

No. 10-17896

IN THE
United States Court of Appeals for the Ninth Circuit

SAVE THE PEAKS COALITION, *et al.*,

Plaintiffs-Appellants,

v.

U.S. FOREST SERVICE, *et al.*,

Defendants-Appellees,

ARIZONA SNOWBOWL RESORT LIMITED PARTNERSHIP,

Intervenor-Defendant-Appellee.

On Appeal from the United States District Court
for the District of Arizona, No. 3:09-CV-08163

**ARIZONA SNOWBOWL RESORT LIMITED PARTNERSHIP’S
MOTION FOR ATTORNEYS’ FEES AND COSTS**

Arizona Snowbowl Resort Limited Partnership (“Snowbowl”), appellee and prevailing party in this case, hereby moves for its attorneys’ fees and non-taxable costs. This is a paradigmatic case for a fee award. After all, this Court awards fees when an appeal “multiplies the proceedings * * * unreasonably and vexatiously,” 28 U.S.C. § 1927, and the Court found in its opinion rejecting plaintiffs’ appeal that that is just what happened here. It wrote that the appeal was “a gross abuse of the judicial process”; that plaintiffs appealed with the intent of dragging out Snowbowl’s “legal nightmare”; that they engaged in “strategic gamesmanship * * * to hinder [Snowbowl’s] development and impose costs unnecessarily”; and

that their argument on the merits was “clearly” wrong. *Save the Peaks Coalition v. U.S. Forest Serv.*, 669 F.3d 1025, 1028, 1032, 1037 (9th Cir. 2012). The Court accordingly should award fees and costs pursuant to 28 U.S.C. § 1927, Circuit Rule 39-1.6, and its inherent authority to sanction bad-faith litigation.

This motion is timely filed 14 days after the Court denied plaintiffs’ petition for rehearing. Circuit Rule 39.1-6(a). Counsel for Snowbowl contacted counsel for plaintiffs, but was not able to secure his position on this motion before filing. Appellees the United States Forest Service and associated Federal defendants take no position.

BACKGROUND

This Court is aware of this case’s tortured history, and we will not belabor it. The Snowbowl is a ski area in northeastern Arizona that supports about 200 full-time jobs. *Save the Peaks*, 669 F.3d at 1028. When the Forest Service approved Snowbowl’s application to make snow using reclaimed water in 2005—an improvement essential to keep Snowbowl from going out of business—it was sued by a coalition of Native American and environmental groups that claimed the action violated various federal statutes. *Id.* at 1029 (citing *Navajo Nation v. U.S. Forest Serv.*, 479 F.3d 1024, 1060-61 (9th Cir. 2007), *rev’d en banc*, 535 F.3d 1058 (9th Cir. 2008)). Snowbowl intervened, and after protracted litigation—including an appeal to a panel of this Court, rehearing en banc of the panel’s

decision, *and* plaintiffs’ unsuccessful petition for certiorari—the Forest Service and Snowbowl had prevailed, and further had “good reason to believe that the issues had been fully and fairly litigated, and that their legal nightmare had ended.” *Id.* at 1029-30.

“Little did they know what awaited them.” *Id.* at 1030. In the 2008 *Navajo Nation* en banc decision, the Court had held that plaintiffs had forfeited a claim relating to the supposed risks posed by ingesting snow made from reclaimed water. *Id.* at 1029 n.1. As such, the claim technically remained unresolved on the merits.

Counsel for the *Navajo Nation* plaintiffs, Howard M. Shanker, and the plaintiffs in this case decided after the *Navajo Nation* decision became final to turn that forfeiture into an excuse to draw the litigation out further. In September 2009, shortly after the Supreme Court denied certiorari in *Navajo Nation*, Mr. Shanker filed suit on behalf of these “new” plaintiffs, alleging that the Forest Service violated the National Environmental Policy Act and Administrative Procedure Act by failing to adequately consider the threat posed by ingesting snow made from reclaimed water. *Id.* at 1030. In other words, they raised the exact claims the Court found waived in *Navajo Nation*. *See id.* at 1029 n.1.

That was no coincidence. The Save the Peaks plaintiffs were not officially parties in *Navajo Nation*, but they were not strangers to it either. *See id.* at 1030. Plaintiffs had submitted comments on the Forest Service’s draft environmental

impact statement, closely monitored *Navajo Nation*, and—in some instances—even solicited money and attended protests to support the case. *Id.* As the District Court found, the plaintiffs “d[id] not deny that they were aware of” the earlier litigation or that they “could have joined it.” ER21, ER24. Instead, they sat on the sidelines—and five years later, they became “surrogates” for the *Navajo Nation* plaintiffs and “a vehicle for the Navajo Nation Plaintiffs’ counsel to evade res judicata and collateral estoppel.” *Save the Peaks*, 669 F.3d at 1032, 1034. In the words of one plaintiff, with the *Navajo Nation* litigation thrown out, “it was time for us to step up to see if there was something we could do.” *Id.* at 1030.

Opponents of the Snowbowl project, in short, “got a second bite at the apple.” *Id.* at 1034. And that second bite came at a significant cost. As this application details, Snowbowl incurred close to \$270,000 in attorneys’ fees and costs in this Court alone defending against claims that “could have and should have been decided in [*Navajo Nation*], and would have been decided had [Mr. Shanker] not erred[.]” *Id.* at 1034. That, of course, says nothing of the substantial expenses Snowbowl incurred fighting the second litigation in District Court. Nor does it include the massive losses the litigation inflicted on Snowbowl’s business. As recounted in our merits brief, Snowbowl spent some \$3.5 million to litigate *Navajo Nation*. Br. for Arizona Snowbowl 26-27, Docket No. 39 (filed May 27, 2011). Only after all that expense—and after Snowbowl had waited seven years to begin

its upgrade—did the Save the Peaks plaintiffs emerge and file a second suit. And that suit cost Snowbowl millions more: It blocked Snowbowl from obtaining \$12 million in financing to buy required snowmaking equipment; increased by at least \$600,000 per year of delay the cost of the expansion; and delayed by several years the date when Snowbowl can actually unveil its expanded facility. *Id.*

The Court recounted many of these facts in its February 9, 2012 opinion rejecting plaintiffs’ appeal. The panel was forced to conclude that plaintiffs’ claims were not barred by laches because Snowbowl’s monumental losses did not necessarily qualify as “prejudice” under existing Ninth Circuit precedents. *See Save the Peaks*, 669 F.3d at 1034. The Court nevertheless made clear that plaintiffs and Mr. Shanker had “grossly abused the judicial process” by strategically engaging in serial litigation against the Forest Service and Snowbowl. *Id.* at 1028. And when the Court finally turned to the merits of plaintiffs’ claims, it found them “meritless” and “mistaken” across the board in just three pages of discussion. *See id.* at 1028, 1035-38. All of the preliminary work already is in place, owing to this Court’s opinion. What remains is the conclusion that Snowbowl submits is both inevitable and appropriate: Snowbowl is entitled to its attorneys’ fees and costs for defending this appeal.

ARGUMENT

I. SNOWBOWL IS ENTITLED TO ATTORNEYS' FEES AND COSTS UNDER 28 U.S.C. § 1927 AND THIS COURT'S INHERENT POWER TO SANCTION BAD-FAITH LITIGATION CONDUCT.

This Court should award fees and costs against both Mr. Shanker and the Save the Peaks plaintiffs because—as the Court has already found—their meritless appeal was nothing more than a gambit to draw out litigation and block Snowbowl's lawful, and long-delayed, expansion.

A. Snowbowl Is Entitled To Attorneys' Fees And Costs Assessed Against Mr. Shanker Personally Under 28 U.S.C. § 1927.

Under 28 U.S.C. § 1927, “[a]ny attorney or other person admitted to conduct cases in any court of the United States * * * who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys’ fees reasonably incurred because of such conduct.” Sanctions are appropriate under Section 1927 when an attorney engages in litigation with “subjective bad faith.” *New Ak. Dev. Corp. v. Guetschow*, 869 F.2d 1298, 1306 (9th Cir. 1989). “Bad faith is present when an attorney knowingly or recklessly raises a frivolous argument or argues a meritorious claim for the purpose of harassing an opponent.” *Estate of Blas ex rel. Chargualaf v. Winkler*, 792 F.2d 858, 860 (9th Cir. 1986). Thus, “ ‘[f]or sanctions to apply, if a filing is submitted recklessly, it must be frivolous, while if it is not

frivolous, it must be intended to harass.’ ” *BKB v. Maui Police Dep’t*, 276 F.3d 1091, 1107 (9th Cir. 2002) (quoting *In re Keegan Mgmt. Co. Sec. Lit.*, 78 F.3d 431, 436 (9th Cir. 1996)). But harassment is not the only motivation that can support a finding of bad faith; so can “[t]actics undertaken with the intent to increase expenses or delay.” *New Ak. Dev. Corp.*, 869 F.2d at 1306 (citation omitted).

The Court has already found that Mr. Shanker acted in bad faith in bringing this appeal. It has concluded that Mr. Shanker undertook this appeal with the subjective intent of dragging out Snowbowl’s “legal nightmare.” *See Save the Peaks*, 669 F.3d at 1030. To that end, Mr. Shanker enlisted the Save the Peaks plaintiffs to “evade res judicata and collateral estoppel” and engaged in “strategic gamesmanship * * * to hinder [Snowbowl’s] development and impose costs unnecessarily.” *Id.* at 1032. Those are “tactics undertaken with the intent to increase expenses or delay,” *New Ak. Dev. Corp.*, 869 F.3d at 1306, and they warrant the imposition of sanctions against Mr. Shanker directly.

It is not a defense that the laches portion of Mr. Shanker’s argument (though not the merits of his claims, which this Court roundly rejected) ultimately prevailed. “Even if an attorney’s arguments are meritorious, his conduct may be sanctionable if in bad faith.” *Id.*; *see also Lone Ranger Television v. Program Radio Corp.*, 740 F.2d 718, 727 (9th Cir. 1984) (“Some merit in counsels’ actions * * * does not preclude an award under 28 U.S.C. § 1927.”). That is the situation

here. Mr. Shanker prevailed on the laches defense raised by appellees—but that does not change the fact that his lawsuit and appeal were “a gross abuse of the judicial process,” *Save the Peaks*, 669 F.3d at 1028; that they were filed “to hinder [Snowbowl’s] development,” *id.* at 1032; and that the core issues raised in Mr. Shanker’s lawsuit—his claims regarding NEPA—were totally meritless.

In sum, Mr. Shanker signed up closely-related plaintiffs, exploited a loophole in *Navajo Nation* all the way through an appeal to this Court, and did so to harass and injure his opponent. That is bad faith, and it warrants the imposition of fees and costs against Mr. Shanker personally.

B. Snowbowl Is Entitled To Attorneys’ Fees And Costs Assessed Against Mr. Shanker and the Plaintiffs Under This Court’s Inherent Powers.

In addition to 28 U.S.C. § 1927, this Court has the inherent power to sanction a losing party when it has acted in “ ‘bad faith, vexatiously, or for oppressive reasons.’ ” *Fink v. Gomez*, 239 F.3d 989, 991 (9th Cir. 2001) (quoting *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 766 (1980)). The *Roadway Express* opinion this Court relied upon in *Fink* is the “definitive summary of the bases on which a federal court may levy sanctions under its inherent power.” *Id.* at 992. And the Supreme Court explained in *Roadway Express* that a court’s inherent power to sanction a party “certainly” extends both to parties and to “counsel who willfully abuse the judicial process.” 447 U.S. at 766. Thus, unlike Section 1927,

where the assessment must be against Mr. Shanker personally, fees imposed using the Court's inherent power may be imposed against both Mr. Shanker and the Save the Peaks plaintiffs.

As with Section 1927, the bad faith required to support an exercise of the inherent sanctions power can consist of “ ‘argu[ing] a meritorious claim for the purpose of harassing an opponent.’ ” *Primus Auto Financial Servs. v. Batarse*, 115 F.3d 644, 649 (9th Cir. 1997) (citation omitted); *see also In re Itel Securities Litigation*, 791 F.2d 672, 675 (9th Cir. 1986) (“[W]here a litigant is substantially motivated by vindictiveness, obduracy, or mala fides, the assertion of a colorable claim will not bar the assessment of attorney’s fees.”). Thus, in *Itel*, this Court upheld a finding of bad faith where counsel filed objections designed to exact fee concessions in another case, even though the objections “were not frivolous, nor were they submitted with any knowledge that they were meritless.” 791 F.2d at 675. “*Itel* teaches that sanctions are justified when a party acts for an improper purpose—even if the act consists of making a truthful statement or a non-frivolous argument or objection.” *Fink*, 239 F.3d at 992.

Inherent-authority sanctions against both Mr. Shanker and the Save the Peaks plaintiffs are appropriate given this Court’s findings in *Save the Peaks*. As the opinion recognized, plaintiffs and Mr. Shanker “gross[ly] abuse[d] the judicial process,” 669 F.3d at 1028—and this Court’s inherent sanctioning power exists to

punish “ ‘willful abuse of judicial processes.’ ” *Fink*, 239 F.3d at 992 (quoting *Roadway*, 447 U.S. at 766). Nothing more need be said. Sanctions are amply warranted.

