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 6 Attorneys for Plaintiff DIRECTV, Inc.

7
 8 IN THE UNITED STATES DISTRICT COURT
 9 FOR THE DISTRICT OF ARIZONA

10 DIRECTV, Inc., a California corporation,

No. CV-05-1130-PHX-HRH

11 Plaintiff,

**DIRECTV'S APPLICATION FOR
 ATTORNEYS' FEES AND COSTS**

12 v.

13 Paul Reithmayer and Bonnie
 14 Reithmayer, husband and wife,

15 Defendants.

16
 17 Pursuant to the Court's October 4, 2005 Judgment, DIRECTV, Inc. ("DIRECTV")
 18 submits this application for its attorneys' fees and costs. DIRECTV respectfully requests
 19 an award of its reasonable attorneys' fees and costs in the amount of \$3,171.00 against
 20 Defendants Paul Reithmayer and Bonnie Reithmayer. This application is supported by
 21 the Affidavit of Counsel of Barbara J. Dawson, attached as Exhibit 1 which includes an
 22 itemized list of DIRECTV's attorneys' fees and costs incurred herein.

23 **I. DIRECTV IS ENTITLED TO ITS REASONABLE ATTORNEYS' FEES**
 24 **AND COSTS.**

25 DIRECTV is entitled to its reasonable attorneys' fees and costs pursuant to the
 26 Court's October 4, 2005 Judgment, and 47 U.S.C. § 605(e)(3)(B)(iii). Specifically, on
 27 October 4, 2005, the Court granted DIRECTV's motion for entry of default judgment
 28 against the Defendants and further ordered that DIRECTV "may make application for an

1 award of costs and attorney fees.” This award is authorized by 47 U.S.C. §
2 605(e)(3)(B)(iii). See Int’l. Cablevision, Inc. v. Sykes, 997 F.2d 998 (2d Cir. 1993)
3 (holding that award of attorneys’ fees to prevailing plaintiff is mandatory). Specifically,
4 47 U.S.C. § 605(e)(3)(B)(iii) provides that “the Court . . . shall direct the recovery of full
5 costs, including awarding reasonable attorneys’ fees to an aggrieved party who prevails.”

6 **II. REASONABLENESS OF REQUESTED AWARD**

7 **A. The Amount of Attorney and Paraprofessional Time Expended and the** 8 **Rates Charges Were Reasonable.**

9 Snell & Wilmer attorneys spent 14.4 hours prosecuting this action. (See Exhibit A
10 to Affidavit of Counsel.) This included time spent on appropriate factual investigation,
11 preparation of the Complaint, preparation of default papers, and a motion for default
12 judgment, including appropriate legal research. (Id.) As explained in the attached
13 affidavit, the time spent was fair and reasonable under the circumstances of this case.
14 (Aff. of Counsel ¶ 4.)

15 The rates charged are the customary fees charged by Snell & Wilmer for attorneys
16 with that level of education and experience. (Aff. of Counsel ¶ 4-7.) These rates are also
17 in accordance with the rates charged by other lawyers in the Phoenix community with
18 similar experience and education. (Id.)

19 In addition, paraprofessionals spent 4.3 hours assisting DIRECTV’s lawyers in
20 prosecuting this action. (See Exhibit A to Aff. of Counsel.) Specifically, these
21 individuals assisted the lawyers with case management and document management tasks.
22 These tasks were necessary to the litigation process and the hourly rate charged for these
23 services was reasonable and in accordance with community standards. (Aff. of Counsel
24 ¶¶ 4, 8-10.)

25 **B. DIRECTV Requests Court Costs and Service Fees.**

26 Under 47 U.S.C. § 605(e)(3)(B)(iii), DIRECTV is entitled to recover its “full
27 costs.” DIRECTV, however, conservatively seeks only its costs related to filing and
28 serving the Summons and Complaint in this action. Specifically, DIRECTV seeks an

1 award of \$270.00 in costs. An itemized list of these costs is included on Exhibit A to the
2 Affidavit of Counsel.

3 **III. CONCLUSION**

4 Based on the foregoing, DIRECTV respectfully requests the Court enter Judgment
5 awarding DIRECTV its attorneys' fees and costs in the total amount of \$3,171.00.

