

**IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

**JAP HOME SOLUTIONS, INC.; GUSTAVO
FRECH BARRIERO; and JESUS ANTON
PEREZ,**

Plaintiffs,

v.

**LOFFT CONSTRUCTION, INC.;;
ALEJANDRO R. SANGUINETTI; JOHN E.
DRURY; and JOSÉ GALLEGO ESPINA,**

Defendants.

Case No. 2017-CA-003390 B

Judge: Hon. Michael L. Rankin, reassigned to
Hon. Laura A. Cordero on November 30, 2017

Next Event: Status Conference on December 22,
2017 at 11 a.m.

**DEFENDANT JOSÉ GALLEGO ESPINA’S MEMORANDUM IN SUPPORT OF HIS
MOTION FOR AN AWARD OF COSTS OF LITIGATION, INCLUDING
AN AWARD OF REASONABLE ATTORNEYS’ FEES**

Defendant José Gallego Espina (“Mr. Gallego”) respectfully submits this memorandum of law in support of his motion for an award of costs of litigation, including reasonable attorneys’ fees, from Plaintiffs JAP Home Solutions, Inc. (“JAP”), Gustavo Frech (“Frech”) and Jesus Anton (“Anton”) pursuant to Superior Court Rule 54 and D.C. Code § 16-5504(a). Because Mr. Gallego “prevail[ed], in whole or in part, on a motion brought under § 16-5502”—the D.C. Anti-SLAPP Act—he is presumptively entitled to “the costs of litigation, including reasonable attorney fees.” D.C Code § 16-5504(a); *Doe v. Burke*, 133 A.3d 569, 575 (D.C. Ct. App. 2016). Accordingly, Mr. Gallego respectfully requests that the Court grant his Motion and enter an order requiring Plaintiffs to pay Mr. Gallego’s reasonable attorneys’ fees, in an amount no less than \$125,134.18, for the successful defense of the SLAPP Plaintiffs filed against him.¹

¹ \$125,134.18 is the amount of reasonable attorneys’ fees in this matter to date. As noted below, Mr. Gallego will supplement this amount and provide his final fee request in his reply to account for any additional time expended after the filing of his Motion.

INTRODUCTION AND RELEVANT BACKGROUND

Mr. Gallego is a professional journalist with 14 years of experience in both print and broadcast media. Born and raised in Spain, Mr. Gallego is a native Spanish speaker who also speaks English fluently. Since June 2016, he has reported for *El Español*, a Spanish-language online news publication based in Spain. He is currently based in Washington, D.C.

In connection with his reporting for *El Español*, in September 2016 Mr. Gallego began investigating the appointments of relatives of Spanish politicians to high-level positions in Washington, D.C. His reporting stemmed from the resignation of Spain's former minister of industry, energy and tourism, José Manuel Soria; in April 2016 Mr. Soria resigned from his position because of documents in the Panama Papers that connected him to overseas tax havens. In September 2016, when it was reported that the Spanish government was going to appoint Mr. Soria to a position at the World Bank, Spanish media also reported that a niece of Spain's economy minister, Luis de Guindos, was already working at the World Bank, and that two other nieces of Mr. de Guindos were working at the Spanish Embassy in Washington, D.C. During the course of his reporting, Mr. Gallego learned that one of Mr. de Guindos' nieces, Maria Pedrosa de Guindos, was—at that time—a General Secretary at the Embassy. Mr. Gallego also learned that Ms. de Guindos was married to Frech, who was listed in public documents as a director of JAP, a home improvement and general contracting firm owned by Plaintiff Anton that had received government contracts for work at the Embassy. Mr. Gallego reported these facts in an article for *El Español* that was published on March 21, 2017 (“First Article”). Following the publication of his First Article, Ms. de Guindos was removed from her position at the Embassy. Mr. Gallego wrote a follow-up story about her removal that was published by *El Español* on March 22, 2017 (“Second Article”).

