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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Dongxiao Yue,

NO. C 07-05850 JW

Plaintiff,

**ORDER DENYING DEFENDANTS'
MOTION FOR ADMINISTRATIVE
RELIEF FOR ENTRY OF JUDGMENT IN
A SEPARATE ORDER**

v.

Storage Technology Corp., et al.,

Defendants.

Presently before the Court is Defendants' Motion for Administrative Relief for Entry of Judgment in a Separate Document. (hereafter, "Motion," Docket Item No. 154.) Defendants seek a separate judgment granting attorneys fees pursuant to Fed. R. Civ. P. 58(d). (Motion at 1.)

The Court entered judgment in favor of Defendants on March 4, 2008. (See Docket Item No. 52.) On September 5, 2008, the Court adopted the Magistrate Judge's Report and Recommendation granting attorneys fees to Defendants. (See Docket Item No. 148.)

Under Fed. R. Civ. P. 58(d), a party "may request that judgment be set out in a separate document as required by Rule 58(a)." However, under Fed. R. Civ. P. 58(a)(3), a court is not required to set out an order disposing of a motion for attorneys fees in a "separate document."

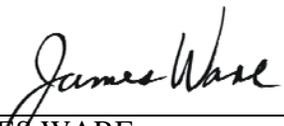
Here, although they concede it is not necessary, Defendants request a separate judgment granting Defendants attorneys fees and costs pursuant to the Court's September 5, 2008 Order. (Motion at 2.) Defendants contend that "agencies that enforce judgments are generally more familiar with documents separately denominated as 'judgments.'" (Motion at 2.)

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Since the rule does not require it, the Court declines to issue a separate Judgment at this time. The Court finds that Defendants have failed to show that they have been unable to collect their fees as awarded by the Court in its September 5 Order. Defendants may renew this motion and present evidence of their inability to or difficulty in collecting from the Plaintiff. As an alternative, Defendants may also move for sanctions against Plaintiff for failure to comply with the Court's orders.

Accordingly, the Court DENIES Defendants' Motion for Administrative Relief for a Entry of a Separate Judgment.

Dated: October 21, 2008



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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7 **Dated: October 21, 2008**

Richard W. Wieking, Clerk

8 **By: /s/ JW Chambers**
9 **Elizabeth Garcia**
10 **Courtroom Deputy**

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