

Steven W. Cheifetz (011824) [swc@cimlaw.com](mailto:swc@cimlaw.com)  
**CHEIFETZ IANNITELLI MARCOLINI, P.C.**  
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Attorneys for Plaintiff/ Appellant  
Colette McNally

**IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE**

COLETTE MCNALLY,  
  
Plaintiff/ Appellant,

-vs-

SUN LAKES HOMEOWNERS  
ASSOCIATION #1, INC., an  
Arizona non-profit corporation,  
  
Defendant/ Appellees.

COURT OF APPEALS

CASE NO.: 1 CA-CV-15-0744

MARICOPA COUNTY SUPERIOR  
COURT NO. CV2014-009496

JUDGE: Honorable James T. Blomo

**AMENDED AFFIDAVIT OF  
STEVEN W. CHEIFETZ IN  
SUPPORT OF APPELLANT'S  
APPLICATION FOR AWARD OF  
ATTORNEYS' FEES AND  
COSTS ON APPEAL  
PURSUANT TO ARCAP 21(a)**

STATE OF ARIZONA            )  
  ) ss.  
COUNTY OF MARICOPA    )

STEVEN W. CHEIFETZ, ESQ., being first duly sworn upon his oath,  
  
deposes and says:

1. I am the principal attorney representing the Appellant Colette McNally in the prosecution of this appeal (1 CA-CV 15-0744). In such capacity, I have personal knowledge of facts underlying the above-captioned action and make this Affidavit in support of the Application for Award of Attorneys' Fees and Costs in favor of Appellant McNally and against Appellee Sun Lakes Homeowners Association #1, Inc.

2. On behalf of McNally, we prepared and filed a Verified Complaint seeking declaratory and injunctive relief.

3. Following an evidentiary hearing, the superior court denied McNally's request for preliminary injunction.

4. Given the approaching expiration of McNally's term on the Board, and to hasten the unauthorized Association actions, McNally filed a Petition for Special Action on October 23, 2015. The Petition for Special Action required legal research and writing concerning the questions that would be presented to the Court of Appeals.

5. This Court declined to accept McNally's Petition for Special Action.

6. In light of the Association's allegations that McNally had disclosed confidential information, we thought it prudent to avoid

additional allegations by the Association. Accordingly, we prepared a Motion to File Under Seal, which the Court granted.

7. We prepared McNally's Opening Brief, which incorporated most of the substantive arguments that had been researched for Appellant's Petition for Special Action.

8. To address the time sensitive nature of McNally's remedy we filed the first of two Motions to Expedite Appeal. Although this Court denied the first Motion to Expedite the Appeal, once the parties had fully briefed the appeal, McNally filed a second Motion to Expedite Appeal, which the Court granted.

9. This Court heard oral argument on September 14, 2016.

10. On October 13, 2016, this Court published an Opinion in *McNally v. Sun Lakes Homeowners Association #1, Inc.*, 1 CA-CV 15-0744, finding that the superior court erred in denying Appellant's Application for Preliminary Injunction.

11. Appellant respectfully requests an award of McNally's attorneys' fees and costs incurred in pursuing the successful appeal of the superior court's denial of Appellant's Application for Preliminary Injunction.

12. I am a partner of the law firm Cheifetz Iannitelli Marcolini, P.C. I have reviewed the files maintained by Cheifetz Iannitelli Marcolini, P.C., and the records maintained in the ordinary course of business concerning the attorneys' fees and taxable costs incurred in the prosecution of this appeal.

13. I am a member of the Arizona State Bar. I was admitted to practice law in the state of Arizona in May 1988, and have actively practiced law since that time.

14. I have extensive experience handling matters and advising clients in commercial litigation matters, including the law governing homeowner associations.

15. I personally attest that the hourly fees charged to the Appellant were in accordance with what other similarly experienced civil commercial litigation law firms in the Phoenix area might charge. The hourly rates charged to the Appellant were between \$235.00 and \$300.00 for attorney time, depending on the level of attorney experience, and \$85.00 and \$125.00 for paralegal time.

16. I submit that our law firm considers these billing rates to be reasonable given due consideration to the attorneys' ability, training,

education, experience, skill and professional standing, intricacy and difficulty of the work performed, the time and skill required, the responsibility imposed, and the ultimate result obtained.

