

Appendix I Sample Documents for Award of Attorney Fees

This appendix contains various sample documents related to the award of attorney fees in an FDCPA case--a motion for award of attorney fees, an accompanying affidavit, a proposed order, and a brief. All of these documents are also available online as companion materials to this treatise, as well as five other attorney fee documents. For more detail, consumer law pleadings on this and other topics also can be found in National Consumer Law Center, *Consumer Law Pleadings* (Online with Index Guide).

These documents are intended for demonstration and must be adapted to meet the facts, needs, and requirements of each case and local practice. Note that, in federal court, the motion for an award of attorney fees must be filed and served no later than 14 days after the entry of judgment. See Fed. R. Civ. P. 54(d)(2)(B). For more discussion of FDCPA attorney fee awards, see § 6.8, *supra*.

I.1 Sample Motion for Award of Attorney Fees

IN THE UNITED STATES DISTRICT COURT
FOR THE [district name] DISTRICT OF [state]

[plaintiff][name of plaintiff(s)]
Plaintiff(s),

[v]

[defendant][name of defendant(s)],
Defendant(s).

PLAINTIFF'S MOTION FOR AN AWARD OF COSTS AND ATTORNEY FEES

Plaintiff [name] moves this Honorable Court for an Order that defendant [name] shall pay to plaintiff an award of costs and attorney fees for defendant's violations of the Fair Debt Collection Practices Act 15 U.S.C. §§ 1692 *et seq.* The following is stated in support thereof.

1. On [date Complaint filed], plaintiff [name] filed the complaint alleging defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 *et seq.* ("FDCPA") [and other federal or state laws. Cite].

2. Plaintiff herein was represented by [*first plaintiff attorney*] and [*second plaintiff attorney*].

3. Plaintiff's attorney [*first plaintiff attorney*] has expended a total of [*number*] hours on behalf of the plaintiff. An itemized account is contained in the Declaration of [*first plaintiff attorney*] in Support of Plaintiff's Motion for Award of Costs and Attorney Fees, attached hereto as *Exhibit A* to Declaration of [*first plaintiff attorney*].

4. The hourly rate for the services provided by [*first plaintiff attorney*] is \$[*number*] per hour. Exhibit [rule] to Declaration of [*first plaintiff attorney*].

5. The total lodestar calculation for the services of [*first plaintiff attorney*] in this matter is \$[*number*] ([*number*] hours x \$[*number*]/hr = \$[*number*]).

6. [*first plaintiff attorney*]'s law firm incurred costs and litigation expenses of \$[*number*] in prosecution of this matter. Attached as *Exhibit B* to Declaration of [*first plaintiff attorney*].

7. Plaintiff's attorney [*second plaintiff attorney*] has expended a total of [*number*] hours on behalf of the plaintiff. An itemized account of the total is contained in Declaration of [*second plaintiff attorney*] in Support of Plaintiff's Motion for Award of Costs and Attorney Fees, attached hereto as *Exhibit A* to Declaration of [*second plaintiff attorney*].

8. The hourly rate for the services provided by [*second plaintiff attorney*] is \$[*number*] per hour. Exhibit [rule] to Declaration of [*second plaintiff attorney*].

9. The total lodestar calculation for the services of [*second plaintiff attorney*] is \$[*number*] ([*number*] hours x \$[*number*]/hr. = \$[*number*]).

10. [*second plaintiff attorney*]'s law firm incurred costs and litigation expenses of \$[*number*] in the prosecution of this litigation. Attached to the Motion as *Exhibit B* to Declaration of [*second plaintiff attorney*].

11. Plaintiff's attorneys will submit a Supplemental Declaration after the completion of the briefing of this motion, detailing the additional time and costs expended on this matter.

12. This motion is further supported by the accompanying memorandum of law.

WHEREFORE, plaintiff [*name*] requests that this Honorable Court award reasonable attorney fees for the services of plaintiff's counsel in the amount of \$[*number*] and costs of \$[*number*], for a total of \$[*number*]. Plaintiff further requests costs and attorney fees for the time expended litigating this motion.

[Attorney for Plaintiff]

I.2 Sample Declaration in Support of Motion for Attorney Fees

IN THE UNITED STATES DISTRICT COURT
FOR THE [*district name*] DISTRICT OF [*state*]

[*plaintiff*][*name of plaintiff(s)*]
Plaintiff(s),

[v.]

