

2001

Mary Sawyers and United Television, Inc. aka KTVX v. Michael Jensen, M.D. : Reply Brief

Utah Supreme Court

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IN THE UTAH SUPREME COURT

MARY SAWYERS and UNITED
TELEVISION, INC., aka KTVX,

Defendants/Appellants,

v.

MICHAEL JENSEN, M.D.,

Plaintiff/Appellee.

Supreme Court No. 2001 1023-SC

Fourth District Court
Case No. 970400512 CV

(Honorable Ray M. Harding, Jr.,
Presiding, District Court Judge)

CORRECTED CROSS APPELLANT'S REPLY BRIEF

ON APPEAL FROM A FINAL JUDGMENT OF THE FOURTH JUDICIAL
DISTRICT COURT FOR UTAH COUNTY, STATE OF UTAH
HONORABLE RAY M. HARDING, JR., PRESIDING DISTRICT COURT JUDGE

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NOV 10 2003

**PAT BARTHOLOMEW
CLERK OF THE COURT**

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Pursuant to Rule 24(c) of the Utah Rules of Appellate Procedure, Cross Appellant Michael Jensen, M.D., respectfully submits this Corrected Reply Brief.

ARGUMENT

I. Attorney Fees Should be Allowed in Total

A. *Cottonwood v Sine* Supports Payment of All Attorney Fees

Under *Cottonwood Mall Co. v. Sine*, 830 P.2d 266 (Utah 1992), the court allowed attorney fees for efforts related to a lease contract which provided for attorney fees, but disallowed them for legal efforts expended after the tenant had vacated the property and for legal efforts used in denying the validity of an oral contract for a new lease. Defendant had filed a counterclaim to enforce an alleged oral agreement. No attorney fees were allowed for defense against the counterclaim as that was not a part of the lease nor were attorney fees allowed for efforts to collect after Defendant had vacated the premises.

The *Cottonwood Mall Co.* Court found that Plaintiff had the burden of presenting evidence sufficient to support an award which evidence should include hours spent on the case, hourly rate or rates charged for those hours and the usual and customary rates for such work. Plaintiff/Appellant satisfied that burden to the trial court both in the first presentation [R. 5950] and in the amended presentation [R. 6367]. Additionally the Trial Court requested that Plaintiff separate the efforts into the various claims to determine which claims could legitimately support attorney fees.

The present case is not like *Cottonwood Mall Co.* which was based upon a different legal theory and fact situation - two distinct different claims both factually and legally. The

present case presents a common core of facts and related legal theories. (Hidden Camera) It is impossible to separate only U.C.A. 76-9-401 & 406 claims from the rest. The Hidden Camera violation was the proximate cause of the broadcasts and all damages suffered by Dr. Jensen. All are entwined and under *DeJavue, Inc. v U.S. Energy Corp.*, 1999 Ut. App 355, 993 P.2d 222, all attorney fees should be allowed or at the very least those attorney fees which had common facts necessary to both types of actions. In this matter Plaintiff separated the attorney fees into claims under U.C.A. 76-9-401 and Common Law Intrusion which included like facts for other matters That were common to both and other matters which did not have common facts and did not claim attorney fees on the other matters not having a common factual basis. The Trial Court rejected this approach and denied the attorney fees billed by Attorney Sine.

Under the Affidavit of Attorney Sine, [R. 6714], *see* App. A, the following statements are sworn to:

4. I acted as lead counsel with co-counsel Dale F. Gardiner and his firm in this matter. The nature of the work performed and an itemization of the time spent is set forth on the attached billing statements. Exhibit "A" [R. 6715 at 4-7]

5. Records were not kept breaking down the hours between 76-9-401, Common Law Intrusion, and the other various Claims. Counsel has personally reviewed all of the billings and has attempted to break down the hours between 76-9-401 and Common Law Intrusion and all other claims. Counsel first attempted to break down between the hours between 76-9-401 and Common Law Intrusion but because of the defining of a private place and over lapping which is critical to both 76-9-401 and Common law Intrusion that became impossible.

The attached break down as to the hours and attorney fees for 76-9-401 and Common Law Intrusion includes also some of the

other claims but because of the overlapping nature of the event it is not possible to break down the attorney hours and fees between the other claims. An example of this are the various motions which included the Statutory and Common Law Intrusion along with the various other claims plus the trial itself. It is impossible to designate the amount of the argument before the Court and even the amount of time in developing the brief which was used for each of the various components. Therefore if Statutory and Common Law Intrusion were a part of the event it was included in the Statutory and Common Law Column.

As to the items which are included under the other claims, only the other claim activity were developed as to number of hours and attorney fees. Where there was a question, the benefit of the doubt was given to other claims column. In short other claims includes time spent only for the other claims and under the category of 76-9-401 and Common Law Intrusion, time is commingled thereunder with time spent on the other claims which at this time is impossible to separate.

Therefore, the amount of time charged by myself to prosecute Plaintiff's claim of Statutory and Common Law based upon my normal hourly rate of \$250.00 per hour is broken down as follows:

Legal fees for time spent on Statutory and Common Law Intrusion including non separable other claims:

\$259,037.50

Legal fees for time spent on all other claims:

\$ 79,387.50

The number of hours are designated on the billing sheet which is a part of this affidavit. [R. 6715 at 5-21] [R. 6716 at 1-20]

* * *

9. The legal work charged by the affiant was for prosecution of the law suit as necessitated by the Defendants various pleadings including interview, research, and preparation of the various pleadings. All of the work p[re]formed was necessary for the adequate prosecute of this matter. [R. 6717 at 18-22]

B. Fact/Legal Theory Satisfy *Kurth* and *Dejavue*

Dejavue, Inc. v. U.S. Energy Corp., 1999 UT App 355, ¶ 20, 993 P.2d 222, defined the standard as set in *Cottonwood Mall Co.* as follows: “when a plaintiff brings multiple claims involving a common core of facts and related legal theories, and prevails on at least some of its claims, it is entitled to compensation for all attorney fees reasonably incurred in the litigation.” *Id.*, *Kurth v Wiarda*, 15, 991 P.2d 1113, found that when other causes of action are found by the trial court to be closely related and intertwined, it is proper for the trial court to award attorney fees for all claims even though not all claims independently allow attorney fees.

It would be difficult at best, to take a deposition of a Doctor wherein the privacy issue of the examination was covered and then try and determine what percentage of the Deposition was covering privacy issues and what portion was covering alleged non independently allowed attorney fees claims.

The items which Plaintiff/Appellee/Cross Appellant included under the claims which independently allow attorney fees, included work necessary to establish the statutory offense against privacy including proof of malice and proof of damages along claims which independently did not allowed attorney fees by themselves but for which the evidence applied to both.

Counsel for Plaintiff/Appellee/Cross Appellant attorney Sine states in his Affidavit, that where, in his opinion, a conflict arose he classified it as a non attorney fee compensable claim.

Under *Kurth* and *Dejavue*, the trial court erred in demanding a separation into

attorney fees for only the Statutory and Common Law Intrusion offense.

C. Trial Court Ruled Sine Satisfied Conditions Found in Dixie Bank

In its' July 31, 2001 order, the Trial Court found that Plaintiff's attorney fees satisfied the conditions set forth in *Dixie State Bank v Bracken*, 764 P.2d 985 (Utah 1998) and reaffirmed in *Valcarve V. Fitzgerald*, 961 P.2d 305 (Utah 1998). The Trial Court's Ruling dated September 26, 2001 stated the following:

“Both attorneys’ affidavits seem to show their work to be reasonably necessary to adequately prosecute all the claims. [R. 6780 at 1-2]

The Court also found that “[b]oth attorneys provided Plaintiff with extensive legal services in bringing this case to trial.” [R. 6779 at 14-15]

Additionally the Court found “that the billing rate for attorneys along the Wasatch Front with experience like that of Mr. Sine and Mr. Gardiner allows this Court to find that a reasonable fee for such attorneys would be \$200.00 per hour.” [R. 6780 at 9-11]

Pursuant to Rule 1.5 of the Utah Rules of Professional Conduct, the Court found as follows:

“First, an extensive amount of time and labor was required to try this case. Mr. Sine and Mr. Gardiner prepared for nearly two years before this case came to trial. The trial lasted five weeks, and required preparation and the assistance of several associates.” [R. 6781 at 10-12]

The above findings by the Trial Court clearly satisfy the four conditions set forth in *Valcarve*, 961 P.2d 305. [R. 6776] The question on which the Trial Court erred was distribution of the time between what the Trial Court found to be clearly allowing attorney

fees and those efforts used both the Utah Code Ann. § 76-9-401 claims and other claims using the same facts and legal theories. Plaintiff's attorney Sine in his affidavit stated that his legal efforts could only be categorized into non attorney fee compensatory (non Utah Code Ann. § 76-9-401(a)&(b) claims) and claims whose efforts benefitted both non attorney compensatory fees and independently allowed attorney fees claims pursuant to Utah Code Ann § 76-9-401(a)&(b). [R. 6714] The evidence which the Trial Court had before it was the affidavit of Sine. No other evidence was presented to contradict Sine's evidence and therefore the Trial Court was arbitrary and abused its discretion in determining that what was presented was not adequate. Under the facts at hand, only Sine was able to determine whether legal efforts benefitted both the non compensatory and Utah Code Ann. § 76-9-401 compensatory claims and if it were possible to divide the efforts between the two.

Both *Cottonwood Mall Co.* and the subsequent defining *Kurth* and *Dejavue* decisions support Sine's attorney fee presentation. *Cottonwood Mall Co.* states that where the events surrounding the event have dissimilar facts and legal theories, attorney fees do not apply to non attorney fee claims. *Kurth* and *Dejavue* state that where the legal theories and the facts are similar, then attorney fees may be paid for the non attorney fee claims when success is had in the independently allowed attorney fees claims.

That is what the affidavit of Sine stated. The work claimed would have had to be done for the Utah Code Ann. § 76-9-401(a)&(b) claims (which allow attorney fees) as well as for certain non allowed legal fee claims.

