

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

| | | |
|-------------------------------------|---|------------------------------------|
| ----- | X | |
| RALPH VARGAS and | : | |
| BLAND-RICKY ROBERTS, | : | Case No. 04 CV 9772 (WHP) |
| | : | |
| Plaintiffs, | : | SUPPLEMENTAL DECLARATION |
| | : | OF ERIC M. STAHL IN SUPPORT |
| - against - | : | OF DEFENDANT EAST WEST |
| | : | COMMUNICATIONS, INC.’S |
| PFIZER INC., PUBLICIS, INC., FLUID | : | MOTION FOR ATTORNEYS’ FEES |
| MUSIC, EAST WEST COMMUNICATIONS, | : | AND COSTS |
| INC. and BRIAN TRANSEAU p/k/a “BT”, | : | |
| | : | |
| Defendants. | : | |
| ----- | X | |

I, Eric M. Stahl, declare:

1. I am a member of the bar of the State of Washington and a partner with the law firm Davis Wright Tremaine LLP (“DWT”), counsel for Defendant East West Communications, Inc. (“East West”) in the above-captioned matter. The matters stated herein are true of my own personal knowledge.

2. I make this declaration in support of East West’s motion for attorneys’ fees and costs pursuant to 17 U.S.C. § 505. This declaration supplements my declaration filed June 29, 2007 (Docket # 144) in support of East West’s original fee motion (“June 29 Declaration”).

3. The June 29 Declaration documents East West’s prior request for \$44,736.00 in fees and costs incurred in this action through June 26, 2007. (As explained below, this number should be adjusted to \$44,226.00.) This supplemental declaration documents additional fees and costs that East West has incurred in connection with this litigation since June 26.

4. DWT remains solely responsible for managing and monitoring all aspects of this action for East West. As noted in the June 29 Declaration, East West is not a large company, and has from the outset of this litigation sought to minimize its legal expenses by, among other

things, cooperating with its co-defendants in this action to the extent possible. That remains so to this day.

5. I remain the DWT attorney who is primarily responsible for representing East West in this matter. I continue to bill East West at my customary Seattle billing rate, which has remained \$340 throughout 2007.

6. Christopher Robinson, an associate in DWT's New York office, also has participated in this litigation in recent months, providing assistance with local practices and filings. His standard hourly billing rate in 2007, and the rate at which his services were billed to East West, was \$365.

7. The hourly billing rates stated above are fair and reasonable. As noted in the June 29 Declaration, they are comparable to (or below) rates charged by other legal professionals in New York with equivalent experience levels for similar legal experience. Moreover, most of the fees billed to East West were for work that I performed, and I billed at a rate that is standard in Seattle but substantially less than an attorney of similar tenure in New York. The rates sought in East West's fee applications are those which East West has been actually billed, and has been paying.

8. **Exhibit A** attached hereto contains true and correct copies of the actual invoices prepared by DWT and sent to East West for work performed in this action from June through November 2007. The invoices were prepared from pro formas based on daily time reports submitted by myself and the other legal professionals who worked on this case. I reviewed the pro formas each month, sometimes writing down (discounting) the work actually performed, and I approved the final invoice shown in the exhibit.

9. Attached hereto as **Exhibit B** is a true and correct copy of an accounting pro forma prepared on December 18, 2007, reflecting work performed by DWT on this matter from December 1 through December 18, 2007. The pro forma charges will be the basis for the invoice to be prepared and sent to East West next month for fees and costs incurred in June, 2007. Based on my review of this pro forma, East West will be billed for the full amount reflected therein, without any fees or costs being written down.

10. As reflected in Exhibits A and B hereto, the amount attributable to DWT's representation of East West in this case since June 26, 2007 is \$5,868.00 in fees¹ and \$199.93 in costs, for a total of \$6,067.93.

11. In adding up the total fees for this supplemental request, I did not count the two entries reflected in Exhibit A (September 12, 2007 invoice) for time incurred on June 7 and June 24, 2007, since those entries were accounted for in East West's original fee request. *See* June 29 Declaration, Exhibit B. However, the amount of fees previously requested for June, 2007, should be adjusted, for the following reasons. At the time the June 29 Declaration was prepared, DWT's actual invoice for fees incurred in June 2007 was not yet available, and accordingly the fees sought for that month were based on a pro forma. *See* June 29 Declaration, Exhibit B. When I subsequently prepared the actual invoice for June work, I wrote down (did not bill) 1.5 hours of my time. *See* Exhibit A hereto (September 12, 2007 invoice). Accordingly, the pro forma overstated the amount actually billed to East West by \$510 (1.5 hours times \$340/hour). Thus, East West's initial request for fees and costs should be adjusted to \$44,226.00 (\$44,736.00 minus \$510.00).