[*defendant*][*name of defendant(s)*],
Defendant(s).

**DECLARATION OF [*attorney name*]
IN SUPPORT OF PLAINTIFF'S MOTION FOR
AN AWARD OF COSTS AND ATTORNEY FEES**

I, [*attorney name*], declare under penalty of perjury, as provided or by the laws of the United States, 28 U.S.C. § 1746, that the following statements are true:

1. I am a member in good standing of the bars of the following courts:

[*list jurisdictions to which admitted and dates of admission*]

2. I am a [*year*] graduate of the [*name of law school*].

[*list all employers and dates where worked as an attorney*].

3. I have authored or contributed to the following publications:

[*list publications*]

4. I have lectured to professional groups on consumer law issues including:

[*list groups, subject matter and dates*]

5. I have been involved in consumer cases including:

[*list cases*]

6. I am one of the attorneys for plaintiff [*name*] in the above captioned action. I expended a total of [*number*] hours in this matter. My contemporaneously kept records reflecting our services in this litigation are attached hereto as *Exhibit A*.

7. The reasonable hourly rate for my services is \$[*number*] per hour. [*citation of authority supporting hourly rate*]

8. The lodestar calculation of attorney fees for my time expended is ([*number*] hours x \$ [*number*]/hour) \$[*number*].

9. Costs and litigation expenses in the amount of \$[*number*] (attached hereto as *Exhibit B*) were incurred by my law firm in this matter.

10. These requested attorney fees and costs were reasonable and necessary to litigation in this matter.

Executed at [*city, state*].

[*date*]

[Attorney for Plaintiff]

I.3 Sample Order for the Award of Attorney Fees

UNITED STATES DISTRICT COURT
FOR THE [*district name*] DISTRICT OF [*state name*]

[*plaintiff*][*name of plaintiff*]
Plaintiff,

[*v.*]

[*defendants*][*name of defendant*]
Defendants.

[*number*]Civil Action No. [*number*]

ORDER

Upon consideration of Plaintiff's Motion for an Award of Attorney Fees and the parties' briefs thereon,

IT IS HEREBY ORDERED that attorney fees in the amount of \$[amount] be awarded to Plaintiff's legal counsel.

Dated: [date] [signature]
[name]
U.S. District Court Judge

I.4 Sample Memorandum in Support of Award of Attorney Fees

IN THE UNITED STATES DISTRICT COURT
FOR THE [district name] DISTRICT OF [state]

[plaintiff][name of plaintiff(s)]
Plaintiff(s),

[v.]

[defendant][name of defendant(s)],
Defendant(s).

MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR AN AWARD OF COSTS AND ATTORNEY FEES

I. PROCEDURAL HISTORY

On [date Complaint filed], plaintiff [name] filed a complaint alleging that defendant [defendant name] violated the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 *et seq.* ("FDCPA") [and other federal or state laws. Cite]. Defendant filed its Answer thereto. [other pertinent filings]

II. STATEMENT OF FACTS

In this litigation, plaintiff [name] was represented by [first plaintiff attorney]. Mr./Ms. [first plaintiff attorney] expended [number] hours in representation of plaintiff. (See Paragraph #[number], Declaration of [first plaintiff attorney] in Support of Plaintiff's Motion for an Award of Costs and Attorney Fees.) The reasonable hourly rate for an attorney of Mr./Ms. [first plaintiff attorney]'s experience is \$[number]. Paragraph #[number]. An amount totaling \$[number] is sought as attorney fees for Mr./Ms. [first plaintiff attorney]'s representation of the plaintiff. Paragraph #[number]. Mr./Ms. [first plaintiff attorney]' firm expended [number] in costs and

litigation expenses in the prosecution of this action. Paragraph #[number]. Exhibit [rule] of Declaration of [first plaintiff attorney].

Plaintiff [name] was also represented by [second plaintiff attorney] of [firm name, address]. Mr./Ms. [second plaintiff attorney] expended [number] hours in representation of the plaintiff. (See Paragraph #[number], Declaration of [second plaintiff attorney] in Support of Plaintiff's Motion for an Award of Costs and Attorney Fees.) The reasonable hourly rate for Mr./Ms. [second plaintiff attorney] is \$[number] per hour. Paragraph #[number], Declaration of [second plaintiff attorney] in Support of Plaintiff's Motion for an Award of Costs and Attorney Fees. An amount totaling \$[number] is sought as attorney fees for Mr./Ms. [second plaintiff attorney]'s representation of the plaintiff. Paragraph #[number]. His firm expended \$[number] in costs and litigation expenses in the prosecution of this action. Paragraph #[number].

