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Attorneys for Charles D. Scoville

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

TRAFFIC MONSOON, LLC, *et al.*,

Defendants.

MOTION FOR ATTORNEYS' FEES

Case No. 2:16-cv-00832-JNP

INTRODUCTION

Charles Scoville hereby moves the Court for an order directing the Receiver to pay attorney fees he incurred in appealing this Court's order from the assets of the Receivership Estate. Due to the difficulties Mr. Scoville has experienced, as previously documented in various filings including his Motion to Excuse Appearance of Defendant Charles Scoville at Upcoming Evidentiary Hearing and Motion to Excuse Compliance with Subpoena,¹ he has been unable to work to raise funds to pay his own attorneys' fees. Meanwhile, as the Court recognized during oral argument and in its written order granting the SEC's request for a preliminary injunction, the issues that Mr. Scoville has been litigating are important matters of first impression to the securities industry and to the Securities and Exchange Commission, which is charged with enforcing the statutes at issue in the Court's Memorandum Decision and Order Granting a Preliminary Junction and Denying Defendants' Motion to Set Aside the Receivership (Dkt. 79). The fees Mr. Scoville requests are

¹ See Dkt. No. 138 (discussing Mr. Scoville's health-related issues).

entirely related to issues concerning the SEC's extraterritorial enforcement of the securities laws of the United States under *Morrison v. Nat'l Australia Bank Ltd.*, 561 U.S. 247 (2010).

APPLICABLE LAW

A number of Courts, including the District of Utah, have found that a court has the discretion to order that receivership assets be used to pay attorneys' fees, especially early in a case when issues related to the SEC's case are unsettled. *See e.g., S.E.C. v. Curtis DeYoung*, 2:14-cv-00309-RJS-DBP Dkt. Nos. 217, 147, 173 (granting fees of \$157,559.44 paid from receivership funds for litigant preparing for and participating in preliminary injunction hearing); *see also S.E.C. v. Duclaud Gonzalez de Castilla*, 170 F.Supp.2d 427, 430 (S.D.N.Y. 2001); *S.E.C. v. Dowdell*, 175 F.Supp.2d 850, 855–56 (W.D.Va. 2001). Because the creation of a receivership is an exercise of a court's equitable discretion, the court maintains discretion to modify its order and to direct the receiver to release funds to a defendant where it is equitable and appropriate to do so.

The *DeYoung* case is an illustrative example of this principle from this District. In that case, the defendant operated a business investing retirements funds. The SEC alleged that poor investment decisions and outright fraud resulted in a shortfall of \$24 million in the company's accounts. Nonetheless, the defendant sought and received payment of more than \$150,000 in attorney fees from the receivership estate which he used to litigate the case through the preliminary injunction stage. Later in the case, the court denied subsequent motions for attorney fees because the Court found that case-determinative factual and legal issues had become settled and no longer justified payment of attorney fees.

ARGUMENT

I. THE COURT SHOULD ORDER FEES TO COMPENSATE MR. SCOVILLE'S ATTORNEYS FOR APPEALING THE ISSUES THAT THE COURT RECOGNIZED WERE UNSETTLED AND NECESSARY TO REVIEW.

In this case, the Court should order that fees incurred to appeal the Court's order granting the SEC's motion for a preliminary injunction (Dkt. 79) should be paid from Receivership funds.

The reasons that such an order would be an equitable and just are as follows: (1) the *Morrison* issue—which was at the center of Defendants’ opposition to the SEC’s preliminary injunction motion and the centerpiece of his appeal—is a completely unsettled matter in the law, as there are no district-level or appeals-level decisions giving direction to citizens, regulators, or courts; (2) the issues Defendants are litigating are determinative of the majority of the issues in the case and a victory would result in the release of approximately 75% of the funds in the Receivership; and (3) Mr. Scoville’s health problems have precluded him from raising funds for his own support, much less to fund a sophisticated opposition and appeal.

To date, Mr. Scoville has incurred hundreds of thousands of dollars to fund his litigation. A large portion of those fees have been paid by family members and supporters. However, the attorneys who were primarily responsible for preparing the appellate briefs have accrued unpaid fees of more than \$150,000.² Mr. Scoville has no ability to pay these fees. If the Court does not order payment of these attorney fees, his attorneys likely will never be paid for litigating the *Morrison* issue that was previously undecided.

The litigation in this case surrounding the *Morrison* issue was not frivolous and was necessary to settle a previously undecided issue. As the Court noted multiple times during argument³ and in its written order, whether the Dodd-Frank *Morrison* “fix” in fact overruled the Supreme Court’s decision in *Morrison* as to the SEC’s ability to enforce the anti-fraud securities laws in transactions taking place outside the United States was undecided before this Court’s decision.⁴ The Court recognized that further litigation would be beneficial and that payment of attorney fees would be necessary to accomplish that review.⁵ The Court recognized that the

² See Exhibit A, invoices from Marquis Aurbach Coffing for preparing briefs in Appeal.

³ Tr. of Oral Argument on the Motion for a Preliminary Injunction and Motion to Set Aside the Receivership dated November 30, 2016 (“Nov. 30th Tr.”), at 112:2–3 (“I think there’s no controlling authority with respect to many of these issues.”).

⁴ Dkt. 79 at p. 44 (“Although several district courts have noted the possibility that Section 929P9(b) may have superseded the *Morrison* test, none have actually decided the question.”).

⁵ See Nov. 30th Tr. at 113:17–21 (“But I’m also cognizant of the fact that we can’t get a meaningful discussion of the legal issues if the order that’s in place prohibits the defendants from having enough assets to pay an attorney.”)

decision it had made was unsettled and warranted immediate review when it certified its decision for immediate appeal. (Dkt. 79, § IV).

Not only were the *Morrison*-related issues undecided, they were key to the resolution of most of the claims at issue in this case. As noted in the SEC's original pleadings and motion for preliminary injunction, more than 90% of the customers of Traffic Monsoon were outside of the United States. Even if all the claims of the "investors" in Traffic Monsoon within the United States were held in the Receivership Estate, at least 45 million dollars would be released from the Receivership Estate. Thus, this single issue surrounding *Morrison* would have had a dramatic effect on the funds in the Receivership and would change the need for and duties of the Receiver.

Finally, as the Court is now aware, Mr. Scoville has had numerous issues making it difficult, if not impossible, for him to work to raise funds to defend against this case. Specifically, given the health issues previously documented, and his multiple hospitalizations, Mr. Scoville was unable to be employed for most of the past year. Then, approximately one month ago, Mr. Scoville was arrested on unrelated charges brought by the State of Utah. As a result, he is unable to earn funds to pay his attorney fees. Because of these recent developments the plans that had existed to eventually pay Mr. Scoville's fees have had to change and it is likely the attorneys who prepared the appeal will never be paid without an order from this Court.

