

**FILED**  
Superior Court of California  
County of Los Angeles

**NOV 13 2013**

Sherri R. Carter, Executive Officer/Clerk  
By Neli M. Raya Deputy  
Neli M. Raya

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

JAMES DEMETRIADES, ) Case No.: BC484055  
 )  
Plaintiff, )  
 )  
vs. )  
 ) RULINGS/ORDERS  
YELP, INC., )  
 )  
Defendant. )  
 )  
 )  
 )

Defendant's Motion for Attorney Fees and Costs is GRANTED.

Plaintiff shall pay Defendant \$221,886 in attorney fees  
(\$217,442) and costs (\$4,444.63).

Plaintiff's Objections to the Hansen, Brill, and Shur  
declarations are OVERRULED.

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1 I.

2 INTRODUCTION

3 James Demetriades ("Plaintiff") commenced action against  
4 Yelp, Inc. ("Defendant"). Plaintiff's Complaint alleges causes  
5 of action for: (1) untrue or misleading advertising (Bus. &  
6 Prof. C. §§17500, et seq.); and (2) unfair business practices  
7 (Bus. & Prof. C. §§17200, et seq.) Plaintiff alleges that  
8 Defendant falsely represents the efficacy and ability of its  
9 system for filtering comments and reviews.  
10

11 Defendant responded with a Special Motion to Strike on July  
12 9, 2012. On September 7, 2012, Plaintiff filed a First Amended  
13 Complaint, and Defendant responded with a revised Special Motion  
14 to Strike. On January 25, 2013, Defendant's motion was heard  
15 and granted. Plaintiff is appealing the Court's order.

16 As a prevailing party, Yelp moved for a mandatory award of  
17 attorney's fees pursuant to CCP §425.16(c)(1); Ketchum v. Moses  
18 (2001) 24 Cal.4<sup>th</sup> 1122. Yelp seeks an award of \$230,590 in fees  
19 through February, 2013 and \$3,675 in costs for work relating to  
20 its anti-SLAPP motion. Yelp also seeks fees and costs incurred  
21 with this fee motion, including \$42,310 in fees through March,  
22 2013, that have not yet been billed, and additional fees that  
23 will be incurred in reply and argument on this motion.

24 In opposition, Plaintiff argues that the hours spent and  
25 hourly rates charged were excessive and the fees and costs

1 requested are unreasonable. Maughan v. Google Technology, Inc.  
2 (2006) 143 Cal.App.4<sup>th</sup> 1242.

3 In reply, Defendant argues that the fees are reasonable and  
4 well documented, including \$230,590 (for fees and costs relating  
5 to the anti-SLAPP proceedings and excluding this motion) plus  
6 \$64,339.63 for fees and costs incurred in connection with this  
7 motion, for a total of \$294,929.63.

8 II.

9 DISCUSSION

10 A. Applicable Law

11 CCP §425.16(a) contains the Legislature's finding that  
12 there has been a disturbing increase in lawsuits brought  
13 primarily to chill the valid exercise of free speech.

14 Subsection (b) provides that a cause of action against a person  
15 arising from any act of that person in furtherance of the  
16 person's right of petition or free speech is subject to a  
17 special motion to strike unless the court determines that the  
18 plaintiff has established a probability of prevailing.

19 Subsection (c) provides that a prevailing defendant on a special  
20 motion to strike shall be entitled to recover his or her  
21 attorney's fees and costs. Case law has held that the statute  
22 is to be broadly construed in order to effectuate its purpose of  
23 reimbursing prevailing defendants for expenses incurred in  
24  
25

1 extricating themselves from baseless lawsuit. Wilkerson v.  
2 Sullivan (2002) 99 Cal.App.4<sup>th</sup> 443, 446.

3 Determining an appropriate fee award involves calculation  
4 of the lode star: number of hours reasonably spent multiplied  
5 by the reasonable hourly rate. PLCM Group, Inc. v. Drexler  
6 (2000) 22 Cal.4<sup>th</sup> 1084, 1095. The reasonable hourly rate is the  
7 prevailing rate in the community for similar work. Id. at 1095.  
8 In evaluating the legal services provided, courts are to take  
9 into consideration a number of factors including the nature of  
10 the litigation and its difficulty, the amount involved, the  
11 skill required and the skill employed, the attention given and  
12 the success or failure. Id. at 1096.