17. I attest that attached to this Affidavit as **Exhibit 1** is a detailed Professional Services Statement reflecting an itemization of legal services and expenses incurred in connection with this appeal (1 CA-CV 15-0744), which has been redacted to protect attorney-client and work product privileged matters. However, in the event the Court so requests, Appellant will submit under seal an unredacted copy for *in camera* review.

18. Collette McNally entered into a Legal Services Agreement with the law firm and has paid or has agreed to pay the total charges for the itemized services set forth in **Exhibit 1**.

19. Ms. McNally has agreed to pay this law firm's hourly billing rates set forth in the Legal Services Agreement.

20. The billing rates for each attorney is based on the individual's years of professional experience.

21. I am familiar with the billing rates in this case for each attorney and paralegal whose time was charged to the Appellant in connection with this appeal, and they are as follows:

Steven W. Cheifetz, Esq.	\$300.00 per hour
Jacob A. Kubert, Esq.	\$235.00 per hour
Cynthia R. Estrella, Esq.	\$275.00 per hour
Kelle J. Winter (paralegal)	\$125.00 per hour
Lisa A. Guthrie (paralegal)	\$125.00 per hour

22. I have reviewed the time spent by all attorneys and paralegals with our firm, and the attorneys' fees incurred as a result thereof as to this appeal (1 CA-CV 15-0744), and attest that it is itemized as follows:

Attorney/Paralegal	Hours Charged*	Hourly Rate	Total Fees
Steven W. Cheifetz, Esq.	26.60	\$300.00	\$7,980.00
Jacob A. Kubert, Esq.	192.80	\$235.00	\$45,308.00
Cynthia R. Estrella, Esq.	3.40	\$275.00	\$935.00
Kelle J. Winter, paralegal	0.80	\$125.00	\$100.00
Lisa A. Guthrie, paralegal	0.00	\$125.00	\$0.00
<b>TOTAL ATTORNEYS' FEES</b>			<b>\$54,323.00</b>

\* The time reflected here are the hours actually charged to McNally. There is time reflected on the itemized bill that were not charged. These entries are reflected as "No charge" on the itemized bill.

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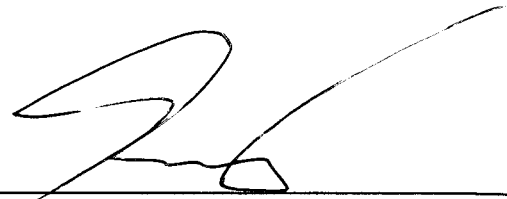
23. In addition to the fees incurred in the appeal, McNally incurred costs totaling \$1,144.23:

Description	Amount
Clerk of Appellate Court: Filing Fee Petition for Special Action	\$280.00
Petition for Special Action (copies and binding)	\$137.94
Clerk of Appellate Court: Filing Fee for Opening Brief	\$280.00
Appellant's Opening Brief (copies and binding)	\$116.29
Arizona TurboCourt electronic filing fees (12 filings @ \$6.00 each)	\$72.00
Reporter's Transcript:	\$258.00
<b>TOTAL COSTS:</b>	<b>\$1,144.23</b>

24. I respectfully submit that the costs and professional legal services set forth in **Exhibit 1** were actually, reasonably and necessarily incurred in the litigation of this appeal. I respectfully submit that no time spent was wasted, inappropriate or unnecessary. Further, I respectfully submit that the attorneys' fees charged are reasonable under the relevant considerations as set forth in E.R. 1.5 of the Arizona Rules of Professional Conduct, Supreme Court Rule 42, as adopted by the Arizona Supreme Court.

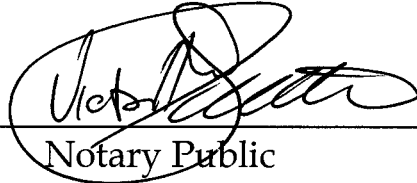
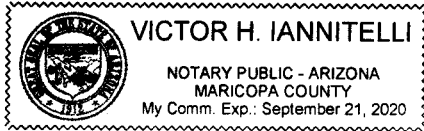
25. The total attorneys' fees and costs actually and necessarily incurred in the Appeal is **\$55,467.23**.