II. THE REQUESTED FEES ARE REASONABLE.

The fees sought by Mr. Scoville's counsel are not only necessary, they are reasonable. Attached to this motion as Exhibit A are redacted invoices from Mr. Scoville's appellate counsel. The total of incurred but unpaid fees and expenses is \$171,861.61. Those fees included review of the District Court record, consultation with co-counsel, extensive research, consultation with Mr. Scoville on matters to be raised, replying to the SEC's brief, preparing for oral argument (including mooted the argument), attending oral argument, and the costs incurred in assembling and serving briefs and in travelling to and attending the oral argument. As the Court will recognize in reviewing these briefs, the appeal required hundreds of hours of work, took substantial effort, and required a

sophisticated and nuanced approach to research and presentation of unsettled legal issues. In short, sophisticated appellate counsel was required.

Mr. Scoville's chosen counsel was reasonable. Attached as Exhibit B is Mr. Scoville's chosen counsel's curriculum vitae. Mr. Echols is an experienced attorney who focuses entirely on appellate practice. He has more than a decade of first-chair appellate experience in briefing and arguing issues to courts of appeals. His expertise was crucial to the competent presentation of the issues in this case.

To the extent the Court believes that further briefing on the reasonableness of fees is necessary, Mr. Scoville is prepared to present expert testimony from a local attorney who will opine that the amount of time spent on this matter was reasonable, that the hourly rate charged is reasonable, and that the services for which Mr. Scoville's counsel billed were necessary to this litigation.

CONCLUSION

Because this litigation is based on a previously undecided dispositive issue, which the Court recognized was unsettled and needed to be fully litigated, and because Mr. Scoville has been unable to fund his defense, the Court should order that his fees be paid from the Receivership Estate.

The fees incurred to date related to the appeal from the Court's order granting the SEC's preliminary injunction, totaling \$171,861.61, have been reasonable.

DATED: July 23, 2018

SMITH WASHBURN, LLP

/s/ D. Loren Washburn
D. Loren Washburn
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2018, the foregoing **MOTION FOR ATTORNEYS' FEES** was served on the person(s) named below via CM/ECF:

Daniel J. Wadley
Amy J. Oliver
Alison J. Okinaka
Cheryl M. Mori
SECURITIES EXCHANGE COMMISSION
351 South West Temple, Suite 6.100
Salt Lake City, Utah 84101

Peggy Hunt (Utah State Bar No. 6060)
Michael Thomson (Utah State Bar No. 9707)
John J. Wiest (Utah State Bar No. 15767)
DORSEY & WHITNEY LLP
111 South Main Street, UT 84111-2176
Salt Lake City, UT 84111-2176

/s/ Melina Hernandez

Exhibit A

O CTS WU'CWTDCEJ "
EQHHP I

ATTORNEYS AT LAW

10001 PARK RUN DRIVE
LAS VEGAS, NEVADA 89145
Telephone 702-382-0711
Fax 702-382-5816

Traffic Monsoon, LLC
Attn: Charles Scoville

Invoice 330069 - 339774
June 27, 2018

ID: 14779-001 - MSE
Re: Securities & Exchange Commission

For Services Rendered Through June 27, 2018

Current Fees	167,604.50				
Current Disbursements	4,257.11				
Total Current Charges	171,861.61				
Total Current Due					171,861.61
				Total Due	171,861.61
Total	0.00	0.00	0.00	0.00	0.00

MARQUIS AURBACH COFFING P.C.

Traffic Monsoon, LLC
 Re: Securities & Exchange Commission
 I.D. 14779-001 - MSE

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Fees				
Date	Atty	Description	Hours	Amount
03/15/17	MSE	Receive telephone call from potential co-counsel regarding	0.60	225.00
03/28/17	MSE	Review and analyze preliminary injunction order.	1.00	375.00
03/29/17	LAD	Review docket and relevant documents and prepare notice of appeal to Tenth Circuit.	0.60	96.00
03/29/17	MSE	Telephone conference with client and co-counsel regarding	2.00	750.00
03/29/17	MSE	Outline list of tasks for Tenth Circuit appeal.	1.00	375.00
03/29/17	MSE	Review Tenth Circuit court rules in preparation for drafting detailed outline of Tenth Circuit appellate process and list of tasks.	3.00	1,125.00
03/30/17	MSE	Begin reviewing key documents for use in Tenth Circuit appeal.	3.00	1,125.00
03/30/17	MSE	Review District Court docket and select all necessary documents for inclusion in appendix for Tenth Circuit appeal.	1.00	375.00
03/30/17	LAD	Begin preparation of index to appellants' appendix for Tenth Circuit appeal.	1.90	304.00
03/30/17	MSE	Revise draft of notice of appeal.	0.10	37.50
03/30/17	MSE	Revise index to appellants' appendix and compare to District Court docket.	1.00	375.00
03/30/17	MSE	Review Tenth Circuit practitioner's guide and ECF guide in preparation for drafting detailed outline of Tenth Circuit appellate process and list of tasks.	3.00	1,125.00
03/30/17	MSE	Draft detailed outline and narrative of Tenth Circuit appellate process and list of tasks to be completed.	2.00	750.00
04/03/17	MSE	Telephone conference with John Durkin to	1.60	600.00
04/05/17	LAD	Review FRAP and Tenth Circuit local rules and prepare entry of appearance and certificate of interested parties.	0.50	80.00
04/06/17	MSE	Revise Tenth Circuit notice of appearance.	0.10	37.50
04/06/17	LAD	Prepare first draft of docketing statement for Tenth Circuit appeal.	2.50	400.00
04/07/17	MSE	Formulate issues on appeal and revise draft of Tenth Circuit docketing statement.	1.00	375.00
04/10/17	MSE	Exchange emails with client on	0.30	112.50
04/11/17	MSE	Telephone call with co-counsel regarding	0.40	150.00
04/14/17	MSE	Telephone conference with co-counsel	1.00	375.00
04/14/17	MSE	Separate telephone call with co-counsel regarding	0.20	75.00