III. STATEMENT OF QUESTION PRESENTED

Is plaintiff [name] entitled to an award of reasonable attorney fees and costs?

Plaintiff respectfully submits that this question should be answered in the affirmative.

IV. ARGUMENT

A. PLAINTIFF [name] WAS SUCCESSFUL IN THIS ACTION

The Fair Debt Collection Practices Act requires the payment of costs and reasonable attorney fees to a successful consumer.

. . . any debt collector who fails to comply with any provision of this subchapter . . . is liable to such person in an amount equal to the sum of--[actual damages] [statutory damages] and (3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney fee as determined by the court.

15 U.S.C. §1692k(a)(3).

The language of the FDCPA makes an award of attorney fees mandatory. *Mace v. Van Ru Credit Corp.*, 109 F.3d 338, 345 n.3 (7th Cir. 1997), citing *Tolentino v. Friedman*, 46 F.3d 645, 651 (7th Cir. 1995). In litigation pursuant to the Fair Debt Collection Practices Act, the Second Circuit stated "the award of attorney fees to plaintiffs for a debt collector's violation of 'any provision' of the FDCPA is mandatory" *Pipiles v. Credit Bureau of Lockport, Inc.*, 886 F.2d 22, 28 (2d Cir. 1989), citing *Emanuel v. American Credit Exchange*, 870 F.2d 805, 809 (2d Cir. 1989). "The FDCPA's statutory language makes an award of fees mandatory." *Camacho v. Bridgeport Financial, Inc.*, 523 F.3d 973, 978 (9th Cir. 2008) (Camacho II) (citation omitted). See also *Jacobson v. Healthcare Fin. Serv., Inc.*, 516 F.3d 85 (2d Cir. 2008); *Zagorski v. Midwest Billing Servs., Inc.*, 128 F.3d 1164 (7th Cir. 1997); *Tolentino v. Friedman*, 46 F.3d 645 (7th Cir. 1995); *Graziano v. Harrison*, 950 F.2d 107 (3d Cir. 1991).

“Given the structure of the section, attorney’s fees should not be construed as a special or discretionary remedy; rather, the Act mandates an award of attorney fees as a means of fulfilling Congress’s intent that the Act should be enforced by debtors acting as private attorneys general.” *Graziano v. Harrison*, 950 F.2d 107, 113 (3d Cir. 1991). See also *DeJesus v. Banco Popular de Puerto Rico*, 918 F.2d 232, 235 (1st Cir. 1990)(Truth in Lending Act). Plaintiff [name] was the prevailing party in this litigation. Statutory damages of \$1,000 will be awarded to plaintiff. This is the maximum statutory damages recovery plaintiff can receive. 15 U.S.C. § 1692k(a)(2).

ATTORNEY FEES AVAILABLE BY STATUTE. See also: *Carroll v. Wolpoff & Abramson*, 53 F.3d 626 (4th Cir. 1995); *Lee v. Thomas & Thomas*, 109 F.3d 302 (6th Cir. 1997); *Zagorski v. Midwest Billing Servs.*, 128 F.3d 1164 (7th Cir. 1997); *Hennessy v. Daniels Law Office*, 270 F.3d 551 (8th Cir. 2001); *Hollis v. Roberts*, 984 F.2d 1159 (11th Cir. 1993); *Oslan v. Law Offices of Mitchell N. Kay*, 232 F. Supp. 2d 436 (E.D. Pa. 2002); *Cope v. Duggins*, 203 F. Supp. 2d 650 (E.D. La. 2002); *Irwin v. Mascott*, 112 F. Supp. 2d 937 (N.D. Cal. 2000).

B. PLAINTIFF’S ATTORNEYS ARE TO BE AWARDED FEES PURSUANT TO THE LODESTAR FORMULA

The U.S. Supreme Court has explained the calculation for an award of attorney fees:

The most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate. The calculation provides an objective basis on which to make an initial estimate of the value of a lawyer’s services.