12. Adding East West's supplemental request of \$6,067.93 to the adjusted original request of \$44,226.00 yields a total of \$50,293.93 in fees and costs.

¹ These fees reflect a total of 16.4 hours of my time and 0.8 hours of Chris Robinson's time.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

DATED this 19th day of December, 2007 at Seattle, Washington.

Davis Wright Tremaine LLP
Attorneys for East West Communications, Inc.

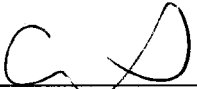
By 
Eric M. Stahl, WSBA #27619
1201 Third Avenue, Suite 2200
Seattle, WA 98101-3045
Telephone: (206) 757-8148
Fax: (206) 757-7148
E-mail: ericstahl@dwt.com

EXHIBIT A

Davis Wright Tremaine LLP



AND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.
 SUITE 2200
 1201 THIRD AVENUE
 SEATTLE, WA 98101-3045

TEL (206) 622-3150
 FAX (206) 757-7700
 www.dwt.com
 FEDERAL ID #91-0839480

East West Communications, Inc.
 Attn: Doug Rogers
 6000 W. Sunset Blvd.
 Los Angeles, CA 90028-6402

September 12, 2007
 Invoice No. 5626620

SEPTMBER INVOICE FOR
 STATEMENT OF
 SERVICES AND DISBURSEMENTS

Matter No. 0068284-000001

Vargas v. Pfizer

| <u>DATE</u> | <u>PROFESSIONAL</u> | <u>TIME</u> | <u>DESCRIPTION OF SERVICES</u> |
|-------------|---------------------|-------------|--|
| 06/07/07 | E. Stahl | 0.70 | Review BT draft motion for attorneys' fees and accompanying protective order; email to counsel and to client regarding same |
| 06/24/07 | E. Stahl | 2.60 | Review invoices for history of case and prepare declaration in support of motion for attorneys' fees |
| 08/03/07 | E. Stahl | 0.30 | Review plaintiff's opposition to motion for attorney fees; email client regarding same |
| 08/15/07 | E. Stahl | 1.90 | Draft reply in support of motion for attorneys' fees; telephone conversation with BT counsel regarding same |
| 08/21/07 | E. Stahl | 0.30 | Revise and finalize reply in support of motion for attorneys' fees |
| 08/21/07 | C. Robinson | 0.50 | Draft notice of appearance in East West Communications case; draft withdrawal for T. Lee; file both; oversee filing of reply brief |
| | Total Hours Worked | 6.30 | |

DISBURSEMENT DETAIL

| <u>DESCRIPTION</u> | <u>QUANTITY</u> | <u>AMOUNT</u> |
|--------------------|-----------------|---------------|
| Photocopy Charges | 208 | 31.20 |

PAYMENT IS DUE WITHIN 30 DAYS OF THE DATE OF THIS INVOICE
 INTEREST WILL BE CHARGED ON INVOICES WHICH ARE 45 DAYS PAST DUE
 PAYMENTS RECEIVED AFTER THE DATE OF THIS INVOICE WILL BE REFLECTED ON NEXT MONTH'S BILLING



| | |
|---|---------|
| Law library - - PACER SERVICE CENTER - Pacer (Public Access to court records), 4/07-6/07 (NY) | 4.88 |
| Outside copy service - - WILLIAMS LEA INC - Velo binding, 06/29/07 per T. Lee | 10.50 |
| FedEx Airbill #790280343218 06/27/07 Delivery to 559 Nathan Abbott Way, Palo Alto, CA per E. Stahl | 24.60 |
| Total Current Disbursements | \$71.18 |

TOTAL SERVICES AND DISBURSEMENTS - THIS INVOICE

| | |
|-----------------------------|---------------------|
| Total Current Services | \$2,154.50 |
| Total Current Disbursements | 71.18 |
| Total Current Invoice | ----- \$2,225.68 |

STATEMENT OF ACCOUNT

| | |
|-------------------------------|------------|
| Current Invoice | \$2,225.68 |
| Total Balance Due This Matter | \$2,225.68 |

Eric M. Stahl

LAWYERS

Davis Wright Tremaine LLP



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1201 THIRD AVENUE
SEATTLE, WA 98101-3045

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FAX (206) 757-7700
www.dwt.com
FEDERAL ID #91-0839480

