 U.S. App. LEXIS 11535 (9th Cir. June 7, 2010). The Ninth Circuit's subsequent opinion disposing of the case contained none of the findings on which Houtsinger relies. *See Northon v. Rule*, 637 F.3d 937 (9th Cir 2011). But even if it were good law, if we read the actual case, we find that the court made

several findings regarding counsel *spending an excessive number of hours* on an Anti-SLAPP motion. 494 F. Supp. 2d at 1187. Additionally, the court criticized the decision to have the defendant's most senior attorney perform most of the work on the case, as such an experienced attorney would be presumed to spend fewer hours. 494 F. Supp. 2d at 1187. The exact opposite happened here, with Alex Shepard, the most junior attorney on the case, performing the vast majority of the work. In contrast to what the *Rule* court found unreasonable, Houtsinger does not argue that Defendants' counsel spent an unreasonable number of hours on this case. She claims that certain categories of time are not compensable under the Anti-SLAPP statute, but that is very different from claiming that Defendants should have spent less time on this case. *Rule* is thus of no assistance to Houtsinger.

Second, Houtsinger engages in desperate mud-slinging, claiming that attorney Marc Randazza had bar discipline *seven years ago* based on issues completely unrelated to his competence and reputation in First Amendment and internet law; that (2) formed the basis of a denial of a *pro hac vice* motion *over 6 years ago*; in a case relating to (3) Randazza's representation of Alex Jones regarding statements for which Jones was sued, which one would expect of a *First Amendment attorney*. It should go without saying that none of this is relevant to the issues in the Fee Motion; if these were allegations in a complaint, Defendants would file a motion to strike under ORCP 21(E). In the context of the Fee Motion, however, the Court should ignore Houtsinger's argument, except to note that Houtsinger both introduced irrelevant evidence and omitted critical details about the authority she cites.

2.8 Whether the Fee is Fixed or Contingent

Defendants agree that this factor does not favor either party, but they disagree with Houtsinger's contention that her counsel's demand for six figures in attorneys' fees immediately after filing the Complaint was justified because her counsel took the case on contingency. It is extremely difficult to square Houtsinger's argument that Defendants' counsel's hourly rates are excessive when her own counsel was demanding somewhere in the neighborhood of $10,000 per hour ($150,000 in claimed attorneys' fees as of October 2024 divided by, assuming charitably, 15

hours for factual investigation and drafting and filing the Complaint, and drafting the initial demand letter). This case was an attempted money grab. The hypocrisy in the attempts to evade accountability for that are simply galling.

2.9 Promotion of Access to Justice

Houtsinger does not address this factor, thus conceding that it weighs in Defendants' favor. Permitting full recovery of attorneys' fees is decidedly in favor of furthering the purpose of Oregon's Anti-SLAPP law, and would ensure that defendants facing SLAPPs can retain skilled attorneys regardless of where the suit is filed. If the Court decides to reduce the award to one that is less than the full amount, then the next SLAPP defendant in Josephine County seeking experienced Anti-SLAPP counsel may just be out of luck. Many SLAPP defendants cannot afford to pay as they go, hoping for a fee award to extinguish their legal debt. If more than $100,000 in work is compensated by pennies on the dollar, then access to justice in this county will suffer.

2.10 The Conduct of the Parties

As explained in the Fee Motion, this factor focuses on the conduct of the *parties* leading up to the filing of the Complaint. Houtsinger makes an irrelevant reference to a dispute over whether Defendants actually provided emails offering graduated discounts to fees for removal of her booking photo, but as explained below, that factual issue had nothing to do with the Court's decision. The conduct leading up to the complaint is that Houtsinger drove drunk. Defendants published public records about that event. As explained below, Houtsinger then tried to extort an enormous payday from Defendants, and would not listen to reason. Houtsinger would not even settle this matter after the Anti-SLAPP ruling came down against her, forcing even more drafting and litigation for the fees upon fees. She made no reasonable effort to avoid causing even more fees to be incurred, and despite giving a few extensions and some early case cordiality, this case has been unreasonably prolonged by her refusal to simply accept responsibility for her actions.