FURTHER AFFIANT SAYETH NOT.



Steven W. Cheifetz

SUBSCRIBED AND SWORN TO before me this 3<sup>rd</sup> day of November, 2016.

  
Notary Public

**ORIGINAL** of the foregoing e-filed with the Court of Appeals and a **COPY** mailed and e-mailed this \_\_\_ day of November, 2016, to:

Robert Grasso, Jr., Esq.  
[rgrasso@grassolawfirm.com](mailto:rgrasso@grassolawfirm.com)  
GRASSO LAW FIRM, P.C.  
2121 West Chandler Boulevard, Suite 100  
Chandler, Arizona 85224  
Attorneys for Defendant/ Appellee

By:    /s/ Lisa Guthrie   

N:\CLIENTS\McNally\Sun Lakes HOA 3172-4\Appeal Case 10 28 15\Pleadings\SWC AFF Applicax for fees FINAL 11 02 16.doc

Cheifetz Iannitelli Marcolini, PC  
111 West Monroe Street, 17th Floor  
Phoenix, Arizona 85003

## HISTORY BILL

Page No. 1

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

<b>Date</b>	<b>Description</b>	<b>Hrs/Qty Rate/Price</b>	<b>Amount</b>
8/12/2015		1.00	\$258.00
	EXP TRANS	\$258.00	B
	Jeanne A Kappedal - Cost of transcripts for testimony of Scott Carpenter, Janice Cournoyer, and Rick Schwartz.		
10/23/2015		1.00	\$280.00
	EXP FF	\$280.00	B
	Arizona Court of Appeals - Division One - Petition For Special Action.		
10/23/2015		1.00	\$6.00
	EXP FF	\$6.00	B
	AZ Turbo / Arizona Court of Appeals - Division One - Petition For Special Action.		
10/23/2015		1.00	\$137.94
	EXP FEE	\$137.94	B
	Quick & Confidential - Legal binding covers.		
10/26/2015		1.00	\$6.00
	EXP FF	\$6.00	B
	AZ Turbo / Arizona Court of Appeals - Division One - Amended Certificate of Service with Certificate of Service Dated October 23, 2015.		
11/10/2015		4.00	\$24.00
	EXP FF	\$6.00	B
	AZ Turbo / Arizona Court of Appeals - Division One - Motion To Expedite; Case Management Statement; Motion To File Under Seal; Notice of Payment.		

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

11/10/2015	1.00	\$280.00
EXP FF	\$280.00	B
Arizona Court of Appeals - Division One - Motion To Expedite.		
12/01/2015	1.00	\$6.00
EXP FF	\$6.00	B
AZ Turbo / Arizona Court of Appeals - Division One - Certified Transcript and Notice of Filing Certified Transcript.		
1/20/2016	1.00	\$6.00
EXP FF	\$6.00	B
AZ Turbo / Arizona Court of Appeals - Division One - Appellant's Request For Oral Argument.		
1/20/2016	1.00	\$116.29
EXP FEE	\$116.29	B
Quick & Confidential - Opening Brief Appendix legal binding covers.		
3/25/2016	1.00	\$6.00
EXP FF	\$6.00	B
AZ Turbo / Arizona Court of Appeals - Division One - Appellant's Reply Brief; Certificate of Compliance and Certificate of Service.		
3/29/2016	1.00	\$6.00
EXP FF	\$6.00	B
AZ Turbo / Arizona Court of Appeals - Division One - Appellant's Motion To Accelerate Appeal Pursuant To ARCAP 29(a)(2) and Certificate of Service.		
4/29/2016	1.00	\$6.00
EXP FF	\$6.00	B
AZ Turbo/Court of Appeals - Appellant's Reply in Support of Motion to Accelerate Appeal Pursuant to ARCAP 29(a)(2), and Certificate of Service.		

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

8/17/2016		1.00	\$6.00
EXP AZ TURBO		\$6.00	B
AZ Turbo/ Court of Appeals - Filing Fee: Return receipt for Notice of Oral Argument.			