Hensley v. Eckerhart, 461 U.S. 424, 433; 103 S. Ct. 1933, 1939; 76 L. Ed. 2d 40 (1983). See *Perdue v. Kenny A. ex rel. Winn*, [rule] U.S. [rule], 130 S. Ct. 1662, 176 L. Ed. 2d 494 (2010). Although this decision, and others cited hereinafter, arise in the context of the Civil Rights Attorney’s Fees Award Act, 42 U.S.C. § 1988, these criteria are equally applicable here. “The standards set forth in this opinion are generally applicable in all cases in which Congress has authorized an award of fees to a ‘prevailing party.’” *Hensley v. Eckerhart*, *supra*, 103 S. Ct. at 1939, n.7. “We have stated in the past that fee-shifting statutes’ similar language is a strong indication that they are to be interrupted alike.” *Independent Federation of Flight Attendants v. Zipes*, 491 U.S. 754; 109 S. Ct. 2732, 2735 n.2.; 105 L. Ed. 2d 639 (1989) (quoting *Northcross v. Memphis Bd. of Education*, 412 U.S. 427, 428; 93 S. Ct. 2201, 2202; 37 L. Ed. 2d 48 (1973)). The multiplication of the reasonable number of hours expended times the reasonable hourly rate is referred to as the “lodestar.” *Tamko Roofing Prods., Inc. v. Ideal Roofing Co., Ltd.*, 282 F.3d 23, 34 (1st Cir. 2002); *I.B. v. N.Y. City Dep’t of Educ.*, 336 F.3d 79, 80 (2d Cir. 2003); *Planned Parenthood v. AG*, 297 F.3d 253, 265 (3d Cir. 2002); *Dennis v. Columbia Colleton Med. Ctr.*, 290 F.3d 639, 652 (4th Cir. 2002); *Singer v. City of Waco*, 324 F.3d 813, 829 (5th Cir. 2003); *Paschal v. Flagstar Bank, FSB*, 297 F.3d 431, 434 (6th Cir. 2002); *Divane v. Krull Elec. Co.*, 319 F.3d 307, 317–18 (7th Cir. 2003); *Wheeler v. Missouri Highway & Transp. Comm’n*, 348 F.3d 744,

754 (8th Cir. 2003); *Friend v. Kolodzieczak*, 72 F.3d 1386, 1389 (9th Cir. 1995); *Mallinson-Montague v. Pocrnick*, 224 F.3d 1224, 1234 n12 (10th Cir. 2000); *Loggerhead Turtle v. County Council*, 307 F.3d 1318, 1321 n3 (11th Cir. 2002); *Nat'l Mining Ass'n v. DOL*, 292 F.3d 849, 875 (D.C. Cir. 2002).

In *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717–19 (5th Cir.1974), the Fifth Circuit set out twelve factors relevant to the determination of a reasonable attorney fee: (1) the time and labor required; (2) the novelty and difficulty of the questions; (3) the skill required to perform the service properly; (4) the preclusion of other employment by the attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorney; (10) the undesirability of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases. These are often referred to as the *Johnson* factors. However, it is not necessary for the district court to address each of these factors. *Perdue v. Kenny A. ex rel. Winn*, [rule] U.S. [rule], 130 S. Ct. 1662, 176 L. Ed. 2d 494 (2010); *Anchondo v. Anderson, Crenshaw & Associates, L.L.C.*, 616 F.3d 1098, 1103–04 (10th Cir. 2010).

Plaintiff's attorney [*first plaintiff attorney*] expended [*number*] hours during the course of this litigation. This amount of time is reasonable. The reasonable hourly rate for an attorney with Mr./Ms. [*first plaintiff attorney*]'s experience in this type of litigation is \$[*number*] per hour. Paragraph #[*number*], Declaration of [*first plaintiff attorney*] in Support of Plaintiff's Motion for an Award of Costs and Attorney Fees. This is the prevailing market rate in this type of representation. *Blum v. Stenson*, 465 U.S. 886, 104 S. Ct. 1541, 79 L. Ed. 2d 891 (1984). The lodestar calculation for the efforts of [*first plaintiff attorney*] in this litigation is \$[*number*]. Mr./Ms. [*first plaintiff attorney*]'s firm also incurred \$[*number*] as costs and expenses of this litigation.