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Date	Atty	Description	Hours	Amount
04/17/17	MSE	Review District Court filing of transmission of essential parts of the record to the Tenth Circuit.	0.20	75.00
04/17/17	MSE	Review docketing of Tenth Circuit appeal and exchange emails with co-counsel regarding	0.20	75.00
04/18/17	LAD	Review 28 U.S.C. 1292 and prepare motion to confirm appellate jurisdiction.	0.80	128.00
04/18/17	MSE	Review letter from Tenth Circuit clerk docketing appeal and setting deadlines for appeal filings.	0.20	75.00
04/18/17	LAD	Add FRAP 25 certification and finalize entry of appearance and certificate of interested parties; prepare email to client regarding	0.50	80.00
04/18/17	MSE	Review and revise updated version of Tenth Circuit notice of appearance.	0.10	37.50
04/18/17	MSE	Review and revise Tenth Circuit notice of no transcripts to be requested.	0.10	37.50
04/18/17	MSE	Review and revise Tenth Circuit motion to confirm appellate jurisdiction.	1.50	562.50
04/18/17	MSE	Perform legal research on rules of statutory construction dealing with a court's inability to read additional language into a statute.	1.00	375.00
04/21/17	MSE	Review SEC's notice of appearance and statement of interested parties.	0.20	75.00
04/21/17	MSE	Receive telephone call from co-counsel regarding confirmation of various tasks immediately needed for appeal.	0.40	150.00
04/24/17	MSE	Review main deadlines in the appeal and revise email to client and co-counsel confirming same.	1.00	375.00
04/24/17	LAD	Draft correspondence regarding	0.20	32.00
04/25/17	LAD	Finalize docketing statement and notice of no transcripts.	0.30	48.00
04/25/17	MSE	Exchange several emails with co-counsel	0.40	150.00
04/25/17	MSE	Exchange emails with client regarding	0.20	75.00
04/26/17	MSE	Review detailed responses from co-counsel on Reply to same	1.40	525.00
04/26/17	MSE	Review Tenth Circuit minute order requesting District Court to confirm that the record is complete.	0.10	37.50
04/26/17	MSE	Review email from SEC's appellate attorney with position on proposed motion to confirm jurisdiction. Discuss with co-counsel.	0.50	187.50
04/27/17	MSE	Review email from attorney for Chamber Reply to same.	0.20	75.00
04/27/17	MSE	Review sample Tenth Circuit briefs in previous prevailing cases in preparation for drafting opening brief.	1.40	525.00
04/27/17	MSE	Exchange additional emails with co-counsel on	0.20	75.00
04/27/17	MSE	Review Tenth Circuit mediation letter and draft email to client and co-counsel regarding	0.30	112.50
04/28/17	MSE	Make various revisions to draft of Tenth Circuit motion to confirm	1.00	375.00

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Date	Atty	Description	Hours	Amount
04/28/17	MSE	jurisdiction to Review websites for potential sources for Tenth Circuit proceedings. Draft emails requesting	2.00	750.00
05/01/17	LAD	Make final technical revisions to motion to confirm appellate jurisdiction; finalize motion with exhibits.	0.70	112.00
05/01/17	MSE	Make final edits to draft of Tenth Circuit motion to confirm jurisdiction.	0.20	75.00
05/01/17	LAD	Prepare correspondence	0.70	112.00
05/02/17	MSE	Review and revise correspondence	0.80	300.00
05/02/17	LAD	Finalize correspondence	0.10	16.00
05/02/17	LAD	Begin preparation of appellants' appendix; review of each selected document and begin making required omissions and redactions according to FRAP 30(a) and Circuit Rules 30(D).	3.40	544.00
05/03/17	MSE	Review Tenth Circuit order denying without prejudice motion to confirm jurisdiction.	0.20	75.00
05/04/17	MSE	Review Tenth Circuit rules on jurisdictional motions and draft detailed email to client on	1.00	375.00
05/04/17	MSE	Receive telephone call from John Durkin to discuss	0.50	187.50
05/04/17	MSE	Review Durkin's detailed response to client on	0.50	187.50
05/04/17	LAD	Continue preparation of appellants' appendix; continue review of each selected document and continue making required omissions and redactions according to FRAP 30(a) and Circuit Rules 30(D).	4.20	672.00
05/06/17	MSE	Review from client regarding	0.20	75.00
05/08/17	LAD	Continue preparation of appellants' appendix; finish review of each selected document and finish making required omissions and redactions according to FRAP 30(a) and Circuit Rules 30(D).	1.60	256.00
05/08/17	MSE	Exchange emails with co-counsel on	0.20	75.00
05/12/17	MSE	Meeting with client in Salt Lake City to discuss	5.00	1,875.00
05/15/17	MSE	Confer with staff on	0.20	75.00
05/18/17	MSE	Begin reviewing documents in current appendix to omit memoranda and potentially unnecessary pages of transcripts.	1.50	562.50
05/23/17	MSE	Review emails from co-counsel on Receive message from Tenth Circuit clerk on lack of confirmation by District Court that record is complete. Draft status email to co-counsel	1.00	375.00

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Date	Atty	Description	Hours	Amount
		with		
05/24/17	MSE	Telephone call with co-counsel to discuss	1.00	375.00
05/25/17	MSE	Review minute order and letter from Tenth Circuit clerk directed to District Court clerk to confirm that the record is complete. Draft email to client regarding	0.40	150.00
05/26/17	MSE	Begin reviewing District Court record in its entirety for purposes of narrowing Tenth Circuit appendix.	1.80	675.00
05/29/17	MSE	Review District Court letter confirming that the record is complete and Tenth Circuit notice with deadline for opening brief and appendix. Draft email to client regarding	0.40	150.00
05/31/17	MSE	Receive voice messages from client regarding Review relevant information and draft email to client regarding	0.50	187.50
05/31/17	MSE	Review new United States Supreme Court opinion discussing	1.50	562.50
06/01/17	MSE	Continue reviewing District Court record in its entirety for purposes of narrowing Tenth Circuit appendix.	4.70	1,762.50
06/05/17	MSE	Exchange emails with client regarding	0.50	187.50
06/09/17	MSE	Review email from client with Reply to same.	0.40	150.00
06/09/17	MSE	Exchange additional emails with client on	0.30	112.50
06/12/17	MSE	Review new United States Supreme Court case law on	1.00	375.00
06/12/17	LAD	Legal research of FRAP 27 regarding requirements for a motion for extension of time; prepare motion for extension of time to file the opening brief.	1.40	224.00
06/12/17	MSE	Exchange emails with client and co-counsel on	0.30	112.50
06/12/17	MSE	Revise and finalization of Tenth Circuit motion for extension of time to file opening brief and appendix.	0.20	75.00
06/13/17	MSE	Exchange emails with opposing attorney for the SEC regarding extensions of time for Tenth Circuit briefing.	0.20	75.00
06/16/17	MSE	Review clerk's order approving extension of time to file opening brief and appendix.	0.10	37.50
07/05/17	MSE	Review new opinion discussing	1.00	375.00
07/10/17	MSE	Begin reviewing additional documents in District Court record to determine which filings should be omitted from Tenth Circuit appendix based upon appellate rules.	5.00	1,875.00
07/11/17	MSE	Emails and telephone call with John Durkin regarding	1.00	375.00

