IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION

JOHN WILLIAM LICCIONE,
Plaintiff,
v. **Case No.: 24-003939-CI**
CATHY SALUSTRI-LOPER; et al
Defendants.
_____/

PLAINTIFF'S RESPONSE IN OPPOSITION TO MOTION FOR ATTORNEY'S FEES AND COSTS

INTRODUCTION

1. Plaintiff John William Liccione, pro se, respectfully submits this Response in Opposition to Defendants' Motion for Judgment for Attorney's Fees and Costs and Objections to the Fee Affidavit of James B. Lake, filed February 18, 2026. Defendants seek a fee award of $70,993.80 — including $14,086.00 more than they actually billed their own client — based on rates derived exclusively from decisions that are either non-binding federal cases from the wrong court system entirely, or out-of-circuit Florida state court decisions from Miami-Dade County — a demonstrably higher-cost legal market than Pinellas County — none of which reflects the prevailing market rate in the Sixth Judicial Circuit, and encompassing time entries for work on separate litigation, vexatious litigant analysis, settlement negotiations, and other matters falling outside the narrow scope of Florida's Anti-SLAPP fee-shifting statute. This

case began as a multi-count, multi-defendant action spanning two election cycles, was narrowed through successive rounds of pleading-stage motion practice to a single count by the Third Amended Complaint, and was resolved at the pleading stage without a single deposition, discovery request, or evidentiary proceeding — not the complex, multi-year, actively litigated proceedings from which Defendants derive their rate and billing claims.

2. This Response raises four independent grounds for denial or substantial reduction of the requested award: (I) the Court should stay fee proceedings while the underlying Anti-SLAPP ruling — and thus the predicate for fee entitlement — is on appeal before the Second District Court of Appeal; (II) the statutory scope of recoverable fees under § 768.295(4), Florida Statutes, is narrower than Defendants claim, and numerous billing entries fall outside it; (III) Defendants have not established the claimed market rates through competent evidence from the relevant market; and (IV) specific billing entries are excessive, duplicative, block-billed, or otherwise unreasonable and should be reduced or disallowed.

PROCEDURAL BACKGROUND

3. On January 29, 2026, this Court entered an Order granting Defendants' Motion to Dismiss the Third Amended Complaint with prejudice, finding violations of Florida's Anti-SLAPP statute, § 768.295, Florida Statutes, and reserving jurisdiction to determine the amount of reasonable attorney's fees and costs. The January 29, 2026 Order constitutes both a dismissal with prejudice and an award of attorney's fees and costs under § 768.295(4), Florida Statutes, with jurisdiction reserved solely as to the amount.

4. On February 2, 2026, Plaintiff timely filed a Notice of Appeal, invoking the jurisdiction of the Second District Court of Appeal, Case No. 2D2026-0281, over the January 29, 2026 dismissal order.

5. On February 4, 2026, Plaintiff filed a Motion to Stay Collateral Proceedings Pending Appeal, together with a proposed Order, requesting that this Court stay all fee proceedings, enforcement actions, and vexatious litigant proceedings pending resolution of the appeal. That motion remains pending. Defendants have not filed a response in opposition, and no hearing has been scheduled.

6. On February 6, 2026, Plaintiff filed an Application for Determination of Civil Indigent Status pursuant to § 57.082, Florida Statutes (Filing No. 241170846). On the same document, Plaintiff signed the judicial review request line, contemporaneously requesting that this Court review any adverse clerk's determination. On February 10, 2026, the Clerk of Court stamped the application "Not Indigent" without scheduling or forwarding the matter for the judicial review that Plaintiff had simultaneously requested on the face of the same document. The status of that judicial review is currently unknown.

7. On February 18, 2026, Defendants filed their Motion for Judgment for Fees and Costs, accompanied by the Affidavit of James B. Lake with Exhibit A (billing records) and Composite Exhibit B (court reporter invoices), seeking a total of $70,993.80.

8. On March 27, 2026, the parties conducted a conferral call during which they agreed to pursue mediation before scheduling any fee hearing, consistent with this Court's practice preferences. No hearing has been noticed or scheduled on the fee motion.

ARGUMENT

I. THIS COURT SHOULD STAY FEE PROCEEDINGS PENDING APPEAL BECAUSE THE ANTI-SLAPP FEE ENTITLEMENT IS LOGICALLY DEPENDENT ON THE MERITS RULING UNDER REVIEW.

9. Plaintiff's pending Motion to Stay Collateral Proceedings Pending Appeal, filed February 4, 2026, sets forth in detail the legal and equitable grounds for a stay. Plaintiff incorporates those arguments herein by reference and provides the following summary.

10. Under Florida Rule of Appellate Procedure 9.310(a), the trial court retains discretion to stay collateral proceedings where necessary to protect appellate jurisdiction, prevent irreparable harm, and promote judicial economy. Although the filing of a notice of appeal divests this Court of jurisdiction over the merits, it retains authority to stay collateral matters. See Platt v. Russek, 921 So. 2d 5, 6–7 (Fla. 2d DCA 2004).

11. A stay is warranted here because Anti-SLAPP fee entitlement is closely tied to the merits ruling currently under appellate review. Section 768.295(4) provides that fees are awarded to a party who prevails on "a claim that an action was filed in violation of this section." If there was no violation — that is, if the Second District reverses the dismissal order — there is no fee entitlement at all. This distinguishes Anti-SLAPP fees from ordinary cost awards, which are generally treated as collateral to the merits judgment. Here, the fee entitlement is logically dependent on that merits ruling. Proceeding with fee litigation while the predicate finding is under appellate review inverts the logical sequence of proceedings and risks imposing a substantial financial burden on the basis of a ruling that may not survive.