[*Second plaintiff attorney*]'s time in this litigation totaled [*number*] hours. This amount of time is reasonable. The standard hourly rate of \$[*number*] charged by Mr./Ms. [*second plaintiff attorney*] is appropriate for an attorney of Mr./Ms. [*second plaintiff attorney*]'s experience in this type of litigation. The lodestar calculation for the efforts of [*second plaintiff attorney*] in this litigation is [*number*]. Mr./Ms. [*second plaintiff attorney*]'s firm also incurred [*number*] as costs and expenses of this litigation.

Retention of two attorneys to represent a party is the norm for federal court litigation. *Randle v. H&P Capital, Inc.*, 2010 WL 2944907, 14–18, 2010 U.S. Dist. LEXIS 74994 (E.D. Va. July 21, 2010). “Counsel may certainly solicit the assistance of other lawyers in working on a case, however, and the time spent by all lawyers on a litigation can be billed so long as the hours claimed are not duplicative.” *Davis v. City and County of San Francisco*, 976 F.2d 1536, 1544 (9th Cir.1992). See also *Bouman v. Block*, 940 F.2d 1211, 1236–37 (9th Cir. 1991); *Haak v. Hults Ford-Mercury, Inc.*, 79 F. Supp. 2d 1020, 1023 (W.D. Wis. 1999); *Lenihan v. City of New York*, 640 F. Supp. 822, 825 (S.D.N.Y. 1986); *Pierce v. F.R. Tripler & Co.*, 770 F. Supp. 118, 122 (S.D.N.Y. 1991). Indeed, it has been held to be an abuse of discretion to limit fees to only one

attorney. *A.J. By L.B. v. Kierst*, 56 F.3d 849, 863–64 (8th Cir. 1995); *Ramos v. Lamm*, 713 F.2d 546, 554 (10th Cir. 1983).

Thus, the total lodestar calculation for the award of attorney fees to the plaintiff in this matter totals [number] and costs of [number].

C. THE LODESTAR MAY NOT BE REDUCED DUE TO THE AMOUNT OF THE JUDGMENT

Plaintiff seeks an award of attorney fees based upon the lodestar formula. The defendants may, however, suggest that a lesser amount is appropriate.

1. Previously Established Rates Are Appropriate For Plaintiffs' Counsel

The U.S. Supreme Court has stated: “The statute and legislative history establish that ‘reasonable fees’ under section 1988 are to be calculated according to the prevailing market rates in the relevant community, regardless of whether plaintiff is represented by private or non-profit counsel.” *Blum v. Stenson*, *supra*, 465 U.S. at 895, 104 S. Ct. at 1547 (footnote omitted). *See also Perdue v. Kenny A. ex rel. Winn*, [rule] U.S. [rule], 130 S. Ct. 1662, 176 L. Ed. 2d 494 (2010).

In order to encourage able counsel to undertake FDCPA cases, as Congress intended, it is necessary that counsel be awarded fees commensurate with those which they could obtain by taking other types of cases Paying counsel in FDCPA cases at rates lower than those they can obtain in the marketplace is inconsistent with the congressional desire to enforce the FDCPA through private actions, and therefore misapplies the law.

Tolentino v. Friedman, 46 F.3d 645, 652–653 (7th Cir. 1995).

Generally, the relevant community is the forum in which the court sits. *Camacho II*, *supra*, 523 F.3d at 979 (9th Cir. 2008) (citation omitted). The reasonable hourly rate is that prevailing in the community for similar work performed by lawyers of comparable skill, experience, and reputation. *Id.*

The Seventh Circuit reversed a district court’s denial of attorney fees even though the plaintiffs only recovered \$100 (\$50 each) as FDCPA statutory damages and remanded for determination of an award of attorney fees. *Zagorski v. Midwest Billing Services, Inc.*, 128 F.3d 1164 (7th Cir. 1997). Of course, the amount of reasonable attorneys fees awarded pursuant to the FDCPA is left to the sound discretion of the judge. *Schimmel v. Slaughter*, 975 F. Supp. 1481, 1484 (M.D. Ga. 1997).

2. The Award of Attorney Fees Is Not Limited by the Amount of Damages

As long as the plaintiff is successful, i.e., recovers more than nominal damages, the plaintiff should be awarded attorneys fees pursuant to a lodestar calculation.

