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Attorneys for Jeffery Dean Black

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

<p>JEFFERY DEAN BLACK,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>IRVING MATERIALS, INC.,</p> <p style="text-align: center;">Defendant.</p> <hr/> <p>IRVING MATERIALS, INC.,</p> <p style="text-align: center;">Counter-Claimant,</p> <p style="text-align: center;">vs.</p> <p>JEFFERY DEAN BLACK,</p> <p style="text-align: center;">Counter-Defendant.</p>	<p>Case No. 5:17-cv-06734-LHK</p> <p>DECLARATION OF MIKE RODENBAUGH IN SUPPORT OF JEFFERY DEAN BLACK'S MOTION FOR ATTORNEYS' FEES</p>
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1 I, Mike Rodenbaugh, under penalty of perjury under the laws of the United States, hereby
2 declare pursuant to 28 U.S.C. § 1746 as follows:

3 1. I am counsel to Plaintiff and Counter-Defendant Jeffery Dean Black, (“Black”) in this
4 action.

5 2. I am submitting this declaration in support of Black’s motion for attorneys’ fees filed
6 concurrently herewith.

7 3. Pursuant to L.R. 54-5(b)(1), I emailed opposing counsel (Ms. O’Brien and Ms.
8 Wirtschafter) on Friday, Aug. 16, indicating Mr. Black’s intent to file this motion and requesting
9 to meet and confer per this rule. Having received no response, I followed up via a second email
10 on Wednesday, Aug. 21. That evening, I received a response beginning “We do not believe that
11 either the facts or the law support your contention that you are entitled to seek attorneys’ fees in this
12 lawsuit.” Therefore, no live conference was held, because the parties do not agree to the
13 substance of the motion and a live conference would not change that.

14 4. Pursuant to L.R. 54-5(b)(2), I have reviewed the firm’s time entries and billing records in
15 this matter, which total \$480,843 in hourly billings. This number is based on a total of 1143
16 attorney hours worked by attorneys at Rodenbaugh Law since their engagement with this lawsuit
17 in January, 2018, then sixteen months of solid litigation up to and including trial in June 2019,
18 research re post-trial motions and preparation of this motion and bill of costs. This breaks down
19 to 620 hours by Mike Rodenbaugh, 377 hours by Marie Richmond, and 146 hours by Ivan
20 Blumberg.

21 5. The work performed by Mr. Rodenbaugh and Ms. Richmond included shared handling of
22 some 200 docket entries in the case to date, through a three day jury trial in June. Our work
23 included initial case intake and analysis, amended complaint, answer to counterclaim,
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1 disclosures, case management work, mediation with Shirish Gupta, document discovery, written
2 discovery requests and responses, discovery motion practice, depositions of Mr. Black and three
3 Irving witnesses, expert witness report and deposition, motion for summary judgment, opposition
4 to Irving motion for summary judgment, two settlement conferences with Judge Cousins, pretrial
5 disclosures, motions in limine and opposition to Irving's motions in limine, opposition to Irving
6 motion re jury trial, opposition to Irving motion to seal, pretrial conference, jury instructions and
7 verdict form, voir dire, trial exhibits, trial slides, opening and closing arguments, examination of
8 Mr. Black and Dr. Wright, cross-examination of three Irving witnesses, jury verdict, review of
9 court findings, research re post-trial motions, and preparation of this motion for fees and bill of
10 costs. The work performed by Mr. Blumberg was generally legal research, document review,
11 drafting of discovery requests, motions and the mediation brief, and trial support.
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14 6. Additional billings may yet be incurred with respect to post-judgment motions and/or any
15 appeal, and should also be recoverable.

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17 7. Pursuant to L.R. 54-5(b)(3), I am a trademark attorney with 24 years of experience
18 litigating and overseeing litigation in this District. My billing rate is \$525 per hour. Marie
19 Richmond is a trademark attorney with 6 years of experience working with my firm. Her billing
20 rate is \$325 per hour. Ivan Blumberg is an attorney with 4 years of experience, two of them with
21 my firm. His billing rate is \$225 per hour. I am acquainted with the billing rates of other
22 boutique IP law firms in this area, and understand that our rates are extremely competitive. They
23 are certainly far lower than rates charged by large law firms like Reed Smith.

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25 8. Detailed Rodenbaugh Law billing records can be produced to the court *in camera* if so
26 requested.
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DATED: August 23, 2019

Respectfully submitted,

/s/ Mike Rodenbaugh
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