12. Plaintiff faces multiple forms of irreparable harm absent a stay. First, Plaintiff's sole income is Social Security Disability Insurance (SSDI) of $3,561 per month, and his personal net worth is deeply negative. His liquid assets consist almost entirely of SSDI direct deposit funds exempt

from execution under 42 U.S.C. § 407 and Philpott v. Essex County Welfare Board, 409 U.S. 413 (1973). There are effectively no non-exempt assets from which any fee judgment could be satisfied. Requiring Plaintiff to defend or secure a fee award while the appeal is pending imposes conditions he cannot satisfy and operates as a practical denial of appellate review.

13. Second, if Defendants seek to enforce any fee judgment entered during the appeal, Plaintiff's only recourse would be to pursue formal insolvency proceedings. The harm is by definition irreparable.

14. Under Platt v. Russek, 921 So. 2d 5 (Fla. 2d DCA 2004), the Second District — the same court reviewing this appeal — held that Rule 9.310(a) authorizes the trial court to stay a money judgment pending appeal without requiring a full supersedeas bond, provided that appropriate conditions are imposed. The court recognized that a full bond requirement can effectively deny appellate review to a judgment debtor with limited means, and held that the trial court has discretion to craft conditions that protect the judgment creditor without making the stay impossible to obtain. The nature and adequacy of any conditions is a matter within this Court's discretion, to be determined after consideration of the parties' respective financial circumstances and the likelihood of prejudice to Defendants from a stay.

15. A stay also serves judicial economy. If Plaintiff prevails on appeal, the current fee entitlement would be eliminated. If Plaintiff ultimately succeeds on the merits, the fee posture could shift materially in the other direction, since the Anti-SLAPP statute's fee-shifting provision runs in both directions. Proceeding with fee proceedings now, before the appeal is resolved, risks the Court expending substantial judicial resources on a determination that may need to be revisited entirely depending on the appellate outcome. A stay avoids this entirely and ensures that any fee determination accounts for the final resolution of the litigation.

16. Defendants have not opposed the stay motion. No hearing has been scheduled. The Court should grant the stay, impose only tailored conditions short of a full supersedeas bond, if any, and defer all fee proceedings pending resolution of Case No. 2D2026-0281.

II. THE STATUTORY SCOPE OF RECOVERABLE FEES UNDER § 768.295(4) IS NARROWER THAN DEFENDANTS CLAIM, AND NUMEROUS BILLING ENTRIES FALL OUTSIDE IT.

17. Section 768.295(4), Florida Statutes, provides that the court "shall award the prevailing party reasonable attorney fees and costs incurred in connection with a claim that an action was filed in violation of this section." (Emphasis added.) This language limits recoverable fees to work performed in connection with the Anti-SLAPP defense specifically — it does not authorize a blanket award of all fees incurred in defending the action.

18. Defendants rely on *Marquez v. Lazarow*, 29 Fla. L. Weekly Supp. 797a (Fla. 11th Cir. Ct. Jan. 18, 2022), aff'd without opinion, 347 So. 3d 472 (Fla. 3d DCA 2022), to argue that the entirety of the litigation is covered because Anti-SLAPP was asserted throughout. Marquez does not support that result here for two independent reasons.

19. First, the authority itself is weak: the only written analysis in the entire Marquez chain is a single Miami-Dade circuit court trial judge's fee order. The two Third District affirmances were per curiam without any written discussion of fee scope, and Plaintiff is not aware of any published Florida appellate opinion analyzing or adopting the "entirety of the litigation" fee-scope rationale articulated in that circuit court order. Whatever persuasive weight Marquez may carry, it rests on a single trial court's reading of the statute, not a considered appellate analysis of fee scope.

20. Second, and more fundamentally, the Marquez rationale is fact-specific to a case whose entire trial court litigation — from the original complaint through final summary judgment —

spanned approximately five months, with no stay, no parallel federal or state proceedings to monitor, and no strategic work unrelated to the Anti-SLAPP defense. The Marquez court's conclusion that "the entirety of the litigation concerned" the Anti-SLAPP claim was a factual observation about a clean, focused case in which every billing entry genuinely concerned the Anti-SLAPP defense.

21. This case bears no resemblance to that profile. This litigation ran sixteen months and included an eight-and-a-half-month court-ordered stay (Docket Nos. 85, 107) during which no litigation activity was permitted — a stay that Plaintiff actively opposed (Docket No. 90) and that Defendants strategically embraced.

22. On November 11, 2024, three days after Plaintiff filed his written opposition to the Court's sua sponte stay motion, Defendants filed their response (Docket No. 96), stating in its entirety: "*Loper does not oppose a stay of this proceeding, subject to her 'right to an expeditious resolution' of her pending Anti-SLAPP Motion to Dismiss 'at the earliest possible time after' the stay is lifted.*" When Plaintiff subsequently moved to lift the stay, Defendants opposed that motion as well, arguing the stay should remain until their Anti-SLAPP defenses were resolved and any award paid (Docket No. 131, June 3, 2025). Having consented to the stay over Plaintiff's objection and then fought to maintain it, Defendants cannot now shift the costs of that period to Plaintiff as Anti-SLAPP defense work. The billing incurred during the stay — monitoring parallel federal proceedings, Florida Supreme Court proceedings, and D.C. court proceedings; analyzing and responding to settlement overtures; developing Anti-SLAPP motion arguments for anticipated post-stay proceedings; and planning the fee award — reflects Defendants' own elective choices about how to exploit a period of court-ordered inactivity they did not merely accept but actively preserved. The Marquez "entirety of the litigation" rationale was not designed to cover — and does not cover — a sixteen-month litigation

punctuated by a strategically maintained stay, parallel proceedings, and work that had nothing to do with defending against the speech-based claims at the core of the Anti-SLAPP statute. The burden remains on Defendants to establish that each individual fee entry reflects work performed in connection with the Anti-SLAPP claim. See *Lee Engineering & Construction v. Fellows*, 209 So. 2d 454 (Fla. 1968) (burden on movant to prove entitlement and amount); *Dr. Gail Van Diepen, PA v. Brown*, 55 So. 3d 612 (Fla. 5th DCA 2011) (burden on prevailing party to separate recoverable time from non-recoverable time). They have not met that burden.

