

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,)	
)	
Plaintiff,)	
)	
v.)	Civil Action Nos.
)	78-322 and 78-420
FEDERAL BUREAU OF)	(Consolidated)
INVESTIGATION,)	
)	
Defendant.)	
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DECLARATION OF HENRY I. LaHAIE

I, Henry I. LaHaie, make the following declaration:

1. I have been a trial attorney in the Civil Division of the United States Department of Justice since September 29, 1979. Prior to coming to the Justice Department, I was in private practice with the law firm of Lavey & Harmon for almost a year, and before that, I was a law clerk to the late Terry L. Shell, United States District Judge for the Eastern and Western Districts of Arkansas. I commenced that clerkship upon graduating with honors from the University of Arkansas at Little Rock School of Law in May, 1977.

2. As a trial attorney with the Justice Department, I am responsible for representing various government agencies in a wide variety of civil litigation. I have been responsible for representing the Federal Bureau of Investigation in these consolidated FOIA cases since October, 1981. As the attorney assigned to these cases, I am the one who prepared and filed defendant's motion for dismissal under Rule 37(b), along with the memoranda in support of that motion.

3. A statement of the time I spent prosecuting defendant's dismissal motion is attached hereto as Exhibit 1. The periods of time listed in that statement are based on a reconstruction of the time I spent preparing the motion and the two memoranda in support, and arguing the motion before the Court. Upon knowledge and belief, it is an accurate reflection of the time expended on the motion and the hearing. I therefore request attorney fees of \$53 per hour for the 19.75 hours I spent prosecuting defendant's Rule 37(b) motion.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated this 30th day of November, 1983.



HENRY J. LAHAIE
Trial Attorney
Civil Division
United States Department of
Justice

EXHIBIT 1: Time Expended By Henry I. LaHaie
On Defendant's Motion For
Dismissal Under Rule 37(b)

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME SPENT</u>
5/12/83	Conversation with James Lesar concerning, <u>inter alia</u> , plaintiff's compliance with the Court's Order of April 13, 1983.	.25 hr.
5/13/83	Consultation with Supervising Attorneys Barbara Gordon and David Anderson concerning future course of action given Mr. Lesar's indication that plaintiff would not comply with the Court's discovery orders.	.25 hr.
5/13/83	Consultation with FBI officials concerning future course of action.	.25 hrs.
5/13/83	Research on sanctions allowed under Rule 37(b)(2), F.R.Civ.P.	5 hrs.
5/16/83	Further research on the dismissal sanction under Rule 37(b)(2).	3 hrs.
5/16/83	Initial drafting of defendant's motion and memoranda for dismissal.	2 hrs.
5/16/83	Telephone call to the Clerk of the Court to ascertain whether plaintiff had filed any answers to defendant's discovery requests.	.125 hr.
5/17/83	Conference with Supervising Attorney Gordon concerning substance of defendant's motion and memorandum.	.25 hr.
5/17/83	Final drafting of defendant's motion and memorandum.	.5 hr.
5/18/83	Telephone call to the Clerk of the Court to ascertain whether plaintiff had still failed to file answers to defendant's discovery requests.	.125 hr

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME SPENT</u>
6/06/83	Review of plaintiff's opposition to defendant's Rule 37(b) motion.	.25 hr.
6/15/83	Initial research and drafting of defendant's reply to plaintiff's opposition.	3 hrs
6/17/83	Consultation with Supervising Attorney Gordon about the substance of defendant's reply memorandum.	.25 hr.
6/20/83	Final drafting of reply memorandum.	.5 hr
11/8/83	Preparation for moot court and the next day's hearing.	2 hrs.
11/08/83	Moot court in anticipation of the next day's hearing.	1 hr.
11/09/83	Hearing on the defendant's Rule 37(b) Motion.	1 hr.
	TOTAL:	<u>19.75</u>

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Plaintiff,

v.

FEDERAL BUREAU OF
INVESTIGATION,

Defendant.

Civil Action Nos.
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(Consolidated)

ORDER

On May 18, 1983, the defendant moved the Court, pursuant to Rule 37(b)(2), F.R.Civ.P., to dismiss these consolidated cases with prejudice as a sanction against plaintiff for his willful refusal to comply with the Court's discovery orders of February 4 and April 13, 1983. The defendant also moved the Court to assess against plaintiff and his counsel the reasonable expenses, including attorney fees, that it incurred in prosecuting the Rule 37(b) motion. Upon consideration of plaintiff's opposition to those motions and after conducting a hearing thereon, the Court, on November 18, 1983, granted defendant's Rule 37(b) motion and dismissed these cases with prejudice. The Court also directed the defendant to submit documentation detailing the reasonable expenses, including attorney fees, that it had incurred in prosecuting the Rule 37(b) motion. The defendant complied with that directive on December 2, 1983.

Upon consideration of defendant's expense itemization and plaintiff's response thereto, the Court finds that the applied for expenses, including attorney fees, are reasonable and fully documented. Accordingly, it is this ____ day of _____, 1983,

ORDERED that:

(1) the defendant is awarded expenses under Rule 37(b)(2), F.R.Civ.P., in the amount of \$1,053.55; (2) plaintiff and his counsel, James H. Lesar, shall pay said amount to the United States within twenty (20) days from the date of this Order; and (3) such payment shall be made by check payable to "Treasurer of the United States of America" and shall be sent to defendant's counsel.

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify on this 2nd day of December, 1983, I have served the foregoing Defendant's Application for Expenses Incurred in Prosecuting Its Dismissal Motion under Rule 37(b)(2), and a proposed Order, by first class mail, postage pre-paid to:

James H. Lesar, Esq.
Suite 900
1000 Wilson Boulevard
Arlington, Virginia 22209


HENRY J. LAHAIE