* * *

Snowbowl’s fees and costs are detailed and justified in the attached declarations of counsel. Whether the Court imposes sanctions under Section 1927, its inherent powers, or both, the result should be the same: Snowbowl is entitled to all of those fees and costs. A primary purpose of sanctions on appeal is to compensate an appellee forced to spend time and money responding to the bad-faith appeal. *See In re Marquam Inv. Corp.*, 959 F.2d 800, 800 (9th Cir. 1992) (sanctions can be imposed as “a matter of justice to the appellee”); *Grimes v. Commissioner*, 806 F.2d 1451, 1454 (9th Cir. 1986) (bad-faith appeals “impose[] unnecessary costs on other litigants”). That justification is particularly relevant here because *the very purpose of this appeal* was to inflict additional costs and delay on an entity that has already expended millions of dollars, and many years, defending itself.

Of course, awarding Snowbowl its reasonable fees and costs will not make it whole. It has incurred lost revenues and other consequential damages that it can not recover in this Court. But an award of fees and costs is a start. It will begin to compensate Snowbowl for the harm Mr. Shanker and his clients have done, and it

will confirm what this Court's opinion made clear: this Court will not tolerate appeals shot through with the gamesmanship and bad faith the Court found in this case.

CONCLUSION

For the foregoing reasons, this Court should award Snowbowl's attorneys' fees and non-taxable costs in the amount of \$269,279.84 plus the unbilled fees it has incurred preparing this application, assessed jointly and severally against the plaintiffs and their attorney, Howard M. Shanker.

Respectfully submitted,

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Counsel for Arizona Snowbowl
Resort Limited Partnership

May 3, 2012

*Counsel of Record

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion was electronically filed with the Clerk using the appellate CM/ECF system on May 3, 2012. I certify that all counsel of record in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Catherine E. Stetson

Catherine E. Stetson

Office of the Clerk

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

P.O. Box 193939

San Francisco, California 94119-3939

Molly C. Dwyer
Clerk of Court

(415) 355-8000

Form 9: APPLICATION FOR ATTORNEYS FEES
Under Ninth Circuit Rule 39-1.6

9th Cir. No. Case Name: v.

DESCRIPTION OF SERVICES

HOURS

Interviews & Conferences

Obtaining & Reviewing Records

Legal Research

Preparing Briefs

Preparing for & Attending Oral Argument

Other (specify below):

TOTAL Hours Claimed

TOTAL COMPENSATION REQUESTED: \$

Signature

Date

A request for an award of attorneys fees must be supported by a memorandum showing that the party seeking fees is legally entitled to them and must be accompanied by Form 9 or a document that contains substantially the same information, along with:

- (1) a detailed itemization of the tasks performed each date and the amount of time spent by each lawyer and paralegal on each task;
- (2) a summary for each lawyer and paralegal of the total hours spent in the categories set forth above;
- (3) a showing that the hourly rates claimed are the prevailing rates in the relevant market; and
- (4) an affidavit attesting to the accuracy of the information submitted.

**IN THE UNITED STATES COURT OF APPEALS
FOR NINTH CIRCUIT**

)	
SAVE THE PEAKS COALITION, <i>et al.</i> ,)	
)	
Plaintiffs-Appellants,)	
)	No. 10-17896
v.)	
)	
U.S. FOREST SERVICE, <i>et al.</i> ,)	
)	
Defendants-Appellees,)	
)	
ARIZONA SNOWBOWL RESORT LIMITED)	
PARTNERSHIP,)	
)	
Intervenor-Defendant-Appellee.)	
)	

DECLARATION OF CATHERINE E. STETSON

I, Catherine E. Stetson, hereby declare:

1. I am lead appellate counsel for intervenor-defendant-appellee Arizona Snowbowl Resort Limited Partnership (“Snowbowl”). I was also lead appellate counsel for Snowbowl in the *Navajo Nation* en banc proceeding referenced in the Court’s opinion in this case. I make this declaration in support of Snowbowl’s application for attorneys’ fees based upon my personal knowledge and my review of records kept in the ordinary course of my law firm’s business.
2. During all times relevant to this appeal, I was a partner with Hogan Lovells US LLP and a director of its appellate practice group. As such, I am

familiar with Hogan Lovells' representation of Snowbowl and with its standard billing practices. I am also familiar with the experience and background of those Hogan Lovells attorneys and paralegals that have worked on this matter.

3. I am a 1994 graduate of the University of Virginia, where I graduated Order of the Coif. Following law school, I served as a law clerk to the Honorable Stanley Harris of the U.S. District Court for the District of Columbia and the Honorable David Tatel of the United States Courts of Appeals for the District of Columbia. I am licensed to practice law in the Commonwealth of Virginia and the District of Columbia. I am also a member of the bar of every United States Court of Appeals and of the U.S. Supreme Court.

4. Since entering private practice in 1997, I have concentrated almost exclusively on appellate and Supreme Court litigation. I have argued before the Supreme Court, most of the courts of appeals, and multiple state intermediate appellate and courts of last resort.

5. I have reviewed the time-keeping and billing records maintained by Hogan Lovells in the ordinary course of its business that pertain this matter. To the best of my knowledge and belief, they accurately reflect the time spent by Hogan Lovells attorneys and employees on this matter and the costs billed to Snowbowl. Snowbowl has paid Hogan Lovells or has agreed to pay Hogan Lovells for all of the fees and costs that it claims in connection with this fee

application. We have exercised billing judgment and have reduced or adjusted the fees charged to Snowbowl as appropriate.

6. Attached to this declaration as Exhibit A are true and correct copies of the bills submitted to Snowbowl in connection with this matter. The bills are redacted to eliminate billing entries not related to the above-captioned appeal. The dates of the work performed, and the name of the attorney or paralegal performing the work, are listed on each time entry. Also included in each entry is the amount of time expended as measured in tenths of an hour and a brief description of the service provided. Finally, each bill includes a description of the nontaxable costs incurred by Snowbowl in connection with the appeal. Generally speaking, these nontaxable costs are the computerized research costs involved with preparing Snowbowl's brief and the cost of travel to and from oral argument.

7. Note that the totals shown on each bill are in some instances greater than the amount claimed because of reductions due to billing judgment and/or work unrelated to the proceedings in this Court, as explained below.

8. A summary of each month's bill follows.

a. In March 2011, the Hogan Lovells team participated in a mediation conference call with the Court and responded to plaintiffs' motion for a stay pending appeal in this Court. After \$2,207.50 in reductions, Snowbowl's bill

for professional services was \$11,694.35. Added to that were computerized research costs in the amount of \$30.85, for a total claimed bill of \$11,725.20.

b. In April 2011, the Hogan Lovells team prepared the initial draft of Snowbowl's appellate brief. During this month, Snowbowl incurred \$51,243.50 in professional services and \$855.44 in costs for computerized legal research. Hogan Lovells reduced Snowbowl's bill by \$5,000 to a total claimed bill of \$47,098.94.

c. In May 2011, the Hogan Lovells team prepared its supplemental excerpts of record and refined, supplemented, and finalized Snowbowl's opposition brief. The Hogan Lovells team also prepared and filed a motion to expedite the appeal. Snowbowl incurred \$52,037.50 in professional services fees, \$671.23 in computerized research costs, and \$208.75 in Federal Express overnight mail delivery charges. Hogan Lovells reduced Snowbowl's bill by \$3,000 to a total claimed bill of \$49,917.48.

d. In December 2011, I prepared for oral argument with the assistance of an associate in my group. As part of that preparation, I participated in an informal "moot court" session where I discussed with a few of my colleagues the issues that may arise at oral argument. After \$168 in professional fees and \$61.50 in expenses were subtracted in an exercise of billing judgment, Snowbowl's bill for that month totaled \$26,669.44. Of that total, \$26,117.50

consisted of professional services and \$551.94 was for computerized research costs.

e. In January 2012, I completed my preparation for oral argument by participating in a formal moot court with several colleagues (each of whom read the briefs and underlying opinion in preparation for the moot), and I presented oral argument in this Court. After \$544.50 in unrelated work was subtracted, Snowbowl's bill for professional services was \$52,319.50. In addition, Snowbowl incurred computerized research charges of \$926.80 and travel-related expenses of \$2,016.15, for a total bill of \$55,262.45. Note that due to billing cycles, this \$2,016.15 does not represent all of the travel-related expenses Snowbowl incurred in connection with oral argument.

f. Finally, in February 2012, the Hogan Lovells team reviewed this Court's opinion and began researching its entitlement to attorneys' fees. The bill for that month also included additional expenses related to oral argument that were not billed in January. After unrelated work was subtracted, Snowbowl's bill was \$8,417.46. Of that, \$6,038 was for professional services, \$27.33 was for computerized research costs, and \$2,352.13 was costs related to oral argument.

g. In total, Snowbowl was charged \$199,090.97 in attorneys' fees and nontaxable costs for Hogan Lovells' work on its behalf in this case. That sum does not include work performed on this fee application, which has not yet

been billed to Snowbowl. Snowbowl intends to submit its bill for Hogan Lovells' work on this fee application together with its reply to plaintiffs' opposition.

9. In accordance with Circuit Rule 39-1.6(b), attached as Exhibit B to this declaration is a spreadsheet providing a summary for each timekeeper of the total hours he or she spent on the matter, broken down into the categories listed on this Court's Form 9.

10. As is Hogan Lovells' practice, I staffed this appeal with as few timekeepers as possible in order to limit the potential for duplicative work. Generally speaking, there was one partner assigned as lead counsel, a senior associate primarily responsible for drafting Snowbowl's brief, a junior associate responsible for helping me prepare for oral argument, and a paralegal responsible for assembling the record materials and cite-checking. I also asked two of my partner colleagues to assist me with discrete aspects of the appeal, such as familiarizing myself with certain land use issues. Finally, a junior associate was assigned to prepare this fee petition. *See Davis v. City & County of San Francisco*, 976 F.2d 1636 (9th Cir. 1992) (separate fee counsel permissible).

11. The team I assembled to work on this matter is as follows:

a. I was the lead counsel and formulated Snowbowl's overall strategy on appeal. In addition, I reviewed and revised drafts of Snowbowl's brief and related pleadings, and prepared and presented oral argument.

b. Dominic F. Perella, a senior associate in Hogan Lovells' appellate practice group, was primarily responsible for researching and drafting the briefs and related papers filed by Snowbowl in this Court. Mr. Perella is a 2005 graduate of the New York University School of Law, where he graduated *summa cum laude* and Order of the Coif. Following graduation, Mr. Perella served as a judicial clerk for Sandra L. Lynch of the United States Court of Appeals for the First Circuit. Mr. Perella has concentrated his practice on appellate and Supreme Court litigation since joining Hogan Lovells and has briefed many appeals before the Supreme Court and the majority of the circuits.

c. Mary Helen Wimberly, an associate with Hogan Lovells' appellate practice group, was responsible for assisting me to prepare for oral argument. Ms. Wimberly is a 2007 graduate of the Vanderbilt University Law School, and following graduation served as a law clerk for the Honorable Ronald Lee Gilman of the United States Court of Appeals for the Sixth Circuit and the Honorable Patricia C. Fawsett of the Middle District of Florida.

d. Andrew L. Spielman is a partner with Hogan Lovells' environmental and energy practice groups, and was primarily responsible for advising on the strategic approach to the environmental claims in this appeal and the public land use issues present in this case. Mr. Spielman is a 1997 graduate of the Georgetown University Law Center, and has extensive experience in public

land issues. In particular, Mr. Spielman serves as a Special Assistant Attorney General assisting the Colorado State Land Board with land use and natural resource leasing issues.

e. Sean Marotta is a junior associate with Hogan Lovells' appellate practice group. Mr. Marotta engaged in research relating to the availability of fees and prepared this fee application. Mr. Marotta is a 2010 graduate of the William and Mary School of Law, where he was the class valedictorian. Following graduation, Mr. Marotta served as a law clerk to the Honorable Jane Grall of the New Jersey Superior Court, Appellate Division.

f. Christopher T. Handman is a partner with Hogan Lovells' appellate practice group. Mr. Handman assisted in preparing me for oral argument in this matter by serving as a moot court judge. Mr. Handman is a 1997 graduate of Yale Law School, where he served on the *Yale Law Journal*. After graduation, Mr. Handman served as a law clerk to the Honorable Patricia M. Wald of the U.S. Court of Appeals for the D.C. Circuit, and, before that, as law clerk to the Honorable Colleen Kollar-Kotelly of the U.S. District Court for the District of Columbia.

g. Sara R. Shea is a senior paralegal with Hogan Lovells' appellate practice group. Ms. Shea has twenty-six years of paralegal experience and has worked on cases in the Supreme Court, the federal courts of appeals, and

state intermediate appellate and courts of last resort. Ms. Shea was responsible for assisting with the preparation of Snowbowl's supplemental record excerpts and cite-checking Snowbowl's brief.