23. Review of the billing records in Exhibit A reveals multiple categories of entries that are not recoverable under § 768.295(4), including the following:

    a. **Other Litigation.** Multiple entries reference the PDEC case, related federal litigation, District of Columbia proceedings, and Florida Supreme Court proceedings. Work performed in connection with separate proceedings is not work incurred "in connection with" the Anti-SLAPP claim in this action and is not recoverable here. Entries referencing those matters on their face should be excluded; entries that commingle Anti-SLAPP work with collateral-proceedings monitoring should be reduced for failure to segregate. See Exhibit 1, Category A.

    b. Vexatious Litigant Analysis. The November 20, 2025 entry reflects 3.3 hours for analysis of vexatious litigant and stay-related issues. This is affirmative work seeking additional sanctions against Plaintiff — not defensive Anti-SLAPP work — and falls outside the statutory scope. See Exhibit 1, Category D (11/20/2025 entry).

    c. Settlement Negotiations. Time spent on settlement communications — particularly during the court-ordered stay period — is not shown to be reasonably necessary to the Anti-SLAPP defense. The burden remains on Defendants to establish that each entry was

incurred in connection with defending the Anti-SLAPP claim; communications about resolving the case, especially while litigation was stayed, do not discharge that burden. Work driven by a client's business decision to pursue settlement is properly borne by the client and not shifted to the opposing party. *Baratta v. Valler Oak Homeowner's Ass'n*., 928 So. 2d 495, 499 (Fla. 2d DCA 2006). See Exhibit 1, Categories B and C.

d. Drafting Proposed Orders. Entries from July 9–15, 2025 reflect time drafting proposed orders for the Court. This work primarily serves Defendants' strategic interest in controlling the Court's written findings and does not represent purely defensive Anti-SLAPP work.

e. Fees-on-Fee Amounts. The October 16, 2025 entry for "legal analysis re next steps and strategy re fee award" reflects work on the pursuit of fee amounts — not defense of the Anti-SLAPP claim. Fees incurred in pursuing a particular size of fee award are not recoverable absent specific statutory authorization, and § 768.295(4) contains no such express authorization. Florida law draws a firm distinction between litigating entitlement to fees — which may be recoverable — and litigating the amount of fees, which is not. *State Farm Fire & Cas. Co. v. Palma*, 629 So. 2d 830, 832–33 (Fla. 1993) (statutory fees may be awarded for litigating entitlement to fees but not for litigating the amount; work on amount "inures solely to the attorney's benefit"); *State Farm Mut. Auto. Ins. Co. v. Trevino*, 904 So. 2d 495, 497 (Fla. 2d DCA 2005) (multiplier litigation is an amount issue, not an entitlement issue, because multiplier analysis occurs only after entitlement is established and goes to final computation of the fee). That distinction applies here: the challenged Category C entries are not work necessary to establish that Defendants were entitled to any fees — that question was already resolved by the dismissal orders. They are work aimed at fixing and enlarging the amount of the award, which is not compensable under any

reasonable construction of "incurred in connection with a claim that an action was filed in violation of" § 768.295. The fee-award strategy entries in Category C should be excluded on this basis alone. See Exhibit 1, Category C.

f. Redacted Entries. Certain billing entries in Exhibit A are redacted. Plaintiff cannot assess the reasonableness of entries whose content is withheld. The burden of establishing entitlement to fees rests on Defendants. Redacted entries should be disallowed, or Defendants should be required to produce unredacted versions for in camera review. See Exhibit 1, Category F.

III. DEFENDANTS HAVE NOT ESTABLISHED THE CLAIMED HOURLY RATES THROUGH COMPETENT EVIDENCE FROM THE RELEVANT MARKET

24. The lodestar method requires the Court to determine a reasonable hourly rate by reference to "the prevailing market rate in the relevant legal community for similar services by lawyers of reasonably comparable skill, experience, and reputation." *Florida Patient's Compensation Fund v. Rowe*, 472 So. 2d 1145, 1150–51 (Fla. 1985). Evidence of market rate may be adduced through direct evidence of charges by lawyers under similar circumstances or through opinion evidence. *Smith v. School Board of Palm Beach County*, 981 So. 2d 6 (Fla. 4th DCA 2007). Defendants' claimed rates fail this standard for the reasons set forth below.

A. The actual billed rates at best establish a ceiling for this matter, not a floor.

25. The Fee Affidavit acknowledges that Thomas & LoCicero PL (TLo) billed Defendants at $395 per hour for all partner-level attorneys and $225 per hour for the associate — not the $495–$560 and $275 rates now claimed as the applicable "market rate." The difference amounts to $14,086.00 that Defendants were never actually charged. The actual negotiated rate between TLo and its client is itself probative evidence of the market rate cap for this type of representation with this type of small business client defending a defamation claim. A law