6 In accordance with L.R.Civ. 7.1(b)(2), a proposed form of judgment is submitted to
7 the Judge.

8 DATED this 18th day of October, 2005.

9 SNELL & WILMER L.L.P.

10
11 By s/ Jason S. Vanacour (#022738) for
12 Barbara J. Dawson
13 Matthew P. Fischer
14 Scott A. Schwartz
15 One Arizona Center
16 400 E. Van Buren
17 Phoenix, AZ 85004-2202
18 Attorneys for Plaintiff DIRECTV, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that on October 18, 2005, a complete, duplicate copy of the attached document will be forwarded by overnight delivery to:

The Hon. H. Russel Holland
United States District Court
222 West 7th Avenue, #54
Anchorage, Alaska 99513

I hereby certify that on October 18, 2005, I served the attached document by United States Postal Service on the following, who is not a registered participant of the CM/ECF System.

Paul and Bonnie Reithmayer
10409 E. First Street, #5
Apache Junction, AZ 85220
Defendants *Pro Per*

s/ Jason S. Vanacour

1738895.1

EXHIBIT 1

1 Barbara J. Dawson (#012104)
Matthew P. Fischer (#019770)
2 Scott A. Schwartz (#022685)
SNELL & WILMER L.L.P.
3 One Arizona Center
400 East Van Buren
4 Phoenix, Arizona 85004-2202
Telephone: 602-382-6000
5 Facsimile: 602-382-6070
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6 Attorneys for Plaintiff DIRECTV, Inc.

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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ARIZONA

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11 DIRECTV, Inc., a California corporation,
12 Plaintiff,
13 v.
14 Paul Reithmayer and Bonnie
Reithmayer, husband and wife,
15 Defendants.
16

No. CV-05-1130-PHX-HRH

**AFFIDAVIT OF COUNSEL
IN SUPPORT OF DIRECTV'S
APPLICATION FOR ATTORNEYS'
FEES AND COSTS**

17 I, Barbara J. Dawson, being first duly sworn, deposes and says upon my oath:

18 1. I am an attorney at the law firm of Snell & Wilmer L.L.P., counsel for
19 Plaintiff DIRECTV, Inc. in this matter. I make this affidavit based on my own personal
20 knowledge and in support of DIRECTV's Application for Attorneys' Fees incurred in
21 prosecuting the matter of *DIRECTV, Inc. v. Reithmayer*.

22 2. Attached as Exhibit A to this Affidavit is an itemized statement of the hours
23 related to this action. Exhibit A identifies the lawyers who worked on this action, the
24 amount of time expended, measured in tenths of an hour, a brief description of the work
25 performed, and the charges for the work performed. This information was compiled from
26 actual client billings that were prepared and maintained by Snell & Wilmer in the regular
27 course of this business. Exhibit A represents fees and costs actually billed to DIRECTV
28 and which DIRECTV has paid or has agreed to pay.

1 3. DIRECTV seeks reimbursement for legal services provided by Matthew P.
2 Fischer, Scott A. Schwartz and Jason S. Vanacour related to the prosecution of this action.
3 The total amount of the attorneys' fees incurred and for which DIRECTV seeks
4 compensation is \$2,683.50. In addition, DIRECTV seeks reimbursement for services
5 provided by paraprofessionals who assisted in the prosecution of this matter. The total
6 amount of paraprofessional fees incurred and for which DIRECTV seeks compensation in
7 this case is \$217.50. Thus, DIRECTV seeks a total of \$2901.00 for legal services
8 incurred herein.

9 4. The total amount requested for legal services rendered in prosecuting this
10 action is fair and reasonable for the services provided. DIRECTV is billed for attorneys'
11 fees and paraprofessionals on an hourly basis. The billing rates for the attorneys and
12 paraprofessionals working on this matter were established by Snell & Wilmer, taking into
13 account each attorney's and paraprofessional's experience and training. The rates charged
14 by Snell & Wilmer for the time expended by all attorneys working on this matter are in
15 accordance with the rates charged by other lawyers in this community with similar
16 experience and education.