12. The hourly billing rates for the Hogan Lovells timekeepers involved in this matter are set forth below. Some timekeepers' rates are expressed as a range because their rate increased during the course of the appeal:

Timekeeper	Rate
Catherine E. Stetson	\$720-\$750
Dominic F. Perella	\$510-\$565
Mary Helen Wimberly	\$405-\$465
Andrew L. Spielman	\$575-\$600
Sean Marotta	\$390
Christopher T. Handman	\$710
Sara R. Shea	\$265

13. Through my nearly 15 years of appellate litigation experience, I have become familiar with the rates charged by the appellate groups of major national law firms such as Hogan Lovells. In my experience, the above rates are comparable to those charged by firms with dedicated appellate groups similar to Hogan Lovells' and are therefore the prevailing rates in the relevant market.

14. In my opinion, the appellate groups of major national law firms are the "relevant market" for this case because of its complexity and the importance of the issues to Snowbowl. As this Court's opinion recognized, this was a "bet the company" appeal for Snowbowl; if it did not prevail, it could have been

forced to close its doors. *Save the Peaks Coalition v. U.S. Forest Serv.*, 669 F.3d 1025, 1029 (9th Cir. 2012).

15. The services rendered on behalf of Snowbowl and the fees and costs Snowbowl incurred in connection with this appeal were reasonable and necessary given the nature of the appeal, its complexity, and the importance of the issues involved to Snowbowl.

16. After reviewing the records maintained by Hogan Lovells, the billings to Snowbowl, and the other information contained in the motion for fees, I believe the amount of \$199,090.97 is an amount reasonable and appropriate to be awarded by this Court for Hogan Lovells' services.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 3, 2012.

/s/ Catherine E. Stetson
Catherine E. Stetson

EXHIBIT A

April 21, 2011

PUBLIC LANDS

Date	Timekeeper	Hours	Description
3/1/11	C. Stetson	0.80	Telephone conferences with client and co-counsel regarding mediation conference
3/2/11	A. Spielman	1.50	Conferences and preparation of documents
3/2/11	C. Stetson	0.40	Review and provide comments on draft letter to Shanker; telephone conference with P. Johnson regarding same
3/3/11	C. Stetson	1.50	Prepare for participation in mediation conference call with Ninth Circuit by reviewing appeal and related materials; participate in mediation conference call with Ninth Circuit; conference with government counsel regarding same; conference with co-counsel regarding same; telephone conference with client regarding same
3/3/11	C. Stetson	0.50	Exchange e-mails with co-counsel regarding amicus participation; e-mail to prospective amicus regarding appeal
3/8/11	A. Spielman	2.00	Prepare pleadings
3/8/11	C. Stetson	1.00	Conferences with co-counsel and government counsel regarding timing of opposition to motion for stay pending appeal; review draft opposition to motion for stay pending appeal
3/9/11	C. Stetson	0.50	Review draft opposition to motion for injunction pending appeal; review cases regarding same
3/10/11	C. Stetson	1.20	Revise draft opposition to motion for injunction pending appeal
3/11/11	C. Stetson	3.10	Review and revise draft opposition to motion for injunction pending appeal
3/14/11	A. Spielman	1.00	Draft pleading
3/15/11	A. Spielman	1.00	Conference with USFS officials
3/15/11	C. Stetson	1.20	Review and provide comments on draft opposition brief; telephone conferences with and exchange e-mails with P. Johnson regarding same

PUBLIC LANDS
Invoice No. 1969135

April 21, 2011
Page 2

Date	Timekeeper	Hours	Description
3/18/11	D. Perella	1.20	Review reply brief regarding stay pending appeal; draft email summary for client review
3/18/11	C. Stetson	0.30	Review appellants' reply in support of motion for injunction pending appeal; exchange e-mails with Hogan Lovells team regarding same
3/29/11	C. Stetson	0.20	Telephone conference with P. Johnson regarding e-mail to H. Shanker; conference with A. Spielman regarding same
3/30/11	C. Stetson	0.10	Exchange e-mails with P. Johnson regarding motions issue and record excerpts issue
3/31/11	C. Stetson	0.20	Exchange e-mails with client and co-counsel regarding Shanker communications and court's denial of motion for injunction pending appeal
Total for Professional Services			\$13,902.00

Other Charges

Computer Research

30.85

Total for Other Charges

\$30.85

TOTAL CURRENT INVOICE

\$13,932.85

Timekeeper Summary

Timekeeper	Rate	Hours	Amount
C. Stetson	\$720.00	11.00	\$7,920.00
D. Perella	\$510.00	1.20	\$612.00
A. Spielman	\$575.00	8.00	\$4,600.00
Total All Timekeepers		21.20	\$13,902.00

Invoice No. 1974477

Client / Matter No. 029938.000001

Arizona Snowbowl Resort Limited Partnership
 22214 N. La Senda Drive
 Scottsdale, AZ 85255

May 23, 2011

For Professional Services Rendered Through April 30, 2011

PUBLIC LANDS

Date	Timekeeper	Hours	Description
4/1/11	C. Stetson	0.10	Telephone conference with P. Johnson regarding issue with opposing counsel
4/4/11	A. Spielman	1.50	Preparation of pleadings
4/4/11	C. Stetson	0.50	Review appellants' Ninth Circuit brief; exchange e-mails with client, Hogan Lovells team, and co-counsel regarding same
4/5/11	A. Spielman	1.50	Attention to pleadings
4/6/11	D. Perella	2.50	Review decision below, Shanker brief, and briefs filed in district court
4/7/11	D. Perella	1.40	Review record materials and portions of injunction briefing; teleconference with client and co-counsel regarding appellate brief
4/7/11	A. Spielman	2.50	Telephone conference with co-counsel and clients; attention to pleadings
4/7/11	C. Stetson	1.60	Telephone conferences with client and co-counsel regarding draft brief; conferences with D. Perella regarding same; telephone conference with government counsel regarding stay issue
4/8/11	C. Stetson	0.10	E-mails to D. Perella regarding potential government shutdown and stay of briefing
4/11/11	D. Perella	3.70	Review previous decisions and portions of record and briefing in preparation to draft appellate brief
4/12/11	D. Perella	5.50	Review portions of record and briefing in preparation to draft appellate brief
4/13/11	D. Perella	9.90	Research various NEPA legal issues; review relevant portions of administrative record; research relevant Arizona and EPA regulations regarding reclaimed water; outline arguments for responsive brief
4/14/11	D. Perella	13.30	Research laches and NEPA issues; review additional portions of administrative record; draft statement of facts for responsive brief, conducting additional research and record review as needed
4/15/11	D. Perella	11.20	Draft additional sections of appellate brief, conducting research and record review as needed

PUBLIC LANDS
Invoice No. 1974477

May 23, 2011
Page 2

Date	Timekeeper	Hours	Description
4/16/11	D. Perella	15.40	Draft laches section of brief as well as additional arguments regarding NEPA, conducting additional research as needed; review record materials regarding prejudice; emails with local counsel regarding prejudice issues
4/17/11	D. Perella	3.40	Draft final pieces of laches argument; revise; transmit draft to C. Stetson for review; teleconference with local counsel regarding laches issues
4/17/11	C. Stetson	0.20	E-mails to and from D. Perella regarding draft opposition brief
4/18/11	C. Stetson	3.50	Review and provide comments on draft appellee brief
4/18/11	C. Stetson	1.20	Review and revise draft appellee brief; exchange e-mails with P. Johnson and Hogan Lovells team regarding government's request for brief extension of time; exchange e-mails with client regarding same
4/19/11	C. Stetson	0.20	Exchange e-mails with Department of Justice counsel and co-counsel regarding extension of time
4/20/11	A. Spielman	1.80	Prepare brief
4/21/11	D. Perella	1.90	Review C. Stetson edits; revise and expand brief to accommodate edits and answer questions posed by C. Stetson; transmit to A. Spielman for review
4/21/11	A. Spielman	1.20	Prepare brief
4/25/11	D. Perella	2.30	Revise draft per edits from A. Spielman; draft expanded and revised prejudice argument in wake of discussion with C. Stetson; circulate draft to client
4/25/11	C. Stetson	1.50	Telephone conference with clerk's office regarding extension of time; prepare and file letter regarding same; exchange e-mails with client, co-counsel, government counsel, and opposing counsel regarding same; telephone conference with D. Perella regarding ADEQ issue; review and provide comments on revisions to brief
4/26/11	S. Shea	3.80	Preparation of brief and appendix; review brief; prepare table of authorities; confirm case citations
4/27/11	S. Shea	4.50	Review and confirm citations to previous court decisions, supplemental record excerpts in 2006 proceedings and other supporting documents
4/28/11	D. Perella	0.30	Review paralegal markup to draft brief; collect record materials for paralegal review
4/28/11	S. Shea	1.20	Review revised brief to update cite-check; revise table of authorities
4/28/11	A. Spielman	1.10	Revise brief
4/29/11	A. Spielman	1.20	Prepare draft brief

Professional Services

\$51,243.50

Less Courtesy Discount

(\$5,000.00)

PUBLIC LANDS
Invoice No. 1974477

May 23, 2011
Page 3

Total for Professional Services **\$46,243.50**

Other Charges

Computer Research 855.44

Total for Other Charges **\$855.44**

TOTAL CURRENT INVOICE **\$47,098.94**

Timekeeper Summary

<u>Timekeeper</u>	<u>Rate</u>	<u>Hours</u>	<u>Amount</u>
S. Shea	\$265.00	9.50	\$2,517.50
C. Stetson	\$720.00	8.90	\$6,408.00
D. Perella	\$510.00	70.80	\$36,108.00
A. Spielman	\$575.00	10.80	\$6,210.00
Total All Timekeepers		100.00	\$51,243.50

Invoice No. 1982542

Client / Matter No. 029938.000001

Arizona Snowbowl Resort Limited Partnership
 22214 N. La Senda Drive
 Scottsdale, AZ 85255

June 28, 2011

For Professional Services Rendered Through May 31, 2011

PUBLIC LANDS

Date	Timekeeper	Hours	Description
5/2/11	C. Stetson	0.20	Exchange e-mails with P. Johnson and D. Perella regarding draft brief
5/3/11	A. Spielman	1.10	Telephone conference with client to discuss edits and communicate with co-counsel regarding same
5/3/11	C. Stetson	0.10	Review client e-mail with comments on brief
5/5/11	D. Perella	1.70	Telephonic conference with P. Johnson regarding his team's edits to draft brief
5/5/11	A. Spielman	0.90	Preparation of brief
5/5/11	C. Stetson	0.30	Review suggested revisions from P. Johnson; e-mail to D. Perella regarding same
5/6/11	C. Stetson	0.80	Review and provide comments on co-counsel's proposed revisions and issues; conference with D. Perella regarding same
5/9/11	D. Perella	3.00	At request of P. Johnson, review Navajo Nation district court and en banc opinions in search of certain factual discussions; incorporate discussion into draft; begin inputting edits received from P. Johnson and others; review portions of administrative record in search of additional material for laches analysis
5/9/11	S. Shea	2.00	Review Arizona Snowbowl Intervenor-Defendant revised brief
5/9/11	C. Stetson	0.20	Exchange e-mails with D. Perella regarding draft and comments on draft
5/10/11	D. Perella	3.90	Teleconference with government counsel regarding responsive briefs; revise draft brief to account for edits received from client and P. Johnson, drafting new material as needed; recirculate draft to client for review
5/10/11	C. Stetson	0.60	Conference call with government counsel and co-counsel regarding supplemental record excerpts and other appeal issues; exchange e-mails and conferences with D. Perella regarding same
5/11/11	D. Perella	2.40	Review record regarding laches prejudice; telephonic conference with P. Johnson and others regarding usefulness of hearing transcripts; draft email to client on the issue; revise brief to update with new facts and record citations gleaned from district court record

