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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

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Ronald B. Joseph, M.D. and Krista Joseph,

No. CV-09-1036-PHX-DGC

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Plaintiffs,

**ORDER**

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vs.

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Metropolitan Life Insurance Company, et al.,

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Defendant.

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On May 14, 2009, Defendants filed a notice of removal alleging this Court had diversity jurisdiction pursuant to 28 U.S.C. § 1332. Dkt. #1. On June 15, 2009, Plaintiffs filed a motion to remand. Dkt. #17. The Court granted Plaintiffs’ motion to remand and their request for attorneys’ fees. Dkt. #44.

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Plaintiffs then filed a motion for attorneys’ fees seeking \$5,250. Dkt. #45. Defendants opposed the motion. Dkt. #46. Plaintiffs filed a reply (Dkt. #47), which Defendants moved to strike because it introduces new evidence (Dkt. #48).

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In their response to the motion for fees, Defendants argue that the Court should not have awarded attorneys’ fees to Plaintiffs in the first place. Dkt. #46. This amounts to a motion for reconsideration. Such a motion will be denied “absent a showing of manifest error or a showing of new facts or legal authority that could not have been brought to [the Court’s] attention earlier with reasonable diligence.” LRCiv 7.2(g)(1); *see Carroll v.*

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1 *Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003). Defendants have not made this showing and  
2 the Court will not reconsider its ruling that Plaintiffs are entitled to fees.

3 Defendants note in their response that Plaintiffs' motion fails to comply with Local  
4 Rule 54.2, which provides procedures and requirements for an attorneys' fees application.  
5 Dkt. #45. Plaintiffs attempt to comply with Rule 54.2 in their reply memorandum, including  
6 for the first time substantial new evidence and a request for \$46,695 in fees and costs, a  
7 remarkable nine-fold increase from their original request. Dkt. #47. The Court will not  
8 consider evidence or arguments raised for the first time in a reply brief. *See, e.g., Yount v.*  
9 *Regent Univ., Inc.*, 2009 WL 995596, \*8 n.5 (D. Ariz. 2009); *Gadda v. State Bar of Cal.*, 511  
10 F.3d 933, 937 n.2 (9th Cir. 2007).

11 Plaintiffs' motion seeks \$5,250 which, according to Plaintiffs, represent 14 attorney  
12 hours at \$375 per hour. Dkt. #45 at 5. Plaintiffs propose that \$3,000 of this amount be  
13 provided to them and \$2,250 to the Maricopa County Volunteer Lawyers Program (VLP).  
14 *Id.* at 6. Because Plaintiffs' motion does not comply with Local Rule 54.2, the Court's  
15 ability to evaluate the reasonableness of the fee request is impaired. The Court therefore will  
16 award Plaintiffs one-half of the requested attorneys' fees – \$2,625. The Court will leave to  
17 Plaintiffs whether they wish to donate funds to VLP.

18 **IT IS ORDERED:**

- 19 1. Plaintiffs' motion for attorneys' fees (Dkt. #45) is **granted** in the amount of  
20 \$2,625. Defendant shall pay this amount to Plaintiffs on or before  
21 November 20, 2009.
- 22 2. Defendants' motion to strike (Dkt. #48) is **denied** as moot.

23 DATED this 5th day of November, 2009.

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David G. Campbell  
United States District Judge