17 5. Matthew P. Fischer has been practicing commercial litigation at Snell &
18 Wilmer since October, 1999. Mr. Fischer's billing rate is \$225.00 per hour.

19 6. Scott A. Schwartz has been practicing litigation since October, 2003. Mr.
20 Schwartz's billing rate is \$170.00

21 7. Jason S. Vanacour has been practicing commercial litigation since October,
22 2003. Mr. Vanacour's billing rate is \$170.00 per hour.

23 8. As necessary, paraprofessionals, including certified paralegals and project
24 assistants, were utilized. The paraprofessionals who worked on this matter include Keri J.
25 Gaines and Sarah Kissane.

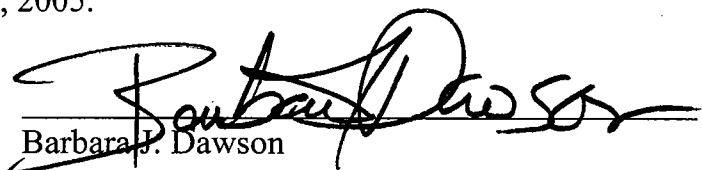
26 9. Keri J. Gaines assisted the attorneys with case management and document
27 handling tasks at a rate of \$75.00 per hour.
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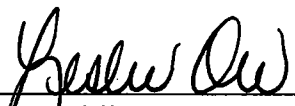
10. Sarah Kissane assisted the attorneys with case management and document handling tasks at a rate of \$75.00 per hour.

11. Snell & Wilmer hired Zachow Process Service to serve process on Defendants. Zachow Process Service charged Snell & Wilmer \$120.00 for its service of Defendants with the Summons, Complaint and related materials in this action. This invoice has already been paid by Snell & Wilmer and Snell & Wilmer has billed DIRECTV for this charge.

DATED this 18th day of October, 2005.

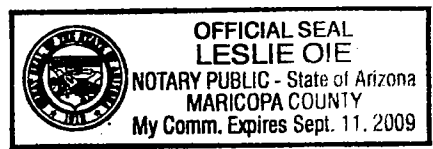

Barbara J. Dawson

SUBSCRIBED AND SWORN to before me this 18th day of October, 2005, by
Barbara J. Dawson.



Notary Public

My Commission Expires:
9/11/09



1740537.1

EXHIBIT A

DIRECTV, Inc. v. REITHMAYER

No. CV-05-1130-PHX-HRH

STATEMENT OF ATTORNEYS' AND PROFESSIONAL FEES AND COSTS

ATTY	DESCRIPTION	DATE	TIME	RATE	AMOUNT
SXS ¹	REVIEW AND ANALYZE FACTUAL INFORMATION RE DEFENDANTS AND PREPARE COMPLAINT	4/11/2005	2.20	170.00	\$374.00
MTF ²	REVIEW APPLICATION FOR ENTRY OF DEFAULT JUDGMENT AND ADDITIONAL LANGUAGE IN LIGHT OF CASE MANAGEMENT ORDERS	6/9/2005	0.70	225.00	\$157.50
MTF	REVIEW EXECUTED ENTRY OF DEFAULT AND COORDINATE PREPARATION OF MOTION FOR DEFAULT JUDGMENT	6/10/2005	0.20	225.00	\$45.00
JSV ³	RESEARCH PERTINENT PIRATE ACCESS TERMS FOUND IN P. REITHMAYER'S ONLINE PIRATE POSTINGS TO DETERMINE EXTENT OF PIRATE ACTIVITY IN PREPARATION FOR PREPARING MOTION FOR DEFAULT JUDGMENT AND DECLARATION IN SUPPORT THEREOF, INCLUDING RESEARCH OF DIRECTV'S ACCESS CARD IDENTIFICATION PROCESS AND WAYS THAT PIRATES "SUB" ACCESS CARDS BY COPYING VALID "CAM ID" AND "ZKT" NUMBERS TO CIRCUMVENT DIRECTV'S SECURITY MEASURES	7/27/2005	1.70	170.00	\$289.00
JSV	CONTINUE TO RESEARCH PIRATE ACCESS TERMINOLOGY AND PROCESS BY WHICH DIRECTV PIRATES CREATE "SUBBED" ACCESS CARDS TO RECEIVE DIRECTV PROGRAMMING WITHOUT AUTHORIZATION FROM OR PAYMENT TO DIRECTV; PREPARE DECLARATION IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT INCLUDING SECTIONS ADDRESSING THE PROCESS BY WHICH DIRECTV PIRATES FOLLOW TO "SUB" A VALID ACCESS CARD AND THE SECURITY MEASURES TAKEN BY DIRECTV TO PREVENT PIRATE ACTIVITY	8/1/2005	0.70	170.00	\$119.00
JSV	CONTINUE TO PREPARE DECLARATION IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT	8/3/2005	1.20	170.00	\$204.00
MTF	REVIEW AND REVISE DECLARATION IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT	8/4/2005	0.20	225.00	\$45.00
JSV	SUPPLEMENT AND AMEND DECLARATION IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT INCLUDING REVISING LANGUAGE RE P. REITHMAYER'S SPECIFIC ACTIVITY OF "SUBBING" ACCESS CARDS BY COPYING A VALID ACCESS CARDS "CAM ID" AND "ZKT" NUMBERS	8/4/2005	1.90	170.00	\$323.00