Thereafter, Mr. Gallego learned about a lawsuit filed by Lofft Construction, Inc. (“Lofft”) against JAP and Frech in D.C. Superior Court, Case No. 2015 CA 005203 B (the “Lofft Lawsuit”). In gathering information about the Lofft Lawsuit, Mr. Gallego obtained copies of the docket and the Second Amended Complaint filed by Lofft in that case, which were publicly available. He reported on the contents of the Lofft Lawsuit in a third article for *El Español*, dated April 27, 2017 (“Third Article”). Specifically, Mr. Gallego reported that the Second Amended Complaint filed in the Lofft Lawsuit included an allegation—in support of a claim for “misappropriation and conspiracy to acquire possible business” (“malversación y conspiración para apropiarse de posibles negocios”)—that, “[t]hrough his wife’s contacts at the Embassy,” Frech “improperly manipulated the timeline of [a] contract, past the time of his employment at Lofft to deprive Lofft of the business.” Mr. Gallego also reported that “Anton and his company [JAP] both appear” in the Lofft lawsuit (“Anton y su sociedad figuran igualmente en la demanda”).

On May 16, 2017, Plaintiffs filed a Complaint in the above-captioned action, alleging defamation/defamation *per se* against Mr. Gallego, conspiracy to defame against Mr. Gallego, Lofft, Alejandro Sanguinetti (“Sanguinetti”), and John Drury (“Drury”), and two other claims against defendants Lofft, Sanguinetti, and Drury.²

Plaintiffs’ Complaint alleged that the First and Third Articles written by Mr. Gallego contained defamatory statements.³ Specifically, Plaintiffs alleged that the following statements (the “Challenged Statements”) contained in the First and the Third Articles were false and

² On October 3, 2017, Plaintiffs voluntarily dismissed all claims against Drury with prejudice. On December 5, 2017, after the Court’s ruling on Mr. Gallego’s Anti-SLAPP Motion, Plaintiffs voluntarily dismissed all remaining claims against Sanguinetti and Lofft with prejudice.

³ See Order Granting Defendant Gallego’s Special Motion to Dismiss at 3 (hereinafter “Order”) (finding that “none of the allegations in the Complaint relate to the second article”)

defamatory: (1) that Frech “figures as a co-director” of JAP “along with the company’s owner[,]” Anton, Compl. ¶¶ 55, 62–63; (2) that “Anton and his company both appear in the [Lofft Lawsuit],” Compl. ¶¶ 71–72; and (3) that in the Lofft Lawsuit there are “charges placed against [Frech] ... for misappropriation and conspiracy to acquire possible business.” Compl. ¶¶ 74–75; *see also* Order at 4 (summarizing Plaintiffs’ defamation claims). Attached to Plaintiffs’ Complaint were uncertified English-language translations of Mr. Gallego’s original Spanish-language articles, which were created by Plaintiffs’ counsel using Google Translate.

Although Plaintiffs filed their Complaint in May 2017, they did not serve Mr. Gallego until August 2017, well beyond the 60-day deadline for service imposed by Rule 4(m) of the Superior Court Rules of Civil Procedure. Plaintiffs did not obtain an extension from the Court, as required by Rule 4(m). Notwithstanding the defective service, counsel for Mr. Gallego informed Plaintiffs’ counsel of Mr. Gallego’s intent to file a motion to dismiss the claims against him pursuant to the D.C. Anti-SLAPP Act. *See* Declaration of Mark Bailen ¶ 4. Counsel expressly informed Plaintiffs’ counsel that, if that motion was successful, Mr. Gallego would be entitled to and would seek the costs of litigation, including reasonable attorneys’ fees, from Plaintiffs under the Act. *Id.* Counsel for Mr. Gallego suggested that if Plaintiffs dismissed, with prejudice, their meritless claims against Mr. Gallego before he filed his Anti-SLAPP Motion, Mr. Gallego would not seek costs and fees under the Act. Plaintiffs declined that offer. *Id.*

On September 18, 2017, Mr. Gallego filed a Motion to Strike the uncertified translations of Mr. Gallego’s articles attached to Plaintiffs’ Complaint; Mr. Gallego also moved to strike Paragraph 76 of the Complaint.⁴ Concurrently, Mr. Gallego filed a Special Motion to Dismiss

⁴ Paragraph 76 of Plaintiffs’ Complaint alleged that Mr. Gallego used the phrase “delito de malversación” in his reporting. That phrase, however, did not appear in any of the three articles written by Mr. Gallego. “Delito” means “crime” in Spanish.