Matter ID 0068284-000001
Vargas v. Pfizer

September 12, 2007
Invoice No. 5626620

East West Communications, Inc.
Attn: Doug Rogers
6000 W. Sunset Blvd.
Los Angeles, CA 90028-6402

STATEMENT OF ACCOUNT as of Aug 31, 2007

| | |
|-------------------------------|------------|
| Current Invoice - 5626620 | \$2,225.68 |
| Total Balance Due This Matter | \$2,225.68 |

PLEASE REMIT WITH PAYMENT

Davis Wright Tremaine LLP



AND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.
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 SEATTLE, WA 98101-3045

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 www.dwt.com
 FEDERAL ID #91-0839480

East West Communications, Inc.
 Attn: Doug Rogers
 6000 W. Sunset Blvd.
 Los Angeles, CA 90028-6402

October 9, 2007
 Invoice No. 5634901

OCTOBER INVOICE FOR
 STATEMENT OF
 SERVICES AND DISBURSEMENTS

Matter No. 0068284-000001

Vargas v. Pfizer

| <u>DATE</u> | <u>PROFESSIONAL</u> | <u>TIME</u> | <u>DESCRIPTION OF SERVICES</u> |
|--------------------|---------------------|-------------|--|
| 09/04/07 | E. Stahl | 0.20 | Review reply briefing on motion for attorneys' fees |
| 09/10/07 | E. Stahl | 0.30 | Prepare for hearing on motion for attorneys' fees |
| 09/11/07 | E. Stahl | 1.40 | Prepare for and attend hearing on attorneys' fee motion; draft letter ordered by Judge Pauley summarizing hours spent on case by DWT attorneys |
| 09/12/07 | E. Stahl | 0.20 | Letter to court regarding fee request/summary of hours |
| 09/23/07 | E. Stahl | 0.10 | Review notice of plaintiff's appeal and email to client regarding same |
| 09/27/07 | E. Stahl | 0.10 | Telephone conversation with plaintiff's counsel regarding procedural issues related to appeal and request to stay proceedings |
| Total Hours Worked | | 2.30 | |

DISBURSEMENT DETAIL

| <u>DESCRIPTION</u> | <u>QUANTITY</u> | <u>AMOUNT</u> |
|---|-----------------|---------------|
| Photocopy Charges | 20 | 3.00 |
| Telecopy Charges | 13 | 6.50 |
| Filing fee - - LEGAL RETRIEVAL SERVICES INC - | | 100.00 |
| Filing/delivery of letter to Judge William Pauley at US District Court New York, 08/21/07 per A. Pellegrino | | |

PAYMENT IS DUE WITHIN 30 DAYS OF THE DATE OF THIS INVOICE
 INTEREST WILL BE CHARGED ON INVOICES WHICH ARE 45 DAYS PAST DUE
 PAYMENTS RECEIVED AFTER THE DATE OF THIS INVOICE WILL BE REFLECTED ON NEXT MONTH'S BILLING



Total Current Disbursements \$109.50

TOTAL SERVICES AND DISBURSEMENTS - THIS INVOICE

| | |
|-----------------------------|-------------------|
| Total Current Services | \$782.00 |
| Total Current Disbursements | 109.50 |
| Total Current Invoice | ----- \$891.50 |

STATEMENT OF ACCOUNT

| | |
|--|--------------|
| Balance from Previous Statement | \$2,225.68 |
| Less Payments Received as of 10/09/07 - DWT SEATTLE TRUST - CHECK #2017 | (\$2,225.68) |
| Current Invoice | \$891.50 |
| Total Balance Due This Matter | \$891.50 |

Eric M. Stahl

LAWYERS

Davis Wright Tremaine LLP



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FEDERAL ID #91-0839480

Matter ID 0068284-000001
Vargas v. Pfizer

October 9, 2007
Invoice No. 5634901

East West Communications, Inc.
Attn: Doug Rogers
6000 W. Sunset Blvd.
Los Angeles, CA 90028-6402

STATEMENT OF ACCOUNT as of Sep 30, 2007

| | |
|-------------------------------|----------|
| Current Invoice - 5634901 | \$891.50 |
| Total Balance Due This Matter | \$891.50 |

PLEASE REMIT WITH PAYMENT

Davis Wright Tremaine LLP



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East West Communications, Inc.
 Attn: Doug Rogers
 6000 W. Sunset Blvd.
 Los Angeles, CA 90028-6402