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Traffic Monsoon, LLC

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Date	Atty	Description	Hours	Amount
07/11/17	MSE	Continue reviewing additional documents in District Court record to determine which filings should be omitted from Tenth Circuit appendix based upon appellate rules.	4.00	1,500.00
07/11/17	MSE	Review case law sent by co-counsel on	1.50	562.50
07/12/17	MSE	Finish reviewing additional documents in District Court record to determine which filings should be omitted from Tenth Circuit appendix based upon appellate rules.	6.00	2,250.00
07/12/17	MSE	Review prior version of index to appellants' appendix for the Tenth Circuit and select various documents to be omitted based upon appellate rules.	2.00	750.00
07/13/17	LAD	Continue preparation of appellants' appendix; prepare documents for volumes 1-3 with bates numbering; revise index to include numbering for each document.	4.20	672.00
07/14/17	MSE	Review missing docket entries 49 and 50. Omit same from index to appellants' appendix.	0.30	112.50
07/14/17	LAD	Continue preparation of appellants' appendix; prepare documents for volumes 4-6 with bates numbering; revise index to include numbering for each document.	4.10	656.00
07/14/17	MSE	Review and respond to emails from co-counsel and receiver regarding potential stipulation to dismiss Traffic Monsoon.	0.20	75.00
07/17/17	LAD	Continue preparation of appellants' appendix; prepare documents for volumes 7-9 with bates numbering; revise index to include numbering for each document.	5.60	896.00
07/18/17	LAD	Continue preparation of appellants' appendix; convert documents to searchable text and add bookmarks to volumes 1-4 pursuant to Tenth Circuit CM/ECF rules.	3.60	576.00
07/19/17	LAD	Prepare second motion for extension of time to file opening brief and appendix.	0.30	48.00
07/19/17	LAD	Continue preparation of appellants' appendix; convert documents to searchable text and add bookmarks to volumes 5-9 pursuant to Tenth Circuit CM/ECF rules.	4.10	656.00
07/20/17	MSE	Review and revise cover pages for nine Tenth Circuit appendix volumes.	0.80	300.00
07/20/17	MSE	Review and revise second motion for extension of time to file opening brief and appendix.	0.50	187.50
07/20/17	MSE	Review and revise updated (with page numbers) index to appellants' appendix for Tenth Circuit appeal.	1.20	450.00
07/21/17	MSE	Prepare for and telephone conference with opposing attorney for the receiver and co-counsel to discuss issues regarding inclusion of Traffic Monsoon in Tenth Circuit appeal.	0.50	187.50
07/22/17	MSE	Lengthy telephone call with Charles Scoville to provide	2.00	750.00

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Date	Atty	Description	Hours	Amount
07/26/17	MSE	Review Tenth Circuit order approving in part second extension of time to file opening brief and appendix.	0.10	37.50
08/07/17	MSE	Review District Court pleadings for	3.00	1,125.00
08/07/17	MSE	Begin identifying key authorities in District Court pleadings to review for argument.	3.50	1,312.50
08/08/17	MSE	Finish identifying key authorities in District Court pleadings and compile list of cases to read.	2.80	1,050.00
08/09/17	MSE	Review holdings in key cases to structure issues on appeal for Tenth Circuit opening brief.	5.00	1,875.00
08/10/17	MSE	Draft detailed outline of Tenth Circuit opening brief.	2.00	750.00
08/10/17	MSE	Review relevant statutes and relevant portions of the record and draft jurisdictional statement for Tenth Circuit opening brief.	2.50	937.50
08/11/17	MSE	Refine stated issues on appeal in Tenth Circuit brief.	0.80	300.00
08/11/17	MSE	Begin reviewing hearing transcript from day 1 of evidentiary hearing and take notes on important points, including review of exhibits mentioned.	4.50	1,687.50
08/14/17	MSE	Draft rough version of lengthy statement of the case/summary of argument section for Tenth Circuit opening brief.	6.50	2,437.50
08/14/17	MSE	Add record citations into statement of the case/summary of argument section for Tenth Circuit opening brief.	1.50	562.50
08/15/17	MSE	Review main cases for argument points and add to statement of the case/summary of argument section for Tenth Circuit opening brief.	3.00	1,125.00
08/18/17	MSE	Finish reviewing hearing transcript from day 1 of evidentiary hearing and take notes on important points, including review of exhibits mentioned.	4.00	1,500.00
08/21/17	MSE	Exchange emails with client regarding	0.30	112.50
08/22/17	LAD	Status email to client and co-counsel.	0.10	16.00
08/27/17	MSE	Telephone call with client to discuss	2.00	750.00
08/28/17	MSE	Begin reviewing hearing transcript from day 2 of evidentiary hearing and take notes on important points, including review of exhibits mentioned.	4.50	1,687.50
08/29/17	MSE	Finish reviewing hearing transcript from day 1 of evidentiary hearing and take notes on important points, including review of exhibits mentioned.	5.00	1,875.00
08/30/17	MSE	Email and telephone call with client regarding	0.50	187.50
08/30/17	MSE	Review District Court oral argument hearing transcript, including referenced exhibits and case law.	6.00	2,250.00
08/31/17	MSE	Perform factual research on traffic exchanges online to provide background in Tenth Circuit opening brief.	3.60	1,350.00

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Traffic Monsoon, LLC

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Date	Atty	Description	Hours	Amount
09/01/17	LAD	Prepare bound copies of appellants' appendix, volumes 1-9, for Tenth Circuit Court.	4.30	688.00
09/01/17	MSE	Draft factual and procedural background section of Tenth Circuit opening brief on background information on traffic exchanges.	2.00	750.00
09/01/17	MSE	Draft factual and procedural background section of Tenth Circuit opening brief on the SEC's complaint and ex parte orders obtained by the SEC, including review of relevant parts of the record and citations to the record.	6.20	2,325.00
09/02/17	MSE	Draft lengthy section of Tenth Circuit opening brief on evidentiary hearing and resulting orders, including review of relevant parts of the record and citations to the record.	8.00	3,000.00
09/03/17	MSE	Perform legal research on	1.50	562.50
09/03/17	MSE	Draft standards of review section for Tenth Circuit opening brief.	0.50	187.50
09/04/17	MSE	Outline detailed legal argument section headings for first legal argument on the non-existence of a security.	1.00	375.00
09/04/17	MSE	Perform legal research on	3.20	1,200.00
09/04/17	MSE	Begin drafting first legal argument on the lack of a security, including review of relevant legal authorities and relevant portions of the record.	4.50	1,687.50
09/05/17	LAD	Prepare correspondence to Tenth Circuit Court regarding bound copy of appellants' appendix.	0.10	16.00
09/05/17	LAD	Prepare third motion for extension of time to file appellants' opening brief.	0.50	80.00
09/05/17	MSE	Continue drafting first legal argument on the lack of a security, including review of relevant legal authorities and relevant portions of the record.	3.50	1,312.50
09/06/17	MSE	Finish drafting first legal argument on the lack of a security, including review of relevant legal authorities and relevant portions of the record.	3.00	1,125.00
09/06/17	MSE	Make initial revisions to first legal argument on the lack of a security, including further review of relevant legal authorities and relevant portions of the record.	1.00	375.00
09/07/17	MSE	Review Tenth Circuit order granting request for extension. Communicate same to client.	0.10	37.50
09/07/17	MSE	Review Morrison opinion	1.80	675.00
09/07/17	MSE	Outline specific legal argument sections to be used in second legal argument on Morrison for Tenth Circuit opening brief.	1.00	375.00
09/07/17	MSE	Perform legal research on	4.50	1,687.50
09/07/17	MSE	Begin drafting second legal argument on Morrison, including review of relevant legal authorities and relevant portions of the record.	3.00	1,125.00
09/08/17	MSE	Continue drafting second legal argument on Morrison, including review	5.30	1,987.50