Under *Cottonwood Mall Co.*, *Kurth*, and *Dejavue* all attorneys fees should be assessed to the Defendants but if the attorney fees are dividable between the various claims (which is the

same for both (a) non independently allowed attorney fees claims and independently allowed attorney fees U.C.A. § 76-9-401(a)&(b) claims; and (b) those claims which were not necessary for the U.C.A. § 76-9-401(a)(b) claims) then those hours as set forth in Sine's affidavit should be paid at the rate of \$200.00 per hour, which rate was found to be reasonable by the Trial Court.

D. The Hidden Camera Video Was A Proximate Cause of Damages

It is proper to include the attorney fees granted pursuant to U.C.A. § 76-9-401(a) & (b) and U.C.A. § 76-9-406 for the time spent upon the Common Law Intrusion upon Seclusion claims since some benefit received went to the Statutory Intrusion Claims. Under *Cottonwood Mall Co.*, 830 P.2d 266, the Court specifically stated that it did not want to turn attorney fees into a full discovery matter. The privacy of an examination room was the key stone to both the Common Law Intrusion Claim and the Title 76 Statutory Privacy Act Claim. No depositions, Arguments in Summary Judgment, etc. would be complete without that issue being thoroughly dealt with.

Every physician who was deposed was asked whether the examination room was a private area and was asked to describe how he would feel as a physician if camera was placed in his examination room. The violation under U.C.A. § 76-9-401(a) & (b) was the proximate cause of all of the Plaintiff/Appellee/Cross Appellants Claims. Without the violation of U.C.A. § 76-9-401(b) the Broadcasts with their false light, and defamation would not have been possible. To prove damages under U.C.A. § 76-9-406, the hidden camera video, and the interview and the three Broadcasts had to be shown. Further, the following also had to be shown to prove the damages: the physicians' testimony as to the privacy of the

examination room; the testimony of the journalistic experts; the testimony of Mary Sawyers and the other employees of KTVX (to prove malice), and the evidence of the economic experts.

E. Attorney Fees Intertwined On All Claims

It would be impossible to take a deposition of a physician regarding the privacy of a physician's examination room and then try and determine what percentage of the Deposition was covering privacy issues and what portion was covering alleged non compensable claims.

The items which Plaintiff/Appellee/Cross Appellant included under the independently allowed attorney fees claims portion of his billing, included work necessary to establish the statutory offense against privacy (including malice and damages along with alleged non independently allow attorney fees claims).

Counsel for Plaintiff/Appellee/Cross Appellant stated in his Affidavit, that if a conflict arose, he classified it as a non compensable claim or non independently allow attorney fees claims. Under the *Cottonwood Mall Co.*, *Kurth*, and *Dejavue* decisions, the trial court erred in demanding a separation into attorney fees for only the Statutory Privacy and Common Law Privacy offenses.

F. Attorney Fees For All Factually Related Claims Supports the Intent of the Legislature

The intent of the Legislature would be thwarted if attorney fees were not allowed for all claims proximately caused by the use of the hidden camera contrary to U.C.A. Section 76-9-401(a)(b). The trial court allowed for punitive damages for malice, attorney fees, and

damages directly related to the Statutory and Common Law Breach of Privacy Claims. To try and divide the attorney fees between only statutory breaches and the resulting damage caused by the use of the hidden camera would not adequately penalize the offender and prevent those actions in the future.

G. Conclusion.

The trial court should be over ruled and Attorney fees should be allowed for all of Sine's attorney fee claims based upon \$200.00 per hour or on all attorney fees needed for the claims pursuant to U.C.A. § 76-9-401 and 406 and other legal efforts which have a common fact basis as set forth by Sine in his affidavit.

II. Dr. Jensen Should Be Awarded His Claimed Costs.

A. Introduction.

The costs claimed by Dr. Jensen should be awarded to him because they are necessary disbursements authorized by Rule 54(d) of the Utah Rules of Civil Procedure. Unlike in the federal system, this Court has the power to award the costs at issue under its rule-making authority. To do otherwise is a facial affront to the purpose of the Utah Constitution's Open Courts Clause. Lastly, it is undisputed that the Media Defendants did not make a Rule 54(d)(2) motion. The cases cited by the Media Defendants are not dispositive because in those cases, the failure to comply with the substantive requirements of Rule 54(d)(2) was not at issue.

B. The Media Defendants' Objection Is Not Equivalent to a Rule 54(d)(2) Motion to Tax Costs.

There is no dispute that the Media Defendants failed to file a "motion to tax costs"

as explicitly required in Rule 54(d)(2):

How assessed. . . . A party dissatisfied with the costs claimed may, within 7 days, file a motion to have the bill of costs taxed by the court in which the judgment was rendered.

Recognizing their failure, the Media Defendants mistakenly argue that their objection, was synonymous or equivalent to a motion to tax costs. The Media Defendants' reliance on *Graco Fishing and Rental Tools, Inc. v. Ironwood Exploration, Inc.*, 766 P.2d 1074, 1080 (Utah 1988) and *Suniland Corp. v. Radcliff*, 576 P.2d 847, 849 (Utah 1978) is misplaced. The issue in *Graco* and *Suniland* was whether the filing was timely, and not whether the filing complied with the substantive requirements of Rule 54(d)(2).

In determining whether a filing complies with the requirement of a rule, the “substance” and “not its caption is controlling”. *E.g. Howard v. Howard*, 11 U.2d 149, 356 P.2d 275 (Utah 1960). What the Media Defendants do not do is demonstrate that their bare objection is substantively the same as a motion to tax costs. Their failure to do so is not surprising because an objection to some costs is not facially equivalent to a motion seeking judicial relief.

A motion is “an application to the court for an order.” It must be made in writing, “shall state with particularity the grounds therefore, and shall set forth the relief or order sought.” Rule 7(b)(1), Utah R. Civ. P. Consequently, under Rule 54(d) a party challenging a cost memorandum, must make a “motion to have the costs taxed by the court.” The challenging party must ask the Court to review and determine which of the claimed costs should be awarded to the prevailing party.

Nowhere in the Media Defendants' objection [R. 6074], do they ask the court to do

anything. The objection does not ask the court to tax costs or review the costs claimed by Dr. Jensen. Plainly and simply, the Media Defendants' bare objection fails to meet the substantive requirements of Rule 7(b)(1) and Rule 54(d)(2) of the Utah Rules of Civil Procedure. Consequently, the costs claimed by Dr. Jensen in his memorandum should be awarded. *Cf. Lyon v. Burton*, 2000 UT 19, ¶¶ 22, 75, 5 P.3d 616 ("The mandatory language leaves no discretion to the Court"). To overlook the requirements of Rule 54, is plain error." *Classic Cabinets, Inc. v. All-Am Ins. Life Co.*, 1999 UT App. 88, ¶¶ 17-18, 978 P.2d 465.

C. The Costs Claimed by Dr. Jensen Were Not Rejected for Not Being "Necessary Disbursements," but Because the Lower Court Concluded That Under Existing Law it Did Not Have the Authority to Award the Claimed Costs. This Appeal Challenges the Lower Court's Determination that it Lacked Authority to Consider an Award of the Costs Claimed by Dr. Jensen.

Dr. Jensen is appealing the lower court's conclusion that under *Frampton v. Wilson*, 605 P.2d 771 (Utah 1980) and its progeny, it did not have the authority to award Dr. Jensen the costs he claims. In short, Dr. Jensen seeks to have the *Frampton* rule overturned. Consequently, contrary to the Media Defendants' assertion that the issue before this Court is reviewed under an abuse of discretion standard, the issue raised by Dr. Jensen, *i.e.*, the trial court's reason for denying the requested costs, is reviewed as a **legal** issue. *See Lyon*, 2000 UT 19 at ¶¶ 22, 75. While an award of costs is reviewed for abuse of discretion, the **power of the court** to make an award is reviewed *de novo*. *E.g., Russian River Watershed Protection Comm. v. City of Santa Rosa*, 142 F.3d 1136, 1144 (9th Cir. 1998).

Moreover, the Media Defendants' repeated restatements of the *Frampton* rule in pages 23-24 of their Reply Brief, do not help resolve the issue of whether the *Frampton* rule should

be overturned. Finally, apparently the Media Defendants do not understand Dr. Jensen's use of the Open Courts Clause in his argument. Dr. Jensen's argument for overturning the *Frampton* rule is summarized as follows:

First, the court decisions distinguishing between the recoverable costs and necessary litigation expenses completely misconstrue the phrase, "and necessary disbursements" out of Rule 54(d)(2). Second, this facial misconstruction of Rule 54(d)(2) is premised on the rationale that since "[c]osts were not recoverable at common law; [they] are therefore, generally allowable only in the amounts and in the manner provided by statute." *Frampton*, 605 P.2d at 773. *See also Armed Forces Ins. Exchange v. Harrison*, 2003 UT 14, ¶ 43, 78 P.3d 35 (expert witnesses cannot be awarded extra compensation unless the statute so provides.") *But see Lloyd's Unlimited v. Nature's Way Marketing, Ltd.*, 753 P.2d 507, 512 (Utah App. 1988)(expenses of taking depositions allowable as costs if reasonably necessary.)

However, *Frampton* and its progeny do not take into account this Court's rule-making authority **expressly** provided in Article VIII of the Utah Constitution:

Section 4. *Rule-making power of Supreme Court – Judges pro tempore – Regulation of practice of law.* The Supreme Court shall adopt rules of procedure and evidence to be used in the courts of the state and shall by rule manage the appellate process. The Legislature may amend the rules of procedure and evidence adopted by the Supreme Court upon a vote of 2/3 of all members of the houses of the legislature. . . . The Supreme Court by rule shall govern the practice of law, including admission to practice law, and the conduct and discipline of persons admitted to practice law.²

² No comparable provision exists in the federal constitution. Even if such a provision did exist, this Court need not cede to any federal interpretation of such a provision, but is free to develop its own interpretation of this state's constitutional provisions. *See* Associate Justice Christine M. Durham, *Employing the Utah Constitution in the*

Section Four did not exist prior to 1984.³ Its addition to the Utah Constitution was recommended in January 1984 by the Utah Constitutional Revision Commission, one of whose stated objectives was “to articulate the role of the judiciary as a **co-equal branch** of government within the historical framework of the system of checks and balances” and “to provide the means to develop a **more efficient and effective judicial system . . .**” Report of the Constitutional Revision Commission, January 1984, Chapter II (Emphasis added).