PUBLIC LANDS
Invoice No. 1982542

June 28, 2011
Page 2

Date	Timekeeper	Hours	Description
5/11/11	A. Spielman	1.20	Preparation of brief
5/11/11	C. Stetson	0.40	Conferences with and exchange e-mails with D. Perella regarding laches issue and record support for "prejudice" argument
5/12/11	D. Perella	6.90	Review government's record designations; email government counsel with various questions regarding designations; begin compiling record designations of our own; edit brief to add new material from newly-added record items; teleconference with client and local counsel regarding updated draft brief; review edits from local counsel; edit brief to adopt changes as appropriate; input additional edits from C. Stetson
5/12/11	S. Shea	3.70	Assist D. Perella with identifying and locating designated documents for supplemental excerpts of record
5/12/11	A. Spielman	1.50	Conference with H. Sherman; review revisions to brief
5/12/11	C. Stetson	1.60	Conference call with client and co-counsel regarding comments on draft brief; review and provide comments on draft brief
5/13/11	D. Perella	9.90	Review remainder of government's record designations; update record-designation document with our designations; review record and add additional citations; work with paralegal to begin assembling supplemental excerpts; email and telephonic exchanges with local counsel regarding contents of supplemental excerpts and wording of certain arguments; revise brief to update laches prejudice factual discussion
5/13/11	S. Shea	7.00	Meeting with D. Perella regarding documents not located in record; research district docket to identify supplemental excerpts of record documents per government memorandum regarding same; revised draft of brief; confirm new case cites; revise table of authorities
5/13/11	C. Stetson	1.10	Review and revise draft brief
5/13/11	C. Stetson	0.20	Review e-mails regarding supplemental record excerpts; telephone conference with D. Perella regarding administrative record issue
5/14/11	D. Perella	3.10	Review circuit rules regarding index for supplemental appendix; draft index, reviewing record as needed; insert various edits to draft brief
5/16/11	D. Perella	9.40	Expand, revise, finalize, and arrange for printing of supplemental excerpts; search trial record for deposition testimony and other needed citations; various telephonic conferences with, and emails from, P. Johnson regarding citation and substantive revisions and other questions; revise and expand brief per comments from P. Johnson; begin inputting record citations; add addendum and other materials to brief
5/16/11	S. Shea	6.80	Organize and prepare documents for Supplemental Excerpts of Record (SER); meeting with Capture regarding preparing SER sets; review final brief for D. Perella

PUBLIC LANDS
Invoice No. 1982542

June 28, 2011
Page 3

Date	Timekeeper	Hours	Description
5/16/11	C. Stetson	2.90	Exchange e-mails and conferences with D. Perella regarding P. Johnson's questions, proposed changes, and comments on draft brief; review and revise penultimate draft brief
5/17/11	D. Perella	5.60	Finish filling in addendum cites; review hard copies of addendum and supervise service; input final edits to brief from P. Johnson and C. Stetson; update tables and citations; proofread; review service rules; draft additional certificates and cover letters; arrange for service; draft transmission cover emails to opposing counsel
5/17/11	S. Shea	5.00	Review Supplemental Excerpts of Record; prepare additional documents for Excerpts of Record for government requests; prepare filing and service sets of same to complete court filing
5/17/11	A. Spielman	0.70	Finalize brief
5/17/11	C. Stetson	1.20	Review and revise final version of brief; conferences with D. Perella regarding P. Johnson suggested revisions to brief
5/18/11	D. Perella	2.10	Review brief filed by government; begin drafting motion to expedite appeal; review rules regarding hard-copy filing; arrange for printing of hard copies; review hard copies and arrange for filing
5/18/11	C. Stetson	0.20	Telephone conference with D. Perella regarding motion to expedite oral argument
5/19/11	D. Perella	5.10	Draft motion for expedited argument, conducting legal and rule-based research as needed and reviewing filed briefs to assemble facts; transmit to C. Stetson for review; revise draft per edits from C. Stetson
5/19/11	A. Spielman	1.10	Review and consider DOJ brief
5/19/11	C. Stetson	0.40	Review draft motion for expedited argument; conferences with D. Perella regarding same
5/20/11	D. Perella	3.30	Telephonic conference with E. Borowsky regarding new facts for motion to expedite argument; revise draft motion accordingly; transmit to C. Stetson for review; begin drafting Borowsky declaration; telephonic conference with government counsel regarding potential government consent
5/20/11	C. Stetson	0.60	Exchange e-mails and telephone conferences with D. Perella regarding motion to expedite oral argument; review and provide comments on draft motion to expedite oral argument
5/23/11	D. Perella	1.50	Transmit proposed motion to expedite to government counsel for review; email exchanges with government counsel; research 9th Circuit operating procedures and case-resolution statistics to determine the merits of the proposed expedition request; begin revising motion to account for findings
5/23/11	C. Stetson	0.60	Respond to inquiry regarding extension of time sought by Save The Peaks; conferences with D. Perella regarding same; exchange e-mails with government counsel regarding same

PUBLIC LANDS
Invoice No. 1982542June 28, 2011
Page 4

Date	Timekeeper	Hours	Description
5/24/11	D. Perella	0.70	Draft additional material for Borowsky declaration; revise motion to expedite
5/24/11	C. Stetson	0.30	Exchange e-mails and telephone conferences with D. Perella regarding consents to motion for expedited oral argument
5/25/11	D. Perella	3.50	Finish drafting Borowsky declaration and send to C. Stetson for review; input C. Stetson edits; email government counsel; telephonic conference with client and local counsel regarding draft and other issues; revise draft and recirculate for review; review relevant Ninth Circuit filing and expedition rules; prepare for filing; file documents electronically
5/25/11	A. Spielman	1.10	Finalize motion to expedite
5/25/11	C. Stetson	1.50	Review and revise draft declaration in support of motion for expedited argument; conference with D. Perella regarding same; conference with client regarding same; review redlined motion and declaration in support of motion for expedited argument

Professional Services

\$52,037.50

Less Courtesy Discount

(\$3,000.00)**Total for Professional Services**

\$49,037.50

Other Charges

Computer Research	671.23
Air Freight - Federal Express Inv#747131000 Airbill#873097112360	35.87
Air Freight - Federal Express Inv#750261642 Airbill#723280500923	84.89
Air Freight - Federal Express Inv#750261642 Airbill#723280500934	36.50
Air Freight - Federal Express Inv#750261642 Airbill#723280500945	36.50
Air Freight - Federal Express Inv#750261642 Airbill#723280500967	14.99

Total for Other Charges\$1,205.18**TOTAL CURRENT INVOICE**\$50,242.68

PUBLIC LANDS
Invoice No. 1982542

June 28, 2011
Page 5

Timekeeper Summary

Timekeeper	Rate	Hours	Amount
S. Shea	\$265.00	24.50	\$6,492.50
C. Stetson	\$720.00	13.20	\$9,504.00
D. Perella	\$510.00	62.10	\$31,671.00
A. Spielman	\$575.00	7.60	\$4,370.00
Total All Timekeepers		107.40	\$52,037.50

Invoice No. 2641313

Client / Matter No. 029938.000001

Arizona Snowbowl Resort Limited Partnership
 22214 N. La Senda Drive
 Scottsdale, AZ 85255

January 24, 2012

For Professional Services Rendered Through December 31, 2011

PUBLIC LANDS

Date	Timekeeper	Hours	Description
12/7/11	C. Stetson	0.30	Exchange e-mails with co-counsel regarding "roundtable" telephone conference on December 15
12/13/11	C. Stetson	2.90	Prepare for "roundtable" conference call regarding oral argument before Ninth Circuit
12/14/11	C. Stetson	3.30	Prepare for oral argument before Ninth Circuit
12/15/11	D. Perella	2.90	Review briefs in preparation for roundtable moot; participate in roundtable moot
12/15/11	A. Spielman	3.00	Preparation for and attend pre-oral argument preparation session with C. Stetson and client team
12/15/11	C. Stetson	3.80	Prepare for and participate in "roundtable" conference call regarding Ninth Circuit oral argument; conferences with A. Spielman, D. Perella, and M. Wimberly regarding same
12/15/11	M. Wimberly	0.20	Meet with C. Stetson to coordinate research for oral argument preparation
12/19/11	M. Wimberly	1.30	Review prior briefing in order to be able to assist C. Stetson with research for oral argument preparation
12/20/11	M. Wimberly	4.30	Finish reviewing prior briefing in order to be able to assist C. Stetson with research for oral argument preparation; generate list of cases and subject matters to research for updated law since the filing of the briefs
12/22/11	A. Spielman	0.50	Review court order
12/22/11	C. Stetson	1.20	Prepare for oral argument before Ninth Circuit
12/22/11	M. Wimberly	4.40	Research updates to law cited in briefs since the time of filing; draft e-mail to C. Stetson detailing findings
12/23/11	C. Stetson	3.00	Prepare for oral argument before Ninth Circuit
12/28/11	C. Stetson	2.80	Prepare for oral argument before Ninth Circuit
12/29/11	C. Stetson	2.00	Prepare for oral argument before Ninth Circuit
12/29/11	C. Stetson	2.90	Prepare for oral argument before Ninth Circuit

PUBLIC LANDS
 Invoice No. 2641313

January 24, 2012
 Page 2

Date	Timekeeper	Hours	Description
12/30/11	M. Wimberly	0.80	Begin to create a chart of the Ninth Circuit cases cited by the parties in their briefs, the panel for those cases, and the holding, for C. Stetson's use in preparing for oral argument
12/31/11	M. Wimberly	5.40	Continue to create chart of the Ninth Circuit cases cited by the parties in their briefs, the panel for those cases, and the holding, for C. Stetson's use in preparing for oral argument
Total for Professional Services			\$26,285.50

Other Charges

Computer Research 551.94

Total for Other Charges \$613.44

TOTAL CURRENT INVOICE \$26,898.94

Timekeeper Summary

Timekeeper	Rate	Hours	Amount
C. Stetson	\$720.00	22.20	\$15,984.00
M. Wimberly	\$405.00	16.40	\$6,642.00
D. Perella	\$510.00	2.90	\$1,479.00
A. Spielman	\$575.00	3.50	\$2,012.50
Total All Timekeepers		45.40	\$26,285.50

Invoice No. 2647943

Client / Matter No. 029938.000001

Arizona Snowbowl Resort Limited Partnership
22214 N. La Senda Drive
Scottsdale, AZ 85255

February 29, 2012

For Professional Services Rendered Through January 31, 2012

PUBLIC LANDS

Date	Timekeeper	Hours	Description
1/1/12	M. Wimberly	2.00	Finish creating chart of the Ninth Circuit cases cited by the parties in their briefs, the panel for those cases, and the holding, for C. Stetson's use in preparing for oral argument; e-mail to C. Stetson
1/2/12	C. Stetson	7.90	Prepare for oral argument before Ninth Circuit
1/3/12	C. Handman	3.10	Review briefs and principal authorities in preparation for C. Stetson moot court
1/3/12	C. Stetson	6.10	Prepare for oral argument before Ninth Circuit
1/3/12	M. Wimberly	2.10	Begin to create outline of key quotations from cases cited in briefs for C. Stetson's use in preparing for oral argument
1/4/12	C. Handman	1.70	Attend and participate in moot court for C. Stetson
1/4/12	D. Perella	3.60	Prepare for and participate in moot; search for record materials at request of C. Stetson
1/4/12	C. Stetson	5.90	Prepare for oral argument before Ninth Circuit; present argument during moot court; conferences with client, co-counsel, and Hogan Lovells team regarding same
1/4/12	M. Wimberly	4.50	Prepare for moot court of C. Stetson by reviewing briefs and outlining questions; participate in moot court of C. Stetson; continue outline of key quotations from cases cited in briefs for C. Stetson's use in preparing for oral argument
1/5/12	D. Perella	0.60	Review record materials at request of C. Stetson
1/5/12	C. Stetson	4.80	Prepare for oral argument before Ninth Circuit
1/5/12	M. Wimberly	3.60	Finish outline of key quotations from cases cited in briefs for C. Stetson's use in preparing for oral argument; e-mail outline to C. Stetson; research oral argument panel members' prior decisions in NEPA and laches cases; draft e-mail to C. Stetson detailing research findings
1/6/12	C. Stetson	2.80	Prepare for oral argument before Ninth Circuit
1/7/12	C. Stetson	6.30	Prepare for oral argument before Ninth Circuit
1/8/12	D. Perella	2.70	Travel to California for oral argument; review briefing; print out documents at request of C. Stetson

PUBLIC LANDS
Invoice No. 2647943

February 29, 2012
Page 2

Date	Timekeeper	Hours	Description
1/8/12	C. Stetson	5.70	Prepare for oral argument before Ninth Circuit
1/9/12	D. Perella	9.40	Prepare for and attend Snowbowl oral argument; travel back from San Francisco
1/9/12	C. Stetson	5.50	Prepare for and present oral argument before Ninth Circuit
1/17/12	M. Wimberly	0.60	Conduct research to locate opinion cited in a January 14 article that may be relevant to the Snowbowl appeal; draft e-mail to C. Stetson and A. Spielman detailing findings
Total for Professional Services			\$52,864.00

Other Charges

Computer Research - Westlaw	926.80
Travel - DINERS CLUB; Washington San Francisco	562.53
Washington; January 07, 2012;	
STETSON, CATHERINE EMILY; 815050	
Travel - DINERS CLUB; Washington San Francisco	47.00
Washington; January 07, 2012;	
STETSON, CATHERINE EMILY; 815050	
Hotel - San Francisco, CA - January 7-9, 2012	529.30
CATHERINE E. STETSON	
Taxi - San Francisco, CA - January 7-9, 2012	55.00
CATHERINE E. STETSON	
Misc. Travel Charges - Bag Fees - January 7-9, 2012	32.00
CATHERINE E. STETSON	
Meals/Out of Town - San Francisco, CA - January 7-9, 2012	114.45
CATHERINE E. STETSON	
Airfare - DC - December 13-15, 2011 ANDREW L SPIELMAN	110.40
Hotel - DC - December 13-15, 2011 ANDREW L SPIELMAN	93.34
Meals/Out of Town - DC - December 13-15, 2011	30.25
ANDREW L SPIELMAN	
Hotel - San Francisco, CA - January 8-10, 2012	264.65
DOMINIC PERELLA	
Taxi - San Francisco, CA - January 8-10, 2012	55.00
DOMINIC PERELLA	
Misc. Travel Charges - Printing - January 8-10, 2012	11.90
DOMINIC PERELLA	
Misc. Travel Charges - Internet - January 8-10, 2012	9.95
DOMINIC PERELLA	
Meals/Out of Town - San Francisco, CA - January 8-10, 2012	66.38
DOMINIC PERELLA	
Parking-Out of Town - San Francisco, CA - January 8-10, 2012	34.00
DOMINIC PERELLA	