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Date	Atty	Description	Hours	Amount
		of relevant legal authorities and relevant portions of the record.		
09/09/17	MSE	Continue drafting second legal argument on Morrison, including review of relevant legal authorities and relevant portions of the record.	5.80	2,175.00
09/10/17	MSE	Finish drafting second legal argument on Morrison, including review of relevant legal authorities and relevant portions of the record.	3.60	1,350.00
09/10/17	MSE	Make initial revisions to second legal argument on Morrison, including further review of relevant legal authorities and relevant portions of the record.	1.50	562.50
09/10/17	MSE	Draft detailed legal argument sections for third argument section on the non-existence of a Ponzi scheme.	1.00	375.00
09/10/17	MSE	Perform legal research on	1.80	675.00
09/10/17	MSE	Begin drafting third legal argument section on the non-existence of a Ponzi scheme, including review of relevant legal authorities and relevant portions of the record.	4.20	1,575.00
09/11/17	LAD	Prepare addendum and exhibits to opening brief.	0.70	112.00
09/11/17	MSE	Review second proposed stipulation from the receiver and forward same to co-counsel with initial impressions.	0.30	112.50
09/11/17	MSE	Finish drafting third legal argument section on the non-existence of a Ponzi scheme, including review of relevant legal authorities and relevant portions of the record.	3.50	1,312.50
09/11/17	MSE	Make initial revisions to third legal argument section on the non-existence of a Ponzi scheme, including further review of relevant legal authorities and relevant portions of the record.	1.00	375.00
09/11/17	MSE	Draft fourth legal argument section on partial release of Traffic Monsoon funds, including review of relevant legal authorities and relevant parts of the record.	2.00	750.00
09/11/17	MSE	Make initial revisions to fourth legal argument section on partial release of Traffic Monsoon funds.	0.50	187.50
09/11/17	MSE	Begin comprehensive revisions and additions to completed draft of Tenth Circuit opening brief, including confirmation of legal citations and record citations.	3.50	1,312.50
09/12/17	LAD	Make technical revisions to appellants' opening brief.	3.70	592.00
09/12/17	LAD	Mark all cited authority in appellants' opening brief and prepare table of authorities and table of contents.	3.20	512.00
09/12/17	LAD	Finalize tables, addendum, and exhibits for appellants' opening brief.	1.40	224.00
09/12/17	MSE	Finish comprehensive revisions and additions to completed draft of Tenth Circuit opening brief, including confirmation of legal citations and record citations.	4.00	1,500.00
09/12/17	MSE	Perform clean edit of Tenth Circuit opening brief to bring total word count within 13,000 word limit.	4.60	1,725.00
09/12/17	MSE	Revise and finalization of table of contents and table of authorities for Tenth Circuit opening brief.	0.90	337.50

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Date	Atty	Description	Hours	Amount
09/13/17	LAD	Prepare bound copies of appellants' opening brief for Tenth Circuit Court.	1.70	272.00
09/13/17	LAD	Revise appellants' appendix to comply with Court's notice dated September 13, 2017.	3.70	592.00
09/14/17	MSE	Review minute order from Tenth Circuit setting deadline for the SEC's answering brief.	0.10	37.50
09/15/17	MSE	Draft email to co-counsel outlining	0.30	112.50
09/21/17	MSE	Draft separate emails to client and co-counsel regarding	0.30	112.50
09/23/17	MSE	Travel to downtown Las Vegas to meet with co-counsel to discuss	3.00	1,125.00
09/24/17	MSE	Lengthy telephone call with Charles to review	3.00	1,125.00
10/03/17	MSE	Exchange emails with client on	0.40	150.00
10/10/17	MSE	Exchange emails with client on	0.20	75.00
10/16/17	LAD	Prepare motion for extension of time to file reply brief.	0.70	112.00
10/16/17	MSE	Initial review of the SEC's Tenth Circuit answering brief. Draft email to client regarding	1.60	600.00
10/16/17	MSE	Revise motion to extend time to file Tenth Circuit reply brief.	0.20	75.00
10/17/17	MSE	Review minute order from Tenth Circuit confirming current October 30 deadline for reply brief.	0.10	37.50
10/18/17	TWS	Research ; discuss same with MSE.	3.50	875.00
10/18/17	MSE	Receive telephone call regarding client's status.	0.50	187.50
10/18/17	MSE	Review emails from the receiver and the SEC regarding consent to allow the receiver to file an amicus brief.	0.30	112.50
10/18/17	MSE	Review results of legal research on	0.30	112.50
10/19/17	MSE	Exchange emails with opposing attorney for the SEC regarding any potential objection to extension of time to file reply brief.	0.20	75.00
10/19/17	MSE	Draft email to all counsel with Traffic Monsoon's inability to take a position on the receiver amicus brief without first seeing the brief.	0.20	75.00
10/19/17	TWS	Assess, analyze and review Tenth Circuit law regarding	1.70	425.00
10/20/17	MSE	Review Tenth Circuit minute order granting motion in part to extend deadline to file reply brief.	0.10	37.50
10/23/17	MSE	Review the receiver's motion for leave to file amicus brief and discuss	0.50	187.50