firm's own judgment about what to charge a specific client for a specific matter is directly relevant to the lodestar inquiry. Under *Florida Patient's Compensation Fund v. Rowe*, 472 So. 2d at 1151, the court-awarded fee should not exceed the fee agreement reached between attorney and client. The Florida Supreme Court confirmed that this ceiling applies equally to noncontingent hourly fee agreements, not only to contingent fee cases. *Perez-Borroto v. Brea*, 544 So. 2d 1022, 1023 (Fla. 1989) (answering certified question in the affirmative: trial court is limited by a noncontingent fee agreement when applying Rowe; "the playing field must remain balanced and the principles of Rowe applied equally to both sides"). The Second District — the court now reviewing this case — applied that ceiling in *Compass Construction, Inc. v. First Baptist Church of Cape Coral, Fla., Inc*., 61 So. 3d 1273, 1274 (Fla. 2d DCA 2011), holding that where an attorney bills under a noncontingent hourly engagement, the fee award is limited to the agreed hourly rate. The Florida Supreme Court later quashed Compass Construction, but only because that agreement contained an "alternative fee recovery clause" expressly providing for a court-determined rate when a third party pays the fees. *First Baptist Church of Cape Coral v. Compass Constr., Inc*., 115 So. 3d 978, 982–83 (Fla. 2013). No such clause exists here: Lake's sworn affidavit states only that TLo "agreed to bill Defendants at discounted hourly rates," a straight hourly engagement with no alternative recovery provision. Aff. ¶ 18. First Baptist is therefore inapplicable here — no alternative recovery clause appears anywhere in Lake's sworn affidavit — and the Rowe/Perez-Borroto ceiling governs on this record. The fee agreement here produced actual billing at $395 per hour for partners and $225 per hour for the associate. Those figures — not the unilaterally claimed standard rates of $495–$560 and $275 — are the applicable *ceiling* for any lodestar calculation before further reductions. They do not, however, establish the floor: the Court's independent lodestar

obligation requires it to determine what Pinellas County circuit court market rates actually support for this type of matter, which may be materially lower.

26. The affidavit does not disclose whether TLo maintains different rate structures for different categories of clients — for example, large institutional media clients versus small independent community newspapers, or clients whose defense costs are covered by a liability carrier versus clients paying out of pocket. Defendants' Gabber Newspaper is a small, independent, locally-owned weekly publication. It is not a major regional or national media organization with the resources such entities typically command. The rates TLo charges to large institutional clients are not probative of the reasonable rate for representing a small independent newspaper owner in a Pinellas County circuit court defamation matter. The affidavit's claimed "standard" rates are unsupported by any evidence that those rates apply to clients and matters of this nature.

27. On the March 27, 2026 conferral call, Defendants' counsel represented that Defendants carry no media liability insurance and are paying TLo directly out of pocket. That representation is directly material to the lodestar analysis. Law firms routinely charge different rates depending on whether a client is insurer-funded or self-paying. An insurer-funded institutional client provides a law firm with guaranteed payment, volume, and a long-term relationship that supports full standard rates. A self-paying small publisher client does not. TLo's own billing reflects this distinction: the $14,086.00 gap between what was billed and what is now claimed is consistent with — and corroborated by — a discounted self-pay engagement. Defendants are therefore structurally the opposite of every client in every case they cite, all of whom had the institutional resources, litigation reserves, and coverage infrastructure of major corporations.

B. The comparable cases cited fall into two categories, neither of which establishes the applicable Pinellas County market rate.

28. Defendants' rate authority breaks into two distinct groups that fail for different but equally dispositive reasons. The first group consists of decisions from the United States District Courts for the Middle and Southern Districts of Florida: *GS Holistic LLC v. Brother Pastor LLC*, No. 8:22-cv-2179 (M.D. Fla. 2023); *Smith v. Costa Del Mar, Inc.*, No. 3:18-cv-1011 (M.D. Fla.); *First National Bank of Oneida, N.A. v. Brandt*, No. 8:16-cv-51 (M.D. Fla.); and *Family First Life LLC v. Rutstein*, No. 9:22-cv-80243 (S.D. Fla.). These are federal court decisions. They are not binding on this Court. More importantly, federal district court practice routinely commands higher billing rates, involves more extensive discovery, and presents fundamentally different complexity profiles than a circuit court defamation matter resolved entirely at the pleading stage. Federal rate decisions are not competent evidence of prevailing rates in Pinellas County circuit court.

29. The second group consists of Florida state court decisions: *Bello v. Hulu LLC* (Fla. 11th Cir. Ct. Feb. 27, 2025) and *Marquez v. Lazarow*, 29 Fla. L. Weekly Supp. 797a (Fla. 11th Cir. Ct. Jan. 18, 2022). These cases arise from the Eleventh Judicial Circuit — Miami-Dade County. The Eleventh Circuit is not the Sixth. For lodestar purposes, the relevant market is where the suit was filed. *Rowe*, 472 So. 2d at 1150–51; *Sos v. State Farm Mut. Auto. Ins. Co.*, No. 21-11769 (11th Cir. 2023) (applying Florida law; holding deviation from local community standard is reversible error). Miami-Dade County is one of the most expensive legal markets in Florida and is not representative of Pinellas County circuit court practice.

30. Defendants have submitted no evidence of prevailing hourly rates for comparable defamation defense work in the Sixth Judicial Circuit. The affidavit's exclusive reliance on Miami-Dade state court decisions and federal district court authority is legally insufficient to establish the

applicable market rate for this proceeding. See *Smith v. School Board of Palm Beach County*, 981 So. 2d 6 (Fla. 4th DCA 2007) (expert must have comparable case and market experience to give competent opinion on market rate).

31. The Court should conduct an independent lodestar analysis based on competent evidence of prevailing rates for comparable work in Pinellas County circuit court. Defendants bear the burden of establishing those rates through proper evidence. They have not met that burden.