The Commission found that, as of 1984, the Court’s rule-making authority existed only pursuant to statute or by inference regarding the traditional role of the judiciary.” *Id.* at 26. Accordingly, Section Four was specifically drafted to give the supreme court “general authority to establish rules of procedure and evidence for the state’s various courts.” *Id.* at 27. The Commission explained: “Members of the commission felt that the rulemaking authority of the supreme court should be **specifically included** in the constitution. This power is considered **essential** to the [sic] maintaining an independent judiciary.” *Id.* (Emphasis added.)

The Utah Legislature considered the proposed language in the Second Special Session of the 45th Legislature in 1984. During that session, Governor Scott M. Matheson urged the Legislature to give “special consideration” to proposed amendments to the constitution, stating “[o]ur constitution is only as good as our resolve to keep it **fine-tuned to the times and to the public it serves . . .**” Senate Journal, 45th Legislature, Second Special Session, at 541 (Utah 1984)(Emphasis added.). Section Four, which specifically empowers this Court to adopt rules

Utah Courts, UTAH BAR JOURNAL, Nov. 1985, at 25.

³ *Frampton* was decided before the addition of Section Four to Article VIII of the Utah Constitution, and those cases decided after *Frampton* have not considered the scope of this Court’s rule-making power under Section Four.

of procedure to be used in Utah, was adopted by the Utah State Legislature (S.J.R.1, 45th Leg. 2d Spec. Sess. [Utah 1984]),⁴ ratified by the people in the general election in 1984, and added to the Utah Constitution in 1985.

Contrary to *Frampton* and its progeny, the current Utah Constitution does not leave the determination of what judicial costs are or are not recoverable **entirely** to the Legislature. This Court is in fact **constitutionally empowered** to adopt a procedural rule providing for the recovery of “necessary disbursements” as necessary for judicial purpose of developing a more efficient and effective judicial system. This Court has adopted Utah R. Civ. P. 54(d)(2), which by its plain language allows for recovery of “necessary disbursements.” Pursuant to Article VIII, Section Four, the Legislature can change this result by amending the Rule by a 2/3 vote of its members, an action the Legislature has not deemed necessary. Accordingly, the lower court did in fact have the power to award Dr. Jensen his necessary litigation disbursements under Rule 54(d)(2) and erred when it determined it did not have the power.

Finally, Dr. Jensen’s argument is **not** that the failure to award his claimed costs violates the Open Courts Clause of the Constitution, but rather that, given the Open Courts Clause in the Utah Constitution and its purpose of encouraging victims to seek a legal remedy, this Court should construe “necessary disbursements” for what it plainly means, *i.e.*, those expenses necessarily incurred in litigation. The case at bar is an excellent example of why necessary litigation expenses should be awarded. It is impossible to take on the media, with their vast

⁴ The Legislature modified the language of the Commission’s proposed Section Four to give the Legislature the power to amend the rules of procedure and evidence by a 2/3 majority, but otherwise basically adopted the language recommended by the Commission.

resources, without the use of expert witnesses and the other costs incurred by Dr. Jensen. Unless necessary disbursements are awarded under the Court's rule-making power, most plaintiffs will conclude that suing the media for defamation simply isn't worth the expense.

These underlying policy considerations militate in favor of an expansive construction of the Open Courts Clause. *Cf. American Fork City .v Crosgrove*, 701 P.2d 1069, 1073 (Utah 1985)(scope of constitutional guarantee against self-incrimination not limited by historical roots). This Court should construe the Open Courts Clause and the Court's rule-making authority to ensure that the Utah Constitution remains fine-tuned to the times and to the public it serves by allowing recovery of necessary litigation disbursements under Rule 54(d)(2).

In summary, under Article VIII, Section 4, this Court has the rule-making authority to provide for recovery of "necessary disbursements" under Rule 54(d)(2) and the lower court has the authority under that Rule to award "necessary disbursements." To protect the public purpose of the Open Courts Clause, this Court should overturn the *Frampton* rule and authorize the recovery of "costs **and** necessary disbursements" incurred in this litigation pursuant to Rule 54(d)(2).

D. The Jury Awards on Dr. Jensen's Gathering of Information Claims are Not Duplicative

Appellants cite *Steenblik v. Lichfield*, 906 P.2d 872, 881 (Utah 1985) for the proposition that a jury verdict that awards duplicative damage awards must be vacated. However, *Steenblik* involved a completely different fact situation. In *Steenblik*, the trial court awarded treble damages and punitive damages under the Uniform Securities Act. Both award of damages were punitive in nature and were brought under the same act. In the instant case,

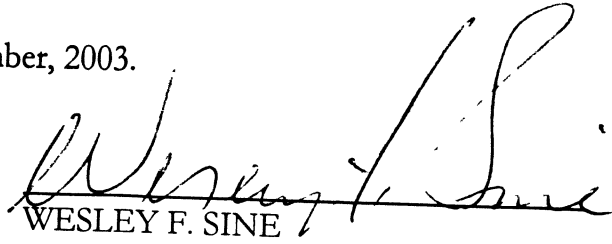
the common-law intrusion claim protects a person from a highly offensive intrusion upon his solitude or seclusion. The jury received ample evidence supporting the jury's award on the common-law intrusion claim. In addition, the legislature specifically provided for a statutory privacy claim under § 76-9-401 et seq. In doing so, the legislature has allowed three claims for recovery and separated them.


It is evident from the verdict, that the jury also viewed claims as separate and distinct by virtue of the fact that the jury did not award damages under § 76-9-402(1)(c). The jury found that the Media Defendants trespassed on property with intent to subject Dr. Jensen to eavesdropping or surveillance. The jury also found that the Media Defendants installed a hidden camera without Dr. Jensen's consent. The trespass violated § 76-9-402(1)(a) and the installation violated § 76-9-402(1)(b). In summary, the structure and content of the statute shows that the common-law intrusion claim is separate and distinct from the separate statutory privacy claims. Consequently, the jury, by awarding damages under each of the claims, did not award a duplicate recovery. *Cf. Diversified Holding, L.C. v. Turner*, 2002 UT 129, ¶ 30, 63 P.3d 686, 699 (stating that "trial courts must exercise caution in determining whether two or more punitive damage awards are duplicative . . . In some cases, multiple punitive damage awards on overlapping theories of recovery may not be duplicative at all, but may instead represent the jury's proper effort to punish and deter *all* the improper conduct underlying the verdict."

CONCLUSION

For the reasons set forth above, this Court should award the attorney's fees and costs requested by Dr. Jensen.

DATED this 10th day of November, 2003.


WESLEY F. SINE


DALE F. GARDINER
CRAIG R. KLEINMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that two correct copies of the foregoing
CORRECTED CROSS APPELLANT'S REPLY BRIEF was mailed via U.S. mail,
postage prepaid on this 10/1 day of November 2003, to the following:

Robert M. Anderson
Jennifer K. Anderson
Bradley M. Strassberg
VAN COTT, BAGLEY, CORNWALL & McCARTHY
50 South Main Street, Suite 1600
P.O. Box 45340
Salt Lake City, Utah 84145-0340

Thomas B. Kelley
Steven D. Zansberg
FAEGRE & BENSON, LLP
3200 Wells Fargo Center
1700 Lincoln Street
Denver, Colorado 80203



Appendix A

Wesley F. Sine #2967
IBM Building Suite 355
420 E. South Temple Street
Salt Lake City, Utah 84111
Telephone: (801) 364-5125
Fax: 801-521-0732

Dale F. Gardiner, Esq.
PARRY ANDERSON & MANSFIELD
1270 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: 801-521-3434
Fac: 801 521-3484
Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

IN AND FOR UTAH COUNTY, STATE OF UTAH

MICHAEL JENSEN, M.D.,)	
)	AFFIDAVIT OF WESLEY F. SINE
Plaintiff,)	
)	
vs.)	
)	
MARY SAWYERS, and UNITED TELEVISION))	
AKA KTVX.)	
)	Case No.: 97-00400512CV
Defendants.)	Judge Raymond M Harding, Jr

STATE OF UTAH)
 :ss
COUNTY OF SALT LAKE)

I, Wesley F. Sine, having first been duly sworn, and
deposed; state as follows:

1. Im over 18 years of age and have personal knowledge of
the facts set forth herein.
2. I am an attorney of record for Plaintiff Michael Jensen.

3. I am a member fo the Utah State Bar in good standing and am duly licensed to practice law within the state of Utah. I was admitted to the Utah State Bar in 1962.

4. I acted as lead counsel with co-counsel Dale F. Gardiner and his firm in this matter. The nature of the work performed and an itemization of the time spent is set forth on the attached billing statements. Exhibit "A"

5. Records were not kept breaking down the hours between 76-9-401, Common Law Intrusion, and the other various Claims. Counsel has personally reviewed all of the billings and has attempted to break down the hours between 76-9-401 and Common Law Intrusion and all other claims. Counsel first attempted to break down between the hours between 76-9-401 and Common Law Intrusion but because of the defining of a private place and overlapping which is critical to both 76-9-401 and Common law Intrusion that became impossible.

The attached break down as to the hours and attorney fees for 76-9-401 and Common Law Intrusion includes also some of the other claims but because of the overlapping nature of the event it is not possible to break down the attorney hours and fees between the other claims. An example of this are the various motions which included the Statutory and Common Law Intrusion along with the various other claims plus the trial itself. It is impossible to designate the amount of the argument before the

Court and even the amount of time in developing the brief which was used for each of the various components. Therefore if Statutory and Common Law Intrusion were a part of the event it was included in the Statutory and Common Law Column.

