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June 6, 2022

Hon. Paul A. Crotty
United States District Court
Southern District of New York
500 Pearl Street, Chambers 1350
New York, New York 10007

Re: *Upsolve, Inc., et al., v. James, 22-CV-627 (PAC)*

Dear Judge Crotty:

We represent Plaintiffs Upsolve, Inc. and Rev. John Udo-Okon in connection with the above-referenced matter. On May 24, 2022, the Court issued an Opinion and Order granting Plaintiffs' Motion for a Preliminary Injunction (ECF 68). We respectfully ask for an **extension of time to file a motion for attorneys' fees until 14 days after final judgment in this action.** Defendant consents to this request.

Under 42 U.S.C. § 1988, a prevailing party in a proceeding brought under 42 U.S.C. § 1983 may move for an award of attorneys' fees. Federal Rule of Civil Procedure 54(d) provides that a prevailing party must file a motion for attorneys' fees no later than 14 days after entry of a judgment "unless a statute or a court order provides otherwise[.]" Fed. R. Civ. P. 54(d)(2)(B). "There is relatively little case law regarding whether a preliminary injunction constitutes a 'judgment' that triggers Rule 54's 14-day filing deadline, and the Court of Appeals for the Second Circuit has not addressed the issue." *Lighthouse Baptist Church, Inc. v. Chemung Cnty.*, No. 6:20-CV-7000 EAW, 2021 WL 4166633, at *2 (W.D.N.Y. Sept. 14, 2021). Courts in this Circuit have accordingly found untimely motions for attorneys' fees filed more than 14 days after the issuance of a preliminary injunction. *See id.* at *3. At the same time, however, courts recognize that "a fee request at the preliminary injunction stage will be premature in some instances." *Spirit Lake Tribe v. Jaeger*, 5 F.4th 849, 853 (8th Cir. 2021).

In order to ensure compliance with Rule 54, while also avoiding the need for a premature resolution of the issue of attorneys' fees, Plaintiffs respectfully ask the Court to extend the deadline for filing a motion for attorneys' fees until 14 days after final judgment in this action.

Respectfully submitted,

/s/ Gregory Silbert
Gregory Silbert

6/7/2022

Motion for attorneys' fees may be filed 14 days
after final judgment is entered.. SO ORDERED.

cc: Counsel of Record (via ECF)

