

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 07-cv-02370-WDM-MEH

TEXAS INSTRUMENTS, INC.,

Plaintiff,

v.

BIAX CORPORATION,

Defendant.

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Civil Action No. 07-cv-02548-WDM-BNB

BIAX CORPORATION,

Plaintiff,

v.

TEXAS INSTRUMENTS INC.,

Defendant.

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**ORDER RE: SANCTIONS**

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**Michael E. Hegarty, United States Magistrate Judge.**

Pursuant to this Court's order granting in part Defendant's Motion for Order to Show Cause Why Texas Instruments and its Counsel Should Not be Held in Contempt ("Motion") [docket #385], defense counsel has timely filed an affidavit setting forth a summary of his experience and a description of the services rendered, the amount of time spent, the hourly rate, and the total amount of attorney's fees claimed for Defendant's preparation of the Motion, the Plaintiff has timely filed objections to the affidavit and Defendant filed its response.

Defendant seeks an award of \$16,327.50 for its counsel's preparation and filing of the Motion and Reply brief. In its order awarding Defendant its reasonable attorney's fees and costs expended in pursuing the Motion, this Court "observe[d] that briefing on this dispute was somewhat excessive and asks the parties to keep such observation in mind when determining total costs and attorney's fees." Docket #384 at 5.

With this in mind, the Court sustains Plaintiff's objection regarding the time defense counsel expended in preparing and filing the Motion; however, the Court overrules Plaintiff's remaining objection and will not second-guess Defendant's decision to have a partner, as opposed to an associate, prepare the Motion. Consequently, the Court finds that defense counsel's hourly rate (\$525.00) is reasonable and agrees with Plaintiff's suggestion that a total of two-and-a-half days (or 20 hours) were necessary to prepare the Motion and Reply brief.

WHEREFORE, the Court ORDERS that Plaintiff's counsel be sanctioned in the amount of \$10,500.00, to be paid to counsel for Defendant as a reasonable sanction of attorney's fees. This amount shall be paid no later than September 25, 2009. Counsel for Plaintiff shall file a Notice of Compliance with Order re: Sanctions **on or before September 30, 2009**.

Dated at Denver, Colorado this 28th day of August, 2009.

BY THE COURT:

A handwritten signature in black ink that reads "Michael E. Hegarty". The signature is written in a cursive, flowing style.

Michael E. Hegarty  
United States Magistrate Judge