**Subtotal:** [ **17.00** **\$1,144.23** ]

<b>Date</b>	<b>Description</b>	<b>Hrs/Qty Rate/Price</b>	<b>Amount</b>
9/01/2015	JAK PREP	0.20 \$235.00	\$0.00 N
Received and reviewed e-mail from C. McNally requesting status of matter; draft e-mail to C. McNally re: same			
9/08/2015	SWC PREP	0.40 \$300.00	\$120.00 B
conference with associate about strategy for section of special action brief on lack of authority to remove director from executive session,			
9/14/2015	JAK PREP	4.00 \$235.00	\$940.00 B
Begin drafting appellate brief for special action; review deposition transcripts in further preparation of same			

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

9/15/2015	2.80	\$658.00
JAK PREP	\$235.00	B
Conduct legal research to find case law where elected director was removed from directorship without a hearing in violation of her due process rights; review deposition transcripts of Rick Schwartz and C. McNally in further preparation of appellate brief		
9/15/2015	2.20	\$517.00
JAK PREP	\$235.00	B
Continued drafting appellate brief		
9/17/2015	0.20	\$60.00
SWC PREP	\$300.00	B
conference with associate about status of special action brief and about strategy for third argument about lack of client open meeting violation,		
9/17/2015	0.40	\$0.00
JAK PREP	\$235.00	N
Case development meeting with Steven W. Cheifetz discussing strategy in further preparation of special action		
9/18/2015	1.30	\$305.50
JAK PREP	\$235.00	B
Begin drafting additional argument for special action that judgment should be vacated because Judge Blomo did not consider all evidence submitted		
9/21/2015	2.90	\$681.50
JAK PREP	\$235.00	B
Continued drafting Legal Argument for Special Action		

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

9/22/2015	2.30	\$540.50
JAK PREP	\$235.00	B
Completed drafting Legal Arguments for Special Action; begin revising same		
9/23/2015	3.50	\$822.50
JAK PREP	\$235.00	B
Begin drafting Introduction and Statement of Issues; review trial exhibits in further preparation of revisions to brief; continued revising brief		
9/24/2015	3.00	\$705.00
JAK PREP	\$235.00	B
Revised legal arguments in appellate brief; case development meeting with Steven W. Cheifetz discussing revisions to same; begin revising brief accordingly		
9/24/2015	0.50	\$0.00
SWC PREP	\$300.00	N
reviewed portion of new draft of Special Action Brief prepared by associate and met with associate and discussed needed revisions and new emphasis on placing burden on Homeowners Association to seek injunctive relief rather than placing such a burden on the director removed,		
9/25/2015	0.50	\$0.00
SWC PREP	\$300.00	N
phone call and e mails with associate about status of efforts to obtain transcripts and needed follow up and about strategy for special action,		
9/25/2015	4.20	\$987.00
JAK PREP	\$235.00	B
Conferences with Steven W. Cheifetz (x2) discussing strategy for appellate brief; continued research in further preparation of appeal; drafted Introduction and continued revising legal arguments; case development meeting with K. Winter re: trial		

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

transcript; drafted e-mail to court reporter demanding preparation of transcripts; case development meeting with Claudio E. Iannitelli discussing strategy for presenting record to Court of Appeals in absence of Index of Record

9/28/2015		2.40	\$564.00
JAK PREP		\$235.00	B
Exchange e-mails with court reporter to obtain trial transcripts; case development meeting with assistant and L. Guthrie discussing preparation of Appendix fo special action; case development meeting with Steven W. Cheifetz discussing appealability issue; review and analyze transcripts for S. Carpenter; J. Cournoyer and R. Schwartz in further preparation of special action brief			
9/28/2015		0.70	\$0.00
LAG PREP		\$125.00	N
Conference with Jacob A. Kubert regarding special action in Court of Appeals; telephone call and discussion with Clerk of Court of Appeals regarding filing under seal, other required documents and number of copies; discussion documents will need to be filed at the counter not e-filed; conference with Jacob A. Kubert regarding same.			
9/28/2015		0.50	\$0.00
SWC PREP		\$300.00	N
repeated conferences with associate about strategy for special action brief and about need to create and supply appendix of documents with brief,			

