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August 1, 2007

Hon. Frederick J. Scullin, Jr.
United States District Court Judge
United States District Court for the
Northern District of New York
U.S. Courthouse and Federal Building
P.O. Box 7255
100 South Clinton Street
Syracuse, NY 13261-7255

RE: *Alexander, et al. v. Cahill, et al.*, No. 07-cv-00117

Dear Judge Scullin:

We represent the plaintiffs in this case. On July 23, 2007, this Court granted in part our motion for summary judgment and entered a final judgment. Pursuant to 42 U.S.C. § 1988, plaintiffs are entitled to and intend to move for attorneys' fees and expenses. Plaintiffs' motion would normally be due within fourteen days of judgment, which in this case would be August 6, 2007. Fed. R. Civ. P. 54(d)(2)(B). The rules provide, however, that a court may by order specify a different date. *Id.*

If plaintiffs were to file their motion for fees by the August 6 deadline and an appeal were pursued in this case, it would require filing a second motion after the appeal, which would mean duplicative and unnecessary work for the parties and the Court. The Attorney General's office has informed us that defendants have not yet decided whether to pursue an appeal. The state has an internal review process that it must go through before making a final decision. Plaintiffs have also not yet decided whether to appeal those issues on which summary judgment was granted to defendants. If one of the parties does decide to appeal, the notice of appeal would be due by August 22, 2007.

Because an appeal by at least one party in this case is likely, it makes sense to postpone plaintiffs' application for fees until after any appeal is concluded, thereby

allowing the parties to resolve all issues of fees and expenses in a single motion. Therefore, plaintiffs request that the Court enter an order providing that plaintiffs' motion for fees, expenses, and costs should be filed no later than 14 days after the expiration of the period for appeal, or in the event of an appeal, 14 days after the Court of Appeals disposes of the case or at such time as would be appropriate if further proceedings in this Court are necessary. A proposed order is attached.

Counsel for defendants have stated that they have no objection to the requested order.

Respectfully,

/s/Gregory A. Beck
Gregory A. Beck

cc Bridget E. Holohan
Via ECF