As to the items which are included under the other claims, only the other claim activity were developed as to number of hours and attorney fees. Where there was a question, the benefit of the doubt was given to other claims column. In short other claims includes time spent only for the other claims and under the category of 76-9-401 and Common Law Intrusion, time is commingled thereunder with time spent on the other claims which at this time is impossible to separate.

Therefore, the amount of time charged by myself to prosecute Plaintiff's claim of Statutory and Common Law based upon my normal hourly rate of \$250.00 per hour is broken down as follows:

Legal fees for time spent on Statutory and Common Law
Intrusion including non separable other claims: \$ 259,037.50

Legal fees for time spent on all other claims: \$ 79,387.50

The number of hours are designated on the billing sheet which is a part of this affidavit.

6. Plus the normal hourly rates for Wesley F. Sine as set forth above in paragraph 5, the agreement between Dr. Jensen and Wesley F. Sine called for him to pay, if the lawsuit was successful, an attorney's fee equal to \$250.00 per hour plus 33%

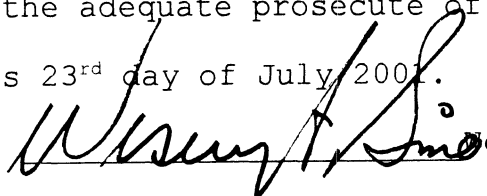
of any recovery. Ten percent of the 33.3% recovery was to be shared with Dale Gardiner and his firm, therefore allowing Wesley F. Sine 23.3% of any recovery. The recovery as forth in the proposed Judgment is \$3,110,900. and for those items of Statutory and Common Law Intrusion, the amount of judgment was \$270,000.00.

7. Based upon the Ruling of the Court and the contract with Plaintiff, Attorney Wesley F. Sine was to receive billable hours of \$259,037.50 plus 23.3% of the judgment which relating to Common and Statutory Law Intrusion totals \$ 270,000.00 of which 23.3% thereof equals \$62,910.00. This amount should be added to the final determination of hourly attorney fees recompensible under the courts ruling of July 9, 2001. and is a reasonable attorney's fee for the services and risk rendered in this action.

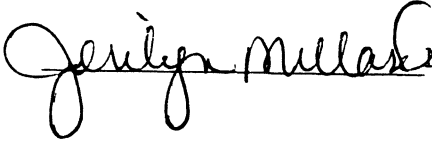
8. The hourly rate charged by the affiant is reasonable for the skill and experience of the affiant and has been charged by the affiant since 1990. It is affiant's belief that the rate is comparable in the locality for similar services and experience.

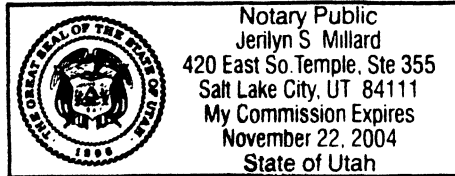
9. The legal work charged by the affiant was for prosecution of the law suit as necessitated by the Defendants various pleadings including interview, research, and preparation of the various pleadings. All of the work preformed was necessary for the adequate prosecute of this matter.

DATED this 23rd day of July, 2001.

 Wesley F. Sine

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this 23rd
Day of July 2001.

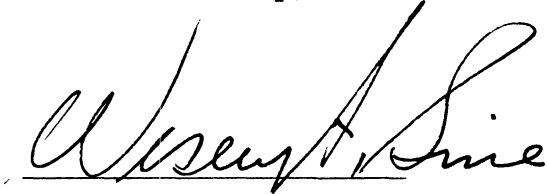
 NOTARY PUBLIC



CERTIFICATION OF MAILING

I hereby certify that a true and correct copy of the above Affidavit was mailed this 23rd day of July 2001 to the following:

Robert M. Anderson, Esq.
Jennifer K. Anderson, Esq.
VAN COTT, BAGLEY, CORNWALL MCCARTHY
50 South Main Street, Suite 1600
P.O. Box 45340
Salt Lake City, Utah 84145-0340

A handwritten signature in black ink, appearing to read "Robert M. Anderson", is written over a horizontal line.

**Wesley F. Sine
Attorney At Law
IBM Building
420 East South Temple
Suite 355
Salt Lake City, Utah 84111
EXHIBIT "A"**

Invoice Submitted to:
MICHAEL JENSEN, MD.
3131 NORTH COTTONWOOD LANE
PROVO, UTAH 84604-4497
In Reference To: KTVX, MARY SAWYERS
Invoice: JENSEN1

July 23, 2001

<u>Date</u>	<u>Professional Services</u>	Amount related to Section 76-9-401 and Common Law Intrusion	Amount related only to other matters In law suit
10/19/98	Contingency Letter	1 hr@\$250/hr = \$ 250.00	
10/20/98	Documents Review	2 hr@\$250/hr = \$ 500.00	
10/22/98	Dr. Jensen Review Documents – Tapes	2 hr@\$250/hr = \$ 500.00 10 hr@\$250/hr = \$2,500.00	
10/23/98	Withdraw Counsel / Phone Call	1 hr@\$250/hr = \$ 250.00	
10/25/98	Letter Allen Young	.2 hr@\$250/hr = \$ 50.00	
10/30/98	Dr. Jensen Meeting Review History	3 hr@\$250/hr = \$ 750.00 2 hr@\$250/hr = \$ 500.00	
11/02/98	Letter Dale Gardiner	1 hr@\$250/hr = \$ 250.00	
11/03/98	Dale Gardiner Call to Mr. Allen Young Dr. Jensen	.25 hr@\$250/hr=\$ 62.50 .25 hr@\$250/hr=\$ 62.50 1 hr @\$250/hr = \$ 250.00	
11/04/98	Dr. Jensen	2 hr @\$250/hr = \$ 500.00	
11/06/98	Dr. Jensen	2 hr @\$250/hr = \$ 500.00	

PAGE TOTAL \$ 6,925

<u>Date</u>	<u>Professional Services</u>	<u>76-9-401/Common Law</u>	<u>Only Other claims</u>
11/07/98	Pl 1 st Amd Witness List	2 hr@\$250/hr = \$ 500.00	
11/12/98	Review Subpoena Duces Tecum Discussion – Dr. Jensen	2 hr@\$250/hr = \$ 500.00 1 hr@\$250/hr = \$ 250.00	
11/13/98	Meeting Dale Gardiner Meeting Rosen, Willey, Kendall	1 hr@\$250/hr = \$ 250.00 6 hr@\$250/hr = \$ 1,500.00	
11/17/98	Fedex to Dale Gardiner Subpoena Professional Management Group	1 hr@\$250/hr = \$ 250.00	.50 hr@\$250/hr = \$ 125.00
11/18/98	Dr. Jensen Dr. Jensen Protective Order Lt Young and Sub Duces Tec Fedex to Dale Gardiner Letter Bob Anderson	2 hr@\$250/hr = \$ 500.00 4 hr@\$250/hr = \$ 1,000.00 1 h @\$250/hr = \$ 250.00 1 hr@\$250/hr = \$ 250.00	.20 hr@\$250/hr = \$ 50.00
11/19/98	Mot @ Mem Protective Order Dr. Canfield Interview	8 hr@\$250/hr = \$ 2,000.00 3 hr@\$250/hr = \$ 750.00	
11/20/98	Letter Bob Anderson – Review Copy		.50 hr@\$250/hr = \$ 125.00
11/23/98	Meeting Dr. Jensen Fax Jensen Meet Sandra Peterson.	.5 hr@\$250/hr= \$ 125.00 2 hr@\$250/hr=\$ 50.00	
11/24/98	Dean Smith		1 hr@\$250/hr = \$ 250.00
11/25/98	Jensen Meeting Peterson's home	4 hr@\$250/hr= \$ 1,000.00	
12/03/98	Laurie Scott Dr. Badger Affidavit Geoff Roth Review	5 hr@\$250/hr = \$ 1,250.00 5 hr@\$250/hr = \$ 1,250.00	1 hr@\$250/hr = \$ 250.00
12/04/98	Def 2 nd Set Interog Review	1 hr@\$250/hr = \$ 250.00	
12/05/98	Ltr Anderson Rev of Wit List	1 hr@\$250/hr = \$ 250.00	
12/09/98	Letter Anderson to Court		.2 hr@\$250/hr= \$ 50.00
12/14/98	Dale Gardiner / Dr. Jensen	2 hr@\$250/hr = \$ 500.00	
12/21/98	Dale Gardiner Dft Fee Agrm	1 hr@\$250/hr = \$ 250.00	
		PAGE TOTAL \$ 12,925.00	\$ 850.00