Pursuant to the D.C. Anti-SLAPP Act or, in the Alternative, Motion to Dismiss Pursuant to Rule 12(b)(6) (the “Anti-SLAPP Motion”). Mr. Gallego attached as exhibits to the Anti-SLAPP Motion certified translations of the Spanish-language articles prepared by a court translator.

Mr. Gallego’s Anti-SLAPP Motion argued that the Challenged Statements are covered by the D.C. Anti-SLAPP Act, and that the defamation claims against Mr. Gallego must be dismissed with prejudice pursuant to the Act because Plaintiffs were unlikely to succeed on the merits. Mr. Gallego also argued, in the alternative, that Plaintiffs’ Complaint failed to state a cognizable defamation claim against Mr. Gallego.

Plaintiffs filed their Opposition to Mr. Gallego’s Anti-SLAPP Motion on October 13, 2017. Plaintiffs’ Opposition contained 31 pages of argument, much of which set forth brand new claims based on statements in other articles written by Mr. Gallego that were not mentioned in Plaintiffs’ Complaint. Further, the Opposition attached 132 pages of exhibits, including lengthy, single-spaced “affidavits” from Frech and Anton that contained inadmissible, irrelevant, and at times barely coherent arguments in support of their new claims against Mr. Gallego. Among other fatal flaws, the “affidavits” were not signed under penalty of perjury and thus failed to meet the most basic procedural standards of admissibility under Rule 9-1(d), Superior Court Rules of Civil Procedure.⁵ Mr. Gallego filed his Reply on October 25, 2017. Concurrently with his Reply, Mr. Gallego filed Objections to and Motions to Strike the Frech and Anton affidavits, identifying 113 objectionable statements in Anton’s affidavit and 101 in Frech’s.

On November 8, 2017, Plaintiffs filed their Opposition to Mr. Gallego’s Motions to Strike the affidavits of Frech and Anton. In support of their Opposition, Plaintiffs filed

⁵ Anton’s affidavit was 15 pages, single-spaced, undated and unsworn; Frech’s affidavit was eight pages and unsworn.

“amended and supplemental” affidavits purporting to offer additional support for arguments set forth in Plaintiffs’ Opposition to Mr. Gallego’s Anti-SLAPP Motion. On November 14, 2017, Mr. Gallego filed objections to the “amended and supplemental” affidavits of Frech and Anton, arguing that the vast majority of those new affidavits should be disregarded because Mr. Gallego’s Anti-SLAPP Motion was fully briefed and pending a ruling from the Court; further, like their predecessors, the “amended and supplemental” affidavits failed to meet basic evidentiary requirements for admissible testimony.

Judge Rankin held a lengthy merits hearing on November 17, 2017.⁶ On November 20, 2017, Judge Rankin granted Mr. Gallego’s Motion to Strike Plaintiffs’ uncertified translations of Mr. Gallego’s articles, as well as Paragraph 76 of Plaintiffs’ Complaint. On November 29, 2017, Judge Rankin granted Mr. Gallego’s Anti-SLAPP Motion, dismissing all claims against him.