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Date	Atty	Description	Hours	Amount
		points for opposition.		
10/23/17	TWS	Assess, analyze and review receiver's motion for leave to file amicus curiae brief.	1.00	250.00
10/23/17	MSE	Review Tenth Circuit order requiring any oppositions to receiver's motion for leave to file amicus to be filed within 7 days.	0.10	37.50
10/24/17	TWS	Continue drafting opposition to motion for leave to file amicus brief.	2.70	675.00
10/25/17	TWS	Finish drafting opposition to motion for leave to file amicus brief.	3.60	900.00
10/30/17	MSE	Review time table with Tom to complete draft of Tenth Circuit reply brief.	0.30	112.50
11/01/17	TWS	Continue to thoroughly assess, analyze and review existing case record in preparation of Tenth Circuit reply brief.	2.60	650.00
11/02/17	TWS	Continue to thoroughly assess, analyze and review case record in preparation of drafting Tenth Circuit reply brief.	3.60	900.00
11/02/17	TWS	Review reply in support of amicus brief.	0.60	150.00
11/03/17	LAD	Prepare second motion for extension of time to file reply brief.	0.60	96.00
11/03/17	TWS	Thoroughly assess, analyze and review SEC briefs and related materials in preparation of drafting in Tenth Circuit reply.	4.10	1,025.00
11/03/17	TWS	Thoroughly assess, analyze and review binding Supreme Court precedent and related caselaw in preparation of drafting in Tenth Circuit reply.	4.20	1,050.00
11/06/17	MSE	Review Tenth Circuit orders granting an extension of time to file reply brief and conditionally allowing receiver amicus brief.	0.30	112.50
11/06/17	MSE	Exchange emails with client on	0.20	75.00
11/13/17	TWS	Strategize with MSE on focus and arguments in reply brief.	0.60	150.00
11/13/17	TWS	Begin drafting section of Tenth Circuit reply brief regarding Morrison's applicability.	3.40	850.00
11/13/17	TWS	Begin drafting section of Tenth Circuit reply brief regarding relevant sections of Securities and Exchange Act of 1934 and their inapplicability to foreign transactions.	2.80	700.00
11/13/17	MSE	Evaluate strengths and weaknesses of potential arguments for Tenth Circuit reply brief. Identify certain arguments and evidence to support arguments.	0.80	300.00
11/14/17	TWS	Begin drafting section of Tenth Circuit reply brief discussing SEC's faulty application of agency deference.	2.40	600.00
11/14/17	TWS	Continue drafting section of Tenth Circuit reply brief discussing Section 10(b)'s lack of extraterritorial application.	2.10	525.00
11/15/17	TWS	Continue drafting section of Tenth Circuit reply brief regarding SEC's improper analysis of Morrison and extraterritoriality.	2.60	650.00
11/15/17	TWS	Begin drafting section of Tenth Circuit reply brief regarding Traffic Monsoon not involving securities.	2.40	600.00
11/16/17	TWS	Continue drafting Tenth Circuit reply brief section on inapplicability of	2.50	625.00

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Date	Atty	Description	Hours	Amount
		Section 10b		
11/16/17	TWS	Begin drafting introduction to Tenth Circuit reply brief.	2.70	675.00
11/16/17	TWS	Continue drafting Tenth Circuit reply brief section on SEC's incorrect usage of Chevron deference to instant matter.	2.40	600.00
11/16/17	MSE	Review various emails addressing	0.40	150.00
11/17/17	TWS	Continue drafting section of Tenth Circuit reply brief regarding Section 10(b)'s lack of extraterritorial application.	2.40	600.00
11/17/17	TWS	Continue drafting section of Tenth Circuit reply brief regarding inapplicability of Chevron deference.	2.70	675.00
11/17/17	TWS	Continue drafting section of Tenth Circuit reply brief regarding conduct-and-effect test's prior case law being irrelevant for instant appeal.	2.10	525.00
11/17/17	TWS	Continue drafting section of Tenth Circuit reply brief regarding Traffic Monsoon not constituting a Ponzi.	1.90	475.00
11/18/17	TWS	Continue work on Tenth Circuit reply brief section regarding Section 10b's inapplicability	4.50	1,125.00
11/18/17	TWS	Finish initial draft of Tenth Circuit reply brief's section on why AdPacks are not securities.	4.50	1,125.00
11/18/17	TWS	Begin drafting section of Tenth Circuit reply brief regarding Traffic Monsoon failing to meet elements of Ponzi scheme.	1.10	275.00
11/19/17	TWS	Continue Tenth Circuit reply brief.	3.40	850.00
11/21/17	TWS	Finalize initial draft of Tenth Circuit reply brief.	3.80	950.00
11/22/17	MSE	Review and evaluate initial draft of Tenth Circuit reply brief.	1.50	562.50
11/24/17	MSE	Review record and compile list of additional factual issues to support factual assertions in Tenth Circuit reply brief.	3.50	1,312.50
11/24/17	MSE	Review legal authorities cited in Tenth Circuit reply brief and identify additional areas of research for next draft of reply brief.	2.80	1,050.00
11/24/17	MSE	Begin reviewing legal research on new areas of research for draft of Tenth Circuit reply brief.	3.40	1,275.00
11/27/17	TWS	Apply final edits to Tenth Circuit reply brief; discuss same with MSE	1.70	425.00
11/27/17	LAD	Make technical revisions to reply brief; mark all cited authority and prepare table of contents and table of authorities; finalize brief.	3.10	496.00
11/27/17	MSE	Finish reviewing legal research on new areas of research for draft of Tenth Circuit reply brief.	3.00	1,125.00
11/27/17	MSE	Draft additional factual information into draft of Tenth Circuit reply brief.	1.60	600.00
11/27/17	MSE	Draft additional information into Tenth Circuit reply brief regarding new legal research.	2.20	825.00
11/27/17	MSE	Make final revisions and edits to draft of Tenth Circuit	1.70	637.50
11/27/17	MSE	Revise and finalization of table of contents and table of authorities for Tenth Circuit reply brief.	0.40	150.00
11/28/17	LAD	Prepare correspondence to Clerk of the Tenth Circuit regarding copies of reply brief.	0.20	32.00

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Date	Atty	Description	Hours	Amount
11/28/17	LAD	Prepare 7 bound paper copies of reply brief for Tenth Circuit.	1.30	208.00
11/29/17	MSE	Telephone call with client regarding	0.50	187.50
12/08/17	TWS	Assess, analyze and review notice of change of address.	0.10	25.00
12/08/17	MSE	Review Tenth Circuit oral argument schedule for 2018 and draft email to client regarding	0.20	75.00
12/11/17	MSE	Exchange emails with client on	0.20	75.00
01/11/18	TWS	Assess, analyze and review Tenth Circuit email setting argument date.	0.10	25.00
01/11/18	MSE	Review notice of oral argument setting and related documents. Exchange emails with client and co-counsel regarding	0.40	150.00
01/15/18	MSE	Telephone call with client to discuss	1.20	450.00
01/16/18	MSE	Review acknowledgement form from Shirey to argue for the SEC in the Tenth Circuit.	0.10	37.50
01/16/18	TWS	Assess, analyze and review SEC's calendar acknowledgment form.	0.10	25.00
01/17/18	TWS	Meet with MSE regarding	0.40	100.00
01/17/18	MSE	Communicate with client and co-counsel regarding	1.50	562.50
01/18/18	TWS	Research in preparation for oral argument/subsequent filings; email MSE regarding	0.40	100.00
01/22/18	TWS	Discuss moot court preparation and travel arrangements with MSE	0.60	150.00
02/09/18	LAD	Begin preparation of master table of authorities for oral argument.	1.20	192.00
02/12/18	TWS	Research Tenth Circuit case law regarding ; discuss same with MSE.	1.80	450.00
02/12/18	TWS	Draft email to Loren Washburn regarding	0.90	225.00
02/12/18	MSE	Review emails from co-counsel on Discuss with TWS and evaluate findings on	1.00	375.00
02/14/18	MSE	Telephone conference with co-counsel regarding	0.60	225.00
02/20/18	LAD	Continue preparation of master table of authorities for oral argument; continue adding summary notations for each cited authority.	1.30	208.00
02/26/18	LAD	Continue preparation of master table of authorities for oral argument; finish adding summary notations for each cited authority in opening brief.	2.20	352.00
02/26/18	LAD	Continue preparation of master table of authorities for oral argument; list out all cited authority in the answering brief and begin adding summary notations for each authority.	3.50	560.00
02/28/18	LAD	Continue preparation of master table of authorities for oral argument; continue adding summary notations for each authority in answering brief.	4.60	736.00