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

9/29/2015	0.90	\$270.00
SWC PREP	\$300.00	B
repeated conferences with associate about strategy for special action brief, repeated conferences about whether we have potential for expedited appeal and how that factors in when seeking special action relief, reviewed cases about need for signed order needed to appeal,		
9/29/2015	3.60	\$846.00
JAK PREP	\$235.00	B
Complete initial draft of Introduction, Statement of Facts, Jurisdictional Statement and Statement of Issues; review trial transcripts, deposition transcripts and trial exhibits for citations to record		
9/30/2015	0.20	\$0.00
SWC PREP	\$300.00	N
repeated conferences with associate about strategy for special action brief and citation to record,		
9/30/2015	3.50	\$822.50
JAK PREP	\$235.00	B
Continued revising Introduction, Statement of Facts and Statement of Issues		
10/01/2015	4.30	\$1,010.50
JAK PREP	\$235.00	B
Continued revising Appellate Brief including Statement of Facts, Statement of Issues and Legal Argument		
10/01/2015	0.20	\$0.00
SWC PREP	\$300.00	N
conference with associate about status of brief,		

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

10/02/2015	4.80	\$1,128.00
JAK PREP	\$235.00	B
Completed revising second draft of appellate brief; case development meeting with Steven W. Cheifetz re: same		
10/06/2015	0.40	\$0.00
SWC PREP	\$300.00	N
phone call with Colette McNally about status of appellate brief and strategy seeking expedited appeal and special action,		
10/07/2015	0.80	\$0.00
SWC PREP	\$300.00	N
reviewed draft of special action brief and noted needed revisions and additions		
10/12/2015	2.70	\$0.00
JAK PREP	\$235.00	N
Case development meeting with Steven W. Cheifetz discussing revisions to appellate brief; revised accordingly		
10/12/2015	0.50	\$0.00
SWC PREP	\$300.00	N
met with associate and discussed at length needed revisions to introductory statement and jurisdictional statement of special action brief,		
10/13/2015	3.90	\$916.50
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing further revisions to appellate brief; continued revising brief per meeting with Steven W. Cheifetz		

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

10/13/2015	0.90	\$270.00
SWC PREP	\$300.00	B
reviewed rest of first draft of special action brief and made extensive notations and additions and met with associate and discussed needed reorganization of same and strategy for articulating arguments,		
10/15/2015	3.00	\$705.00
JAK PREP	\$235.00	B
Continued revising Statement of Facts; conduct further legal research in support of arguments that Plaintiff was entitled to due process and that majority board cannot usurp inherent rights of fellow elected directors		
10/15/2015	3.30	\$0.00
JAK PREP	\$235.00	N
Case development meeting with Steven W. Cheifetz discussing further strategy for revisions to appellate brief; continued revising Introduction, Basis for Special Action Jurisdiction and Jurisdictional Statement		
10/15/2015	0.20	\$0.00
SWC PREP	\$300.00	N
conference with associate about upcoming settlement conference and about status of appeal brief,		
10/16/2015	5.00	\$1,175.00
JAK PREP	\$235.00	B
Completed additional revisions to legal arguments including discussion regarding absolute rule prohibiting board members from removing fellow board members, absolute rule should be extended to prevent board members from usurping fellow board members' rights, that Plaintiff was essentially removed in violation of absolute rule, Board violated Plaintiff's due process rights and that Plaintiff did not violate any Board resolutions; review record for citing supporting facts.		

Regarding: McNally adv. Sun Lakes HOA

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10/16/2015	0.20	\$0.00
SWC PREP	\$300.00	N
conference with associate about status of brief and strategy for same,		
10/19/2015	5.80	\$1,363.00
JAK PREP	\$235.00	B
Case development meetings with Steven W. Cheifetz discussing further revisions to appellate brief; continued revising brief accordingly		
10/19/2015	1.00	\$300.00
SWC PREP	\$300.00	B
reviewed draft of portions of brief and noted needed revisions and discussed same with associate at length,		
10/20/2015	1.60	\$480.00
SWC PREP	\$300.00	B
redrafted introductory statement to brief, repeatedly revised same, reviewed statement of facts and noted needed revisions and corrections and met with associate and discussed same, discussed with associate need to add another argument section requesting court order Homeowners Association stop habitual open meeting violations, received and reviewed settlement conference memorandum submitted by Homeowners Association,		
10/21/2015	6.20	\$1,457.00
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing further revisions to Special Action brief; revise accordingly and begin inserting citations to appendix		
10/21/2015	1.00	\$300.00
SWC PREP	\$300.00	B
reviewed revised version of brief and noted needed revisions and corrections and met with associate and discussed same,		