2.11 Objective Reasonableness of the Claims and Defenses and Deterrent Effect

Defendants have explained several times at this point how Houtsinger's claim for violation of ORS 133.875 was *factually impossible*, and the Fee Motion explains how Houtsinger and her

counsel knew this, at the latest, in December 2024, yet they persisted. Houtsinger argues that the Court, in agreeing with Defendants, created multiple novel interpretations of law. This is only true in the sense that every decision on a law with no interpretive cases is technically novel. But the Court did not impose extra-textual requirements or factors in its analysis; it simply read the plain language of the statute and applied the well-worn rule that laws are not to be applied retroactively absent an explicit indication otherwise from the legislature. As has become a pattern, Houtsinger *again* misrepresents the cases she cites in support of her claim that any argument on an issue of first impression is *per se* objectively reasonable. *Githens v. Githens* dealt with a fee motion related to a property distribution in a dissolution proceeding. In declining to grant fees, the court noted that the issue in dispute "was one of first impression in this state, **and it was resolved by a divided panel over a lengthy dissenting opinion.**" 230 Or. App. 586, 594 (2009) (emphasis added). Houtsinger deceptively omitted the bolded portion of that decision. *State ex rel. Pend-Air Citizen's Comm. v. City of Pendleton*, 145 Or. App. 236 (1996), is even further afield. It dealt with a fee motion in a mandamus petition brought against a government agency attempting to interpret the complex interplay of state statutes and local ordinances, where a statute provided that "an agency's reasonable but erroneous interpretation of an ambiguous statute generally would not warrant the award of fees." *Id.* at 249-50. The plaintiffs won "not because defendants' failure to act was grounded in an unreasonable interpretation of the law; but because the trial court resolved an extremely close issue of first impression in their favor." *Id.* at 250-51. Houtsinger is not a governmental agency and there is no indication that the Court had any difficulty in reaching its decision to grant the Anti-SLAPP Motion. Houtsinger's argument intuitively makes no sense, either. A party cannot make arguments that obviously contradict the plain language of a statue and escape fee liability simply because no other court has dealt with the statute. The fact that nobody has been so brazenly unreasonable before does not create some kind of qualified immunity for frivolous lawsuits.

Houtsinger's misrepresentations don't end there. She claims that one of the bases of this Court's order granting the Anti-SLAPP motion, the finding that it was undisputed that Defendants

charged $49.80 for removal of booking photos by the time ORS 133.875 went into effect, actually *was disputed.* Opp. at 8. Houtsinger is wrong. She never disputed or provided any evidence to contradict Defendants' declaration testimony that they charged this amount when ORS 133.875 went into effect. What Houtsinger *did* dispute was whether Defendants sent reminder emails offering graduated discounts prior to ORS 133.875's effective date, but that issue has nothing to do with the Court's decision. Even if Houtsinger were correct about this, an opposition to a fee motion is not a vehicle for disputing the Court's order. No vehicle appears left to her, though, as she never appealed this Court's order and the time to do so has long passed.

Moving to the issue of deterrence, granting a substantial fee award would have the obvious effect of deterring similar meritless suits targeting activity protected by Oregon's Anti-SLAPP law. Houtsinger, in response, claims that her motives were pure and that "her obvious goal" in this litigation "was to reach the substance of the case and develop new case law around ORS 133.875." Opp. at 10. With all due respect, this is risible. Houtsinger's first move in this case was to send an extortionate demand letter for nearly half a million dollars, claiming—with no possible legal or factual basis—that a likely jury award would exceed $1 million. Does that sound like someone who was simply trying to build case law? This was no public interest case. She filed her suit as part of a shakedown effort, and her insistence to the contrary is not credible. Nor is her counsel's claim that he "sought to develop case law around Oregon's novel statute, ORS 133.875." Leijon Dec. at ¶ 4. He is representing Houtsinger on contingency, not *pro bono. Id.* at ¶ 12. And both letters he sent to Defendants included demands that significant portions of the proposed settlement payments would be paid as attorneys' fees, *i.e.*, to counsel directly. Fee Motion Exhs. 3 & 5. He now claims it was all a public interest exercise? Meanwhile, his first priority was to ensure that he got his fees, not even as a cut of recovery, but specifically earmarked for his own pocket. These belated tales of a public interest motive are transparently dishonest. Houtsinger and her counsel filed this case to get a payday and for no other reason. Their scheme failed, and they should be made to pay for the costs they foisted on Defendants. And it should be enhanced to discipline both of them for their misrepresentations to the Court, not reduced to accommodate their dishonesty.