<u>Date</u>	<u>Professional Services</u>	<u>76-9-401/Common Law</u>	<u>Only other claims</u>
12/24/98	Ltr Anderson – Desig Wit	.2 hr@\$250/hr = \$ 50.00	
12/30/98	Fee Agreement Review	1 hr@\$250/hr = \$ 250.00	
01/02/99	Fax -Jensen Fraud Claim Rebuttal		1 hr@\$250/hr = \$ 50.00
01/04/99	Review Defs / Mot for Part SJ	5 hr@\$250/hr = \$ 1,250.00	
	Dale Gardiner	1.5hr@\$250/hr =\$ 375.00	
	Fax Anderson on Desig Wit	.5 hr@\$250/hr = \$ 125.00	
01/05/99	Dr. Jensen	1 hr@\$250/hr = \$ 250.00	
	Dale Gardiner Conference	2 hr@\$250/hr = \$ 625.00	
	Clark	.25hr@\$250/hr = \$ 62.50	
	Research		2.5 hr@\$250/hr = \$ 625.00
	Rev Defs 2nd Set of Inter @ Prod of Documents	2 hr@\$250/hr = \$ 500.00	
01/06/99	Pl First Amend Wit List	6 hr@\$250/hr = \$ 1,500.00	
01/07/99	Pl First Amend Wit List	6 hr@\$250/hr = \$ 1,500.00	
	Motion for SJt	2 hr@\$250/hr = \$ 500.00	
	Interview	2 hr@\$250/hr = \$ 500.00	
01/08/99	Letter on Reply	1 hr@\$250/hr = \$ 250.00	
	Ltr to Anderson @ Teleconf	1hr@\$250/hr = \$ 250.00	
01/09/99	Anderson Letter / Stipulation	.5 hr@\$250/hr = \$ 125.00	
01/10/99	Letter Dr. Dale Gardiner to Dr. Jensen, etc.		1 hr@\$250/hr = \$ 250.00
01/11/99	Letter to Van Cott to Sine		1 hr@\$250/hr = \$ 250.00
	Fax Dr.Jensen to Sine	.5 hr@\$250/hr = \$ 125.00	
01/12/99	Teleconference Gardiner	.5 hr@\$250/hr = \$ 125.00	
01/13/99	Rev Res Mot to Amend Comp	8 hr@\$250/hr = \$ 2,000.00	
	Letter Dale Gardiner / Pratt	.2 hr@\$250/hr = \$ 50.00	
01/14/99	Review Defs 2 nd Interrog	1.00 \$ 250.00	
	Fax Dr. Jensen False Information Prescription		.5 hr@\$250/hr = \$ 125.00
	Ltr Gardiner Mot Am Am Com	2.00 \$ 500.00	
01/15/99	Vankomen – SJt/ Amend Com, etc.	4.00 \$ 1,000.00	
	Fax Jensen Rebuttal Defs Mot	2.00 \$ 500.00	
PAGE TOTAL		\$ 12,662.50	\$ 737.50

MICHAEL JENSEN, MD.**Page 4**

<u>Date</u>	<u>Professional Services</u>	<u>76-9-401/CommonLaw</u>	<u>Other Claims only</u>	
01/19/99	Fax Gardiner – Ltr Alf Pratt Mot	1 hr	\$	250.00
	Fax Jensen Rebuttal Defs Mot	2 hr	\$	500.00
	Affidavit Laurie Scott	1 hr	\$	250.00
	Evaluation Alf Pratt from Gardiner	2 hr	\$	500.00
	Dr. Jensen Pleading Review	1 hr	\$	250.00
01/20/99	Jensen Matter Review	1 hr	\$	250.00
	Affidavit Dan Larsen Review		1hr	\$ 250.00
	Letter Anderson to Sine		1hr	\$ 250.00
	Fax Dr. Jensen - False Information		1hr	\$ 250.00
01/21/99	Ltr Van Cott to Sine –10 Day Ext	1 hr	\$	250.00
	Letter VanKoman		1 hr	\$ 250.00
	Defendants Letter / Motion Rule 11	3 hr	\$	750.00
	Fax Dale Gardiner – Motion PSJ	1 hr	\$	250.00
01/22/99	From Detail Sheet		4 hr	\$ 1,000.00
01/23/99	From Detail Sheet		6 hr	\$ 1,500.00
01/24/99	From Detail Sheet		8 hr	\$ 2,000.00
01/25/99	From Detail Sheet		8 hr	\$ 2,000.00
	ReplyMot PSJ – Accum Prep	2 hr.	\$	5,000.00
	Letter Motion to Extend	1 hr	\$	250.00
	Letter Motion Van Cott Ext	1.00	\$	250.00
	Review First Draft Jury Instruction	2.00	\$	500.00
01/26/99	Affidavit of Roth and Johnson		2.00	\$ 500.00
	Letter Van Cott Bagley		1.00	
250.00	Letter Gardiner	1.00	\$	250.00
	Oral Argument Protective Order		4.00	\$ 1,000.00
01/28/99	Fax		1.00	\$ 250.00
	Fax Van Cott Bagley to Sine Ext	.20	\$	50.00
02/01/99	Dr. Dale Gardiner	.25	\$	62.50
	Rev Order Denying Pl Mot Protection Order		2.00	\$ 500.00
	Rev Defs Reply for Leave to Amend	4.00	\$	1,000.00
02/02/99	Rev Opposition File Amend Compl	6.00	\$	1,500.00
	Fax Dr. Jensen	.50	\$	125.00
PAGE TOTAL			\$	12,237.50
				\$ 9,750.00

<u>Date</u>	<u>Professional Services</u>	<u>76-9-401/Common Law</u>		<u>Other Claims only</u>	
02/03/99	Dr. Jensen Fax	1.00	\$ 250.00		
02/05/99	Letter Dale Gardiner	1.00	\$ 250.00		
	Letter Gardiner to Anderson Rev	.20	\$ 50.00		
02/08/99	Fax Sheet Van Cott Bagley			1.00	\$ 250.00
	Letter on Order – Reviewed			1.00	\$ 250.00
	Review Affidavit Lisa Johnson			1.00	\$ 250.00
02/09/99	Fax Dr. Jensen	1.00	\$ 250.00		
	Van Cott Bagley – Revised Order			1.00	\$ 250.00
02/10/99	Letter Dr. Jensen	2.00	\$ 500.00		
02/11/99	Conference Dale Gardiner	1.50	\$ 375.00		
	Letter Dale Gardiner to Dr. Kearl			0.20	\$ 50.00
02/16/99	Letter Dale Gardiner	1.00	\$ 250.00		
02/17/99	Review Food Lyon Article	0.50	\$ 125.00		
02/18/99	Working for Jensen vs. Sawyer	2.00	\$ 500.00		
	Interview Dr. Kim Davis			2.00	\$ 500.00
	Telecom Dale Gardiner	.20	\$ 50.00		
02/19/99	Interview Dr. Hersche	3.00	\$ 750.00		
	Working for Jensen vs. Sawyer	3.00	\$ 750.00		
	Letter Dale Gardiner to Alf Pratt	.20	\$ 50.00		
	Letter Dale Gardiner to Prof. Kearl			0.20	\$ 50.00
	Dr. Jensen	1.00	\$ 250.00		
	Dale Gardiner	1.00	\$ 250.00		
02/24/99	Letter Dale Gardiner	1.00	\$ 250.00		
	Letter Pratt	1.00	\$ 250.00		
02/26/99	Report on Carbon / High School / Sawyer/ Deseret News Tribune / Daily Herald	1.00	\$ 250.00		
03/02/99	PI 2 nd Amended Wit List – Exp Wit	3.00	\$ 750.00		
	PI's Answer to Defs 2 nd Interrog and Production of Documents	4.00	\$ 1,000.00		
	Telecom Dale Gardiner	0.20	\$ 50.00		
	Fax Dale Gardiner	1.00	\$ 250.00		
	Letter Dale Gardiner – Kearl			0.20	\$ 50.00
PAGE TOTAL			\$ 7,450.00		\$ 1,650.00

<u>Date</u>	<u>Professional Services</u>	<u>76-9-401/Common Law</u>		<u>Other Claims only</u>	
03/03/99	Letter Fax Gardiner	1.00	\$ 250.00		
	Fax Smith on Dr. Jensen Matter			0.50	\$ 125.00
	Dr. Jensen on Canfield	1.00	\$ 250.00		
	Fax Dr. Jensen Rev Discovery	1.00	\$ 250.00		
03/04/99	Dean Smith CV			1.00	\$ 250.00
	Review Billing Gardiner	1.00	\$ 250.00		
03/05/99	Dr. Jensen Fax	1.00	\$ 250.00		
03/06/99	Dr. Jensen Fax	1.00	\$ 250.00		
03/11/99	Letter			1.00	\$ 250.00
	Telecom Dale Gardiner	0.20	\$ 50.00		
03/15/99	Letter			1.00	\$ 250.00
03/15/99	Rev Stip to Ext Sched Date	1.00	\$ 250.00		
03/17/99	Telecom Dale Gardiner	0.30	\$ 75.00		
03/19/99	Working for Jensen vs. Sawyer	4.00	\$ 1,000.00		
03/20/99	Preparation Hearing PSJ	3.00	\$ 750.00		
03/21/99	Working for Jensen vs. Sawyer	2.00	\$ 500.00		
	Review Minutes DOPL			1.00	\$ 250.00
	Fax Dr. Jensen			0.50	\$ 125.00
03/22/99	Conference w/ Gardiner @ Prep	3.00	\$ 750.00		
03/25/99	Letter from Dale Gardiner	0.25	\$ 62.50		
03/29/99	Fax Dale Gardiner and Review	1.00	\$ 250.00		
	Plaintiff 2 nd Amended Wit list	4.00	\$ 1,000.00		
	Letter Gardiner to Pratt	0.20	\$ 50.00		
03/30/99	Telecom Gardiner	0.20	\$ 50.00		
	Preparation for Hearing	7.00	\$ 1,750.00		
	Review Letter / Documents from Anderson			1.00	\$ 250.00
03/31/99	Preparation for Hearing	8.00	\$ 2,000.00		
			PAGE TOTAL \$ 10,037.50		\$ 1,500.00