PUBLIC LANDS
Invoice No. 2647943

February 29, 2012
Page 3

Total for Other Charges

\$2,942.95

TOTAL CURRENT INVOICE

\$55,806.95

Timekeeper Summary

Timekeeper	Rate	Hours	Amount
C. Stetson	\$750.00	45.50	\$34,125.00
C. Handman	\$710.00	4.80	\$3,408.00
M. Wimberly	\$465.00	12.80	\$5,952.00
D. Perella	\$565.00	16.60	\$9,379.00
Total All Timekeepers		79.70	\$52,864.00

Invoice No. 2653065

Client / Matter No. 029938.000001

Arizona Snowbowl Resort Limited Partnership
 22214 N. La Senda Drive
 Scottsdale, AZ 85255

March 26, 2012

For Professional Services Rendered Through February 29, 2012

PUBLIC LANDS

Date	Timekeeper	Hours	Description
2/9/12	D. Perella	0.80	Review 9th Circuit's opinion; email opinion to client; draft emails to client with summary of opinion
2/9/12	A. Spielman	1.80	Review order of court
2/9/12	C. Stetson	0.80	Review favorable Ninth Circuit opinion; telephone conference with client and co-counsel regarding same; review rules on sanctions and costs issues; conference with D. Perella regarding same
2/10/12	S. Marotta	0.50	Research regarding vexatious litigation statute in Ninth Circuit
2/10/12	A. Spielman	0.80	Follow-up with co-counsel regarding costs and accuracy of opinion
2/13/12	S. Marotta	1.50	Research regarding availability of attorneys' fees in Ninth Circuit; e-mail C. Stetson and D. Perella with results of research
2/13/12	D. Perella	1.20	Review S. Marotta memorandum regarding attempts to pursue fees from opposing counsel; review statutes and cases cited therein
2/14/12	S. Marotta	0.90	Research regarding attorney fees in district court and possible adjustments to fees awarded in Court of Appeals
2/15/12	A. Spielman	0.80	Attention to questions regarding recovering fees from Shanker
2/15/12	C. Stetson	0.70	Review and revise memorandum from S. Marotta regarding attorneys' fees issue in Ninth Circuit
2/16/12	S. Marotta	0.30	Review e-mail from P. Johnson regarding Ninth Circuit attorney fees issues; e-mail C. Stetson and D. Perella regarding availability of fees under 28 U.S.C. 1912

PUBLIC LANDS
Invoice No. 2653065

March 26, 2012
Page 2

Date	Timekeeper	Hours	Description
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2/21/12	A. Spielman	0.50	Attention to costs/fees analysis
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2/22/12	S. Marotta	0.50	Prepare bill of costs for Ninth Circuit appeal
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Total for Professional Services

\$10,607.00

Other Charges

Computer Research - Westlaw	27.33
Car Service - SUNNY'S EXECUTIVE SEDAN SERVICES, INC. Catherine Em Stetson, January 07, 2012	99.40
Car Service - SUNNY'S EXECUTIVE SEDAN SERVICES, INC. Catherine Em Stetson, January 10, 2012	121.00

Travel - DINERS CLUB; Washington San Francisco Washington; January 08, 2012; PERELLA, DOMINIC FRANCIS; 815850	47.00
Travel - DINERS CLUB; Washington San Francisco Washington; January 08, 2012; PERELLA, DOMINIC FRANCIS; 815859	2,044.64

Meals/Out of Town - San Francisco, CA - January 7-9, 2012 CATHERINE E. STETSON	40.09
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Total for Other Charges

\$2,397.86

TOTAL CURRENT INVOICE

\$13,004.86

PUBLIC LANDS
Invoice No. 2653065

March 26, 2012
Page 3

Timekeeper Summary

Timekeeper	Rate	Hours	Amount
C. Stetson	\$750.00	5.20	\$3,900.00
S. Marotta	\$390.00	8.30	\$3,237.00
D. Perella	\$565.00	2.00	\$1,130.00
A. Spielman	\$600.00	3.90	\$2,340.00
Total All Timekeepers		19.40	\$10,607.00

EXHIBIT B

Overall						
<i>Timekeeper Name</i>	<i>Interviews & Conferences</i>	<i>Obtaining & Reviewing Records</i>	<i>Legal Research</i>	<i>Preparing Briefs</i>	<i>Preparing For & Attending Oral Argument</i>	<i>Totals</i>
Catherine E. Stetson	8.3	0	1.5	25.1	66.9	101.8
Andrew S. Spielman	4.4	0.5	3.1	20.3	3	31.3
Christopher T. Handman					4.8	4.8
Dominic F. Perella	1.7	48.4	11.9	74.7	18.6	155.3
Mary Helen Wimberly	0.2	1.3	9.3	0	18.4	29.2
Sean Marotta			3.2	0.5		3.7
Sara Shea		24.5		9.5		34
Totals	14.6	74.7	29	130.1	111.7	360.1

March, 2011						
<i>Timekeeper Name</i>	<i>Interviews & Conferences</i>	<i>Obtaining & Reviewing Records</i>	<i>Legal Research</i>	<i>Preparing Briefs</i>	<i>Preparing For & Attending Oral Argument</i>	<i>Totals</i>
Catherine E. Stetson	3.7			7.3		11
Andrew S. Spielman	2.5			3		5.5
Dominic F. Perella				1.2		1.2
Totals	6.2	0	0	11.5	0	17.7

April, 2011						
<i>Timekeeper Name</i>	<i>Interviews & Conferences</i>	<i>Obtaining & Reviewing Records</i>	<i>Legal Research</i>	<i>Preparing Briefs</i>	<i>Preparing For & Attending Oral Argument</i>	<i>Totals</i>
Catherine E. Stetson	2			6.9		8.9
Andrew S. Spielman				10.8		10.8
Dominic F. Perella		13.1	9.9	47.8		70.8
Sara Shea				9.5		9.5
Totals	2	13.1	9.9	75	0	100

May, 2011						
<i>Timekeeper Name</i>	<i>Interviews & Conferences</i>	<i>Obtaining & Reviewing Records</i>	<i>Legal Research</i>	<i>Preparing Briefs</i>	<i>Preparing For & Attending Oral Argument</i>	<i>Totals</i>
Catherine E. Stetson	2.3			10.9		13.2
Andrew S. Spielman	1.1			6.5		7.6
Dominic F. Perella	1.7	34.7		25.7		62.1
Sara Shea		24.5				24.5
Totals	5.1	59.2	0	43.1	0	107.4

December, 2011						
<i>Timekeeper Name</i>	<i>Interviews & Conferences</i>	<i>Obtaining & Reviewing Records</i>	<i>Legal Research</i>	<i>Preparing Briefs</i>	<i>Preparing For & Attending Oral Argument</i>	<i>Totals</i>
Catherine E. Stetson	0.3				21.9	22.2
Andrew S. Spielman		0.5			3	3.5
Dominic F. Perella					2.9	2.9
Mary Helen Wimberly	0.2	1.3	8.7		6.2	16.4
Totals	0.5	1.8	8.7	0	34	45

January, 2012						
<i>Timekeeper Name</i>	<i>Interviews & Conferences</i>	<i>Obtaining & Reviewing Records</i>	<i>Legal Research</i>	<i>Preparing Briefs</i>	<i>Preparing For & Attending Oral Argument</i>	<i>Totals</i>
Catherine E. Stetson					45	45
Christopher T. Handman					4.8	4.8
Dominic F. Perella		0.6			15.7	16.3
Mary Helen Wimberly			0.6		12.2	12.8
Totals	0	0.6	0.6	0	77.7	78.9

February, 2012						
<i>Timekeeper Name</i>	<i>Interviews & Conferences</i>	<i>Obtaining & Reviewing Records</i>	<i>Legal Research</i>	<i>Preparing Briefs</i>	<i>Preparing For & Attending Oral Argument</i>	<i>Totals</i>
Catherine E. Stetson			1.5			1.5
Andrew S. Spielman	0.8		3.1			3.9
Dominic F. Perella			2			2
Sean Marotta			3.2	0.5		3.7
Totals	0.8	0	9.8	0.5	0	11.1

**IN THE UNITED STATES COURT OF APPEALS
FOR NINTH CIRCUIT**

SAVE THE PEAKS COALITION, *et al.*

Plaintiffs-Appellants,

V.

U.S. FOREST SERVICE, *et al.*,

Defendants-Appellees,

ARIZONA SNOWBOWL LIMITED
PARTNERSHIP,

Intervenors-Defendant-Appellee.)

No. 10-17896

DECLARATION OF PAUL G. JOHNSON

I, Paul G. Johnson, hereby declare:

1. I am over the age of 18 years and am in all respects competent to make this Declaration.

2. At all times relevant to the appeal of this action, I was a member (partner) of the law firm of Jennings, Strouss & Salmon, P.L.C. (“JSS”). JSS was and is counsel for Arizona Snowbowl Resort Limited Partnership (“Snowbowl”), with respect to the above-captioned appeal. I make this declaration of my own personal knowledge and based on my review of records kept in the ordinary course of business by JSS.

3. I am licensed to practice law in the State of Arizona, and I am admitted to the United States District Court for the District of Arizona, to the United States Court of Appeals for the Ninth Circuit and to the United States Supreme Court. I graduated *cum laude* from Harvard Law School Law in June 1985 and was admitted to the practice of law in the State of Arizona in November 1985. I practice primarily in the areas of commercial litigation and appeals.

4. I am primarily responsible for JSS's representation of Snowbowl in this appeal. I have been substantially involved in this appeal, and have personal knowledge of the legal services rendered by JSS for and on behalf of Snowbowl. I was co-counsel for Snowbowl in the trial of the *Navajo Nation* case and participated in the successful appeal of that case. I served as co-counsel with Michael J. O'Connor of JSS for Snowbowl in the trial court in the *Save the Peaks* case, and am familiar with all aspects of both cases. I participated in all substantial aspects of this appeal by advising Snowbowl, and by undertaking all of the tasks listed in paragraph 13 of this Declaration.

5. I have reviewed the time-keeping and billing records maintained by JSS in the ordinary course of its business that pertain to this matter. To the best of my knowledge and belief, these records accurately reflect the time spent by JSS attorneys on this matter and the costs billed to Snowbowl. Snowbowl has paid or agreed to pay all attorneys fees and costs that JSS claims in connection with this

fee application. I have exercised billing judgment and have reduced or adjusted the fees and expenses as appropriate.

6. Attached to this Declaration as Exhibit A is a summary that contains a description of the time recorded by JSS attorneys on behalf of Snowbowl in connection with this appeal for which reimbursement is sought. The summary has been prepared from the billing records kept in the regular course of business by JSS in this matter and I included only those billing entries related to the above-captioned appeal. The date of the service and the name of the attorney providing the service are listed on Exhibit A. Also included in each time entry is the amount of time expended as measured in tenths of an hour, a brief description of the nature of the service provided (redacted to exclude material protected by the attorney-client privilege, work product doctrine and related privileges) and the charges for that particular service.

7. Through May 1, 2012, Snowbowl seeks reimbursement for JSS attorneys' fees in the total amount of \$68,381.50 it has incurred for the appeal of this matter, and \$1807.37 it has incurred in computerized legal research conducted by JSS for this appeal. These are the amounts Snowbowl is seeking in the Motion for Attorneys Fees and Costs for JSS's work on this appeal. The records supporting the attorneys' fees incurred during this appeal through May 1, 2012 are attached hereto as Exhibit A, a summary of the computerized legal research

charges are attached hereto as Exhibit B, and the breakdown of attorney time by task is attached hereto as Exhibit C, based on Ninth Circuit Form 9.

8. The hourly rates for the attorneys that provided services to Snowbowl in connection with this appeal are as follows (the hourly rates of three of the JSS attorneys were increased during the course of this appeal and are therefore shown in a range):

<u>ATTORNEY</u>	<u>HOURLY RATE</u>
Michael J. O'Connor	\$400 to \$425
John J. Egbert	\$375 to \$400
Paul G. Johnson	\$300 to \$335
Stephanie E. Hart	\$300

The billing rate for each of the above attorneys was established by JSS by taking into account each individual's education, experience, skill and training. I am generally familiar with the rates charged by other attorneys in large and medium-sized law firms in the Phoenix community with similar experience, education, skill and reputation, and the hourly rates charged by JSS for the time expended on this matter are consistent with those rates. For purposes of the portion of Snowbowl's Motion for Attorney Fees and Costs related to work performed by JSS, I believe the relevant market is large and medium sized law firms in the Phoenix market. I believe the rates set forth above for each JSS attorney are reasonable.