32. The inadequacy of Defendants' rate evidence is further demonstrated by what they chose ***not*** to submit. TLo's own publicly available marketing materials confirm that the firm regularly represents newspapers, local publishers, television stations, and individual journalists in Florida state court defamation and invasion of privacy matters. See Composite Exhibit C. TLo describes its media law practice as serving clients "large and small" and lists among its representative matters numerous Florida circuit court defamation defense engagements — including circuit court matters in the Eleventh Judicial Circuit and other Florida state courts — that are directly comparable in client type, practice area, and forum to this proceeding. Id. Yet the Fee Affidavit submits no evidence of the rates TLo charged in any of those matters. Instead, Defendants bypassed their own directly comparable work and cited large federal commercial cases handled by entirely different law firms representing institutional corporate clients. This supports the reasonable inference that TLo's actual rates in comparable Florida state court media engagements — had they been disclosed — would not support the figures claimed here. The omission of directly comparable evidence, in favor of inapposite federal authority from other firms, and in higher-market jurisdictions is itself probative of the weakness of Defendants' rate claim.

C. Every case cited by Defendants involved institutional clients, nationally prominent law firms, and litigation contexts categorically different from this proceeding — and TLo represented no party in any of them.

33. The inadequacy of Defendants' rate evidence is not limited to the fact that the cited cases are non-binding federal/state out of market decisions from the wrong court systems. Each case also involved parties whose institutional profiles, financial resources, and litigation contexts differ so fundamentally from this matter that the approved rates carry no probative weight here. Moreover, a review of the official PACER docket for each cited federal case confirms that TLo represented no party in any of them. The rates approved in those proceedings were rates charged by different law firms — Holland & Knight LLP, King & Spalding LLP, Carlton Fields PA, The Ticktin Law Group, and Marks Gray PA — to entirely different clients in entirely different types of litigation. Defendants are asking this Court to use rates approved for nationally prominent large law firms representing institutional corporate clients as the benchmark for TLo's fees in a state court defamation matter that was resolved entirely at the pleading stage without discovery, depositions, or any evidentiary proceedings — a comparison the lodestar standard does not permit.

34. *GS Holistic LLC v. Brother Pastor LLC*, No. 8:22-cv-2179 (M.D. Fla. 2023): GS Holistic was represented by The Ticktin Law Group; the defendant, Brother Pastor LLC d/b/a Largo Smoke Shop, was represented by Marks Gray PA and Lippes Mathias LLP. The fee context was a federal trademark sanctions proceeding — the court dismissed the case and entered sanctions against GS Holistic's counsel for continuing to pursue meritless trademark infringement claims against a small local smoke shop after multiple judicial warnings. GS Holistic is a California-based wholesale distributor of cannabis accessories that filed nearly identical trademark lawsuits against hundreds of small retail shops across the country. TLO represented no party.

The practice area is federal trademark law. The client profile — an aggressive national serial litigant — bears no resemblance to a small Pinellas County weekly newspaper.

35. *Smith v. Costa Del Mar, Inc*., No. 3:18-cv-1011 (M.D. Fla.): The plaintiff class was represented by Holland & Knight LLP. This was a multi-year, multi-plaintiff nationwide consumer class action under the Magnuson-Moss Warranty Act involving a proposed settlement valued at over $60 million, with class counsel ultimately awarded $8 million in fees. The case reached the Eleventh Circuit twice and was dismissed after seven years of litigation on jurisdictional grounds. Costa Del Mar is a subsidiary of EssilorLuxottica — the largest eyewear company in the world, a French-Italian multinational with approximately €25 billion in annual revenue and operations in more than 150 countries. TLo represented no party. The complexity, duration, stakes, and institutional resources involved in that litigation are not comparable to a state court defamation matter resolved without a single deposition, discovery request, or evidentiary proceeding of any kind.

36. First National Bank of Oneida, N.A. v. Brandt, No. 8:16-cv-51 (M.D. Fla.): First National Bank of Oneida was represented by Carlton Fields PA. This was a federal banking and commercial real estate deficiency action involving a $1,227,712.95 claim against a commercial real estate investor who owned approximately 50 properties across four states, a Chapter 11 bankruptcy proceeding, plan confirmation disputes, and multiple Eleventh Circuit appeals spanning more than five years. TLo represented no party. The practice area — federal banking and commercial real estate deficiency litigation — has no overlap with state court defamation defense. The rates approved for Carlton Fields PA in complex multi-year federal banking litigation are not probative here.

37. *Family First Life LLC v. Rutstein*, No. 9:22-cv-80243 (S.D. Fla.): Family First Life was represented by King & Spalding LLP. Family First Life is a national insurance marketing organization acquired by Integrity Marketing Group, a large private equity-backed insurance distribution platform. King & Spalding filed a multi-count federal action under the Lanham Act, FDUTPA, common law unfair competition, tortious interference, libel per se, defamation, and civil conspiracy against multiple defendants, including individuals residing in Jerusalem, Israel — and opened with an emergency motion for a temporary restraining order. TLo represented no party. The multi-count, multi-defendant, international complexity of that litigation stands in stark contrast to this case.

38. *Bello v. Hulu LLC* (Fla. 11th Cir. Ct.): Hulu LLC is a wholly-owned subsidiary of The Walt Disney Company. In 2024, Hulu generated approximately $12 billion in revenue, operated with over 2,300 employees, and served more than 64 million paid subscribers. Hulu carries the full institutional and financial resources of one of the largest entertainment and media conglomerates in the world. In contrast to every client in every case Defendants cite — each of which had the institutional resources, litigation reserves, and coverage infrastructure of a major corporation — The Gabber Newspaper is a small, independently owned, locally operated weekly publication paying TLo directly at a discounted rate. Asking this Court to use rates approved in proceedings involving multinational conglomerates and institutionally resourced defendants as the benchmark for fees in this engagement is not a meaningful legal comparison.

