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 CORNELL UNIVERSITY

8 UNITED STATES DISTRICT COURT
 9 SOUTHERN DISTRICT OF CALIFORNIA

10 KEVIN VANGINDEREN,
 11 Plaintiff,
 12 v.
 13 CORNELL UNIVERSITY, BERT DEIXLER,
 14 Defendants.

) Case No. 08-cv-00736 BTM(JMA)

) Hon. Barry T. Moskowitz

) **DECLARATION OF CLIFFORD S.
) DAVIDSON IN SUPPORT OF
) CORNELL'S MOTION FOR
) ATTORNEYS' FEES**

) [Per chambers, no oral argument unless
) requested by the Court]

) [Notice of Motion and Motion and Deixler
) Declaration filed concurrently herewith]

) Hearing Date: March 13, 2009

) Time: 11:00 a.m.

) Place: Courtroom 15

) Action Filed: April 8, 2008

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DECLARATION OF CLIFFORD S. DAVIDSON

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2 I, Clifford S. Davidson, declare under penalty of perjury under the laws of the United
3 States of America as follows:

4 1. I am an associate at Proskauer Rose LLP (“Proskauer”), counsel of record for
5 defendants Cornell University (“Cornell”) and Bert Deixler (“Deixler”) (collectively,
6 the “Defendants”). I am admitted to practice before this Court. The facts stated herein are
7 personally known to me and I could and would testify competently thereto if called upon as a
8 witness.

9 2. I was primarily responsible for the drafting and research performed in connection
10 with the Defendants’ Special Motions to Strike (the “Anti-SLAPP Motions”) filed in response to
11 the Complaint and First Amended Complaint in this action.

12 3. Attached collectively hereto as Exhibit A are true and correct copies of the bills
13 Proskauer submitted for payment to Cornell for work performed from April 8, 2008 (the date this
14 action was wiled) to August 12, 2008 (the date the Defendants submitted their replies in support of
15 their respective Anti-SLAPP Motions). The bills contained in Exhibit A reflect the time entries
16 inputted by Proskauer attorneys and legal assistants into the DTE billing system on a daily basis
17 describing the hours spent on this matter and a description of the work those attorneys and legal
18 assistants performed. I redacted and annotated Exhibit A so that it reflects only time spent on
19 activities directly related to the Anti-SLAPP Motion. For example, I have redacted, subtracted
20 and interlineated entries related to removal of Plaintiff’s complaint to this Court, as such activity
21 arguably is not related to the Anti-SLAPP Motion. The bills are dated according to when they
22 became due for payment. So, for example, the September 10, 2008 bill pertains to work
23 performed in August 2008.

24 4. Proskauer’s practice is to assign matter numbers to each matter it handles for its
25 clients. In June 2008, I instructed the records department to open an additional matter number for
26 the present action. However, there was some overlap between the new matter number and the old
27 one. For this reason, there are Exhibit A contains two bills for work performed in June 2008.

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1 5. Attached hereto as Exhibit B is a chart reflecting the hours worked per billing
2 month on the Anti-SLAPP Motion from April 8, 2008 to August 12, 2008 and the total fees related
3 to the Anti-SLAPP Motion incurred in each of those months.

4 6. Attached hereto as Exhibit C is a chart summarizing the hours I worked preparing
5 and filing the Bill of Costs and Cornell's Motion for Attorneys' Fees. Those hours have not yet
6 been submitted to Cornell for payment and therefore are not reflected in Exhibit A. I compiled
7 Exhibit C based on the raw DTE entries I have made on and since January 6, 2009. I will provide
8 to the Court the bills submitted to Cornell regarding the Bill of Costs and the Motion for
9 Attorneys' Fees once such bills become available.

10 7. Exhibit A refers to Proskauer attorneys Bert H. Deixler and Lary Alan Rappaport,
11 in addition to myself. Exhibit A also refers to Proskauer legal assistant Ivania Munguia. As
12 discussed in the concurrently-filed Declaration of Bert H. Deixler, all attorneys billed Cornell at
13 the rate of \$350 per hour, and Ms. Munguia billed at the rate of \$95 per hour.

14 8. Cornell does not seek attorneys' fees associated with time spent by Cornell Deputy
15 General Counsel Nelson E. Roth or other attorneys in that office.

16 9. On April 8, 2008, Plaintiff filed his Complaint. On that same day, Mr. Deixler, Mr.
17 Rappaport and I began researching and discussing the legal issues raised in the Complaint. We
18 immediately recognized that the Complaint was a SLAPP suit, therefore even our earliest work in
19 this matter related to the anti-SLAPP motion. Between, April 8 and May 5, We spent
20 approximately 51 hours preparing the anti-SLAPP motions for both Cornell and Mr. Deixler.
21 Although the legal and factual issues relating to both defendants were similar, they were not
22 identical. Drafting both anti-SLAPP motions therefore took more time than drafting two such
23 identical motions.

24 10. On June 13, 2008, Plaintiff filed a First Amended Complaint. Defendants filed
25 additional anti-SLAPP motions in response, and filed a reply, objections and a declaration in
26 support of Defendants' original anti-SLAPP motions. The additional anti-SLAPP motions and the
27 briefing related to the original anti-SLAPP motions required approximately 41.75 hours of work.
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1 11. On August 8, 2008, Plaintiff filed his opposition and objections to the additional
2 anti-SLAPP motions. Defendants filed their reply on August 12, 2008. The reply required 6.75
3 hours of work.

4 12. Pursuant to the Court's January 6, 2009 Order Granting Defendants' Special
5 Motions to Strike (the "Order"), I prepared and filed a Bill of Costs. Exhibit C reflects the 3 hours
6 – at \$350 per hour – I spent reviewing the Order and preparing and the Bill of Costs. Proskauer
7 will charge Cornell approximately \$1,050 for the time I spent in connection with these tasks.

8 13. Also Pursuant to the Order, I prepared the concurrently-filed Motion for Attorneys'
9 fees. Exhibit C reflects the 7.25 hours – at \$350 per hour – I spent preparing the Motion for
10 Attorneys' fees. Proskauer will charge Cornell approximately \$2,537.50 for the time I spent
11 preparing the Motion for Attorneys' Fees.

12 14. Based on the amounts reflected in Exhibit A and Exhibit C, and summarized in
13 Exhibit B, I determined that Defendants' attorneys fees related to the Anti-SLAPP motion total
14 \$38,380. Cornell seeks an award of that amount.

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16 I declare under penalty of perjury under the laws of the United States of America that the
17 foregoing is true and correct and that I executed this declaration this 20th day of January, 2009, in
18 Los Angeles, California.

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21 Clifford S. Davidson