<u>Date</u>	<u>Professional Services</u>	<u>76-9-401/Common Law</u>		<u>Other Claims only</u>	
04/01/99	Affidavit Jennifer Andersen Review			1.00	\$ 250.00
	Review CV – Dr. Alf Pratt	1.00 HR	\$ 250.00		
	Meeting Dale Gardiner	1.00	\$ 250.00		
04/02/99	Hearing on Mot Strike Pls Wit List	2.00	\$ 5 00.00		
	Partial S.J. @Prep for PSJ - Accu	20.00	\$ 5,000.00		
	Hearing and Prep on Partial S J	8.00	\$ 2,000.00		
04/03/99	Defs Mot to Compel Responses 2nd Set				
	Interrogatories Review	1.00	\$ 250.00		
	Dr. Jensen	1.00	\$ 250.00		
	Review Order Denying Protection Order			1.00	\$ 250.00
04/05/99	Dr. Jensen Discussion	1.00	\$ 250.00		
	Letter Dr. Jensen	0.20	\$ 50.00		
	Rev Mem for Mot to strike Pls Amended				
	Witnesses List	2.00	\$ 500.00		
	Letter Dr. Jensen	0.20	\$ 50.00		
04/08/99	Review Dale Gardiner Bill			1.00	\$ 250.00
	Review Judge Harding Ruling	3.00	\$ 750.00		
04/09/99	Preparation of Scheduling Order	3.00	\$ 750.00		
	Rly Memo Defs Mot Strike Pls Wit List	4.00	\$ 1,000.00		
04/12/99	Review Amended Complaint	4.00	\$ 1,000.00		
	Review Defs Mot for Continuance and Obj				
	to Scheduling Order	2.00	\$ 500.00		
	Letter Van Cott Bagley Proposed Order	1.00	\$ 250.00		
04/13/99	Reply Memorandum on Motion to Continue			4.00	\$ 1,000.00
04/14/99	Affidavit of Badger. Van Kommen. Gardner			2.00	\$ 500.00
	Letter Dale Gardiner	0.50	\$ 125.00		
04/15/99	Alf Pratt CV Preparation	2.00	\$ 500.00		
04/16/99	Mailing / Rev Defs Motion to Sub.			1.00	\$ 250.00
	Review Letter to Court from Gardiner			1.00	\$ 250.00
04/17/99	Review Notice to Submit			2.00	\$ 500.00
	Letter Dale Gardiner to Court			1.00	\$ 250.00
PAGE TOTAL			\$14,225.00	\$ 3,500.00	

<u>Date</u>	<u>Professional Services</u>	<u>76-9-401/Common Law</u>	<u>Other Claims only</u>	
04/18/99	Geoff Williams Telephonic		1 00HR	\$ 250 00
04/20/99	Review Defendants Reply Memorandum for Motion of Continuance	1 00HR		\$ 250 00
	Ltr to Court on Proposed Sch Order	0 50		\$ 125 00
	Letter from Anderson to Judge and Order		1 00	\$ 250 00
04/21/99	Review Notice to Submit Order Mot to Amend Mot to Strike – Rev	1 00	2 00	\$ 500 00
				\$ 250 00
04/22/99	Amended Witness List	4 00		\$ 1,000 00
	Reply to Pl Obj to Defs Proposed Order	1 00		\$ 250 00
	Rev Order for PSJ and Amend Compl	2 00		\$ 500 00
	Fax	1 00		\$ 250 00
	Court Order to Compel Responses Rev	1 00		\$ 250 00
	Art City – Includes Telecom with David	1 00		\$ 250 00
	Letter Gardiner (Frank Stuart)		1 00	\$ 250 00
	Dale Gardiner Meeting	1 00		\$ 250 00
04/23/99	Amended Ans to Defs 2 nd Set Interrog	8 00		\$ 2,000 00
	Review Stated Order of Compliance		1 00	\$ 250 00
	Plaintiffs Fourth Amended Witness List	8 00		\$ 2,000 00
	Article on Power of Press and Bad Press		0 50	\$ 125 00
04/24/99	Court Order to Compel	1 00		\$ 250 00
	Rev Defs Mot to Strike Amend Compl	2 00		\$ 500 00
	Review Ruling of Court on Order	1 00		\$ 250 00
04/28/99	Supplement Mem for Mot to Strike Plaintiffs Witnesses List	2 00		\$ 500 00
04/29/99	Call Van Cott		1 00	\$ 250 00
04/30/99	Order Shortening Time to Respond		1 00	\$ 250 00
	Letter Van Cott to Judge Harding		1 00	\$ 250 00
05/01/99	Review Defs 1 st Amend Wit List	2 00		\$ 500 00
	Obj to Amend Ord Denying Pl Prot Ord	4 00		\$1,000 00
	Notice of Hearing on Motion to Strike and Continuance Review	1 00		\$ 250 00
PAGE TOTAL				\$10,625.00
				\$ 2,375.00

MICHAEL JENSEN, MD.**Page 9**

<u>Date</u>	<u>Professional Services</u>	76-9-401/Common Law	Other Claims only	
05/03/99	Review Affidavit Van Kommen		1.00HR	\$ 250.00
	Review Affidavit Roth		1.00	\$ 250.00
	Review Affidavit Lisa Johnson		1.00	\$ 250.00
	Rev Pls Mem on Opposition and Defs			
	Mot to strike Amended Complaint	2.00 HR		\$ 500.00
	Fax Dr. Jensen - Review	0.50		\$ 125.00
	Letter Anderson – Review and Check Production of Documents		1.00	\$ 250.00
05/04/99	Pls Supplemental Memo Reply to Mot to Strike			
	Plaintiffs Witnesses List	2.00		\$ 500.00
	Review Notice of Compliance		1.00	\$ 250.00
	Meeting Dale Gardiner	2.00		\$ 500.00
	Dr. Jensen	1.00		\$ 250.00
05/05/99	Defendants 2 nd Amend Witness List	2.00		\$ 500.00
	Fax Van Cott – Order Shortening Time		0.25	\$ 62.50
	Fax Van Cott		1.00	\$ 250.00
	Dean Smith Expert Report Review		3.00	\$ 750.00
	Motion Shortening Time		0.20	\$ 50.00
05/06/99	Affidavit Michael Rosen	1.00		\$ 250.00
	Letter Gardiner – Review	1.00		\$ 250.00
	Ltr Van Cott Bagley w/Ordr Shortening Time		0.50	\$ 125.00
	Plaintiffs Answer to Defendants Third Set of Interrogatories			
	And Request for Productions	6.00		\$ 1,500.00
05/07/99	Fax Dr. Jensen	1.00		\$ 250.00
	Rosen Affidavit of CV	0.50		\$ 125.00
05/10/99	Review Affidavit Dan Purser	1.00		\$ 250.00
05/11/99	Review Affidavit Kendall Oldroyd		1.00	\$ 250.00
	Letter from Anderson		0.25	\$ 62.50
	Letter from Anderson to Judge - Check Memorandum		2.00	\$ 500.00
05/12/99	Fax Dr. Jensen	1.00		\$ 250.00
	Documents (fax)		2.00	\$ 500.00
	Review reply Memorandum Motion to Strike			
	Amended Complaint	2.00		\$ 500.00
	Letter Stuart		0.25	\$ 62.50
	Information on Sawyer from Jensen		1.00	\$ 250.00
	Letter Anderson – Review		1.25	\$ 312.50
	Information to Subpoena		0.50	\$ 125.00
	Preparation and Review of Tax Return 89/90/91		2.00	\$ 500.00
PAGE TOTAL		\$ 5,750.00		\$ 5,050.00

<u>Date</u>	<u>Professional Services</u>	<u>76-9-401/Common Law</u>	<u>Other Claims only</u>	
05/13/99	Hearing on Mot Strike PL @ Mot for Continuance includes Preparation	3.00HR	\$	750.00
05/14/99	Fax from Judge Harding Rev Ruling	1.00	\$	250.00
	Review Documents	1.00	\$	250.00
	Affidavit Rodney Badger Review	1.00	\$	250.00
05/16/99	Working for Jensen vs. Sawyer	3.00	\$	750.00
05/17/99	Mr. Pratt Review Of His Draft	3.00	\$	750.00
05/18/99	Deposition Dr. William	10.00	\$	2,500.00
05/20/99	Notice to Submit	1.00	\$	250.00
05/21/99	Mr. Pratt Draft	4.00	\$	1,000.00
05/23/99	Frank Stuart		8.00HR	\$2,000.00
05/24/99	Rev Deposition of W. G. Williams	2.00	\$	500.00
05/25/99	Article/Ltr on SCt Invasion of Privacy	1.00	\$	250.00
05/27/99	Subpoena Duces Tecum of Privacy		1.00	\$ 250.00
	Subpoena Duces Tecum – U of U		0.20	\$ 50.00
05/28/99	Subpoena Duces Tecum		1.00	\$ 250.00
	Letter from Kim Davis		0.50	\$ 125.00
06/02/99	Letter U of U		0.50	\$ 125.00
06/03/99	Letter Dale Gardiner – Subpoena Decus Tecum -U of U		0.50	\$ 125.00
06/04/99	Finish 3 rd Set of Interrogatories	4.00	\$	1,000.00
06/07/99	Draft – Pratt Report	3.00	\$	750.00
06/08/99	Pls Interrog 2 nd Set Preparation	8.00	\$	2,000.00
	Research U of U on Dr. Jensen		0.50	\$ 125.00
06/09/99	Tele/Letter Change		1.00	\$ 250.00
PAGE TOTAL			\$ 11,250.00	\$ 3,300.00

MICHAEL JENSEN, MD.**Page 11**

<u>Date</u>	<u>Professional Services</u>	<u>76-9-401/Common Law</u>		<u>Other Claims only</u>	
06/10/99	Dr. Jensen Communication Research U of U on Dr. Jensen	1.00HR	\$ 250.00	0.50HR	\$ 125.00
06/16/99	Letter from Davis			1.00	\$ 250.00
06/18/99	Letter on Pratt Draft – Review Draft	3.00	\$ 750.00		
06/19/99	Dr. Jensen Communication Letter U of U on Production of Documents	1.00	\$ 250.00	0.20	\$ 50.00
06/22/99	Resume Pratt	1.00	\$ 250.00		
06/23/99	Communication Pratt	1.00	\$ 250.00		
06/25/99	Resume Gardiner Letter to Court	1.00	\$ 250.00	0.20	\$ 50.00
06/28/99	Resume Anderson Letter to Pratt Anderson Motion Change of Address	1.00 0.20	\$ 250.00 \$ 50.00	0.20	\$ 50.00
07/01/99	Letter Gardiner to Court	0.10	\$ 25.00		
07/06/99	Discussion – Dr. Jensen	1.00	\$ 250.00		
07/07/99	Mot to Reconsider and Rule 11 Sanction Prior Mot to Limit PL's Witness Preparation Review Gardiner Notes	20.00 1.00	\$ 5,000.00 \$ 250.00		
07/08/99	Draft Pratte - Report Letter Pratte Letter Van Cott	4.00 1.00	\$ 1,000.00 \$ 250.00	1.00	\$ 250.00
07/10/99	Working for Jensen vs. Sawyer Dr. Jensen on Expert Witness	1.00	\$ 250.00	2.00	\$ 500.00
07/12/99	Bill on Geoff Williams Review			1.00	\$ 250.00
07/14/99	Letter to Stuart from Gardiner Letter from Anderson – Court Order			1.00 1.00	\$ 250.00 \$ 250.00
07/16/99	Defendants Ans 2 nd Set Interrog	3.00	\$ 750.00		
PAGE TOTAL			\$ 10,075.00		\$ 2,025.00