“In the absence of any indication that Congress intended to adopt a strict rule that attorney fees under section 1988 be proportionate to damages recovered, we decline to adopt such a rule ourselves.” *City of Riverside v. Rivera*, 477 U.S. 561, 581; 106 S. Ct. 2686, 2697; 91 L. Ed. 2d 466 (1986) (footnote omitted). See also *Quaration v. Tiffany & Co.*, 166 F.3d 422 (2d Cir. 1999); *Zagorski v. Midwest Billing Services, Inc.*, *supra*. The benefits to the public as a whole resulting from lawsuits which encourage compliance with statutory provisions are more important than relatively small damage awards. Indeed, when a provision for counsel fees is included in a regulatory act, it is a recognition that enforcement of the statute would be unlikely if an individual had to pay his or her own attorney fees. The Court quoted Senator Tunney’s remarks in the Congressional Record:

If the citizen does not have the resources, his day in court is denied him; the congressional policy which he seeks to assert and vindicate goes unvindicated; and the entire nation, not just the individual citizen, suffers.

City of Riverside v. Rivera, *supra* at 477 U.S. at 575, 106 S. Ct. at 2694 (citation omitted).

The Third Circuit amplified this thought stating:

Congress provided fee shifting to enhance enforcement of important civil rights, consumer-protection, and environmental policies. By providing competitive rates we assure that attorneys will take such cases, and hence increase the likelihood that the congressional policy of redressing public interest claims will be vindicated.

Student Public Interest Research Group v. AT&T Bell Laboratories, 842 F.2d 1436, 1449 (3d Cir. 1988). “Congress has relied on such plaintiffs to act as private attorneys general.” *Id.*, at 1450 n.13. Also see *Graziano v. Harrison*, 950 F.2d 107, 113 (3d Cir. 1991).

The amount of damages awarded often has borne no relation to the amount of attorney fees granted. “[A]ttorney’s fees awarded by district courts have ‘frequently outrun the economic benefits ultimately obtained by successful litigants.’” *Evans v. Jeff D.*, 475 U.S. 717, 735; 106 S. Ct. 1531, 1541; 89 L. Ed. 2d 747 (1986) (citation omitted). Upon finding a statutory violation and damages, the attorney fees award should be made in the lodestar amount. *Johnson v. Eaton*, 80 F.3d 148 (5th Cir. 1996).

For example, in *Gradisher v. Check Enforcement Unit*, 2003 WL 187416 (W.D. Mich., Jan. 22, 2003), the district court awarded plaintiff \$1,000 statutory damages plus attorneys’ fees of \$69,872.00 and expenses of \$7,808.44. In *Armstrong v. The Rose Law Firm, P.A.*, 2002 WL 31050583 (D. Minn., Sept. 5, 2002), the district court approved the award of \$43,180 in attorney fees where the plaintiff recovered \$1,000 in statutory damages. The Southern District of Florida affirmed the bankruptcy court’s award of attorney fees of \$29,037.50 where the plaintiff recovered FDCPA statutory damages of only \$1,000. *In re Martinez*, 266 B.R. 523, 544 (Bankr.

S.D. Fla. 2001), *aff'd* 271 B.R. 696 (S.D. Fla. 2001). In *Perez v. Perkiss*, 742 F. Supp. 883 (D. Del. 1990), the district court awarded \$10,110 in attorney fees plaintiff's recovery was only \$1,200. The Seventh Circuit reversed a district court's denial of attorneys' fees even though the plaintiffs only recovered \$100 (\$50 each) as FDCPA statutory damages and remanded for determination of an award of attorneys' fees. *Zagorski v. Midwest Billing Services, Inc.*, *supra*.

“Unlike most private tort litigants, a plaintiff who brings an FDCPA action seeks to vindicate important rights that cannot be valued solely in monetary terms and congress has determined that the public as a whole has an interest in the vindication of the statutory rights.” *Tolentino v. Friedman*, *supra*, at 652, *citing City of Riverside v. Rivera*, 477 U.S. 561, 106 S. Ct. 2686, 91 L. Ed. 2d 466 (1986).

“When a plaintiff has obtained excellent results, his attorney should recover a full compensatory fee.” *Hensley v. Eckerhart*, *supra*, at 435. Here, [plaintiff's name] will receive compensation for both her actual and statutory damages pursuant to the FDCPA, 15 U.S.C. § 1692k(a).