2.12 Objective Reasonableness and Diligence in Pursuing Settlement

Houtsinger does not address her extortionate settlement demands at the outset of the case. Rather, her counsel apparently misremembers a phone call he had with attorney Alex Shepard after Houtsinger lost her case.[4] Attorney Shepard did not say that he was definitively proposing an arrangement by which Defendants would not seek enforcement of a fee award. He told Mr. Leijon that Defendants had not approved such a proposal, but that he himself was suggesting it as a possible means of resolution. Declaration of Alex J. Shepard, attached as **Exhibit 1**, at ¶ 5. In light of Houtsinger's obvious bad faith in bringing and continuing to prosecute this action, Defendants chose to take another route.

Houtsinger claims that she cannot pay the requested fee amount and that an award of even $80,000 would force her into bankruptcy. The Court should put little stock into this. Had Houtsinger actually been willing to engage in meaningful settlement discussions, the parties could have agreed upon a payment schedule that would allow her to avoid bankruptcy or possibly even a lower amount. Instead, Houtsinger refused to take part in such discussions and, after losing her case with a fee award being mandatory, proposed nothing more than a clean walkaway with no fees to Defendants. Maybe she cannot pay it today, but she might win a jackpot in a slot machine. She might have a large inheritance. J.K. Rowling was once homeless, but is now certainly collectable. And Ms. Houtsinger might finally engage in some meaningful discussions to perhaps reach an accord and satisfaction or extended payment terms. Perhaps Defendants will see her accept responsibility for her actions, at long last, and take that into account. We should not simply take her at her word that she can't pay, and thus shouldn't have an award against her.

Relatedly, Houtsinger claims she cannot pay even the settlement amount Defendants suggested because her "employment prospects have been hampered by the publication of the booking photo on Arre.st and continued publication of her arrest record, sans photo." Opp. at 12.

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[4] Given the multiple material misrepresentations that he has made thus far, this is a charity to presume it was unintentional. However, in the absence of proof it was a knowing misrepresentation, let us be charitable.

It is bizarre that Houtsinger would discuss the alleged harm caused by publication of her arrest record and booking photo when (1) she never provided evidence of such harm, even now in her Opposition; (2) she only sought statutory damages, not actual damages, in her Complaint; (3) the Court has already found there was nothing wrongful about Defendants publishing the booking photo; (4) Houtsinger never suggested there was anything wrongful about publishing her arrest record apart from the booking photo; and (5) any alleged harm attributable to this publication was caused by Plaintiff herself when she chose to drive while drunk in the first place. Houtsinger has only herself to blame for having a DUI record and, as the Court has already found, the public has a right to know about such criminal records.

The key elements here are really 1 and 5. Does anyone truly care about a years-old drunk driving arrest? Far greater errors have occurred in many people's lives, and it hardly renders one unemployable. But the truly galling issue here is that if any misfortune has come from people knowing the truth, that she was arrested for drunk driving, then the origin of her bad luck is her own bad judgment. It isn't the fault of a defendant who was simply speaking the truth about it.

2.13 Amount of O.R.S. 20.190 Prevailing Party Fee

The parties agree that the factors regarding an O.R.S. 20.190 prevailing party fee are substantively identical to the above factors. The Court should award the maximum award of $5,000 for the reasons discussed above, but also as a sanction for the astonishing lack of candor and the classless mudslinging and lack of accountability that runs through the entire Opposition.

3.0 CONCLUSION

For the foregoing reasons, the Court should award the requested $120,887.51 in costs and attorneys' fees.

Dated: November 25, 2025.

Respectfully Submitted,

/s/ Eric Fournier

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