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

10/22/2015	7.50	\$0.00
JAK PREP	\$235.00	N
Case development meeting with Steven W. Cheifetz discussing final revisions to Special Action brief; revised and finalized accordingly; completed inserting references to Appendix; review Special Action rules to confirm filing and service procedure; draft Certificate of Compliance, Certificate of Service and Motion to File Under Seal; finalize Appendix; draft Index and prepare Appendix cover page; case development meeting with K. Winter discussing filing and service of Special Action; discuss preparation of Table of Contents and Table of Authorities with assistant; confirm procedure for filing under seal with Court of Appeals		
10/22/2015	0.80	\$240.00
SWC PREP	\$300.00	B
reviewed revisions to special action brief and noted final revisions and additions needed and need for additional paragraph regarding Homeowners Association witness testimony, met with associate and discussed same, reviewed additional paragraph and red lined changes to brief prepared by associate and noted minor revisions needed,		
10/23/2015	0.30	\$0.00
SWC PREP	\$300.00	N
reviewed draft motion about filing special action under seal and noted needed revisions, reviewed revised version of motion to allow filing brief and appendix under seal,		
10/23/2015	2.80	\$658.00
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing revisions to Motion to File Under Seal; revised and finalized Motion accordingly; check case citations for brief, revised and finalized Index to Appendix, Table of Contents and Table of Authorities; case development meeting with K. Winter discussing final filing issues; revise Certificate of Service to reflect electronic filing of Motion to Seal; draft e-mail to Judge Beyers providing Petition for Special Action in lieu of settlement memorandum; telephone C. McNally discussing special action; draft e-mail to J. Winkler		

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

providing Petition in lieu of settlement memorandum

10/26/2015		1.80	\$423.00
JAK PREP		\$235.00	B
Received and reviewed e-mail from J. Winkler re: service of Special Action; received and reviewed Order scheduling Special Action conference; case development meeting with K. Winter re: service of petition; drafted Amended Certification of Service; case development meeting with Steven W. Cheifetz discussing legal research for special action reply/conference; begin legal research same; draft e-mails to J. Winkler re: service of appendix.			
10/26/2015		0.80	\$240.00
SWC PREP		\$300.00	B
received and reviewed e mail form court of appeals setting forth dates regarding special action, received and reviewed e mail from opposing counsel about concerns over appendix of special action brief, conference with associate about needed follow up completing service, received and reviewed e mail indicating special action jurisdiction was not granted, discussed with associate needed follow up pursuing expedited appeal and discussed portion of transcript to be ordered to support same, conference with associate about letter from Homeowners Association counsel demanding settlement conference memorandum and discussed how to respond to same and to supplement documentation provided to settlement conference judge,			

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

10/28/2015	2.20	\$517.00
JAK PREP	\$235.00	B
Revised Civil Appeals Docketing Statement; draft Motion to Expedite Appeal pursuant to ARCAP 3		
11/02/2015	0.20	\$0.00
SWC PREP	\$300.00	N
conference with associate about which portion of transcript to order and about strategy for expedited appeal,		
11/02/2015	2.00	\$470.00
JAK PREP	\$235.00	B
Received and reviewed e-mail from Court Reporter re: cost to complete transcript; case development meeting with Steven W. Cheifetz re: same and discussing strategy for preparation of appeal; draft e-mail to J. Kappedal re: hearing transcript; perform additional revisions to Civil Appeal Docketing Statement; revised Motion to Expedite Appeal pursuant to ARCAP 3(a)		
11/03/2015	3.00	\$705.00
JAK PREP	\$235.00	B
Legal research standard of review for appellate brief; begin drafting appellate brief by conforming existing Special Action petition to appellate briefing requirements		
11/04/2015	1.50	\$352.50
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing revisions to Motion to Expedite Appeal and Civil Appeals Docketing Statement; revised Civil Appeals Docketing Statement; telephone Court of Appeal Clerk to confirm filing procedure for docketing statement and need to file Case Management Statement and Transcript Ordering Statement; case development meeting with K. Winter to prepare Case Management Statement; conduct legal research to support argument that expedited consideration of appeal is warranted to prevent ongoing harm		