9. During the course of this appeal, Michael J. O'Connor was a member (partner) with JSS and then became of counsel to JSS. Mr. O'Connor graduated

magna cum laude from George Washington University Law School in 1985 and was admitted to the practice of law in Arizona in 1985. He is admitted to the United States District Court for the District of Arizona and the Ninth Circuit Court of Appeals. Mr. O'Connor's practice focuses on complex civil litigation. Mr. O'Connor is a member of the American College of Trial Lawyers. Mr. O'Connor and I were co-counsel for Snowbowl in the trial court in this *Save the Peaks* case, and Mr. O'Connor participated in this appeal by strategizing with the client and the other counsel involved, and by reviewing and commenting as appropriate on the significant filings made with this Court.

10. John J. Egbert is a member (partner) with JSS. Mr. Egbert graduated *magna cum laude* from Brigham Young University School of Law in 1987, and was admitted to practice law in Arizona in 1987. He is admitted to the United States District Court for the District of Arizona, to the United States Court of Appeals for the Ninth Circuit and D.C. Circuit, and to the United States Supreme Court. Mr. Egbert's practice focuses on employment law and appellate practice. Mr. Egbert was involved in the *Navajo Nation* case on behalf of Snowbowl in the Ninth Circuit beginning with the en banc proceedings. In this appeal, Mr. Egbert provided valuable insight and guidance about this Court and its procedures, reviewed and commented on the significant submissions made in this appeal and assisted in the preparation for oral argument.

11. Stephanie E. Hart was an associate and later a partner (member) with JSS. Ms. Hart graduated from Columbia University Law School in 2000 and was admitted to the practice of law in Arizona in 2009. Ms. Hart was a judicial clerk for Judge Ferdinand Fernandez of this Court during 2002-2003. Ms. Hart's practice focused on civil litigation and appellate practice. Ms. Hart worked on the appeal of the *Navajo Nation* case in the later stages. In this appeal, Ms. Hart provided research assistance on various aspects of Arizona law and Federal law, particularly case law in the Ninth Circuit.

12. I have attached hereto as Exhibit C a spreadsheet that shows a summary for each JSS attorney of the total hours he or she spent on this appeal, broken down into the categories in which such entries best fit as listed on Ninth Circuit Form 9, in accordance with Circuit Rule 39-1.6(b).

13. The JSS attorneys listed in this Declaration assisted with the appeal in *Navajo Nation* and with the appeal in *Save the Peaks*. Specifically, with respect to the appeal in *Save the Peaks*, the JSS attorneys assisted and participated in the following tasks/ preparation of the following filings: 1) the response to the motion for stay pending appeal in this Court, 2) the mediation assessment in this Court, 3) the answering brief, and the evaluation of the briefs of opposing counsel, 4) the supplemental excerpts of record, 5) Snowbowl's motion to expedite oral argument, 6) the preparation for oral argument, 7) research on issues of Arizona and Ninth

Circuit law, 8) the review and analysis of this Court's opinion, and 9) seeking attorneys fees and costs in this Court.

14. In my opinion, the attorneys' fees, expenses and services billed by JSS and incurred by Snowbowl in this case were actually, reasonably and necessarily expended in defense of this matter. This appeal was vitally important to Snowbowl and its ongoing and future business.

15. I believe that the hourly rates charged by the JSS attorneys are reasonable as set forth in paragraph 8 above. I also believe the total number of hours expended by JSS attorneys as set forth on Exhibit C hereto is reasonable given the complexity of this litigation, the efforts necessary to defend this appeal and the vital importance of the appeal to Snowbowl.

16. The services rendered and the total fees claimed by JSS on behalf of Snowbowl are reasonable and necessary based upon my review of the time records for this appeal, my familiarity with the customary and usual rates charged in this community for similar legal services, the complexity of this litigation, and the vital importance of this appeal to Snowbowl.

17. After reviewing the records maintained by JSS, the billings to Snowbowl, the other information contained in the Motion for Attorneys' Fees and Costs in connection with this matter, the reasonableness of the hourly rates and hours expended, and evaluating the efforts necessary to conduct this appeal and the

vital importance of this appeal to Snowbowl, I believe the amount of \$68,381.50 reflected in the attorney fee summary attached hereto as Exhibit A for the services of JSS, and the amount of \$1807.37 for computerized legal research conducted by JSS as listed on the attached Exhibit B, are amounts reasonable and appropriate for award by this Court.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 3, 2012.

s/ Paul G. Johnson
Paul G. Johnson

EXHIBIT A

Arizona Snow Bowl Resort Limited Partnership
c/o Eric G. Borowsky
[REDACTED]

May 1, 2012
RECAP OF FEES

Client/Matter No. 057867-000002

For Legal Services Rendered In Connection With:

Snowbowl Case #2

Date	Timekeeper	Description	Hours	Amount
12/23/10	P. Johnson	Review Shanker notice of appeal and email to client.	0.20	60.00
12/23/10	J. Egbert	Review and respond to emails from Paul Johnson regarding [REDACTED] on appeal.	0.20	75.00
12/23/10	M. O'Connor	Conference with Paul Johnson re status and procedural setting and appeal.	0.40	160.00
12/27/10	P. Johnson	Review appeal documents from Ninth Circuit and forward to client.	0.20	60.00
12/28/10	P. Johnson	Review mediation statement by Shanker and forward to client.	0.20	60.00
12/29/10	P. Johnson	Extended discussion with client regarding [REDACTED]; make notes regarding our [REDACTED]; email to client [REDACTED].	0.60	180.00
12/30/10	P. Johnson	Draft and revise 9th Circuit mediation questionnaire; send draft to client; review changes.	1.00	300.00

Date	Timekeeper	Description	Hours	Amount
01/03/11	P. Johnson	Revise Mediation Questionnaire and forward to client for review; prepare service list and certificate of service to be filed with Mediation Questionnaire; review 9th Circuit filing procedures and [REDACTED]; revise questionnaire and supporting documents; review attorney appearance filings; deal with filing issues; forward all documents filed to client.	2.30	690.00
01/03/11	J. Egbert	Review and edit mediation statement and file notice of appearance.	0.30	112.50
01/12/11	P. Johnson	Review status of Shanker ordering of transcript and timing of same.	0.30	90.00
01/20/11	J. Egbert	Review and analyze Plaintiff's letter to clerk of Ninth Circuit regarding related case.	0.10	37.50
01/23/11	P. Johnson	Analysis regarding appeal transcripts.	0.20	60.00
01/24/11	P. Johnson	Review status of transcripts and telephone call to client [REDACTED]; review order setting mediation assessment from Ninth Circuit, send to client, [REDACTED] client.	0.40	120.00
02/24/11	P. Johnson	Plan and prepare for mediation assessment conference.	0.20	67.00
02/24/11	M. O'Connor	Conference with Paul Johnson re 9th Circuit mediation process.	0.20	85.00
02/25/11	P. Johnson	Telephone call to client regarding [REDACTED]; email to Mediation office at Ninth Circuit regarding lawyers and phone numbers.	0.40	134.00
02/28/11	P. Johnson	Telephone call to client on [REDACTED]; telephone call to Lane McFadden at USDOJ regarding [REDACTED]; conference with Mike O'Connor regarding [REDACTED]; arrange for call with client on 3/1.	0.90	301.50

Date	Timekeeper	Description	Hours	Amount
03/01/11	P. Johnson	Discuss [REDACTED] with client and Mike O'Connor; draft and revise letter to Shanker; conference with Cate Stetson and client regarding [REDACTED]; conference call to Lane McFadden, and call to client and Cate Stetson; email draft of Shanker letter to client, then to Cate Stetson; review rules and Ninth Circuit website, and send emails to client group regarding [REDACTED].	3.00	1,005.00
03/02/11	M. O'Connor	Review of letter to Shanker; telecon Paul Johnson re status [REDACTED]; receipt and review same.	0.30	127.5
03/02/11	J. Egbert	Conference with Paul Johnson regarding [REDACTED].	0.40	160.00
03/02/11	J. Egbert	Review and analyze Plaintiffs' Motion for Stay.	0.80	320.00
03/02/11	P. Johnson	Review emails on case, and telephone call to client [REDACTED]; telephone call to USDOJ; review, revise and send letter to Shanker; review Shanker motion to exceed page limitation and email to client; review Shanker injunction motion, print and package for distribution to client group; telephone call from Mike O'Connor regarding [REDACTED]; review [REDACTED] and discuss with client.	3.30	1,105.50
03/03/11	J. Egbert	Review Forest Service's response to motion for additional pages.	0.20	80.00
03/03/11	J. Egbert	Analyze Motion for Stay pending appeal.	0.40	160.00

Date	Timekeeper	Description	Hours	Amount
03/03/11	P. Johnson	Prepare for and participate in mediation assessment conference with Ninth Circuit mediator; telephone calls to client; review response to page extension motion from USDOJ and forward to client group; telephone call from Mike O'Connor; review mediator filing and email to client group; review email from potential amicus and email to Cate Stetson; telephone calls to Lane McFarlane regarding [REDACTED]; begin working drafting response to urgent motion for injunction; draft and revise corporate disclosure statement; review emails from Cate Stetson and client.	5.40	1,809.00
03/04/11	P. Johnson	Continue work on response to Shanker Ninth Circuit injunction request; meet with John Egbert regarding same; revise corporate disclosure statement and joinder to Federal Defendants opposition to motion for oversized brief; further work on response to injunction request; finalize and see to filing and service details of corporate disclosure statement and joinder in Federal Defendants' response; complete initial draft of response and send to Mike O'Connor; email to Mike O'Connor; check status at Ninth Circuit and telephone call to fix docket description; check rules.	6.10	2,043.50
03/04/11	J. Egbert	Conference with Paul Johnson regarding response to motion.	0.90	360.00
03/04/11	J. Egbert	Review and analyze Plaintiffs' Motion for Stay.	1.90	760.00
03/04/11	S. Hart	Analyze appellate pleading; draft email to Paul Johnson regarding same; cite-check/research regarding Plaintiffs' brief.	2.20	660.00
03/05/11	M. O'Connor	Review draft response to request for injunction at 9th Circuit.	1.10	467.50
03/06/11	S. Hart	Analyze [REDACTED] in Plaintiff's Brief regarding Injunction; memorandum to P. Johnson and M. O'Connor regarding same.	6.00	1,800.00

Date	Timekeeper	Description	Hours	Amount
03/07/11	S. Hart	Draft memorandum to P. Johnson and M. O'Connor regarding [REDACTED] Plaintiff's Brief.	0.80	240.00
03/07/11	J. Egbert	Review and edit draft response to Motion for Stay pending appeal.	1.70	680.00
03/07/11	P. Johnson	Discuss draft of response to Ninth Circuit injunction motion with John Egbert; incorporate Egbert and O'Connor changes into response, and revise response; emails to and from Lane McFadden; further revisions to response.	2.50	837.50
03/08/11	P. Johnson	Proofread and revise first draft of response to Ninth Circuit injunction, and forward same to client group; telephone call from client on [REDACTED]; analysis and telephone call to Cate Stetson on [REDACTED], and then telephone call to Lane McFadden regarding [REDACTED]; discuss same with Mike O'Connor; discuss research with Stephanie Hart.	2.10	703.50
03/08/11	S. Hart	Research regarding [REDACTED]; draft memo regarding same; email to P. Johnson.	4.00	1,200.00
03/09/11	P. Johnson	Telephone call from client [REDACTED]; review of Shanker exhibits, and email to Cate Stetson [REDACTED]; research on response.	0.80	268.00
03/10/11	P. Johnson	Further research on response to injunction; respond to email from Lane McFadden and review FEIS for [REDACTED]; review [REDACTED] and email to Cate Stetson; analysis of contents of response.	1.10	368.50
03/11/11	P. Johnson	Review comments and changes from Cate Stetson on 9th Circuit response to injunction request; revise client affidavit; revise injunction response.	1.60	536.00
03/11/11	M. O'Connor	Telecon Paul Johnson re status; telecon Eric Borowsky re status.	0.40	170.00

