

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
IN AND FOR BAY COUNTY, FLORIDA

ZACHARY YOUNG and
NEMEX ENTERPRISES INC.,

Plaintiffs,

Case No.: 03-2025-CA-000352

v.

THE ASSOCIATED PRESS,

Defendant.

_____ /

THE ASSOCIATED PRESS' MOTION FOR ATTORNEY'S FEES

Defendant The Associated Press ("The AP") respectfully submits this Motion for Attorney's Fees pursuant to the Florida Anti-SLAPP Act, Fla. Stat. § 768.295, and Fla. R. Civ. P. 1.525.¹ As the Court held in its August 28, 2025 order dismissing this case ("Anti-SLAPP Order"), The AP is the "prevailing party" under the Anti-SLAPP statute and, accordingly, is "entitled to recover from Plaintiffs its reasonable attorney's fees and costs." Anti-SLAPP Order at 16. The AP now seeks an award of \$239,545.50 in fees.

BACKGROUND

I. THE UNDERLYING LITIGATION

Plaintiffs Zachary Young and Nemex Enterprises, Inc. (together, "Young") sued The AP on April 11, 2025, for reporting on his victory in a defamation case against CNN in this same

¹ On September 19, 2025, Young filed a Notice of Appeal from the order granting The AP's Anti-SLAPP motion. This Court, nonetheless, retains jurisdiction to rule on this motion for fees. *See, e.g., Bernstein v. Berrin*, 516 So. 2d 1042, 1042-43 (Fla. 2d DCA 1987) (explaining that, because "the final judgment in the case and the subsequent attorney's fee order are both appealable separately as final orders, an appeal of the former should not take away jurisdiction to rule on the latter").

Court earlier in the year. Even though The AP's entire article (the "Article") was about the jury's favorable reception of Young's claims in the CNN case, Young nonetheless asserted that it defamed him and caused him substantial damages. His sole basis for so claiming was the Article's single use of the word "smuggle" in a sentence in the seventh paragraph: "Young's business helped smuggle people out of Afghanistan, but he said he worked exclusively with deep-pocketed outside sponsors like Bloomberg and Audible." Prior to Young filing the lawsuit, The AP warned Young via letter that the claims he intended to assert were without merit and that the threatened litigation "would violate the Florida Anti-SLAPP statute," thus exposing Plaintiffs "to an award for The AP's legal expenses." Aff. of Charles D. Tobin Ex. A.

On May 19, The AP did, as promised, file a Motion to Dismiss, or in the Alternative, Motion for Summary Judgment, Pursuant to Florida's Anti-SLAPP Statute. *See* The AP's Mot. to Dismiss or, in the Alternative, Mot. for Summ. J. (May 19, 2025). That motion was heard on July 3, along with two other motions. *See* The AP's Am. Notice of Hearing (May 30, 2025). On August 29, the Court issued an Order granting the motion, while also denying Young's Amended Motion for Leave to Amend to Add a Claim for Punitive Damages, and The AP's Motion to Strike. Anti-SLAPP Order at 16.

In its Anti-SLAPP Order, the Court dismissed Young's claims with prejudice, aptly describing the lawsuit as "an attempt to repackage the CNN lawsuit to cash in again," and "a second sequel that should have not been made." *Id.* at 2, 15-16. The Court held that (1) the fair report privilege barred Young's claims because the language Young challenged was a fair and accurate summary of Young's testimony in the CNN case; (2) "nothing in the Article . . . [was] defamatory per se," including the word "smuggle" because, in context, it "was used to describe Young's work to 'rescue' endangered and desperate Afghans"; (3) the use of the word

“smuggle” also did not create a defamatory implication that Young was a “villain profiteer” based on the Article’s full context, and (4) the Article was not “of and concerning” Nemex, which separately barred the trade libel claim. *Id.* at 6-10.