<u>Date</u>	<u>Professional Services</u>	<u>76-9-401/Common Law</u>		<u>Other Claims only</u>	
07/28/99	Motion to Compel	1.00HR	\$ 250.00		
08/06/99	Response Motion to Compel	1.00	\$ 250.00		
08/04/99	Fax Memorandum and Motion Letter Dale Gardiner on Stuart	1.00	\$ 250.00	0.10HR	\$ 25.00
08/14/99	Mem in Support of Pl Pretrial Mot for Pretrial Schedule	1.00	\$ 250.00		
08/18/99	Fax Dr. Jensen Bill Acting Firm Subpoena Anderson	0.50	\$ 125.00	0.20	\$ 50.00
08/24/99	Dr. Jensen	0.20	\$ 50.00		
08/26/99	Dale Gardiner Letter	1.00	\$ 250.00		
08/27/99	Letter on Expert Witness Dale Gardiner on Motion to Compel – Review	1.00	\$ 250.00	1.00	\$ 250.00
08/30/99	Order Review			1.00	\$ 250.00
09/03/99	Motion to Draft Restrictions			2.00	\$ 500.00
	Motion to Clarify – Reply Memorandum Defendants			4.00	\$ 1,000.00
	Van Cott Letter			1.00	\$ 250.00
	ExParte Motion for Order to fill Pleadings Under Seal and Order			1.00	\$ 250.00
	Motion to Lift Restrictions DOPL a Report and Memorandum			1.00	\$ 250.00
	Van Cott Letter to Court in Pleading Under Seal			1.00	\$ 250.00
09/08/99	Notice to Submit for Decision			1.00	\$ 250.00
	Documents on Stadal Nasal Spray- Review			2.00	\$ 500.00
	Order to Compel			1.00	\$ 250.00
09/09/99	Dr. Jensen	2.00	\$ 500.00		
	Article on Medical			1.00	\$ 250.00
09/13/99	Order File Seal			1.00	\$ 250.00
	Letter from Dale Gardiner on Reply Memorandum			0.20	\$ 50.00
09/15/99	Letter to Dale Gardiner	1.00	\$ 250.00		
	Defendants Notice to Submit			1.00	\$ 250.00
PAGE TOTAL			\$ 2,425.00	\$	4,875.00

<u>Date</u>	<u>Professional Services</u>	<u>76-9-401/Common Law</u>	<u>Other Claims only</u>	
09/16/99	Plaintiff Objection to Notice to Submit Letter	1.00HR	1.00HR	\$ 250.00
	Letter Anderson		1.00	\$ 250.00
	Letter to Anderson from Gardiner		0.20	\$ 50.00
	Letter from Anderson on Rule 26 Experts	1.00		\$ 250.00
09/17/99	Letter Blayne Hersche Review		1.00	\$ 250.00
	Letter Anderson to Sine and Copies Courier		1.00	\$ 250.00
09/21/99	Withdraw of Plaintiff Objection to Defendants Notice to Submit		1.00	\$ 250.00
09/22/99	Plaintiffs Stipulation to Extend and Order - Review		1.00	\$ 250.00
09/23/99	ExParte Motion for Order to File Under Seal		1.00	\$ 250.00
09/24/99	Letter Gardiner to Court		1.00	\$ 250.00
	Review Memo Opposition to DOPL		2.00	\$ 500.00
	Working for Jensen vs. Sawyer	2.00		\$ 500.00
	Meeting Dale Gardiner / Dr. Jensen	1.00		\$ 250.00
09/27/99	Letter Dale Gardiner on opposing Defendants Motion to Lift Restriction DOPL		1.00	\$ 250.00
	File Under Seal		1.00	\$ 250.00
10/01/99	Review Letter and Pleading Under Seal from Anderson		1.00	\$ 250.00
10/02/99	Order File Pleadings and Motion		1.00	\$ 250.00
	Review Defendants Reply Memorandum Motion to Lift Restrictions on Use of DOPL		2.00	\$ 500.00
10/04/99	Review Stadal Information / Dale Gardiner		1.00	\$ 250.00
10/06/99	Letter		1.00	\$ 250.00
10/07/99	Letter Gardiner to Anderson		0.20	\$ 50.00
	Letter Gardiner to Anderson		0.20	\$ 50.00
	Copy Review Order File Under Seal		1.00	\$ 250.00
10/11/99	Rule 11 Sanctions Review - Memorandum		3.00	\$ 750.00
10/12/99	Letter Stuart		3.00	\$ 750.00
10/13/99	Fax Dr. Jensen on Expert Witness Gardiner		0.20	\$ 50.00
	Stuart Analysis Lost Income		2.00	\$ 500.00
PAGE TOTAL		\$ 1,250.00		\$ 6,950.00

<u>Date</u>	<u>Professional Services</u>	<u>76-9-401/Common Law</u>		<u>Other Claims only</u>	
12/19/99	Dale Gardiner Letter	1.00HR	\$ 250.00		
10/22/99	Defs Supplemental Memo –DOPL Follow Up Report			1.00	\$ 250.00
10/26/99	State of Utah Letter			1.00	\$ 250.00
	Supplemental Memorandum Van Cott on DOPL				
	Follow Up Report			1.00	\$ 250.00
	Letter Van Cott			1.00	\$ 250.00
10/28/99	Letter Van Cott			1.00	\$ 250.00
10/29/99	Letter Gardiner	1.00	\$ 250.00		
	Amended Reply Mem in Support of Amend Court Order Dated April 21, 1999			3.00	\$ 750.00
	Defendants Amended Reply Memorandum to Clarify on Amended Memorandum			1.00	\$ 250.00
10/30/99	Letter Anderson to Court – Dated 10/29/99			1.00	\$ 250.00
	Answer Memorandum in Support to Motion to Lift DOPL			3.00	\$ 750.00
	Defendants Amended Reply Memorandum in Support of Motion To Lift Restriction on Use of DOPL			3.00	\$ 750.00
11/01/99	Review Expert Report – Frank Stuart			2.00	\$ 500.00
11/02/99	Motion to Clarify Lift DOPL Restrictions and Scheduling			3.00	\$ 750.00
	Letter Gardiner on Assist Attorney General Bowman			1.00	\$ 250.00
11/12/99	Preparation Order Sched Conference	1.00	\$ 250.00		
11/30/99	Expert Report – Alf Pratt	3.00	\$ 750.00		
12/01/99	Hersche CV	1.00	\$ 250.00		
	Review Expert Report Frank Stuart			2.00	\$ 500.00
12/02/99	Expert Witness Rept Prep and Del	6.00	\$ 1,500.00		
12/07/99	Arbitration Sign Up	1.00	\$ 250.00		
12/10/99	Letter to William from Andersen			1.00	\$ 250.00
PAGE TOTAL			\$ 3,500.00		\$ 6,000.00

<u>Date</u>	<u>Professional Services</u>	<u>76-9-401/Common Law</u>		<u>Other Claims only</u>	
01/0600	Expert Report – Jack A. Taylor			1.00HR	\$ 250.00
	Expert Report – Hookman			1.50	\$ 375.00
	Expert Report – Barton	1.00HR	\$ 250.00		
	Expert Report – Bateman	1.00	\$ 250.00		
01/10/00	Gardiner Letter	0.20	\$ 50.00		
	Rev Ltr Gardiner and Rpts of Avery				
	Barton , Bateman Griffin	4.00	\$ 1,000.00		
01/17/00	Position Paper on Mediation	10.00	\$ 2,500.00		
01/24/00	Mediation – Judge Sawaya	4.00	\$ 1,000.00		
01/26/00	Review Materials	4.00	\$ 1,000.00		
02/04/00	Hearing on Motion Cut Off	5.00	\$ 1,250.00		
	Prep for Hearing – Rev Doc	10.00	\$ 2,500.00		
02/11/00	Canfield	4.00	\$ 1,000.00		
02/24/00	Deposition Dr. Purser	4.00	\$ 1,000.00		
02/28/00	Leave for Deposition	8.00	\$ 2,000.00		
02/29/00	Dr. Jensen Questions on Dr. Barton	1.00	\$ 250.00		
	Dr. Jensen	1.00	\$ 250.00		
	Dr. Jensen	4.00	\$ 1,000.00		
03/01/00	Deposition	4.00	\$ 1,000.00		
03/02/00	Deposition Barton and Taylor	4.00	\$ 1,000.00		
03/03/00	Letter on Supplemental Discovery	0.50	\$ 125.00		
03/07/00	Review Subpoena Taylor/ Health Trust			0.50	\$ 125.00
03/08/00	Review Subpoena Davis/ Scott/ Badger / Oldroyd/ Petterson	0.50	\$ 125.00		
03/10/00	Deposition			4.00	\$ 1,000.00
	Subpoena Duces Tecam			0.50	\$ 125.00
03/12/00	Phoenix - Deposition			16.00	\$ 4,000.00
PAGE TOTAL			\$17,550.00	\$ 5,875.00	