Date	Timekeeper	Description	Hours	Amount
03/13/11	P. Johnson	Check changes to response and declaration; email declaration to client group; further research on response.	0.50	167.50
03/14/11	M. O'Connor	Review and revise opposition to injunction at 9th Circuit; conference with Paul Johnson re same.	0.70	297.50
03/14/11	P. Johnson	Further research and revisions to opposition to request for injunction pending appeal; telephone call from client [REDACTED]; gather exhibits for response; finalize and check red-lined changes; analysis of strategy; discuss [REDACTED] with Mike O'Connor; send out red-lined and clean versions of response to client group.	5.10	1,708.50
03/15/11	P. Johnson	Email to Cate Stetson and telephone call to Lane McFadden regarding responses; work on new redline of draft response to 9th Circuit injunction; prepare for and participate in conference call with Cate Stetson regarding same; incorporate Cate's comments and produce new draft; proofread and revise draft response for final; response to several emails from Lane McFadden on [REDACTED]; prepare exhibits and index; revise mailing certificate; telephone calls to client on [REDACTED]; finalize response and see to filing and service details; return telephone call to client and leave voicemail.	6.30	2,110.50
03/15/11	M. O'Connor	Conference call with clients re status; conference with Paul Johnson; review of updated briefs.	1.10	467.50
03/15/11	J. Egbert	Review Forest Service's response to Motion for Stay Pending Appeal.	0.60	240.00
03/16/11	P. Johnson	Telephone call to client to [REDACTED]; forward client USDOJ exhibits by email.	0.40	134.00

Date	Timekeeper	Description	Hours	Amount
03/17/11	P. Johnson	Discuss [REDACTED] with client; initial review of reply from Shanker on request for Ninth Circuit injunction.	0.40	134.00
03/17/11	M. O'Connor	Telephone conference with Eric Borowsky regarding status.	0.40	170.00
03/18/11	J. Egbert	Review Plaintiffs' reply in support of motion for stay.	0.30	120.00
03/18/11	P. Johnson	Review of Shanker reply on injunction at Ninth Circuit; exchange emails with Dom Perella [REDACTED] client.	0.60	201.00
03/21/11	M. O'Connor	Review additional pleadings with 9th Circuit; conference with Paul Johnson re status.	0.60	255.00
03/21/11	P. Johnson	Further review of Shanker reply and discuss with Mike O'Connor; review of two cases cited by Shanker.	0.40	134.00
03/22/11	P. Johnson	Further review of Shanker reply; discuss same with Cate Stetson; telephone call to Lane McFadden to discuss same; email to Cate regarding telephone call to Lane.	0.60	201.00
03/29/11	M. O'Connor	Conference with Paul Johnson regarding briefing at 9th Circuit; strategy issue regarding same; review emails regarding updates.	0.60	255.00
03/29/11	P. Johnson	Email to Mike O'Connor; prepare email on problems with citing to vacated Ninth Circuit panel decision to Howard Shanker and send; telephone call to Cate Stetson; telephone call from client.	0.70	234.50
03/30/11	P. Johnson	Communicate with Cate Stetson and with Lane McFadden about [REDACTED]; [REDACTED]; [REDACTED]; telephone call to client; check on status at Ninth Circuit by checking docket.	0.60	201.00

Date	Timekeeper	Description	Hours	Amount
03/31/11	P. Johnson	Review order from Ninth Circuit denying injunction pending appeal; send emails regarding same; extended telephone call with client and JR Murray regarding [REDACTED], and discuss with Mike O'Connor.	0.90	301.50
04/01/11	P. Johnson	Discuss [REDACTED] with Cate Stetson; assemble and sent to client information [REDACTED]; discuss with client.	0.50	167.50
04/04/11	P. Johnson	Review Shanker opening Ninth Circuit brief; coordinate meeting on 4/7; telephone call to client.	1.20	402.00
04/04/11	M. O'Connor	Review of Shanker's opening brief; conference with Paul Johnson re same.	1.10	467.50
04/06/11	M. O'Connor	Review plaintiffs' brief in anticipation and preparation of Snowbowl's brief; conference with Paul Johnson re same.	1.50	637.50
04/06/11	P. Johnson	Review of Shanker brief and prepare list of issues for conference call; obtain index of Shanker excerpts.	0.30	100.50
04/07/11	M. O'Connor	Prepare for and attend conference call regarding the 9th Circuit briefing; conference with Paul Johnson re additional briefing and status.	1.60	680.00
04/07/11	P. Johnson	Prepare for and participate in conference call with client and lawyer group to discuss brief and related issues; email to Lane McFadden; deal with possible government shutdown issue; review email from Lane, emails to Cate, telephone calls to client, conference call with Cate and Lane regarding [REDACTED].	2.00	670.00
04/08/11	P. Johnson	Conduct research for Dom Perella on [REDACTED], and send him email with results.	0.40	134.00

Date	Timekeeper	Description	Hours	Amount
04/12/11	P. Johnson	Review of index of joint supplemental excerpts of record from first appeal; locate CDs of Administrative Record in second appeal and email to Dom Perella [REDACTED].	0.40	134.00
04/13/11	P. Johnson	Send various materials concerning Administrative Record to Dom Perella.	0.50	167.50
04/16/11	P. Johnson	Exchange a series of emails with Dom Perella about [REDACTED].	0.20	67.00
04/17/11	P. Johnson	Telephone call to Dom Perella regarding [REDACTED].	0.20	67.00
04/18/11	P. Johnson	Review and analyze issues with USDOJ [REDACTED]; emails to Cate Stetson and client; discuss matter briefly with John Egbert.	0.50	167.50
04/19/11	P. Johnson	Telephone call to client regarding [REDACTED]; review email and letter from Lane [REDACTED], and email to Cate Stetson; telephone call to client regarding [REDACTED]; check status of case online at Ninth Circuit.	0.70	234.50
04/20/11	P. Johnson	Review and consider email from Dom Perella, and telephone call from client regarding same.	0.20	67.00
04/21/11	P. Johnson	Update Mike O'Connor on status.	0.10	33.50
04/22/11	P. Johnson	Email to Cate Stetson on [REDACTED].	0.10	33.50
04/25/11	M. O'Connor	Conference with Paul Johnson re brief and comments and plans re finalizing.	0.50	212.50
04/25/11	P. Johnson	Exchange emails with Cate Stetson on [REDACTED], and review documents indicating extension granted; initial review of first draft of Snowbowl answering brief.	0.90	301.50
04/26/11	J. Egbert	Review and edit draft answering brief.	1.90	760.00
04/26/11	P. Johnson	Review John Egbert comments on draft brief and discuss with him briefly; email to Mike O'Connor on [REDACTED].	0.30	100.50

Date	Timekeeper	Description	Hours	Amount
04/27/11	P. Johnson	Telephone call to client to discuss [REDACTED] [REDACTED]; update Mike O'Connor regarding same.	0.20	67.00
05/02/11	P. Johnson	Detailed review of draft opening brief, and incorporate John Egbert comments into one draft; discuss draft briefly with Mike O'Connor.	1.70	569.50
05/03/11	P. Johnson	Continue review of draft brief, and arrange for a time to discuss comments with Dom Perella.	0.60	201.00
05/04/11	M. O'Connor	Review of and revisions to Snowbowl's responsive 9th Circuit brief.	1.10	467.50
05/04/11	P. Johnson	Continue review of draft responding brief in Ninth Circuit, and discuss same with Mike O'Connor; review of Shanker brief as part of process.	1.10	368.50
05/05/11	P. Johnson	Prepare for call with Dom Perella to give him comments on draft responsive brief in Ninth Circuit; review comments from Mike O'Connor and discuss comments with him; extended telephone call to Dom Perella to discuss comments on brief; annotate copy of brief with additional written comments and email to Dom Perella.	3.40	1,139.00
05/05/11	M. O'Connor	Review and revise Snowbowl responsive brief to 9th Circuit.	1.20	510.00
05/06/11	P. Johnson	Research on issue of [REDACTED] [REDACTED], and discuss same with Dom Perella; review of [REDACTED] for possible inclusion into SER.	1.30	435.50
05/09/11	P. Johnson	Review Snowbowl 2 docket, Snowbowl One decision and other materials in support of brief; respond to email question from Dom Perella.	1.20	402.00

Date	Timekeeper	Description	Hours	Amount
05/10/11	P. Johnson	Review of [REDACTED]; telephone call from Dom Perella; participate in conference call with Lane McFadden of USDOJ, and discuss with Mike O'Connor; arrange time for conference call on next draft of brief.	1.50	502.50
05/11/11	P. Johnson	Review emails, work on [REDACTED], review of notes, discuss transcript issue with client and with Dom Perella; prepare and revise transcript order form; discuss decision with client [REDACTED]; complete review of [REDACTED]; begin review of second draft of Snowbowl Ninth Circuit brief.	4.00	1,340.00
05/11/11	M. O'Connor	Review and revise draft responsive brief; conference with Paul Johnson re same.	1.30	552.50
05/12/11	P. Johnson	Continue detailed review of draft responding brief, and prepare for telephonic conference to discuss same; extended telephonic conference to discuss Snowbowl brief; follow-up to conference by looking up one item for Dom Perella, and by sending a few additional written comments.	3.70	1,239.50
05/12/11	J. Egbert	Review revisions to answering brief.	0.80	320.00
05/13/11	P. Johnson	Research support for issues sent by Dom Perella, and communicate with client [REDACTED]; review consolidated list of supplementary excerpts of record, review various documents and make recommendations for addition; discuss status with Mike O'Connor.	3.30	1,105.50
05/15/11	P. Johnson	Continued work on issues supporting filing of Ninth Circuit brief.	0.60	201.00
05/16/11	M. O'Connor	Review and revise updated versions of 9th Circuit briefs; conference with Paul Johnson re comments.	1.20	510.00

Date	Timekeeper	Description	Hours	Amount
05/16/11	P. Johnson	Work on issues with Ninth Circuit brief and supplemental excerpts of record; numerous calls to and from Dom Perella; review and discuss with Dom issues on [REDACTED]; review of changes to draft brief, discuss with Mike O'Connor and send comments to Dom; review of other issues for brief; review of email from Lane McFadden on [REDACTED], and forward to client and Mike O'Connor; analysis of brief and issues, and discuss comments with Dom Perella.	8.40	2,814.00
05/17/11	P. Johnson	Continued work with Dom Perella on Ninth Circuit brief, and telephone calls and emails to him regarding same; review email from Lane McFadden and email to Cate Stetson; organize file materials; quick review of final form of brief; print and send USDOJ brief to client, and telephone call to client; review USDOJ brief; email to Dom Perella; discuss status and briefs with Mike O'Connor.	2.40	804.00
05/18/11	P. Johnson	Discuss current status with client, including issues on [REDACTED]; review docket entry from Ninth Circuit on Federal brief and forward to client.	0.20	67.00
05/19/11	P. Johnson	Telephone call from John Tustin on [REDACTED], and forward email from Lane McFadden to him; telephone call to Dom Perella on [REDACTED]; receive and brief review of Snowbowl SER.	0.50	167.50
05/20/11	P. Johnson	Review email from Shanker on extension for reply; discuss briefly and review email from John Egbert; analysis of same; telephone messages to Dom Perella and Cate Stetson [REDACTED]; several telephone calls to client [REDACTED]; discuss [REDACTED] Dom Perella, and review his email; telephone call to client to discuss [REDACTED].	1.10	368.50
05/20/11	J. Egbert	Conference with Paul Johnson regarding [REDACTED]; review rule related to extension.	0.10	40.00

Date	Timekeeper	Description	Hours	Amount
05/23/11	P. Johnson	Review draft motion to expedite oral argument and send email regarding same to Dom Perella; review and respond to email from Cate Stetson regarding Shanker extension; exchange of emails to set up conference call on May 25.	0.50	167.50
05/24/11	P. Johnson	Forward acceptance order regarding Federal brief to client [REDACTED]; forward notices of receipt of Snowbowl brief and SER from Ninth Circuit to client [REDACTED]; review documents from Ninth Circuit; review letter from Shanker on extension of time for reply brief, forward to client, and calendar new date.	0.60	201.00
05/25/11	P. Johnson	Review latest drafts of expedited oral argument motion and accompanying affidavit, and prepare for conference call; participate in extended conference call on [REDACTED]; review form of motion as filed.	1.60	536.00
06/03/11	P. Johnson	Review order from Ninth Circuit denying expedited hearing request; telephone call to client [REDACTED]; review of [REDACTED] to give client [REDACTED]; update Mike O'Connor on status; review email from Cate Stetson on denial of motion.	0.50	167.50
06/15/11	P. Johnson	Discuss current status of Snowbowl issues with Mike O'Connor after his conversation with JR Murray; check items online.	0.20	67.00
06/16/11	P. Johnson	Obtain copy of reply brief in Ninth Circuit and forward to client; review motion to exceed page limits by Shanker; review rule, and determine true length; emails to and from Cate Stetson on [REDACTED]; telephone call to client; meet briefly with Mike O'Connor.	0.80	268.00
06/17/11	M. O'Connor	Conference with Paul Johnson re 9th Circuit issues; review Reply Brief from Plaintiffs.	1.10	467.50
06/17/11	P. Johnson	Initial review of Shanker reply brief.	0.60	201.00
06/18/11	J. Egbert	Review and comment on reply brief.	0.40	160.00