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Date: 11/02/2016

11/04/2015	0.70	\$210.00
SWC PREP	\$300.00	B
reviewed draft of motion to Expedite Appeal and noted needed revisions and additions, met with associate and discussed same and discussed need for additional research into expedited nature of injunction proceedings, reviewed docketing statement and noted needed revisions to same, discussed docketing statement with associate,		
11/05/2015	2.50	\$587.50
JAK PREP	\$235.00	B
Continued legal research to support Motion requested Expedited Relief; revised Motion pursuant to case development meeting with Steven W. Cheifetz; reviewed Appellate Court Rules to confirm additional prerequisite filings necessary to perfect appeal; drafted Notice of Transcript Order and Motion to File Appeal Under Seal; case development meeting with K. Winter discussing procedure for filing all prerequisite appellate documents in light of Court of Appeals not issuing docket number and discussing revisions to Case Management Statement		
11/06/2015	0.40	\$0.00
SWC PREP	\$300.00	N
conference with associate about results of research into obtaining expedited relief seeking an injunction and about standard on appeal and when we can argue standard must be reviewed de novo rather than only abuse of discretion, received and reviewed case law quote gathered by associate and responded to same,		
11/06/2015	0.40	\$0.00
JAK PREP	\$235.00	N
Revise Motion to Expedite Appeal to incorporate further legal research that nature of preliminary injunction cases make it inherently necessary to expedite appeal on same		

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

11/06/2015		3.80	\$893.00
JAK PREP		\$235.00	B
Case development meeting with Steven W. Cheifetz discussing strategy for arguing proper standard of review and argument that Judge Blomo was required to review evidence of Open Meeting Law violations; continued legal research re: same; draft Statement of Case pursuant to ARCAP 13; continued revising appellate brief			
11/09/2015		1.20	\$0.00
JAK PREP		\$235.00	N
Case development meeting with Steven W. Cheifetz discussing finalizing appellate court prerequisite filings; case development meeting with K. Winter and filing assistant discussing procedure and sequence of filing certain pleading required by Court of Appeals considering that appellate case number has yet to be assigned; revised Case Information Statement, Motion to Expedite Appeal, Notice of Transcript Order and Motion to File Under Seal; revised and finalized Certificates of Service of all pleadings			
11/09/2015		1.30	\$0.00
KJW PREP		\$125.00	N
Conference with Jacob A. Kubert regarding filing Motion to Expedite, Motion to file under seal, and Case Management Statement with Court of Appeals, and Notice of Order of Transcript with Superior Court; continued conference with Jacob A. Kubert and office filing clerk regarding instructions on filing with Court of Appeals and needed preparation of Certificates of Service; prepared Certificates of Service of filing Motion to Expedite, Motion to file under seal, and Case Management Statement with Court of Appeals; Updated and finalized Appellant's Notice of Transcript Order, Motion to Expedite, Motion to file under seal, and Case Management Statement; prepared check request for filing fee with Superior Court; prepared check request for filing fee in Court of Appeals.			

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

11/09/2015	0.50	\$0.00
SWC PREP	\$300.00	N
reviewed Appellants notice of transcript order, motion to file brief and reply under seal, and motion to expedite appeal, and discussed same with associate,		
11/11/2015	0.30	\$70.50
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing further research needed for appellate brief to establish argument that Judge Blomo erred by not considering admitted evidence of violations of Open Meeting Law		
11/16/2015	0.20	\$0.00
KJW PREP	\$125.00	N
Reviewed Arizona Rules of Civil Appellate Procedure to confirm additional critical deadlines with the Court of Appeals.		
11/19/2015	0.10	\$0.00
KJW PREP	\$125.00	N
Received and reviewed e-mail correspondence between Jacob A. Kubert and court reporter Jeanne Kappedal regarding status and cost of full-transcript.		
11/20/2015	0.20	\$0.00
SWC PREP	\$300.00	N
conference with associate about needed research into need to conform claims to evidence and about need to argue in brief standard for preliminary injunction, e mailed associate about same,		
11/30/2015	1.80	\$423.00
JAK PREP	\$235.00	B
Drafted e-mail to opposing counsel providing complete transcript of preliminary injunction hearing; case development meeting with K. Winter discussing filing same to complete appellate record; continued extensive legal research re: failure of court to conform		