The Court also held that, “[u]nder Florida’s Anti-SLAPP statute, § 768.295 applies and Defendant, as the prevailing party, is entitled to recover from Plaintiff[] its reasonable attorney’s fees and costs incurred in defending these claims,” and “reserve[d] jurisdiction to determine the amount of Defendant’s taxable fees and/or costs.” *Id.* at 16.

As set forth more completely in the Tobin Affidavit, between April 11 when Young initiated this lawsuit and August 29 when the Court dismissed it, Young litigated the case very aggressively, as a simple perusal of the docket demonstrates. *See generally* Tobin Aff. ¶¶ 8-14.

Among other things:

- Young filed a motion for leave to amend to assert punitive damages claims just three days after he filed the lawsuit and before any discovery had been conducted. *Id.* ¶ 8. In its Anti-SLAPP Order, the Court described Young’s substantively identical amended motion for leave to assert punitive damages claims as “fall[ing] woefully short of sufficient evidence to support a claim for punitive damages.” Anti-SLAPP Order at 11.
- Young repeatedly rejected the suggestion of The AP’s counsel that the parties put his motion for leave to assert punitive damages claims on hold until after the Court determined whether the case would proceed past the pleading stage. Tobin Aff. ¶ 9.
- Young filed initial disclosures in which he claimed damages totaling up to **\$453 million**. Tobin Aff. ¶ 10. That eye-popping number was then widely touted in the press, including in articles that quoted Young’s counsel. *Id.*; *see also* Brian Flood, *Navy veteran seeks nearly \$500 million in defamation lawsuit against Associated Press*, Fox News (Apr. 28, 2025, 11:30 AM), <https://www.foxnews.com/media/navy-veteran-seeks-nearly-500-million-defamation-lawsuit-against-associated-press>; Nicholas Fondacaro, *Navy Vet Seeks \$453 Million from Associated Press in Defamation Suit*, News Busters (Apr. 26, 2025, 6:20 PM), <https://www.newsbusters.org/blogs/nb/nicholas-fondacaro/2025/04/26/navy-vet-seeks-453-million-associated-press-defamation-suit>.
- Young propounded **extensive** discovery requests, including 70 Requests for Production, 19 Interrogatories, and 42 Requests for Admission. Tobin Aff. ¶ 11.

- Young responded to it being brought to his counsel’s attention that the original motion for leave to assert punitive damages claims he filed contained at least two fake citations/quotes by simply filing an amended motion for leave to assert punitive damages claims. Anti-SLAPP Order at 4 & n.3, 14-15; Tobin Aff. ¶ 12.
- Young filed a total of seven supplemental filings in support of his effort to obtain leave to assert punitive damages claims, notwithstanding that he also insisted on a briefing protocol under which such supplemental filings were forbidden. Tobin Aff. ¶ 13.

II. THE AP’S FEES

The AP is seeking a fee award in the amount of \$239,545.50 to compensate it for the amount it was forced to pay in legal fees defending against Young’s meritless claims. The AP employed two law firms for this matter: Ballard Spahr LLP (“Ballard Spahr”), which served as lead counsel, and Baron & Redding P.A., which served as local counsel. Tobin Aff. ¶¶ 15, 22. In each case, The AP paid the firm for work on the case on an hourly basis. *Id.* ¶ 23.

As a courtesy to The AP and based on its longstanding relationship with Ballard Spahr, extended a substantial discount to The AP for its representation in this matter. *Id.* ¶¶ 24-25. The discounted hourly rates charged are as follows:

NAME	POSITION	DISCOUNTED HOURLY RATE CHARGED IN THIS MATTER	STANDARD HOURLY RATE
Charles D. Tobin	Partner	\$780.00	\$1,255.00
Paul J. Safier	Of Counsel	\$595.00	\$960.00
Saumya Vaishampayan	Associate	\$445.00	\$695.00
Ryan Relyea	Paralegal	\$295.00	\$400.00
Scott Bailey	Paralegal	\$295.00	\$400.00

Id. ¶ 25. In addition, Ballard Spahr billed paralegal time at an hourly rate of \$295.00, which was discounted from the standard hourly rate of \$400.00. *Id.* Finally, Clifford W. Sanborn, a partner at Baron & Redding. P.A., billed at an hourly rate of \$600.00. *Id.* ¶ 26.

