



1 successful.

2 On January 3, 2011, Defendants served Plaintiffs with  
3 interrogatories and requests for documents, seeking evidence  
4 concerning the reasonableness of Plaintiffs' counsel's rate  
5 increases, which Defendants represent to be between eight and  
6 twenty-eight percent. Defendants state that they do not challenge  
7 the "reasonableness of Plaintiffs' 2010 rates, but rather the  
8 reasonableness of Plaintiffs' eight to twenty-nine percent firm-  
9 wide rate increases from the 2008 rates." Morris Decl., Ex. A, at  
10 1 (emphasis in original). On or about February 8, 2011, Defendants  
11 served subpoenas on seven attorneys who submitted declarations in  
12 support of Plaintiffs' motion to compel. The subpoenas demand that  
13 the declarants appear for depositions and produce various  
14 documents, including those on which they relied in forming the  
15 statements and opinions they offered in their declarations.

16 DISCUSSION

17 "A request for attorney's fees should not result in a second  
18 major litigation." Hensley v. Eckhart, 461 U.S. 424, 437 (1983).  
19 Thus, "discovery in the context of post-trial fee disputes should  
20 not involve 'the type of searching discovery that is typical' in  
21 resolving the merits of a case." Muniz v. United Parcel Serv.,  
22 Inc., 2011 WL 311374, at \*3 (N.D. Cal.) (citing Nat'l Ass'n of  
23 Concerned Veterans v. Sec'y of Defense, 675 F.2d 1319, 1329 (D.C.  
24 Cir. 1982)).

25 Reasonable rates "are to be calculated according to the  
26 prevailing market rates in the relevant community, regardless of  
27 whether plaintiff is represented by private or nonprofit counsel."

1 Blum v. Stenson, 465 U.S. 886, 895 (1984). The party seeking fees  
2 "has the burden to prove that the rate charged is in line with" the  
3 relevant community's prevailing market rates. Carson v. Billings  
4 Police Dep't, 470 F.3d 889, 891 (9th Cir. 2006). A court may not  
5 award fees based on speculation; the "district court's function is  
6 to award fees that reflect economic conditions in the district."  
7 Moreno v. City of Sacramento, 534 F.3d 1106, 1115 (9th Cir. 2008).

8 Defendants complain that Plaintiffs' interrogatory responses  
9 and documents fail to disclose information necessary to evaluate  
10 the reasonableness of the rate increases they seek. Defendants  
11 also complain that Plaintiffs failed to provide a privilege log.  
12 As noted above, Plaintiffs bear the burden of establishing the  
13 reasonableness of their counsel's rates; if their supporting  
14 documents are not sufficiently probative, their request for an  
15 increase in their counsel's rates will be denied. Further, the  
16 Court will strike portions of Plaintiffs' supporting declarations  
17 to the extent that declarants represent, without data, that rates  
18 at their law firms increased between 2008 and 2010. Absent actual  
19 figures, such as the amount by which rates increased, these  
20 statements are not relevant to Plaintiffs' motion to compel.  
21 Plaintiffs may, if they find it necessary, supplement the  
22 declarations they filed in support of their motion to compel. If  
23 they intend to do so, Plaintiffs shall file and serve Defendants  
24 with such supplemental declarations by March 4, 2011. Defendants'  
25 complaint about the lack of a privilege log is not well-taken;  
26 Plaintiffs' responses identify the nature of documents withheld and  
27 explain the claim of privilege.

1 Plaintiffs seek a protective order quashing all seven  
2 deposition subpoenas served by Defendants and prohibiting any  
3 further discovery on the current fees matter. Seven depositions  
4 are not necessary to resolve Plaintiffs' motion to compel and would  
5 be unduly burdensome. Accordingly, these depositions are quashed.  
6 Defendants shall not obtain any further discovery concerning  
7 Plaintiffs' motion to compel.

8 CONCLUSION

9 For the foregoing reasons, the Court DENIES Defendants' Motion  
10 to Compel Further Responses to Defendants' Interrogatories and  
11 Request for Production of Documents (Docket No. 1840) and GRANTS  
12 Plaintiffs' Motion for Protective Order and To Quash Defendants'  
13 Subpoenas (Docket No. 1844). As noted above, to provide data  
14 concerning rate increases at the law firms of their declarants,  
15 Plaintiffs may proffer supplemental declarations in support of  
16 their motion to compel. If they intend to do so, Plaintiffs shall  
17 file and serve Defendants with such supplemental declarations by  
18 March 4, 2011. Defendants' seven subpoenas, served on or about  
19 February 8, 2011, are hereby quashed. Defendants shall not obtain  
20 any further discovery concerning Plaintiffs' motion to compel.

21 IT IS SO ORDERED.

22 Dated: March 1, 2011



23 CLAUDIA WILKEN  
24 United States District Judge