14 B. Hourly Rates

15 The reasonableness of the hourly rates charged by attorneys  
16 is measured by market rates in the community. Ketchum v. Moses  
17 (2001) 24 Cal.4<sup>th</sup> 1122, 1133. In opposition to this motion,  
18 Plaintiff offers the declaration of Michael Cassanego. While  
19 Mr. Cassanego's credentials are sufficient to demonstrate some  
20 expertise in the area, the opinion he offers regarding the  
21 reasonableness of the fees charged is not useful since he  
22 compared the rates billed to national rather than community  
23 rates. Objections to the Cassanego declaration are sustained to  
24 the extent he purports to opine on the reasonableness of the  
25 attorneys' hourly rates. The information provided by Defendant

1 on pages 14-15 of its motion regarding billing rates charged by  
2 attorneys with comparable experience in the Los Angeles area is  
3 useful and relevant. Much of this information is provided in  
4 the declaration of Ashlee Hansen, and objections to her  
5 declaration are therefore overruled.

6 Ms. Laura Brill provided information regarding her  
7 education and experience that warrants the hourly fee of \$660  
8 per hour that she charged in this matter. Her declaration also  
9 provides sufficient information to support the hourly rates  
10 charged by Ahslee Hanson (\$460), Nicholas Dunn (\$535) and  
11 William Jacobsen (\$310).  
12

13 Ms. Brill's declaration also seeks to provide support for  
14 the hourly rates charged by paralegals Patricia Perello and  
15 [REDACTED]. However, there is nothing in the motion or  
16 declaration regarding the reasonable hourly rate charged by  
17 paralegals in the Los Angeles area. Therefore, the Court  
18 reduces the hourly rate billed by Perello and [REDACTED] from \$240  
19 to \$150.

20 Mr. Aaron Shur's declaration provides sufficient  
21 information regarding his education and training to support an  
22 hourly rate of \$630.

23 In sum, the Court finds that the hourly rate charged by  
24 each of Defendant's attorneys is reasonable.  
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1 C. Hours Worked

2 Plaintiff argues that Defendant engaged in block billing,  
3 making it difficult to tell how much time has been spent on  
4 various tasks. Plaintiff cites Bell v. Vista Unified School  
5 District (2000) 82 Cal.App.4<sup>th</sup> 672, 689 for the rule that  
6 attorney billing statements that contain block billing may be  
7 disregarded in their entirety or reduced significantly. In  
8 Bell, the trial court awarded attorney's fees to the prevailing  
9 party without attempting to separate out hours spent on claims  
10 for which fees were recoverable and claims for which they were  
11 not. The appellate court noted that block billing made it  
12 nearly impossible to ascertain which hours could be attributed  
13 to the claim for which fees were recoverable, and instructed the  
14 trial court to use its discretion in assigning a reasonable  
15 percentage, or cast the billing statements aside. Plaintiff  
16 also relies on Christian Research Institute v. Alnor (2008) 165  
17 Cal.App.4<sup>th</sup> 1315, 1325, which warns against the danger of block  
18 billing because doing so could destroy an attorney's credibility  
19 if the court believes the billing statement is padded.

21 Plaintiff's argument is not well taken under the  
22 circumstances. First, this is not a case where some claims  
23 provide for fees and others do not. Defendant's anti-SLAPP  
24 motion attacked the entire complaint and not just part of it.  
25 Second, Defendant has taken the time to excise entries that do

1 not relate to the anti-SLAPP motion or the discovery motion  
2 related to it. Finally block billing is not per se  
3 objectionable, but is a discouraged practice because to the  
4 extent it renders a billing statement vague, it impedes the  
5 Court's ability to determine the reasonableness of the hours  
6 spent. Christian Research Institute v. Alnor (2008) 165  
7 Cal.App.4<sup>th</sup> 1315, 1325. The billing statement attached to the  
8 Brill declaration is exceptional in its organization and  
9 clarity.

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11 Plaintiff argues that because Ms. Brill is extremely  
12 experienced in the areas of anti-SLAPP, first amendment and  
13 technology, it should not have taken the firm 164 hours to  
14 research and draft an uncomplicated 15 page brief. Plaintiff  
15 cites Maughan v. Google Technology, Inc. (2006) 143 Cal.App.4<sup>th</sup>  
16 1242 in support of this proposition. In Maughan, plaintiff  
17 accounting corporation sued Google for libel, product liability  
18 and unfair business practice based on the allegation that a  
19 Google search produced results suggesting that the firm had been  
20 disciplined by the California Board of Accountancy. Google's  
21 anti-SLAPP motion was granted and it then filed a motion for  
22 fees in which it sought to recover \$112,288.63. The trial court  
23 granted the motion for fees but only awarded \$23,000. The trial  
24 court found that one 50-hour week of work was all that should  
25 have reasonably been spent on the motion, especially given the

1 expertise of defense counsel in the area of anti-SLAPP  
2 litigation. The trial court specifically noted that it was  
3 having a hard time believing that counsel spent approximately  
4 four 50-hour work weeks on the motion. The trial court's order  
5 was appealed by Google and was affirmed on appeal.