<u>Date</u>	<u>Professional Services</u>	<u>76-9-401/Common Law</u>	<u>Other Claims only</u>	
03/15/00	Deposition Dr. Jensen	4.00HR	\$ 1,000.00	
03/16/00	Deposition Jensen & Griffin	5.00	\$ 1,500.00	3.00HR \$ 750.00
03/20/00	Depos Olroyd, Canfield, Gardiner Dr. Hersche, Laurie Scott,	12.00	\$ 3,000.00	
03/21/00	Deposition Bateman Review of Dr. Jensen U of U Grades	3.00	\$ 750.00	4.00 \$ 1,000.00
03/23/00	Deposition Taylor / Peterson	5.00	\$ 1,250.00	
03/24/00	Defs 4 th Set Productions of Docs	2.00	\$ 500.00	
03/25/00	Prep 4 th Set Productions of Docs	3.00	\$ 750.00	
03/27/00	Perry Hookman Trip to Florida			16.00 \$ 4,000.00
03/29/00	Deposition Dr. Amery Review Subpoena Duces Tecum			4.00 \$ 1,000.00 1.00 \$ 250.00
04/04/00	Philip Hutchings Ivy and Young Depos Layne Peterson, Rockwell			10.00 \$ 2,500.00
04/05/00	Deposition Dr. Badger Edwards	4.00	\$ 1,000.00	2.00 \$ 500.00
04/10/00	Deposition Dr. Jensen	3.00	\$ 750.00	
04/13/00	Deposition Davis			3.00 \$ 750.00
04/18/00	Travel for Deposition Sawyers	16.00	\$ 4,000.00	
04/19/00	Deposition Mary Sawy	10.00	\$ 2,500.00	
05/01/00	Pre-Trial Conference	4.00	\$ 1,000.00	
05/05/00	Fax Skywest Group Insurance			0.50 \$ 125.00
05/22/00	Prep for Hearing Mot to Strike	4.00	\$ 1,000.00	
05/23/00	Prep for Hearing Mot to Strike	4.00	\$ 1,000.00	
PAGE TOTAL			\$ 20,000.00	\$ 10,875.00

MICHAEL JENSEN, MD.

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<u>Date</u>	<u>Professional Services</u>	76-9-401/Common Law	Other Claims only	
05/24/00	Prep Hearing on Mot to Strike	4.00HR	\$ 1,000.00	
05/25/00	Hearing on Defs Mot to Strike Amended Complaint	4.00	\$ 1,000.00	
06/21/00	Skywest Group Insurance Plan Review		2.00HR	\$ 500.00
06/22/00	Depo Peterson – Orange, CA Re-reply Mem on Mot for SJ	4.00	\$ 1,000.00	12.00 \$ 3,000.00
06/29/00	Jensen vs. Sawyer		1.00	\$ 250.00
07/06/00	Reply Mem on Mot for SJ	12.00	\$ 3,000.00	
08/23/00	Preparation on Hearing	8.00	\$ 2,000.00	
08/24/00	Hearing Mot S J @ Preparation Prior Memo @Preparation	3.00 20.00	\$ 750.00 \$ 5,000.00	
09/20/00	Meeting Dale Gardiner	1.00	\$ 250.00	
09/25/00	Review Hearing	1.00	\$ 250.00	
09/27/00	Motion In Limini and Prior Preparation of Memorandum Preparation on Motion		25.00 6.00	\$6,250.00 \$1,500.00
09/30/00	Prep Order on Mot 08/24/00 SJ	2.00	\$ 500.00	
10/05/00	Mot In Limini – Hearing and Prep		15.00	\$3,750.00
10/09/00	Frank Stuart Expert Report – Review		3.00	\$ 750.00
10/10/00	Preparation of Exhibit Exchange Defendants Proposed Dual Plan Defs Proposed Spec Verdict Forms	10.00 0.50 2.00	\$2,500.00 \$ 125.00 \$ 500.00	
10/11/00	Deposition Frank Stuart Preparation Defendants Trail Brief		4.00 4.00	\$1,000.00 \$1,000.00
	Dr. Jensen 1999 Tax Return	2.00	\$ 500.00	
	Preparation for Trial	4.00	\$ 1,000.00	1.00 \$ 250.00
10/12/00	Deposition Smith		4.00	\$1,000.00
PAGE TOTAL			\$18,625.00	\$10,250.00

<u>Date</u>	<u>Professional Services</u>	<u>76-9-401/Common Law</u>	<u>Other Claims only</u>	
10/17/00	PT Conference	3.00HR	\$ 750.00	
	Preparation for Trial	4.00	\$1,000.00	
10/19/00	Pls Objs to Lack of Foundation Exhibit Defendants 83 and 138		0.40HR	\$ 100.00
10/20/00	Rev Pretrial Conference Order	0.40	\$ 100.00	
	Review Letter Anderson Reference Exhibit D101		1.00	\$ 250.00
	Preparation for Trial	4.00	\$1,000.00	
10/21/00	Letter Anderson – Order Pretrial		0.50	\$ 125.00
	Letter Gardiner on Costs for Trial		0.50	\$ 125.00
	Review Pretrial Transcript	2.00	\$ 500.00	
	Anderson Letter 10/20 Review			
	Perspective Jury Questionnaire	1.00	\$ 250.00	
	Preparation for Trial Review	4.00	\$1,000.00	
10/23/00	Van Cott – IHC Review IHC0119-27 and 9		1.00	\$ 250.00
	Motion Rebuttal Witness		1.00	\$ 250.00
	Preparation for Trial	4.00	\$1,000.00	
10/24/00	Plaintiff Amended Trial Exhibit	0.10	\$ 25.00	
	Defendants Proposed Trial Plan	0.50	\$ 125.00	
	Plaintiffs Amended Trial Plan	2.00	\$ 500.00	
	Preparation for Trial	4.00	\$1,000.00	
10/25/00	Research for Deposition / Letter Gardiner		2.00	\$ 500.00
	Defendants Objections to			
	Pl Amended Trial Plan Exhibit	2.00	\$ 500.00	
	Defendants Objections to Pls			
	Amended Trial Exhibit	0.50	\$ 125.00	
	Review Defendants Exhibit List	2.00	\$ 500.00	
	Preparation for Trial	4.00	\$1,000.00	
10/26/00	Review Anderson Letter on Depositions and Research		2.00	\$ 500.00
	Review IHC0128 – IHC0135 from Jennifer Anderson		2.00	\$ 500.00
	Defs Prelim Jury Instructions	1.00	\$ 250.00	
	Defendants 2 nd Notice of Rebuttal Witness		1.00	\$ 250.00
	Preparation for Trial	4.00	\$1,000.00	
10/27/00	Trial – Jury Selection	4.00	\$1,000.00	
	Defendants 2 nd Notice of Expert Witness		1.00	\$ 250.00
	Subpoena Smith / Canfield/ Allred/ Vankoman and KUTV		0.50	\$ 125.00
	Question 50 from Anderson		0.40	\$ 100.00
	Preparation for Trial	3.60	\$ 900.00	
PAGE TOTAL \$12,525.00				\$ 3,325.00

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<u>Date</u>	<u>Professional Services</u>	76-9-401/Common Law	Other Claims only
10/30/00	10/31/00 Jensen vs Sawyers Trial	12 00HR	\$3,000 00
11/01/00	Jensen vs Sawyer Trial	12 00	\$3,000 00
11/02/00	Jensen vs Sawyer Trial	12 00	\$3,000 00
11/03/00	Jensen vs Sawyer Trial	12 00	\$3,000 00
11/06/00	Jensen vs Sawyer Trial	12 00	\$3,000 00
11/08/00	Jensen vs Sawyer Trial	12 00	\$3,000 00
11/09/00	Jensen vs Sawyer Trial	12 00	\$3,000 00
11/10/00	Work on Jensen vs Sawyer Trial	12 00	\$3,000 00
11/13/00	Van Kommen Bryner Clinic Jensen vs Sawyer Trial	12 00	\$3,000 00
11/14/00	Jensen vs Sawyer Trial	12 00	\$3,000 00
11/15/00	Jensen vs Sawyer Trial	12 00	\$3,000 00
11/16/00	Jensen vs Sawyer Trial	12 00	\$3,000 00
11/17/00	Jensen vs Sawyer Trial	12 00	\$3,000 00
11/20/00	Jensen vs Sawyer Trial	12 00	\$3,000 00
11/21/00	Jensen vs Sawyer Trial	12 00	\$3,000 00
11/22/00	Jensen vs Sawyer Trial	12 00	\$3,000 00
11/24/00	Jensen vs Sawyer Trial	12 00	\$3,000 00
11/27/00	Jensen vs Sawyer Trial	12 00	\$3,000 00
11/28/00	Jensen vs Sawyer Trial	12 00	\$3,000 00

2 00HR\$ 500 00

PAGE TOTAL**\$ 57,000.00****\$ 500.00**

<u>Date</u>	<u>Professional Services</u>	<u>76-9-401/Common Law</u>		<u>Other Claims only</u>
11/29/00	Jensen vs. Sawyer Trial	12.00HR	\$3,000.00	
11/30/00	Jensen vs. Sawyer Trial	12.00	\$3,000.00	
12/01/00	Jensen vs. Sawyer Trial	12.00	\$3,000.00	
12/04/00	Jensen vs. Sawyer Trial	12.00	\$3,000.00	
PAGE TOTAL				\$12,000.00

PAGE	ATTORNEY COST INVOLVING COMMON LAW INTRUSION, 76-9-401 @ OTHER CLAIMS	ATTORNEY COST INVOLVING ONLY OTHER CLAIMS
01	\$ 6,925.00	
02	\$12,925.00	\$ 850.00
03	\$12,662.50	\$ 737.50
04	\$12,237.50	\$ 9,750.00
05	\$ 7,450.00	\$ 1,650.00
06	\$10,037.50	\$ 1,500.00
07	\$14,225.00	\$ 3,500.00
08	\$10,625.00	\$ 2,375.00
09	\$ 5,750.00	\$ 5,050.00
10	\$11,250.00	\$ 3,300.00
11	\$10,075.00	\$ 2,025.00
12	\$ 2,425.00	\$ 4,875.00
13	\$ 1,250.00	\$ 6,950.00
14	\$ 3,500.00	\$ 6,000.00
15	\$17,550.00	\$ 5,875.00
16	\$20,000.00	\$10,875.00
17	\$18,625.00	\$10,250.00
18	\$12,525.00	\$ 3,325.00
19	\$57,000.00	\$ 500.00
20	\$12,000.00	
Total	\$259,037.50	\$79,387.50