November 11, 2007
 Invoice No. 5643671

NOVEMBER INVOICE FOR
 STATEMENT OF
 SERVICES AND DISBURSEMENTS

Matter No. 0068284-000001

Vargas v. Pfizer

| <u>DATE</u> | <u>PROFESSIONAL</u> | <u>TIME</u> | <u>DESCRIPTION OF SERVICES</u> |
|-------------|---------------------|-------------|---|
| 10/01/07 | E. Stahl | 0.60 | Review financial statements submitted by plaintiffs; email to client regarding same; review plaintiff's motion for stay of proceedings |
| 10/02/07 | E. Stahl | 0.70 | Multiple emails to client regarding settlement possibilities and response to plaintiffs' financial statement filings, motion for stay and appeal; review letter from BT's counsel to court regarding same |
| 10/04/07 | E. Stahl | 2.50 | Draft response to plaintiffs' financial statement filing; review additional filings from plaintiffs regarding appeal schedule; respond to email and call from BT's counsel regarding motion to 2nd Circuit to strike appeal as untimely, availability of bond, and other strategic issues |
| 10/05/07 | C. Robinson | 0.30 | Coordinate compilation of filing and arrange hand delivery to S.D.N.Y. per E. Stahl |
| 10/11/07 | E. Stahl | 2.90 | Prepare for and participate in mandatory conference with Second Circuit Court of Appeals; email to client regarding same |
| 10/15/07 | E. Stahl | 0.30 | Telephone conversation with BT's counsel regarding upcoming procedural motions to Court of Appeals and trial court; review Second Circuit appellate rules |
| 10/16/07 | E. Stahl | 0.30 | Review and join BT opposition to plaintiff's motion to stay trial court proceedings |

PAYMENT IS DUE WITHIN 30 DAYS OF THE DATE OF THIS INVOICE
 INTEREST WILL BE CHARGED ON INVOICES WHICH ARE 45 DAYS PAST DUE
 PAYMENTS RECEIVED AFTER THE DATE OF THIS INVOICE WILL BE REFLECTED ON NEXT MONTH'S BILLING



| <u>DATE</u> | <u>PROFESSIONAL</u> | <u>TIME</u> | <u>DESCRIPTION OF SERVICES</u> |
|-------------|---------------------|-------------|---|
| 10/18/07 | E. Stahl | 0.40 | Review BT motion to Second Circuit Court of Appeals for stay of proceedings; email client regarding same |
| 10/26/07 | E. Stahl | 0.10 | Review correspondence between plaintiffs and BT regarding appellate record |
| 10/29/07 | E. Stahl | 0.50 | Review and identify documents for appellate record; telephone conversation with BT's counsel regarding same; review plaintiff's request for additional time to file brief |
| 10/30/07 | E. Stahl | 0.10 | Review order from Court of Appeals vacating appeal schedule; email to client regarding same |
| | Total Hours Worked | 8.70 | |

TOTAL SERVICES AND DISBURSEMENTS - THIS INVOICE

| | |
|-----------------------------|---------------------|
| Total Current Services | \$2,965.50 |
| Total Current Disbursements | 0.00 |
| Total Current Invoice | ----- \$2,965.50 |

STATEMENT OF ACCOUNT

| | |
|---------------------------------|------------|
| Balance from Previous Statement | \$3,117.18 |
| Current Invoice | \$2,965.50 |
| Total Balance Due This Matter | \$6,082.68 |

Eric M. Stahl

LAWYERS

Davis Wright Tremaine LLP



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FEDERAL ID #91-0839480

Matter ID 0068284-000001
Vargas v. Pfizer

November 11, 2007
Invoice No. 5643671

East West Communications, Inc.
Attn: Doug Rogers
6000 W. Sunset Blvd.
Los Angeles, CA 90028-6402

STATEMENT OF ACCOUNT as of Oct 31, 2007

| | |
|-------------------------------|------------|
| Current Invoice - 5643671 | \$2,965.50 |
| Total Balance Due This Matter | \$6,082.68 |

PLEASE REMIT WITH PAYMENT

Davis Wright Tremaine LLP



ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

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East West Communications, Inc.
Attn: Doug Rogers
6000 W. Sunset Blvd.
Los Angeles, CA 90028-6402