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Date	Atty	Description	Hours	Amount
03/01/18	LAD	Continue preparation of master table of authorities for oral argument; finish adding summary notations for each authority in answering brief.	0.60	96.00
03/01/18	LAD	Continue preparation of master table of authorities for oral argument; list out all cited authority in the receiver's amicus brief and add summary notations for each authority.	0.70	112.00
03/02/18	LAD	Continue preparation of master table of authorities for oral argument; list out all cited authority in the reply brief and add summary notations for each authority.	3.20	512.00
03/05/18	LAD	Begin preparation of oral argument binder; gather and organize all cited case law.	4.10	656.00
03/05/18	LAD	Continue preparation of oral argument binder; gather and organize all cited regulatory law.	1.30	208.00
03/05/18	LAD	Continue preparation of oral argument binder; gather and organize all cited court rules.	0.30	48.00
03/05/18	LAD	Continue preparation of oral argument binder; gather and organize all cited statutory law.	1.40	224.00
03/06/18	LAD	Finish preparation of oral argument binder; gather and organize all other cited authorities and treatises.	0.50	80.00
03/06/18	LAD	Make technical revisions to master table of authorities and finalize for oral argument binder.	0.60	96.00
03/07/18	LAD	Prepare correspondence to co-counsel with prepare correspondence to client with	0.20	32.00
03/07/18	MSE	Review master table of authorities for Tenth Circuit oral argument.	1.50	562.50
03/12/18	LAD	Prepare notice of appeal from second amended order appointing receiver.	0.40	64.00
03/12/18	MSE	Review District Court's second amended order appointing receiver and calculate time to appeal from same.	0.80	300.00
03/12/18	MSE	Revise draft of District Court's second amended order appointing receiver.	0.20	75.00
03/12/18	MSE	Review Tenth Circuit argument calendar including identity of panel. Review short biographies of panel members.	0.60	225.00
03/12/18	MSE	Meeting with Tom to discuss	0.50	187.50
03/12/18	MSE	Review key parts of the record, Tenth Circuit briefs, and key cases to prepare for meeting with co-counsel to discuss	5.50	2,062.50
03/12/18	TWS	Begin preparation for moot court in Salt Lake in preparation for next week's oral argument.	1.00	250.00
03/13/18	MSE	Travel to Salt Lake City for lengthy meeting with co-counsel to discuss	12.00	4,500.00
03/13/18	TWS	Travel to and from Salt Lake for oral argument preparation with MSE and Loren Washburn; conduct oral argument prep.	12.00	3,000.00
03/14/18	MSE	Review email from receiver and documents	0.30	112.50

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Date	Atty	Description	Hours	Amount
03/14/18	MSE	Telephone call with co-counsel regarding	0.20	75.00
03/16/18	MSE	Review brief filed in U.S. Supreme Court discussing	1.50	562.50
03/16/18	MSE	Review new case discussing	1.50	562.50
03/16/18	MSE		0.60	225.00
03/19/18	MSE	Exchange emails with opposing attorney for the SEC regarding motion to supplement the record	0.20	75.00
03/19/18	LAD	Finalize motion to supplement the record under FRAP 10(e)(3), or alternatively, motion to take judicial notice under FRE 201(b); forward same to client with	0.90	144.00
03/20/18	TWS	Travel to Denver for Tenth Circuit argument; final argument preparation with MSE and Loren Washburn.	7.00	1,750.00
03/20/18	MSE	Travel to Denver for Tenth Circuit oral argument and meet with co-counsel to discuss	7.00	2,625.00
03/21/18	TWS	Attend Tenth Circuit oral argument; debrief; travel home from Denver.	10.00	2,500.00
03/21/18	MSE	Attend Tenth Circuit oral argument, discuss , and travel back to office in Las Vegas.	10.00	3,750.00
03/22/18	TWS	Assess, analyze and review order regarding oral argument.	0.10	25.00
03/26/18	LAD	Prepare docketing statement for appeal in Case No. 18-4038.	0.70	112.00
03/27/18	LAD	Prepare entry of appearance and certificate of interested parties for new appeal.	0.20	32.00
03/28/18	MSE	Draft docketing statement for new Tenth Circuit appeal.	1.00	375.00
03/28/18	LAD	Finalize entry of appearance and certificate of interested parties for second appeal.	0.10	16.00
03/28/18	LAD	Finalize docketing statement for second appeal.	0.40	64.00
03/28/18	MSE	Review other recent authorities for	1.00	375.00
03/28/18	MSE	Perform legal research on	1.50	562.50
03/28/18	MSE	Perform legal research on	2.00	750.00
04/02/18	MSE	Outline and draft Tenth Circuit motion to consolidate appeals or stay.	2.00	750.00
04/03/18	LAD	Make technical revisions to motion to consolidate appeal with Case No. 17-4059, or alternatively, motion to stay appeal pending resolution of Case No. 17-4059; finalize same.	0.40	64.00
04/03/18	MSE	Exchange emails with opposing attorney for the SEC regarding its position on consolidation or stay. Revise errata to motion regarding same.	0.60	225.00
04/03/18	LAD	Prepare errata to motion to consolidate appeal with Case No. 17-4059,	0.40	64.00

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Date	Atty	Description	Hours	Amount
		or alternatively, motion for stay of appeal Pending resolution of appeal in Case No. 17-4059.		
04/05/18	TWS	Assess, analyze and review receiver's notice of non-participation.	0.10	25.00
04/05/18	TWS	Assess, analyze and review SEC's response to motion to stay and consolidate.	0.20	50.00
04/05/18	MSE	Review the SEC's response to Traffic Monsoon's motion to consolidate appeals or stay.	0.30	112.50
04/05/18	MSE	Review the receiver's notice of non-participation in the second Tenth Circuit appeal.	0.10	37.50
04/06/18	MSE	Review Tenth Circuit order staying second appeal.	0.10	37.50
04/12/18	TWS	Assess, analyze and review motion to withdraw and order related thereto.	0.20	50.00
04/20/18	MSE	Draft detailed email with	0.60	225.00
05/02/18	MSE	Telephone call to discuss	0.60	225.00
06/05/18	LAD	Prepare status report to Tenth Circuit regarding continued abatement of case pending resolution of Case No. 17-4059.	0.40	64.00
06/05/18	MSE	Revise Tenth Circuit status report and coordinate approval with co-counsel.	0.20	75.00
06/05/18	TWS	Assess, analyze and review status report filed with Tenth Circuit.	0.20	50.00
06/06/18	MSE	Review Tenth Circuit order setting schedule for status reports in second appeal.	0.10	37.50
06/20/18	MSE	Telephone call with co-counsel regarding	0.40	150.00
06/21/18	MSE	Review documents in file and Tenth Circuit briefing regarding Draft email to co-counsel regarding	1.30	487.50
06/22/18	MSE	Review new opinion from U.S. Supreme Court regarding Draft email to co-counsel regarding	0.80	300.00
06/22/18	TWS	Assess, analyze and review recent US Supreme Court case	0.40	100.00
Total Fees			540.50	167,604.50