Copies of the invoices submitted to, and paid by, The AP covering the months May through September are attached as Exhibit D to the Tobin Affidavit.² Those invoices show both the total amount in attorney hours for which The AP is seeking compensation and the work descriptions tied to those hours. Tobin Aff. ¶ 27. The invoices do not include the amounts in attorney and paralegal time that were written off in the exercise of its billing judgment and that were not included in statements for services rendered. *Id.* In addition, so as to ensure that the amount sought by its Motion for Attorney's Fees is as reasonable as possible, The AP has also elected to exclude certain additional fees for which it was billed and for which it approved for payment to Ballard Spahr. *Id.* By way of example, The AP is not seeking compensation for attorney time spent on affirmative discovery requests that were not served or exploration of potential experts. *Id.* The time entries for which The AP is not seeking compensation are redacted in the invoices collected in Exhibit D. Exhibit E to the Tobin Affidavit, which is attached for the Court's convenience, consists of a chart that shows only the time entries for which The AP is seeking compensation, along with the amounts tied to each such entry.

In all, the AP is seeking compensation for 392.7 hours in attorney and paralegal time. Tobin Aff. ¶ 28. Based on counsel's rates, those 396.4 hours correspond \$239,545.50 in fees, as set forth in the following chart:

² The AP has incurred additional attorney's fees in connection with this motion, and anticipates incurring additional fees for a reply. The AP reserves its right to file a supplemental affidavit detailing those amounts at a later date. In addition, The AP anticipates that it will incur additional recoverable fees litigating Young's appeal from the order granting The AP's Anti-SLAPP Motion. Should The AP prevail on that appeal, it will seek additional fees on remand.

May – September 2025	Hours	Billed Rate	Billed Amount
Charles D. Tobin	93.6	\$780.00	\$73,008.00
Paul J. Safier	208.2	\$595.00	\$123,879.00
Saumya Vaishampayan	43.4	\$445.00	\$19,313.00
Ryan Relyea	15.8	\$295.00	\$4,661.00
Scott Bailey	1.1	\$295.00	\$324.50
Clifford W. Sanborn	30.6	\$600.00	\$18,360.00
TOTALS	392.7	\$610.00 (blended)	\$239,545.50

Id.

ARGUMENT

I. THE AP’S IS ENTITLED TO AN AWARD OF ITS FEES.

As this Court noted in the Anti-SLAPP Order, Florida’s Anti-SLAPP statute “bars a person from filing a lawsuit against another that is without merit and primarily because the defendant exercised the constitutional right of free speech in connection with a public issue.” Anti-SLAPP Order at 10. By its terms, the statute provides that “[t]he court *shall* award the prevailing party reasonable attorney fees and costs incurred in connection with a claim that an action was filed in violation of this section.” Fla. Stat. § 768.295(4) (emphasis added); *see also Klayman v. Politico LLC*, 2022 Fla. Cir. LEXIS 23, at *29 (Fla. 1st Jud. Cir. Ct. Mar. 22, 2022) (“[T]he Florida Anti-SLAPP Statute provides for a mandatory award of reasonable attorneys’ fees and costs to defendants who prevail on a motion filed pursuant to the statute.”). Thus, as this Court already determined, The AP, “as the prevailing party” under the Anti-SLAPP statute, “is entitled to recover from Plaintiff[] its reasonable attorney’s fees and costs incurred in defending these claims.” Anti-SLAPP Order at 16.