39. The pattern across every case Defendants cite is the same: the parties whose rates were at issue were represented by Holland & Knight LLP, King & Spalding LLP, Carlton Fields PA, The Ticktin Law Group, and Marks Gray PA — not TLo. The clients were a multinational eyewear conglomerate, a federally chartered bank, a private equity-backed national insurance organization, a mass-filing trademark litigant, and a Disney subsidiary — all institutionally

resourced, all with the financial infrastructure to fund full-rate commercial litigation. Not one case involves TLo as counsel. Not one involves a small, independently owned, single-location community newspaper paying discounted self-pay rates. Not one arises from Pinellas County circuit court defamation defense practice. Defendants cannot establish TLo's reasonable market rate for this representation by pointing to rates that other law firms charged other institutional clients in unrelated out of market federal/state litigation.

40. Defendants' submission does not provide the Court with competent evidence of the prevailing market rate for comparable work in this forum. Instead, it offers a collection of inapposite federal cases involving different firms, different clients, and fundamentally different litigation contexts. The lodestar analysis requires more. On this record, the claimed rates cannot be accepted as reasonable without independent adjustment.

D. The Court should conduct an independent lodestar analysis anchored to Pinellas County market data.

41. Defendants bear the burden of establishing the market rate. They have not met it. In the absence of competent Sixth Judicial Circuit comparators, the Court should exercise its independent authority to determine the prevailing rate. *Rowe*, 472 So. 2d at 1150 (trial court "remains an expert on the issue of hourly rates in its community and may properly consider its own knowledge and experience concerning reasonable and proper fees").

42. Plaintiff does not supply a specific rate figure; that determination is Defendants' burden to prove with competent local market evidence, and they have not met it. The Clio Legal Trends Report places the average civil litigation attorney rate in Florida at $324 per hour. Clio, Legal Trends Report: Florida Civil Litigation, available at clio.com/resources/legal-trends/compare-lawyer-rates/fl/ (data updated 2025). That $324 figure reflects a statewide average that includes Florida's premium billing markets — Miami-Dade, Broward, and Hillsborough — which pull

the average upward. Pinellas County, as a mid-market jurisdiction below those premium billing centers, is not a market for which the statewide average establishes the applicable rate. The Court should determine the applicable market rate from the available data and its own expertise under *Rowe*, 472 So. 2d at 1150, uninstructed by either the billed rates or the unsupported claimed standard rates.

IV. SPECIFIC BILLING ENTRIES ARE EXCESSIVE, BLOCK-BILLED, OR OTHERWISE UNREASONABLE AND SHOULD BE REDUCED OR DISALLOWED.

43. Under Rowe, the Court must conduct an independent analysis of the hours claimed and exclude hours that are "excessive, redundant, or otherwise unnecessary." Rowe, 472 So. 2d at 1150. Block billing — the practice of lumping multiple discrete tasks into a single time entry — prevents meaningful assessment of the reasonableness of any individual task and warrants reduction or disallowance. *Haines v. Sophia*, 711 So. 2d 209, 211 (Fla. 4th DCA 1998) (reversing fee award where multiple attorneys billed the same hearings, time entries were duplicative, and extraordinary hours were claimed after the essential issue had already been resolved). Where fee-bearing and non-fee-bearing work is commingled in a single entry without allocation, the movant has failed to carry its segregation burden and the entry should be reduced or disallowed to the extent the non-recoverable portion cannot be identified with confidence. *Effective Teleservices, Inc. v. Smith*, 132 So. 3d 335, 339 (Fla. 4th DCA 2014); Van Diepen, 55 So. 3d at 614. Where a precise line-item exclusion is not feasible because the entry does not permit confident parsing, the appropriate remedy is a percentage reduction calibrated to the degree of commingling — not wholesale acceptance of the full entry. Additionally, work necessitated by a client's own business decisions, rather than the requirements of the litigation, should properly be borne by the client rather than charged to the

opposing party. *Baratta v. Valler Oak Homeowner's Ass'n*., 928 So. 2d 495, 499 (Fla. 2d DCA 2006).

44. A significant portion of the claimed fees were incurred during a court-ordered litigation stay (Docket No. 107) that was in effect from November 20, 2024 through July 17, 2025 (Docket No. 147) — a period of approximately eight and a half months during which no discovery was permitted, no depositions were taken, no evidentiary record was developed, and no active litigation was conducted. The stay-period billing warrants heightened scrutiny and exclusion or reduction for four independent and compounding reasons.

45. **First:** The stay originated with the Court's own sua sponte motion (Docket No. 85, November 4, 2024). It was not requested by any party. It was not precipitated by any conduct of Plaintiff. The billing period that followed was created entirely by the Court's own initiative.

46. **Second:** Plaintiff actively opposed the stay. On November 8, 2024, Plaintiff filed a written response to the Court's sua sponte motion (Docket No. 90) specifically opposing a stay as to Defendant Loper, arguing that she was not a party to the pending federal action and that the comity rationale supporting the stay did not apply to her. The stay was entered over Plaintiff's express, on-the-record objection. Plaintiff fought to keep the litigation moving forward. Defendants did not.

47. **Third:** Defendants affirmatively consented to the stay. On November 11, 2024 — three days after Plaintiff's opposition was filed — Defendants filed their response to the Court's motion (Docket No. 96), stating in its entirety that Loper "does not oppose a stay of this proceeding." While Plaintiff was urging the Court to maintain an active docket as to Loper, Defendants were strategically embracing the pause. That was Defendants' choice, made with full knowledge of Plaintiff's objection. Having elected to accept eight and a half months of court-ordered

inactivity against Plaintiff's express opposition, Defendants cannot now characterize the costs incurred during that period as reasonably necessary Anti-SLAPP defense work and shift them to Plaintiff.

48. **Fourth**: When Plaintiff subsequently moved to lift the stay after all overlapping defendants had been transferred or dismissed — leaving only Cathy Salustri-Loper and ultimately TMI, who had never been parties to the federal action — Defendants opposed that motion as well (Docket No. 131, June 3, 2025), arguing the stay should remain in place until their Anti-SLAPP defenses were fully resolved and any award paid.