ATTY	DESCRIPTION	DATE	TIME	RATE	AMOUNT
JSV	PREPARE MOTION FOR DEFAULT JUDGMENT, INCLUDING SPECIFIC LANGUAGE REGARDING P. REITHMAYER'S "SUBBING" ACTIVITIES; REVISE DEFAULT MOTION TO CONFORM TO PRIOR ORDERS FROM JUDGE HOLLAND RE DEFAULT AND ESTABLISH SHOWING FOR DAMAGES UNDER 2511; PREPARE NOTICE OF DEFAULT JUDGMENT AND PROPOSED ORDER	8/8/2005	4.60	170.00	\$782.00
MTF	ASSIST PREPARATION OF MOTION FOR DEFAULT JUDGMENT; SUPPLEMENT AND AMEND SAME	8/8/2005	0.80	225.00	\$180.00
MTF	REVIEW COURT ORDER GRANTING DEFAULT JUDGMENT AGAINST P. REITHMAYER AND CONSIDER IMPLICATIONS OF COURT OPINION ON 2511 CLAIMS	10/3/2005	0.20	225.00	\$165.00
			14.40		\$2,683.50
	TOTAL				
	¹ The initials "SXS" refer to attorney Scott A. Schwartz				
	² The initials "MTF" refer to attorney Matthew P. Fischer				
	³ The initials "JSV" refer to attorney Jason S. Vanacour				
PARAPROFESSIONAL FEES					
PARA-PROFESSIONAL	DESCRIPTION	DATE	TIME	RATE	AMOUNT
KIG ⁴	PRINT AND COMPILE EVIDENCE TO ASSIST IN PREPARATION OF COMPLAINT	4/12/2005	2.2	75.00	\$60.00
SHK ⁵	REVIEW INCOMING DOCUMENTS AND UPDATE DATABASE WITH APPLICABLE DEADLINES FOR RESPONSIVE PLEADINGS AND COURT ORDERED DEADLINES	4/18/2005	0.8	75.00	\$60.00
KIG	ASSIST WITH COMPILING EXHIBITS FOR FILING MOTION FOR DEFAULT JUDGMENT	8/8/2005	1.3	75.00	\$97.50
			4.3		\$217.50
	TOTAL				
	⁴ The initials "KIG" are for Keri Gaines				
COSTS					
DATE	DESCRIPTION OF EXPENSE				AMOUNT
4/14/2005	FILING FEE-U.S. DISTRICT COURT				\$150.00
4/19/2005	SERVICE OF DEFENDANT PAUL REITHMAYER AND PREPARATION OF AFFIDAVIT OF SERVICE BY ZACHOW PROCESS SERVICE				\$60.00

ATTY	DESCRIPTION	DATE	TIME	RATE	AMOUNT
4/19/2005	SERVICE OF DEFENDANT BONNIE REITHMAYER AND PREPARATION OF AFFIDAVIT OF SERVICE BY ZACHOW PROCESS SERVICE				\$60.00
	TOTAL				\$270.00
	TOTAL FEES AND COSTS				\$3,171.00