Date	Timekeeper	Description	Hours	Amount
06/19/11	P. Johnson	Review email from John Egbert on [REDACTED] [REDACTED], and review brief to [REDACTED].	0.20	67.00
06/20/11	P. Johnson	Email to client group on [REDACTED] [REDACTED]; review of Court filings with respect to reply brief.	0.30	100.50
06/24/11	P. Johnson	Forward notice of receipt of reply at Ninth Circuit to client; exchange emails with client regarding [REDACTED] [REDACTED].	0.30	100.50
06/24/11	J. Egbert	Analyze possible ways to [REDACTED] [REDACTED].	0.10	40.00
06/24/11	M. O'Connor	Review of 9th Circuit materials re oral arguments and emails re same.	0.40	170.00
06/27/11	P. Johnson	Review and analysis of return email from Cate Stetson.	0.10	33.50
07/06/11	P. Johnson	Discuss with John Egbert [REDACTED] [REDACTED].	0.10	33.50
07/07/11	P. Johnson	Briefly discuss [REDACTED] [REDACTED] with Mike O'Connor, and email to client regarding same.	0.20	67.00
08/28/11	P. Johnson	Review of motion to strike filed by USDOJ, email same to client, and respond to email from Mike O'Connor regarding same.	0.30	100.50
08/29/11	P. Johnson	Respond to client's questions about [REDACTED] [REDACTED]; discuss [REDACTED] with client, including [REDACTED].	0.40	134.00
08/30/11	P. Johnson	Review of status of case at Ninth Circuit; review of previous motion to expedite and client declaration; analysis; telephone calls to and from client [REDACTED].	0.50	167.50
09/16/11	P. Johnson	Review client comments [REDACTED]; review email from Dom Perella on [REDACTED] [REDACTED].	0.20	67.00
11/07/11	P. Johnson	Review of order and associated materials from Ninth Circuit setting oral argument; telephone call to client [REDACTED].	0.40	134.00

Date	Timekeeper	Description	Hours	Amount
11/08/11	P. Johnson	Review email from client on [REDACTED], and respond to same.	0.10	33.50
11/10/11	P. Johnson	Email to and from Cate Stetson on [REDACTED], and scheduling of moot.	0.20	67.00
11/11/11	P. Johnson	Email to and from Cate Stetson regarding moot court; forward email to John Egbert and Mike O'Connor.	0.20	67.00
11/16/11	P. Johnson	Discuss with client [REDACTED]; emails to and from Cate Stetson regarding scheduling of conference and moot; check internally on availability of John Egbert and Mike O'Connor; work with assistant regarding gathering materials to review; review [REDACTED] and discuss with client, and then email same to client.	1.00	335.00
11/17/11	P. Johnson	Continued work to schedule conference call and moot; emails to and from Cate Stetson, and do internal scheduling; discuss with assistant notebook of briefs and associated filings, and assist her in locating some of same.	0.40	134.00
11/18/11	P. Johnson	Review contents of notebooks with briefs and motion to strike, discuss with assistant, and distribute.	0.20	67.00
11/21/11	J. Egbert	Review court of appeals briefs and motion to strike.	0.80	320.00
11/28/11	J. Egbert	Review briefs to prepare for moot court sessions.	1.10	440.00
12/08/11	P. Johnson	Check on schedules, including client's, and respond to email from Cate Stetson regarding scheduling; email from Cate on subject of conference call.	0.20	67.00
12/13/11	P. Johnson	Review of briefs and note questions for roundtable discussion on 12/15 with Cate Stetson.	0.30	100.50

Date	Timekeeper	Description	Hours	Amount
12/15/11	P. Johnson	Telephonic round table to discuss [REDACTED].	1.20	402.00
12/15/11	J. Egbert	Complete review and analysis of appellate briefs.	1.60	640.00
12/15/11	J. Egbert	Participate in conference call to prepare for oral argument.	1.20	480.00
12/16/11	P. Johnson	Email [REDACTED] to Cate Stetson; review order from Ninth Circuit on Federal motion to strike; forward order to client; review [REDACTED] and forward to client; discuss [REDACTED] with client; forward [REDACTED] to Cate Stetson.	0.20	67.00
12/19/11	P. Johnson	Research on issue of [REDACTED], as requested by Cate Stetson during telephone conference on December 15.	0.50	167.50
12/23/11	P. Johnson	Emails regarding scheduling of moot on January 4.	0.20	67.00
12/27/11	P. Johnson	Discuss research assignment on [REDACTED] with Stephanie Hart, and review emails from her on results.	0.20	67.00
12/27/11	S. Hart	Research regarding [REDACTED].	1.10	330.00
01/01/12	P. Johnson	Review Ninth Circuit website for [REDACTED]; telephone call to client [REDACTED]; email to client group regarding same.	1.00	335.00
01/02/12	P. Johnson	Work on research on issue concerning [REDACTED] for Cate Stetson; review emails from client.	0.60	201.00
01/03/12	P. Johnson	Review and revise memo from Stephanie Hart on [REDACTED], and emails to and from Cate Stetson regarding same.	0.60	201.00
01/03/12	S. Hart	Research regarding [REDACTED]; draft memo regarding same.	2.60	780.00

Date	Timekeeper	Description	Hours	Amount
01/04/12	S. Hart	Research regarding [REDACTED] [REDACTED].	1.30	390.00
01/04/12	P. Johnson	Prepare for Cate Stetson's moot of Ninth Circuit argument by review of briefs and related materials; participate in moot by telephone; discuss same with John Egbert, and send Cate a follow up email on [REDACTED] [REDACTED]; telephone call and email from Dom Perella regarding [REDACTED] and communicate with client regarding same; discuss [REDACTED] with client.	5.80	1,943.00
01/04/12	J. Egbert	Prepare for and participate in moot court argument.	2.00	800.00
01/05/12	P. Johnson	Telephone call from client; prepare for hearing.	0.30	100.50
01/06/12	P. Johnson	Review and analysis regarding issue of [REDACTED], and various emails to Cate Stetson and Dom Perella regarding same; discuss same with Stephanie Hart and review her research; review emails from client; prepare for trip to oral argument; discuss [REDACTED] [REDACTED] with Mike O'Connor.	1.70	569.50
01/06/12	S. Hart	Confer with P. Johnson regarding [REDACTED] [REDACTED]; send research regarding same.	0.30	90.00
01/07/12	P. Johnson	Prepare for trip to Ninth Circuit oral argument; review of list of items to bring; gather cases, opinions, declarations and other items to bring to oral argument.	1.30	435.50
01/08/12	P. Johnson	Meet with clients and Cate Stetson to discuss [REDACTED] during lunch and afterwards during walk back to hotel; discuss [REDACTED] with clients.	1.5	502.50
01/09/12	P. Johnson	Review [REDACTED] and discuss with Cate Stetson; attend oral argument in Ninth Circuit; meet with client and other attorneys after oral argument; update John Egbert and Mike O'Connor on oral argument.	3.80	1273.00

Date	Timekeeper	Description	Hours	Amount
01/10/12	P. Johnson	Review emails and [REDACTED] from Cate Stetson; locate additional [REDACTED] and forward to client group; organize materials from Ninth Circuit oral argument.	0.40	134.00
01/12/12	P. Johnson	Read and revise transcript of oral argument; listen to oral argument and fill in blanks and correct transcript.	1.00	335.00
01/16/12	P. Johnson	Review corrections and finalize transcription of oral argument.	0.30	100.50
01/17/12	P. Johnson	Check corrections to transcript of Ninth Circuit oral argument and email to client group.	0.20	67.00
01/23/12	P. Johnson	Review correspondence from District Court Clerk to Ninth Circuit, discuss briefly with John Egbert, and send email to client group [REDACTED]; review response to email from Cate Stetson.	0.30	100.50
02/01/12	P. Johnson	Review and forward receipt from Ninth Circuit of documents from District Court to client group; forward [REDACTED] to client; discuss same with client.	0.30	100.50
02/09/12	P. Johnson	Review Ninth Circuit opinion briefly and call client; forward opinion to client; discuss [REDACTED] with client and JR Murray; review opinion in detail; review news articles; discuss [REDACTED] with John Egbert and research regarding same; review [REDACTED] to client group; review [REDACTED] and discuss with client; discuss opinion with Mike O'Connor; continued work on [REDACTED].	3.60	1,206.00
02/09/12	J. Egbert	Review and analyze [REDACTED].	0.60	240.00
02/09/12	J. Egbert	Review and analyze Ninth Circuit opinion.	0.90	360.00

Date	Timekeeper	Description	Hours	Amount
02/10/12	P. Johnson	Review Ninth Circuit instructions that came with opinion and send to client [REDACTED]; review Ninth Circuit forms for costs and fees; continuing review of treatise on Ninth Circuit and [REDACTED]; telephone call to Dom Perella about [REDACTED], and forward to Dom copies of relevant portions of [REDACTED].	1.40	469.00
02/13/12	P. Johnson	Respond to client email about [REDACTED].	0.20	67.00
02/15/12	J. Egbert	Review email regarding [REDACTED] at 9th Circuit.	0.20	80.00
02/15/12	P. Johnson	Review email and imbedded memo from Cate Stetson on [REDACTED] for appeal; discuss same with John Egbert; analysis and review of research materials; formulate additional information to send to Cate and client on [REDACTED].	0.90	301.50
02/16/12	P. Johnson	Review email from Cate Stetson [REDACTED], and analysis regarding same and response; send detailed email to client group responding to Cate's email [REDACTED]; telephone call to client [REDACTED].	1.00	335.00
02/22/12	P. Johnson	Follow-up on [REDACTED] issues.	0.20	67.00
02/29/12	P. Johnson	Review attorney fee billings since District Court decision and make first set of revisions to remove non-appeal items.	0.50	167.50
03/09/12	P. Johnson	Forward Shanker petition for panel and en banc review to client; briefly review same; review emails from Cate Stetson; discuss [REDACTED] client.	0.60	201.00
03/10/12	J. Egbert	Review and analyze Plaintiffs' petition for rehearing and rehearing en banc.	0.40	160.00
03/12/12	P. Johnson	Research on [REDACTED].	0.20	67.00
03/13/12	P. Johnson	Continue work on fee application for Ninth Circuit; draft supporting declaration for fee application.	0.50	167.50

Date	Timekeeper	Description	Hours	Amount
03/19/12	P. Johnson	Revise declaration in support of fee application; continue work on fee bill to limit to appeal issues.	0.50	167.50
04/13/12	P. Johnson	Discuss [REDACTED] with client; discuss with client [REDACTED].	0.20	67.00
04/19/12	P. Johnson	Review order from Ninth Circuit on denial of rehearing and rehearing en banc and call client [REDACTED].	0.30	100.50
04/20/12	P. Johnson	Telephone call to Dom Perella regarding [REDACTED], and review emails regarding same.	0.20	67.00
04/24/12	P. Johnson	Review and edit fee bills for attorney fee application in Ninth Circuit.	0.50	167.50
04/26/12	P. Johnson	Review and redact fee bills for Ninth Circuit fee application.	0.70	234.50
04/27/12	P. Johnson	Finish and check redactions of fee bills; revise declaration; emails to and from Hogan attorneys; telephone call to client; review mandate and research [REDACTED]	4.00	1,340.00
04/30/12	P. Johnson	Review of fee bills and revise declaration.	0.50	167.50
05/01/12	P. Johnson	Continued work on declaration and supporting documents for fee application; review documents from Cate Stetson's office; analysis regarding exhibits to declaration.	2.50	837.50
Total			198.30	\$68,381.50

EXHIBIT B

Snowbowl – Computer Research – Westlaw costs

Date	Description	Amount
2011		
1/18/2011	Computer Research - Westlaw	\$56.62
2/1/2011	Computer Research - Westlaw	\$6.75
2/1/2011	Computer Research - Westlaw	\$182.12
2/3/2011	Computer Research - Westlaw	\$425.46
2/4/2011	Computer Research – Westlaw	\$302.22
2/9/2011	Computer Research – Westlaw	\$289.10
3/6/2011	Computer Research – Westlaw	\$45.53
3/7/2011	Computer Research – Westlaw	\$24.38
3/8/2011	Computer Research - Westlaw	\$138.11
3/10/2011	Computer Research - Westlaw	\$25.76
3/21/2011	Computer Research – Westlaw	\$88.64
12/27/2011	Computer Research - Westlaw	\$57.68
2012		
1/4/2012	Computer Research - Westlaw	\$25.15
1/4/2012	Computer Research - Westlaw	\$35.32
1/7/2012	Computer Research – Westlaw	\$90.72
2/15/2012	Computer Research - Westlaw	\$13.81
		\$1,807.37

EXHIBIT C

JENNINGS, STROUSS & SALMON, P.L.C. HOURS BY ATTORNEY AND FORM 9 TASK						
<i>Timekeeper Name</i>	<i>Interviews & Conferences</i>	<i>Obtaining & Reviewing Records</i>	<i>Legal Research</i>	<i>Preparing Briefs</i>	<i>Preparing For & Attending Oral Argument</i>	<i>Totals</i>
John Egbert	1.40	7.00	0.10	4.70	6.70	19.90
Stephanie Hart			18.30			18.30
Paul Johnson	49.50	9.50	4.80	60.60	19.20	143.60
Michael O'Connor	7.20	0.70		8.60		16.50
Totals	58.10	17.20	23.20	73.90	25.90	198.30