49. Defendants had it both ways: they consented to the stay when it served their strategic interests and actively opposed its termination when Plaintiff sought to resume litigation. The billing clock ran throughout both positions. The combination of these four facts — court-initiated stay, Plaintiff's active opposition, Defendants' affirmative consent, and Defendants' subsequent opposition to termination — compels exclusion of clearly collateral stay-period work and requires reduction of mixed entries where Defendants have not demonstrated segregation between recoverable Anti-SLAPP defense work and work that served other purposes.

50. Billing records in Exhibit A reflect that during this stay period, Defendants' counsel billed for: legal analysis of settlement proposals and strategic responses to settlement overtures; extensive client communications including emails, calls, and status updates; monitoring of federal, D.C., and Florida Supreme Court proceedings; developing Anti-SLAPP motion arguments for anticipated post-stay proceedings; and substantive drafting including Anti-SLAPP argument development and motion preparation. Work of this nature during a period of court-ordered inactivity that Defendants strategically elected to maintain against Plaintiff's express opposition is not recoverable Anti-SLAPP defense work. Stay-period entries that are clearly

collateral should be excluded entirely. Mixed entries that commingle any recoverable work with non-recoverable work should be reduced to reflect only the demonstrably recoverable portion, with any ambiguity resolved against the movant who bears the segregation burden. The specific entries and objections are identified in Category B of Plaintiff's Exhibit 1.

51. The billing records also reflect that multiple senior attorneys — including partners Caramanica and McGuire, and associate Ernest — billed premium rates during the stay period for work characterized as review, strategy input, editing, and hearing preparation research. The use of multiple senior attorneys performing overlapping review and strategy functions during a period when no litigation activity was occurring or permitted reflects a top-heavy staffing model that does not translate into reasonable, necessary Anti-SLAPP defense costs. Work performed by premium-rate attorneys during procedural inactivity, for the purpose of positioning Defendants for future offensive moves rather than responding to active litigation demands, is not the type of legal work the fee-shifting statute was designed to compensate. The specific duplicative and overstaffed entries are identified in Category E of Plaintiff's Exhibit 1.

52. Plaintiff submits Exhibit 1 — a line-by-line response to Defendants' billing records identifying each disputed entry, the basis for each objection, and the category-level exclusion or reduction requested, as contemplated by this Court's practice preferences. Exhibit 1, organized by Categories A through G, is incorporated herein by reference.

53. In summary, the billing records contain numerous entries that are: (a) attributable to separate litigation; (b) block-billed without sufficient task description to assess individual reasonableness; (c) related to settlement negotiation rather than Anti-SLAPP defense; (d) related to affirmative sanctions and vexatious litigant strategy rather than Anti-SLAPP defense; (e) related to fee award strategy rather than Anti-SLAPP defense; (f) redacted and therefore

incapable of assessment; or (g) incurred during a court-ordered stay that Plaintiff opposed, Defendants consented to, and Defendants subsequently fought to maintain — a billing period created by the Court's own initiative and exploited by Defendants at Plaintiff's expense for work that was not reasonably necessary Anti-SLAPP defense. When these entries are excluded or reduced, and a proper lodestar analysis is conducted based on competent evidence of Pinellas County circuit court rates, the recoverable amount is substantially lower than the $70,406.50 demanded.

V. FINANCIAL CIRCUMSTANCES RELEVANT TO STAY, SECURITY, AND SCHEDULING OF PROCEEDINGS.

54. While § 768.295(4) uses mandatory language as to the award of fees upon a finding of entitlement, the Court retains discretion in determining the reasonable amount of the award and any conditions attached to stay or enforcement proceedings. The Fee Affidavit itself confirms that TLo agreed to bill Defendants at discounted rates specifically because The Gabber is a small, independent, locally-owned weekly newspaper with limited ability to pay. Lake Aff. ¶ 18. That voluntary assessment — by the same attorneys now seeking standard rates — is among the strongest available evidence of the theoretical maximum of what this representation actually warranted in this market for this client, and it should inform, not contradict, the Court's independent lodestar determination.

55. Plaintiff's personal financial circumstances are separately relevant to the Court's exercise of discretion on bond, security, and the conditions of any fee proceedings. Plaintiff is a Social Security Disability Insurance recipient with a monthly SSDI benefit of $3,561 and minimal dividend income. Plaintiff's personal net worth is deeply negative. Plaintiff's liquid assets consist substantially of SSDI direct deposit funds held in bank and money market accounts, which are exempt from execution under 42 U.S.C. § 407 and *Philpott v. Essex County Welfare*

Board, 409 U.S. 413 (1973), regardless of the amount on deposit. There are effectively no non-exempt assets available to satisfy any fee judgment.

56. On February 6, 2026, Plaintiff filed an Application for Determination of Civil Indigent Status (DN 192) and simultaneously signed the judicial review request line on the same document, requesting that this Court review any adverse clerk's determination as expressly authorized by § 57.082, Florida Statutes. The form itself states there is no fee for this review. On February 10, 2026, the Clerk of Court stamped the application "Not Indigent," applying the statutory formula comparing gross income to 200% of the federal poverty level — a mechanical calculation that does not account for the federal exemption of SSDI income from levy and execution under 42 U.S.C. § 407. The clerk's issuance of a final determination without forwarding the matter to the Court for the judicial review simultaneously requested on the face of the same document may be a procedural error under § 57.082. That judicial review has not been scheduled.