Judge Rankin dismissed Plaintiffs’ claims that were based on the Challenged Statements contained in the Third Article (specifically, that Anton was named in the Second Amended Complaint filed in the Lofft Lawsuit, and that the Second Amended Complaint filed in the Lofft Lawsuit alleges a claim for “misappropriation and conspiracy to acquire possible business”) pursuant to the D.C. Anti-SLAPP Act. He found that “both of the challenged statements in the third article about the [Lofft Lawsuit], which [Gallego] based on his reading of the Second Amended Complaint in that action, are covered by the Anti-SLAPP Act as written statements made in connection with an issue under review by a judicial body.” Order at 6. Further, Judge Rankin found that Plaintiffs were unlikely to succeed on the merits of their claims regarding the Third Article; in particular, the Court determined that “[t]here is no evidence that could render

⁶ Two days before that scheduled hearing, on November 15, 2017, Plaintiffs filed a motion seeking “targeted discovery” from Mr. Gallego.

the challenged statements in the third article false and defamatory” because “[b]oth statements in the third article consisted of objectively verifiable and true facts.” *Id.* at 8.

As to Plaintiffs’ allegations predicated on the First Article (specifically, that Frech was listed as a co-director of JAP in publicly-available documents), it was unnecessary for the Court to even reach Mr. Gallego’s Anti-SLAPP argument. Judge Rankin concluded that Plaintiffs’ allegations based on the First Article failed to even state a claim upon which relief could be granted because “[t]here is nothing facially false or defamatory” about Mr. Gallego’s reporting that Frech was listed as a co-director of JAP in publicly-available documents. Order at 9.

ARGUMENT

I. Successful movants under the D.C. Anti-SLAPP Act are “presumptively” entitled to the costs of litigation, including reasonable attorneys’ fees.

Recognizing the chilling effect frivolous defamation lawsuits have on free speech, the D.C. Council seven years ago enacted the “Anti-SLAPP Act of 2010,” D.C. Code § 16-5501 *et seq.* (“Anti-SLAPP Act” or the “Act”), to provide a path for the prompt dismissal of meritless claims that aim to silence debate and criticism on issues of public concern—claims precisely like those brought by Plaintiffs against Mr. Gallego.

The Act provides defendants with “substantive rights to expeditiously and economically dispense of litigation aimed to prevent their engaging in constitutionally protected actions on matters of public interest.” Committee Rpt. On Bill 18-893 (Nov. 18, 2010) at 4. The Act also expressly provides that “[t]he court may award a moving party who prevails, in whole or in part, on a motion brought under [the Act] the costs of litigation, including reasonable attorney fees.” D.C. Code § 16-5504(a).

The D.C. Court of Appeals has held that fees should be “presumptively” awarded to a party that has prevailed on a motion brought under D.C. Code § 16-5502 or § 16-5503. *Burke*,

133 A.3d at 575. In reaching that conclusion, the Court of Appeals looked to the Committee Report accompanying the legislation, which “recognized the substantial cost to defendants ... of litigating SLAPP actions even equipped with the means the Bill provided—special motions to dismiss or to quash—‘to move expeditiously, and equitably, to dispense [with] a SLAPP.’” *Id.* at 575–76 (quoting Committee Rpt. On Bill 18-893 at 1, 4). The Court of Appeals also found it persuasive that “the Bill ‘closely mirrored’ federal Anti-SLAPP legislation then pending before Congress, which unambiguously entitled a moving party who prevails on a special motion to reasonable attorney’s fees.” *Id.* (quoting Committee Rpt. On Bill 18-893 at 3–4). Accordingly, the Court of Appeals held that the Anti-SLAPP Act “contemplates a *presumptive award* of attorney’s fees” to a prevailing defendant under § 16-5504(a). *Id.* at 576 (italics added); *see also Burke v. Doe*, 2012 CA 7525 B (D.C. Super. Ct. Nov. 28, 2016) (awarding reasonable attorneys’ fees in the amount of \$427,665.70 pursuant to the D.C. Anti-SLAPP Act).⁷

The Court granted Mr. Gallego’s Anti-SLAPP Motion on November 29, 2017, resulting in the dismissal, with prejudice, of all of Plaintiffs’ claims against him. A key part of the Court’s ruling on the Anti-SLAPP Motion derived from Mr. Gallego’s successful motion to strike the uncertified translations attached to the Complaint, as that ruling precluded Plaintiffs from advancing their claim that Mr. Gallego incorrectly translated the term “misappropriation” into Spanish—a claim directly contradicted by the certified translations attached to Mr. Gallego’s Anti-SLAPP Motion. Having prevailed on his Anti-SLAPP Motion, Mr. Gallego is “entitle[d] ... to a presumptive award of reasonable attorney’s fees on request, ‘unless special