As the Eastern District of Wisconsin has stated, “[W]hen it comes time for the court to award the fees, it must not penalize [Plaintiff]’s attorneys for responding to [Defendant]’s defense. *** Law is labor intensive; lawyers are paid for the diligence and the intelligence, commodities that cannot be mass produced on an assembly line.” *Dietrich v. Northwest Airlines*, 967 F. Supp. 1132, 1997 U.S. Dist. LEXIS 9071, at *6–7 (E.D. Wis. 1997), *rev'd on other grounds*, 168 F.3d 961 (7th Cir. 1999).

D. PLAINTIFF’S ATTORNEYS ARE ENTITLED TO AN AWARD OF COSTS AND LITIGATION EXPENSES

Plaintiff has requested the award of costs and litigation expenses in addition to an award of attorney fees. The District of Nevada stated that “plaintiffs are also entitled to an award of costs representing out-of-pocket litigation expenses . . . includ[ing] costs incurred in travel (airfare, car rental, hotels and food, gasoline and the like), telephone, postage and photocopying.” *Ilick v. Miller*, 68 F. Supp. 2d 1169, 1181 (D. Nev. 1999).

The FDCPA grants the successful plaintiff “the costs of the action.” 15 U.S.C. §1692k(a) (3). Long distance telephone and faxing expenses, as well as copying and postage have been awarded as costs. *Sousa v. Miguel* 32 F.3d 1370, 1374 (9th Cir. 1994). Recoverable costs include travel, photocopies, lodging, postage, telephone calls, and computerized research. *Libertad v. Sanchez*, 134 F.Supp.2d 218, 236 (D.P.R. 2001). Costs may be recovered as provided for by statute as well as 28 U.S.C. § 1920. *See Lathem v. Department of Children & Youth Servs.*, 172 F.3d 786, 794 (11th Cir. 1999). Computer research costs are recoverable. *United Nuclear Corp. v. Cannon*, 564 F. Supp. 581, 591–92 (D.R.I. 1983) (“LEXIS is an essential tool of a modern, efficient law office. As such, it saves lawyers’ time by increasing the efficacy of legal research. Denial of reimbursement for LEXIS charges in a proper case would be an open invitation to law firms to use high-priced attorney time to perform routine research tasks that can be accomplished quicker and more economically with LEXIS.”)

Thus, the plaintiff's litigation expenses and costs are compensable.

E. PLAINTIFF WILL SEEK A SUPPLEMENTAL AWARD OF COSTS, LITIGATION EXPENSES AND ATTORNEY FEES FOR TIME EXPENDED UPON THIS MOTION

The Declarations submitted by plaintiff's attorneys detail the costs and time expended in this litigation prior to the preparation of this brief. The additional cost and time expended preparing this Motion for an Award of Costs and Attorney Fees and briefing will be submitted when work of plaintiff's counsel is completed. An award of fees is appropriate for the time expended in pursuing a Motion For Award Of Attorney Fees. *Camacho v. Bridgeport Financial, Inc.*, 523 F.3d 973, 981–82 (9th Cir. 2008); *Lund v. Affleck*, 587 F.2d 75 (1st Cir. 1978); *Gagne v. Maher*, 594 F.2d 336 (2d Cir. 1979); *David v. City of Scranton*, 633 F.2d 676 (3d Cir. 1980); *Tyler Business Servs., Inc. v. N.L.R.B.*, 695 F.2d 73 (4th Cir. 1982); *Johnson v. State of Miss.*, 606 F.2d 635, 638 (5th Cir. 1979); *Weisenberger v. Huecker*, 593 F.2d 49 (6th Cir. 1979); *In re Burlington N., Employment Practices Litig.*, 832 F.2d 430 (7th Cir. 1987); *Jordan v. Multnomah County*, 815 F.2d 1258, 1264 (9th Cir. 1987). After completion of briefing, plaintiff's counsel will submit Supplemental Declarations for an Award of Attorney Fees.

V. CONCLUSION

Based upon the lodestar calculation, attorney fees should be awarded to plaintiffs' counsel in the amount of [number]. An award of [number] as costs and litigation expenses should also be awarded. A supplemental Declaration for an award of attorney fees will be submitted after the completion of briefing.

[Attorney for Plaintiff]