Disbursements

Date	Description	Amount
	Pacer; Online Records Review	21.30
	Westlaw Research	1,123.76
09/12/17	Check Issued; Overnight delivery; Federal Express	63.55
10/13/17	Check Issued; Overnight delivery; Federal Express	64.47

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Date	Description	Amount
12/19/17	Check Issued; Overnight delivery; Federal Express	36.35
01/31/18	Travel Expenses; R - Airfare to/from Denver for oral argument - Micah Echols and Tom Stewart	499.92
01/31/18	Travel Expenses; R - Airfare to/from Salt Lake City for oral argument preparation meeting - Micah Echols and Tom Stewart	259.92
	Copies	1,324.75
	Postage	2.78
	Long Distance Expense	10.85
	Scanning Charges	195.75
03/31/18	Travel Expenses; R - Parking while attending oral argument practice	16.00
03/31/18	Travel Expenses; R - Uber fee to co-counsel's office for oral argument preparation meeting	20.15
03/31/18	Travel Expenses; R - Uber fee from co-counsel's office after oral argument preparation meeting	26.83
03/31/18	Travel Expenses; R - Parking fee while attending oral argument preparation meeting in Utah	23.00
03/31/18	Travel Expenses; R - Uber fee to oral argument in Colorado	56.00
03/31/18	Travel Expenses; R - Hotel fee while attending oral argument in Colorado	491.58
03/31/18	Travel Expenses; R - Uber to oral argument preparation meeting in Utah	20.15
Total Disbursements		4,257.11

Exhibit B

Micah S. Echols, Esq.

MARQUIS AURBACH COFFING

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Las Vegas, Nevada 89145
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mechols@maclaw.com

EXPERIENCE:

MARQUIS AURBACH COFFING

Director, July 2012–present

Of Counsel, July 2010–June 2012

Associate, December 2003–June 2010

Mr. Echols focuses his practice on civil appeals, including state and federal appeals, writ petitions, and petitions for judicial review of agency decisions. Since joining Marquis Aurbach Coffing, Mr. Echols has participated in the briefing or argument for more than 200 appellate matters. He has argued cases in both the Nevada Supreme Court and the Ninth Circuit. Clients and other attorneys often consult Mr. Echols for his knowledge of appellate procedure and preserving issues in the District Court for appeal. His appellate successes include reversals of jury verdicts, reversals of non-jury trials, obtaining extraordinary writ relief, and obtaining appellate decisions upholding favorable rulings for his clients. Mr. Echols holds an AV Preeminent rating from Martindale-Hubbell and has been recognized by Super Lawyers for his appellate practice.

Mr. Echols has published approximately 40 articles on appellate topics and recent developments in the law. His publications include the Civil Appeal Checklist with Forms, which is a comprehensive checklist for processing an appeal to the Nevada Supreme Court. The most recent version of the checklist incorporates the amendments that the Supreme Court has made to the Nevada Rules of Appellate Procedure. He has also authored chapters for the updated Nevada Appellate Practice Manual published by the State Bar of Nevada. Mr. Echols also frequently publishes legal articles that have appeared in NEVADA LAWYER, a publication of the State Bar of Nevada; COMMUNIQUÉ, a publication of the Clark County Bar Association; ADVOCATE, a publication of the Nevada Justice Association; CCIM PERSPECTIVE, a publication of the Southern Nevada Chapter of Certified Commercial Investment Members; and the LAS VEGAS BUSINESS PRESS.

Aside from his proficiency in appellate courts, Mr. Echols also regularly handles matters in trial courts. In fact, DESERT COMPANION recognized him in 2014 as a top lawyer for appeals, and VEGAS INC recognized him in 2012 as a top lawyer in Southern Nevada for lawsuits/disputes. Additionally, Mr. Echols earned the designation "NITA Advocate" in 2009 from the National Institute for Trial Advocacy for trial, deposition, and communication skills.

PUBLISHED OPINIONS:

Ninth Circuit Opinions

- *Jones v. Las Vegas Metro. Police Dep't*, 873 F.3d 1123 (9th Cir. 2017) (clarifying standing principles under FRCP 17 for claims asserted by a decedent's estate in 42 U.S.C. § 1983 civil rights cases).
- *Tsao v. Desert Palace, Inc.*, 698 F.3d 1128 (9th Cir. 2012) (affirming summary judgment for police officer from civil rights claims by advantage gambler).

Nevada Supreme Court Opinions

- *Mendenhall v. Tassinari*, 133 Nev. Adv. Op. No. 78, 403 P.3d 364 (2017) (explaining that an accepted offer of judgment can serve as the basis for claim preclusion in a subsequent lawsuit involving the same parties or their privies).
- *Schwartz v. Lopez*, 132 Nev. Adv. Op. No. 73, 382 P.3d 886 (2016) (amicus curiae for Foundation for Excellence in Education) (confirming the constitutionality of the Education Savings Account ("ESA") program under Nevada Constitution Article 11, Sections 2, 6, and 10, but enjoining the use of public education funds absent a separate appropriation for the ESA).
- *Mona v. Dist. Ct.*, 132 Nev. Adv. Op. No. 72, 380 P.3d 836 (2016) (clarifying that a co-trustee of a judgment debtor trust cannot be compelled to provide evidence regarding personal finances).
- *Ferguson v. Las Vegas Metro. Police Dep't*, 131 Nev. Adv. Op. No. 94, 364 P.3d 592 (2015) (explaining how courts should treat the NRS 179.1173(5) civil forfeiture conclusive presumption in summary judgment proceedings).
- *City of N. Las Vegas v. 5th & Centennial, LLC*, 130 Nev. Adv. Op. No. 66, 331 P.3d 896 (2014), *cert. denied*, 135 S.Ct. 718 (2014) (clarifying that prejudgment interest on a landowner's claim for precondemnation damages commences with the first date of compensable injury).
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BAR ADMISSIONS:

- Nevada, 2003
- United States District Court for the District of Nevada, 2003
- United States Court of Appeals for the Ninth Circuit, 2007
- United States Supreme Court, 2007
- United States Court of Appeals for the Federal Circuit, 2013
- United States Court of Appeals for the Tenth Circuit, 2016