⁷ Further, Rule 54(d) of the Superior Court Rules of Civil Procedure provides that “costs—other than attorneys’ fees—should be allowed to the prevailing party.” Super Ct. R. Civ. P. 54(d). Court filing fees are allowed as a matter of course. *Talley v. Varma*, 689 A.2d 547, 555 (D.C. 1997) (citing *Robinson v. Howard Univ.*, 455 A.2d 1363, 1368 (D.C. 1983)).

circumstances would render such an award unjust.” *Burke*, 133 A.3d at 578 (quoting *Christiansburg Garment Co. v. Equal Emp’t Opportunity Comm’n*, 434 U.S. 412, 416–17 (1978)). No such special circumstances exist here.

II. Mr. Gallego’s attorneys’ fees are reasonable.

“[T]he trial court retains discretion to decide the nature of proof necessary to establish the facts affecting its decision as to the amount of fees to award.” *Nolan v. Nolan*, 568 A.2d 479, 490 (D.C. 1990). If the Court decides that a party is entitled to attorneys’ fees, “the determination of reasonableness is a matter that must be left to the sound discretion of the trial judge.” *F.W. Bolgiano & Co., Inc. v. Brown*, 333 A.2d 674, 675 (D.C. 1975). The Court should consider attorneys’ submissions in evaluating the necessity of the hours and work claimed. *Id.*

In addition to analyzing the necessity of the hours and work claimed, a “reasonable fee” is determined by using the “lodestar” method, whereby courts determine the reasonable number of hours each attorney representing a fee-entitled party spent on a matter and multiply an attorney’s reasonable hours by a reasonable rate for that attorney. *Campbell Crane & Assoc., Inc. v. Stamenkovic*, 44 A.3d 924, 947 (D.C. 2012) (“We have held that the appropriate means to determine reasonable attorneys’ fees is for the trial court to determine . . . the so-called lodestar—the number of hours reasonably expended by counsel multiplied by a reasonable hourly rate.”) (internal quotation marks omitted).

Here, Mr. Gallego seeks an award of attorneys’ fees from Plaintiffs in the amount of \$125,134.18, based on the lodestar calculations of the respective hours spent and reasonable hourly rates of their counsel as set forth in the attached declarations of Katie Townsend (“Townsend Decl.”) and Mark Bailen (“Bailen Decl.”), and exhibits thereto. This award also includes filing fees in the amount of \$245.80 for Reporters Committee and \$16.38 for

BakerHostetler. *See* Townsend Decl. ¶ 14, Ex. D; Bailen Decl. ¶ 9. Mr. Gallego will supplement this amount and provide his final fee request in his reply, to account for additional time expended after the filing of this Motion. *See Burke*, 133 A.3d at 579.

A. Mr. Gallego’s attorneys’ hours are reasonable in light of the complexity of this litigation and the work undertaken in connection therewith.

This lawsuit has been pending for seven months. During this time, Mr. Gallego’s attorneys were required to expend time conducting legal research, drafting a motion to strike Paragraph 76 and Exhibits 7 and 10 to Plaintiffs’ Complaint, fully briefing Mr. Gallego’s Anti-SLAPP Motion, drafting objections to and motions to strike the lengthy affidavits of Plaintiffs Frech and Anton, drafting objections to the “amended and supplemental” Frech and Anton affidavits filed by Plaintiffs, preparing for and appearing in one status conference and one lengthy merits hearing before Judge Rankin, and preparing this fee petition, among other things.

