

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

AUGUSTINE FALLAY,
Plaintiff,
v.
CITY AND COUNTY OF SAN
FRANCISCO ET AL.,
Defendants.

No. CV 08-02261 CRB
**ORDER GRANTING MOTION FOR
APPEAL BOND**

Plaintiff-Appellant Augustine Fallay brought this suit against a group of Defendants in April 2008, alleging that he was the victim of a widespread conspiracy that resulted in his prosecution. See dkt. 1. This Court dismissed Plaintiff’s claims. See dkt. 112. Plaintiff has appealed the Court’s decision. See dkt. 115. *Pro se* Defendants-Appellees Tony Fu and Crystal Lei have now filed a joint motion for appeal bond. See dkt. 127. Pursuant to Civil Local Rule 7-1(b), the Court finds this matter suitable for decision without oral argument; the hearing calendared for September 30, 2011 is VACATED and the Motion is GRANTED.

Federal Rule of Appellate Procedure 7 provides, “[i]n a civil case, the district court may require an appellant to file a bond or provide other security in any form and amount necessary to ensure payment of costs on appeal.” Fed. R. App. P. 7. “A district court, familiar with the contours of the case appealed, has the discretion to impose a bond which reflects its determination of the likely outcome of the appeal.” Adsani v. Miller, 139 F.3d 67,

1 79 (2d Cir. 1998); see also Lundy v. Union Carbide Corp., 598 F. Supp. 451, 452 (D. Or.
2 1984) (invoking the district court's discretion to calculate \$500 additional appeal costs where
3 the defendant-appellee did not justify a request for a bond of \$2,500).

4 Defendants-Appellees request a bond in the amount of \$6,000. See dkt. 127 at 2.
5 They provide no justification for this amount, however. In light of the Court's view of the
6 merits of the appeal, it concludes that a bond is nonetheless appropriate, and independently
7 estimates Defendants-Appellees' potential costs. The Court finds that a bond of \$200 is
8 appropriate, based on the estimated costs of copying both the record and response briefs, and
9 the Ninth Circuit's rule permitting costs of no more than ten cents per printed copy. See 9th
10 Cir. R. 39-1.3.¹

11 Accordingly, Plaintiff-Appellant Fallay shall file a bond of \$200 to ensure
12 Defendants' costs on appeal. The bond shall be filed with the Clerk's Office and be
13 deposited into the registry of the Court.

14 **IT IS SO ORDERED.**

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16 Dated: September 27, 2011



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CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE

¹ The Ninth Circuit provides that principal briefs may be no longer than 30 pages. See Fed. R. App. P. 32(a)(7)(A). It further requires that parties submit an original and 7 copies of such briefs to the Circuit alone. See 9th Cir. R. 31-1.