December 7, 2007
Invoice No. 5651322

DECEMBER INVOICE FOR
STATEMENT OF
SERVICES AND DISBURSEMENTS

Matter No. 0068284-000001

Vargas v. Pfizer

| <u>DATE</u> | <u>PROFESSIONAL</u> | <u>TIME</u> | <u>DESCRIPTION OF SERVICES</u> |
|-------------|---------------------|-------------|---|
| 11/01/07 | E. Stahl | 0.20 | Review plaintiff's motion to Second Circuit for reconsideration of stay of appeal; email to client regarding same |
| 11/02/07 | E. Stahl | 0.10 | Review court order regarding discovery into plaintiff's financial condition; email to client regarding same |
| 11/26/07 | E. Stahl | 0.10 | Review financial disclosure information submitted by plaintiffs in response to BT's discovery requests |
| 11/28/07 | E. Stahl | 0.10 | Review filing by BT's counsel regarding financial condition discovery |
| | Total Hours Worked | 0.50 | |

DISBURSEMENT DETAIL

| <u>DESCRIPTION</u> | <u>QUANTITY</u> | <u>AMOUNT</u> |
|--|-----------------|---------------|
| Photocopy Charges | 15 | 2.25 |
| Outside delivery service - - CARIB EXPRESS MESSENGER SERVICE INC - delivery to US District Court, 10/05/07 per W. Nisbet | | 17.00 |
| Total Current Disbursements | | \$19.25 |

PAYMENT IS DUE WITHIN 30 DAYS OF THE DATE OF THIS INVOICE
INTEREST WILL BE CHARGED ON INVOICES WHICH ARE 45 DAYS PAST DUE
PAYMENTS RECEIVED AFTER THE DATE OF THIS INVOICE WILL BE REFLECTED ON NEXT MONTH'S BILLING



TOTAL SERVICES AND DISBURSEMENTS - THIS INVOICE

| | |
|-----------------------------|-------------------|
| Total Current Services | \$170.00 |
| Total Current Disbursements | 19.25 |
| Total Current Invoice | ----- \$189.25 |

STATEMENT OF ACCOUNT

| | |
|---------------------------------|------------|
| Balance from Previous Statement | \$6,082.68 |
| Current Invoice | \$189.25 |
| Total Balance Due This Matter | \$6,271.93 |

Eric M. Stahl

LAWYERS

Davis Wright Tremaine LLP



ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

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FAX (206) 757-7700
www.dwt.com
FEDERAL ID #91-0839480

Matter ID 0068284-000001
Vargas v. Pfizer

December 7, 2007
Invoice No. 5651322

East West Communications, Inc.
Attn: Doug Rogers
6000 W. Sunset Blvd.
Los Angeles, CA 90028-6402

STATEMENT OF ACCOUNT
as of Nov 30, 2007

| | |
|-------------------------------|------------|
| Current Invoice - 5651322 | \$189.25 |
| Total Balance Due This Matter | \$6,271.93 |

REMITTANCE

PLEASE REMIT WITH PAYMENT

EXHIBIT B

0068284-000001 East West Communications, Inc.
 Attn: Doug Rogers
 6000 W. Sunset Blvd.
 Los Angeles, CA 90028-6402

East West Communications, Inc.
 Attn: Doug Rogers
 6000 W. Sunset Blvd.
 Los Angeles, CA 90028-6402

Vargas v. Pfizer

Current Trust Balance as of 12/18/07 : \$3,750.00

() BILL EXACT COSTS AND FEES () HOLD
 () BILL FEES ONLY \$ () WRITE OFF FEES
 () BILL COSTS ONLY \$ () WRITE OFF COSTS

VISBILL Template No.: WM
 Billing Instructions:

NARRATIVE:
 Reason Codes: () AGREED REDUCED RATE () CONTINGENT - WON
 () BAD RESULT () EMPLOYEE DISCOUNT () OVER RESEARCHED
 () COURTESY DISCOUNT () FIXED FEE () TRAINING
 () CLIENT DEVELOPMENT () LATE TIME () VOLUME DISCOUNT
 () CONTINGENT - LOST () ROUNDING

| Atty | Date | Time | Matter Value | Description of Services Rendered | |
|-------|----------|------|--------------|---|----------|
| STAHE | 12/03/07 | .40 | 136.00 | Attend telephonic status conference with trial court | 13405947 |
| STAHE | 12/04/07 | .10 | 34.00 | Review correspondence regarding further financial discovery; email to client regarding same | 13405948 |
| STAHE | 12/10/07 | .20 | 68.00 | Telephone conversation with BT's counsel regarding supplemental briefing on attorneys' fees and other procedural issues | 13405949 |
| STAHE | 12/18/07 | 2.00 | 680.00 | Prepare supplemental briefing and declaration in support of fee motion | 13405950 |

Fees Total 2.70 918.00
 Unapplied Credits: (0.00)

Atty Date Check Disb Amt Quan Description of Disbursement Index