As a result of Plaintiffs’ litigation strategy, Mr. Gallego’s attorneys were required to expend significant additional time on this matter beyond the legal research and drafting associated with Mr. Gallego’s Anti-SLAPP Motion. These hours were spent addressing, among other things, Plaintiffs’ inaccurate, inadmissible exhibits attached to their Complaint; Plaintiffs’ submission of extensive, procedurally deficient, and inadmissible affidavits in support of their opposition to Mr. Gallego’s Anti-SLAPP Motion; and Plaintiffs’ belated and prejudicial submission of “amended and supplemental” affidavits after Mr. Gallego’s Anti-SLAPP Motion was fully briefed and pending a ruling by the Court.

Each task for which Mr. Gallego seeks to recover reasonable fees, and the amount of time taken to complete them, is set forth in detail in the exhibits to the attached Townsend and Bailen Declarations. As set forth therein, Mr. Gallego’s attorneys’ hours for this matter are:

- Mark Bailen: 42.50 hours

- Katie Townsend: 77.40 hours
- Jennifer A. Nelson: 113.70 hours
- Ariel Glickman: 12.20 hours

As the Court of Appeals has recognized, the moving party who prevails under the D.C. Anti-SLAPP Act is presumptively entitled to the costs of litigation, including reasonable attorneys' fees. *Burke*, 133 A.3d at 575; *see also* D.C. Code § 16-5504(a). Mr. Gallego is also entitled to fees for the time spent litigating his entitlement to fees. *Burke*, 133 A.3d at 579. *See also, e.g., Camacho v. Bridgeport Financial, Inc.*, 523 F.3d 973, 981 (9th Cir. 2008) ("In statutory fees cases, federal courts . . . have uniformly held that time spent in establishing the entitlement to and amount of the fee is compensable.") (internal citation and quotation marks omitted). Accordingly, time spent preparing the present fee petition is compensable.

B. Mr. Gallego's attorneys' hourly rates are reasonable.

Reasonable rates are calculated according to the prevailing rates for attorneys of similar experience in the relevant community. *E.g., District of Columbia v. Patterson*, 667 A.2d 1338, 1343 (D.C. 1995) ("The reasonable rate is 'to be calculated according to the prevailing rates in the relevant community.'") (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 434 (1983)); *Henderson v. District of Columbia*, 493 A.2d 982, 999 (D.C. 1985) ("In determining a reasonable rate [under federal civil rights statute,] rates are to be calculated according to the prevailing rates in the relevant community."). As reflected in the attached declarations, Mr. Gallego has been represented in this litigation by attorneys with the Reporters Committee for Freedom of the Press (the "Reporters Committee" or "RCFP"), who provided their services *pro bono*, and BakerHostetler, who has provided services at heavily discounted rates. Mr. Gallego's attorneys have differing hourly rates based on their respective experience.

Katie Townsend is the Litigation Director at the Reporters Committee, a 501(c)(3) nonprofit based in Washington, D.C.⁸ Jennifer A. Nelson is an attorney at the Reporters Committee; Ariel Glickman is an attorney formerly with the Reporters Committee. All legal services provided by Reporters Committee attorneys are provided on a *pro bono* basis. Accordingly, Reporters Committee attorneys utilize the Legal Services Index (“LSI”)-updated Laffey Matrix (the “LSI Laffey Matrix”) to calculate reasonable hourly rates for their work for purposes of attorneys’ fee recovery.⁹ Townsend Decl. ¶ 5. A true and correct copy of the mid-1988 to mid-2018 LSI Laffey Matrix is attached as Exhibit A to the Townsend Declaration.

The LSI Laffey Matrix sets forth reasonable hourly rates in Washington D.C. for complex federal litigation, depending on an attorney’s experience; it is updated yearly in accordance with the legal services component of the Consumer Price Index, which is produced by the Bureau of Labor Statistics of the United States Department of Labor. Ex. A. The LSI Laffey Matrix has been recognized by numerous courts as representing reasonable rates for the Washington, D.C. market, including the Court of Appeals for the District of Columbia Circuit, *see Salazar ex rel. Salazar v. D.C.*, 809 F.3d 58, 65 (D.C. Cir. 2015) (“With these numbers and submissions in the record, the district court’s point that ‘the LSI-adjusted matrix is probably a *conservative* estimate of the actual cost of legal services in this area,’ does not appear illogical.” (emphasis in original, citation omitted)).