II. THE AP'S FEE REQUEST IS REASONABLE.

Where a party is entitled to fees as a prevailing party, a court should award a “reasonable[.]” fee, taking into account the total number of attorney hours and the hourly rates charged. *Kaiser v. Harrison*, 985 So. 2d 1226, 1229 (Fla. 5th DCA 2008). The number of attorney hours reasonably spent at a reasonable hourly rate for the work is the “lodestar” or baseline for the fee award. *Fla. Patient’s Comp. Fund v. Rowe*, 472 So. 2d 1145, 1150 (Fla. 1985). As the Florida Supreme Court has explained: “We rely on time expenditures multiplied by a customary rate as a base fundamental value because we conclude that reasonableness is directly related to how the market values legal services for which clients negotiate rates and scrutinize the hours expended at those rates.” *Kuhnlein v. Dep’t of Revenue*, 662 So. 2d 309, 313 (Fla. 1995).

In assessing the reasonableness of the fees under the lodestar method. Florida court consider the eight factors set forth in *Rowe* and codified in Florida Bar Rule 4-1.5. Application of those factors confirms the reasonableness of the \$239,545.50 in requested fees, as fully set forth in the attached Affidavit of L. Martin Reeder, Jr., The AP’s fee expert.

As to the application of the *Rowe* factors, the AP further argues as follows:

FACTOR 1: “[T]he time and labor required, the novelty, complexity, difficulty of the questions of the questions involved, and the skill requisite to perform legal service properly[.]” Fla. Bar 4-1.5(b)(1)(A).

This factor strongly supports the reasonableness of The AP’s fee request. As explained in the Reeder Affidavit:

Defending defamation cases is a highly specialized area of the law that requires knowledge of the common law, including a number of common law privileges, the First Amendment constitutional principles that limit the defamation tort, and relevant statutes, including but not limited to the notice requirement set forth in section 770.01, Fla. Stat., and the Anti-SLAPP statute, section 768.295, Fla. Stat. Most litigators lack the experience and expertise required to competently defend defamation claims against the media and, as a result,

competent media law litigators command premium hourly rates not only in the Florida legal market but throughout the United States.

Reeder Aff. ¶ 12. In addition, because of the astronomical amount in damages Young sought (\$453 million), it was imperative that The AP hire specialists in defamation law. In this case, the Ballard Spahr attorneys The AP hired are not just leading nationwide specialists in defamation law, but also had special expertise in the subject matter of the lawsuit as a consequence of having litigated the *Young v. CNN* case. See Tobin Aff. ¶¶ 15-22 (describing relevant credentials of attorneys); Reeder Aff. ¶¶ 18-20 (same). Thus, this factor cuts strongly in favor of the reasonableness of the requested fees.

FACTOR 2: “[T]he likelihood that the acceptance of the particular employment will preclude other employment by the lawyer[.]” Fla. Bar 4-1.5(b)(1)(B).

This factor does not cut either way in this context.

FACTOR 3: “[T]he fee, or rate of fee, customarily charged in the locality for legal services of a comparable or similar nature.” Fla. Bar 4-1.5(b)(1)(C).

This factor also strongly supports the reasonableness of the fee request. As Reeder explains, the hourly rates charged by The AP’s counsel in this case—ranging from \$445 to \$780, with an average rate of roughly \$610—“are reasonable and are comparable to the rates charged by other leading firms in the Florida legal market, including but not limited to, Holland & Knight, Greenberg Traurig and Gunster Yoakley,” even though (according to Reeder) “none of these other fine firms can match the depth and breadth of Ballard’s media practice.” Reeder Aff. ¶ 22; see also *id.* ¶ 23 (explaining that “[t]he blended hourly rate Ballard charged AP for the work of three attorneys and two paralegals on this matter was \$610.84/hr. . . ., a figure that, in my opinion, is reasonable in the Florida legal market”). In addition, Ballard Spahr substantially discounted its national rates in this matter, putting them in line with rates for this part of the country. Tobin Aff. ¶ 25.