6 The Maughan case is on point and provides good support for  
7 Plaintiff's argument that the number of hours billed in this  
8 case is not reasonable. The Court has already found that the  
9 hourly rate charged by each of the attorneys is reasonable, and  
10 this was based in part on the exceptional qualifications they  
11 possess. Given that, it was not reasonable to spend so many  
12 hours of attorney time on the anti-SLAPP motion. Objections to  
13 the Cassanego declaration as to the reasonableness of the hours  
14 spent are sustained; the Court has reached its own conclusion  
15 regarding the reasonableness of the hours spent.

17 Ashlee Hansen

18 Ms. Hansen spent the most time on this action. According  
19 to the Court's examination of the billing statements, it appears  
20 that she billed in excess of 200 hours in researching and  
21 preparing the briefs and documents for the motion. According to  
22 Defendant's motion for fees, Ms. Hansen spent approximately 285  
23 hours on the briefs and supporting materials. While the Court  
24 acknowledges that there was a certain amount of complexity of  
25 issues, and understands that a second motion was required after



1 Plaintiff amended his complaint, this is still an unreasonable  
2 amount of time. For Ms. Hansen's time from the time the  
3 Complaint was filed up through the date of the SLAPP motion  
4 hearing, the Court finds that 200 hours is reasonable. For Ms.  
5 Hansen's time since the hearing, she has billed over 95 hours.  
6 The Court finds that 75 is a reasonable number for the time  
7 required to draft this motion and reply. Therefore, 275 hours  
8 at \$460/hour = \$126,500.

9  
10 Laura Brill

11 Ms. Brill acted as lead counsel for Defendant and  
12 supervised the work of Ms. Hansen. Ms. Brill billed for 104.6  
13 hours through February 28, 2013, and 28.6 since that time. The  
14 Court finds that 75 is a reasonable number of hours to have  
15 devoted to this action up to and including the hearing and 25 is  
16 a reasonable number of post-hearing hours. Therefore, 100 hours  
17 at \$660/hour = \$66,000.

18 Nicholaus Daum

19 The Court finds that the four hours billed by Mr. Daum are  
20 reasonable. Therefore, four hours at \$535/hour = \$2,140.

21 William Jacobson

22 The Court finds that the 9.2 hours billed by Mr. Jacobson  
23 are reasonable. Therefore, 9.2 hours at \$310 = \$2,852.

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1 Aaron Schur

2 The Court finds the 25 hours billed by Mr. Schur are  
3 reasonable. Therefore, 25 hours at \$630/hour = \$15,750.

4 Patricia Perello

5 The Court finds all 16.5 hours to be reasonable, but  
6 reduces the hourly rate to \$150. Therefore, 16.5 hours at  
7 \$150/hour = \$2,475.

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10 The Court finds all 8.7 pre-hearing and the 2.8 post-  
11 hearing hours to be reasonable, but reduces the hourly rate to  
12 \$150. Therefore, 11.5 hours at \$150/hour = \$1,725.

13 III.

14 CONCLUSION

15 Based upon the foregoing, the court orders that:


- 16 1) Defendant's Motion for Attorney Fees and Costs is  
17 GRANTED.  
18 2) Plaintiff shall pay Defendant \$221,886 in attorney fees  
19 (\$217,442) and costs (\$4,444.63).  
20 3) Plaintiff's Objections to the Hansen, Brill, and Shur  
21 declarations are OVERRULED.

22 CLERK TO GIVE NOTICE TO DEFENDANT. DEFENDANT TO GIVE  
23 NOTICE TO ALL OTHER PARTIES.  
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1 NON-COMPLIANCE WITH ANY ORDER HEREIN SHALL EXPOSE THE NON-  
2 COMPLIANT PARTY AND/OR COUNSEL TO ANY SANCTIONS AUTHORIZED BY  
3 LAW.

4 IT IS SO ORDERED.

5 DATED: November 13, 2013

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8 JUVETTE M. PALAZUELOS  
9 JUDGE OF THE SUPERIOR COURT  
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