57. Plaintiff respectfully submits that the clerk's statutory income calculation does not resolve the financial question before this Court. The practical reality is that Plaintiff's income consists entirely of SSDI benefits that cannot lawfully be seized to satisfy a money judgment, Plaintiff's personal net worth is negative, and there are no non-exempt assets from which any award could be collected. These facts are directly relevant to: (a) the Court's discretion to impose only tailored conditions short of a full supersedeas bond — or no additional conditions at all given the absence of non-exempt assets — under *Platt v. Russek*, 921 So. 2d 5 (Fla. 2d DCA 2004); and (b) the scheduling of the pending judicial review of the indigency determination.

58. These circumstances do not eliminate the statutory right to fees if entitlement is upheld on appeal. They do, however, counsel strongly in favor of granting the pending stay, imposing

only tailored and realistic conditions short of a full supersedeas bond — if any conditions are required at all given the absence of non-exempt assets — and scheduling the pending judicial review of the indigency determination before any fee proceedings advance further.

VI. THE AGGREGATE HOURS CLAIMED ARE UNREASONABLE FOR A PLEADING-STAGE CIRCUIT COURT DEFAMATION MATTER AND WARRANT AN INDEPENDENT ACROSS-THE-BOARD REDUCTION.

59. Beyond the specific categorical objections set forth above, the Court must independently assess whether the aggregate claimed hours are reasonable in light of the nature and complexity of this litigation as a whole. *Rowe*, 472 So. 2d at 1150. Florida courts reduce fee awards for "over-lawyering" — the expenditure of more time than would ordinarily be required to resolve the type of dispute at issue in the community. *Haines v. Sophia*, 711 So. 2d 209, 211 (Fla. 4th DCA 1998) (court should consider whether it was reasonable to continue work "after it appear[s] that the essential issue ha[s] already been resolved").

60. Defendants claim 142.9 hours to defend a case that: was resolved entirely at the pleading stage; involved no depositions, no interrogatories, no requests for production, no requests for admission, and no evidentiary proceedings of any kind; was stayed by court order for eight and a half months; and ultimately turned on a single defamation count against a small community newspaper.

61. National Center for State Courts civil litigation cost data, adjusted for inflation, places the median attorney cost for all phases of civil litigation through pre-trial — in a state without an Anti-SLAPP law, where full discovery is permitted — at approximately $39,000, with the 75th percentile at $92,673. At the actual billed rate of $395 per hour, 142.9 hours produces $56,320.50 — squarely at the top of that 75th percentile benchmark, for a case with no discovery whatsoever. A reasonable benchmark for the primary timekeeper in a single-count

pleading-stage defamation defense in Pinellas County circuit court — accounting for multiple amended complaints, oral argument, and a contested stay — is 70 to 90 hours. Even accounting generously for co-defendant coordination and the unique procedural history, 100 hours total across all timekeepers represents a reasonable ceiling for work legitimately attributable to Anti-SLAPP defense in this action.

62. After application of the categorical exclusions in Categories A through F, the Court is respectfully requested to apply an across-the-board reduction of not less than 30% to any remaining entries, consistent with its authority under *Rowe* to independently assess whether the aggregate hours "would ordinarily have been spent" by lawyers in this community to resolve this type of dispute.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Court:

A. Grant Plaintiff's pending Motion to Stay Collateral Proceedings Pending Appeal, impose only tailored conditions short of a full supersedeas bond, if any, consistent with Plaintiff's SSDI-exempt income and negative net worth, and defer all fee proceedings pending resolution of Case No. 2D2026-0281 before the Second District Court of Appeal;

B. In the alternative, if the stay is denied, deny Defendants' Motion for Judgment for Fees and Costs for failure to establish the claimed rates through competent evidence from the relevant Pinellas County circuit court market and failure to limit claimed entries to work performed in connection with the Anti-SLAPP claim;

C. In the further alternative, substantially reduce the fee award by: (a) conducting an independent lodestar analysis to determine the prevailing Pinellas County circuit court

market rate from available data and the Court's own expertise under Rowe — which Plaintiff submits is materially below the claimed standard rates and in any event no higher than the actual billed rates under Rowe, 472 So. 2d at 1151, Perez-Borroto v. Brea, 544 So. 2d 1022 (Fla. 1989), and, on this record — absent any shown alternative fee-recovery clause — Compass Construction, Inc. v. First Baptist Church of Cape Coral, Fla., Inc., 61 So. 3d 1273 (Fla. 2d DCA 2011) — rather than accepting the unsupported claimed rates; (b) excluding entries attributable to separate litigation, vexatious litigant analysis, settlement negotiation, fees-on-fees strategy, and redacted entries; (c) excluding clearly collateral entries incurred during the court-ordered stay — including monitoring of separate proceedings, settlement administration, and client business decisions — and reducing mixed stay-period entries where Defendants have not demonstrated segregation between recoverable Anti-SLAPP work and work serving other purposes; (d) reducing block-billed and partner-overstaffed entries as set forth in Plaintiff's Exhibit 1; (e) applying an across-the-board reduction of not less than 30% to any hours remaining after the Court resolves Categories A through F, consistent with Category G of Exhibit 1 and the Court's independent authority under Rowe, 472 So. 2d at 1150, to assess whether aggregate hours are reasonable for this type of litigation in this community; and (f) imposing only tailored conditions short of a full supersedeas bond, if any;

D. Schedule a hearing on Plaintiff's pending judicial review of the Clerk's determination of civil indigent status, which was contemporaneously requested on the face of the application and has not been forwarded or scheduled;

E. Require the parties to complete mediation before scheduling any fee hearing, consistent with this Court's practice preferences; and

F. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ John W. Liccione
John W. Liccione
Plaintiff, Pro Se
1497 Main St., Suite 196
Dunedin, FL 34697
jliccione@gmail.com
(443) 698-8156

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 7, 2026, a true and correct copy of the foregoing was served by email upon James B. Lake, Esq., attorney for Defendants, at jlake@tlolawfirm.com.