Further proof of the reasonableness of the rates is the fact that The AP paid them. *Id.*

¶ 33. As one court has explained: “[p]erhaps the strongest and best evidence of an attorney’s market rate is the hourly rate he/she charges clients.” *Smith v. Sch. Bd. of Palm Beach Cnty.*, 981 So. 2d 6, 9 (Fla. 4th DCA 2007); *see also Arbor Hill Concerned Citizens Neighborhood Ass’n v. Cnty. of Albany*, 522 F.3d 182, 190 (2d Cir. 2007) (“The reasonable hourly rate is the rate a paying client would be willing to pay.”); *Yurman Designs, Inc. v. PAJ, Inc.*, 125 F. Supp. 2d 54, 58 (S.D.N.Y. 2000) (“[A]cceptance of the rates charged is in itself substantial evidence of their reasonableness.”), *aff’d*, 29 F. App’x 46 (2d Cir. 2002). This is especially so where, as in this case, the prevailing party is a defendant who did not choose to initiate litigation but was compelled both to defend it and to compensate its counsel without any guarantee of eventual reimbursement. *See Taco Bell Corp. v. Cont’l Cas. Co.*, 388 F.3d 1069, 1075-76 (7th Cir. 2004) (stating that prevailing party “had an incentive to minimize its legal expenses (for it might not be able to shift them)” and that “painstaking judicial review” is not needed where “market incentives to economize” are present). Thus, this factor strongly cuts in favor of the reasonableness of the requested fees.

FACTOR 4: [T]he significance of, or amount involved in, the subject matter of the representation, responsibility involved in the representation, and the results obtained[.]” Fla. Bar 4-1.5(b)(1)(D).

This factor also strongly cuts in favor of the reasonableness of the fees requested. As set forth above and in the Tobin and Reeder Affidavits, Young litigated this case very aggressively, including by raising the stakes of the litigation by claiming hundreds of millions of dollars in damages. *See supra* at 3-4; Tobin Aff. ¶¶ 8-14; Reeder Aff. ¶¶ 16-17, 26. That necessarily demanded a thorough and forceful defense.

The results achieved further support the reasonableness of the fees. As stated in the Reeder Affidavit:

Suffice it to say that AP's counsel demonstrated their exceptional experience, diligence and ability in creating the winning Motion to Dismiss or, Alternatively, for Summary Judgment. It took great skill to perform the legal services necessary to win a with prejudice dismissal of the case. The fact the Ballard lawyers provided these services to AP at a large discount to Ballard's standard rates and that the benefit of these rates now flow to the Plaintiffs is a compelling reason why AP should be awarded the full amount it is requesting.

Reeder Aff. ¶ 27. The U.S. Supreme Court has explained that a prevailing party that achieves "excellent results," is entitled to full compensation for "*all* hours reasonably expended on the litigation." *Hensley v. Eckerhart*, 461 U.S. 424, 435 (1983) (emphasis added). Here, The AP is not seeking reimbursement for all the fees expended, notwithstanding the excellent results its counsel obtained. Tobin Aff. ¶ 27; Reeder Aff. ¶ 21. This factor, thus, also strongly cuts in favor of the reasonableness of the requested fees.

FACTOR 5: "[T]he time limitations imposed by the client or by the circumstances and, as between attorney and client, any additional or special time demands or requests of the attorney by the client[.]" Fla. Bar 4-1.5(b)(1)(E).

This factor also favors the reasonableness of the requested fees. The case was litigated at substantial pace, at least between the time The AP's counsel first entered its appearance on May 5, 2025 and June 16, 2025, when briefing closed on the motions argued at the July 3, 2025 hearing. Tobin Aff. ¶¶ 8-14. In that short five-week window, The AP's counsel had to litigate multiple motions and prepare to respond to voluminous discovery requests. Thus, this factor also cuts in favor of the reasonableness of the fee request.

FACTOR 6: "[T]he nature and length of the professional relationship with the client[.]" Fla. Bar 4-1.5(b)(1)(F).