As described in detail in her declaration, Ms. Townsend is the Litigation Director at the Reporters Committee. She has more than 10 years of litigation experience, including extensive

⁸ More information about the Reporters Committee is available at <https://www.rcfp.org/about>.

⁹ “Government or public interest attorneys who do not have a standard billing rate may utilize the so-called *Laffey Matrix* to establish the prevailing market rate.” *Elec. Privacy Info. Ctr. v. United States Dep’t of Homeland Sec.*, 218 F. Supp. 3d 27, 47 (D.D.C. 2016).

First Amendment and media law experience. Townsend Decl. ¶¶ 1, 8–9. Under the LSI Laffey Matrix, Ms. Townsend’s hourly rate is \$636/hr. Ms. Nelson is the Stanton Foundation Litigation Fellow at the Reporters Committee; she has six years of litigation experience. Townsend Decl. ¶ 9. Under the LSI Laffey Matrix, Ms. Nelson’s rate is \$440/hr. Ms. Glickman was the Ethics and Excellence in Journalism Foundation Fellow from September 2016 through August 2017. Townsend Decl. ¶ 10. Under the LSI Laffey Matrix, Ms. Glickman’s rate is \$358/hr. The qualifications of each of these attorney are set forth in the attached Townsend Declaration.

Mark Bailen is a partner at BakerHostetler, a law firm with offices in 14 cities across the country, including the District of Columbia. Bailen Decl. ¶ 1–2. He has extensive experience in cases involving claims for defamation against journalists, news organizations, and internet and digital media; he has litigated several matters involving D.C.’s Anti-SLAPP Act since its enactment in 2011. Bailen Decl. ¶ 2. His qualifications are set forth in more detail in his attached Declaration. Mr. Bailen’s discounted hourly billing rate for this matter is \$500/hr, which represents more than a 20% reduction from his standard billing rate of over \$700/hr. Bailen Decl. ¶ 3.

In addition to the LSI Laffey Matrix, courts in the District of Columbia have also utilized a matrix from the U.S. Attorney’s Office for the District of Columbia (“USAO Matrix”). *See, e.g., Burke v. Doe*, 2012 CA 7525 B (D.C. Super. Ct. Nov. 28, 2016). The USAO Matrix is based on a survey of legal rates in the Washington, D.C. area in January 2011, and uses a different law services-specific inflation measure (the Producer Price Index – Office of Lawyers) published by the Bureau of Labor Statistics to adjust the reasonable rates from that starting point. Townsend Decl. ¶ 6, Ex. B.

Though the Reporters Committee utilizes the LSI Laffey Matrix in cases in which it seeks to recover fees for its services, Mr. Gallego acknowledges that the hourly rates reflected in the LSI Laffey Matrix are higher than those in the USAO Matrix. *See Westfahl v. District of Columbia*, 2016 WL 1626820, *4 & n.3 (D.D.C. April 22, 2016) (comparing rates under the various matrices). Under the USAO Matrix, Ms. Townsend's hourly rate is \$410/hr, Ms. Nelson's hourly rate is \$352/hr, and Ms. Glickman's hourly rate is \$302/hr. To the extent that the Court believes a downward departure in hourly rates is appropriate in this case, the Court should depart downward no further than the rates set forth in the USAO Matrix.

C. Reasonable Hours

To assist the Court in assessing the hours spent defending Mr. Gallego, counsel has provided a breakdown of time records for each attorney who worked on this matter. Townsend Decl. ¶ 12 and Ex. C; Bailen Decl. ¶ 7 and Ex. A. As this breakdown demonstrates, Mr. Gallego's attorneys spent a reasonable amount of time on the relevant tasks required to successfully defend Mr. Gallego against Plaintiffs' SLAPP.

CONCLUSION

For the foregoing reasons, this Court should enter an order requiring Plaintiffs to pay Mr. Gallego's costs of litigation, including reasonable attorneys' fees, in an amount no less than \$125,134.18.

/s/ Katie Townsend

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