This factor, likewise, strongly supports the reasonableness of the requested fees. As described in the Tobin Affidavit, The AP has a longstanding relationship with Ballard Spahr, which has served as its primary outside counsel throughout the country since 2017, when The

AP's previously main counsel, Levine Sullivan Koch & Schulz, LLP, merged with Ballard Spahr. Tobin Aff. ¶ 24. Thus, this factor strongly supports the reasonableness of the fee request.

FACTOR 7: “[T]he experience, reputation, diligence, and ability of the lawyer or lawyers performing the service and the skill, expertise, or efficiency of effort reflected in the actual providing of such services [.]” Fla. Bar 4-1.5(b)(1)(G).

This factor also strongly supports the reasonableness of the requested fees. As explained in the Tobin Affidavit, Ballard Spahr is one of the preeminent firms for defamation defense in the country. Tobin Aff. ¶ 16. It regularly defends news media clients in trial and appellate courts nationwide, including against SLAPP suits in many states like California, Colorado, Florida, Illinois, Louisiana, Nevada, New York, and Oregon, as well as the District of Columbia. *Id.* The firm and its attorneys have earned a national reputation for the quality of the legal services they provide to their clients in actions such as this one. *Id.* ¶¶ 15-21. This includes being named in the 2025 *Best Law Firms* report published by Best Lawyers as the national Law Firm of the Year for First Amendment litigation. *Id.* ¶ 16. In addition, the individual Ballard Spahr attorneys who worked on the litigation have considerable experience and ability in this area, for which they have received substantial recognition. *Id.* ¶¶ 17-21; *see also* Reeder Aff. ¶¶ 18-19. And, Ballard Spahr brought special expertise to this case, as two of the three attorneys who worked on this matter also litigated the *Young v. CNN* case that was the subject matter of the Article. Tobin Aff. ¶¶ 17, 20-21. That deep knowledge of the record aided the representation considerably, especially in helping craft the winning argument under the fair report privilege.

As for efficiency, the hours expended matched the needs and stakes of the case. The law is clear that, in determining the reasonableness of the hours billed, courts should take into account the extent and aggressiveness of the plaintiff's litigation efforts. As the U.S. Supreme Court has explained, a plaintiff cannot “litigate tenaciously and then be heard to complain about

the time necessarily spent by the [opposing party] in response.” *City of Riverside v. Rivera*, 477 U.S. 561, 580 n.11 (1986). Here, Young asserted potentially crippling amounts in damages and inundated The AP with filings and discovery requests before there was even a ruling on The AP’s motion to dismiss, which substantially increased The AP’s legal expenses. *See Tobin Aff.* ¶ 14; *Reeder Aff.* ¶ 17. Having chosen to litigate in that fashion, Young should not be heard to complain that The AP invested significant resources in defending itself.

FACTOR 8: “[W]hether the fee is fixed or contingent, and, if fixed as to amount or rate, then whether the clients’ ability to pay rested to any significant degree on the outcome of the representation[.]” Fla. Bar 4-1.5(b)(1)(H).

This factor is neutral, as the fees charged to The AP were not fixed or contingent.

* * * * *

Six of the eight *Rowe* factors cut in favor of the reasonableness of the requested fees and the other two factors are neutral. In sum, counsel charged a reasonable rate and billed a reasonable number of hours to prevail in this action. The AP should be fully compensated for the fees Young’s meritless action caused it to incur, as Florida law directs.

CONCLUSION

For the reasons set forth above, The AP respectfully requests that the Court award it \$239,545.50 in fees.

CERTIFICATION OF GOOD FAITH CONFERRAL

The AP made a good faith attempt to confer with Young regarding the fees issue raised in this Motion. The parties were unable to reach an agreement.

Dated: October 1, 2025

Respectfully Submitted,

BALLARD SPAHR LLP

/s/ Charles D. Tobin

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy for the foregoing has been served via the Florida Courts E-Filing Portal on all counsel of record this 1st day of October, 2025.

/s/ Charles D. Tobin

Charles D. Tobin