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

pleadings to evidence of open meeting violations; begin review of complete hearing transcript and changing citations in brief to deposition testimony to testimony during hearing

12/01/2015	3.90	\$916.50
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing legal research pertaining to issue that Judge Blomo erred ignoring the evidence of open meeting violations and discussing development of legal argument pertaining to same; finalize Notice of Transcript Filing and Certification of Service; continued legal research standards for preliminary injunction; continued drafting appellate brief accordingly		
12/01/2015	0.40	\$0.00
SWC PREP	\$300.00	N
conferences with associate about research on courts failure to grant injunctive relief on blatant evidence establishing ongoing open meeting violations, reviewed rule 15 and discussed same with associate,		
12/02/2015	2.70	\$634.50
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing strategy for presenting appellate arguments and citations to record; continued drafting appellate brief including removing discussion of factors supporting special action review		

Regarding: McNally adv. Sun Lakes HOA

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12/07/2015		2.40	\$564.00
JAK PREP		\$235.00	B
Received and reviewed Defendant's Response to Plaintiff's Motion to Expedite Appeal; and Electronic Index of Record; case development meeting with Steven W. Cheifetz discussing strategy for reply; review Electronic Index of Record; begin drafting Reply in Support of Motion to Expedite			
12/07/2015		0.30	\$0.00
SWC PREP		\$300.00	N
received and reviewed response to motion to expedite appeal and discussed with associate strategy for reply memorandum			
12/11/2015		0.10	\$0.00
JAK PREP		\$235.00	N
Received and reviewed Court of Appeals' Order granting Motion to File Under Seal			
12/11/2015		0.30	\$0.00
SWC PREP		\$300.00	N
received and reviewed order from court of appeals about filing under seal, conference with associate about status of reply memorandum in support of motion to expedite appeal and discussed strategy for same with associate,			
12/14/2015		0.80	\$240.00
SWC PREP		\$300.00	B
Conference with associate about status of reply memorandum in support of motion to expedite appeal, received and reviewed draft of reply memorandum and noted needed revisions and met with associate to discuss same, received and reviewed revised version of reply memorandum and discussed with associate minor revisions needed,			

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Date: 11/02/2016

12/14/2015	1.50	\$0.00
JAK PREP	\$235.00	N
Case development meeting with Steven W. Cheifetz discussing revisions to Reply; revised Reply accordingly; further case development meeting with Steven W. Cheifetz discussing final revisions; completed revising Reply; case development meeting with K. Winter discussing filing same under seal; reviewed Order to file under seal; drafted Certification of Service		
12/14/2015	1.80	\$423.00
JAK PREP	\$235.00	B
Continued drafting Reply in Support of Motion to Expedite Appeal; completed initial draft of same		
12/15/2015	3.30	\$775.50
JAK PREP	\$235.00	B
Continued drafting Appellate Brief and revising existing legal arguments contained in Special Action Petition to conform to new arguments regarding Judge Blomo's decisions		
12/17/2015	1.70	\$399.50
JAK PREP	\$235.00	B
Conduct additional legal research in support of argument that Plaintiff was not required to move to amend pleading but that Judge Blomo should have considered evidence and ruled on merits in interest of justice because no surprise or prejudice existed; continued revising argument accordingly		
12/17/2015	0.20	\$0.00
SWC PREP	\$300.00	N
received and reviewed order from court of appeals denying motion to expedite appeal, exchanged e mails with associate about same,		

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

12/17/2015	2.90	\$681.50
JAK PREP	\$235.00	B
Completed initial revisions to Appellate Brief; continued supplementing facts with citations to hearing transcript rather than deposition testimony		
12/21/2015	0.20	\$0.00
JAK PREP	\$235.00	N
Drafted e-mail to C. McNally providing status of appeal		
12/23/2015	0.20	\$0.00
SWC PREP	\$300.00	N
conference with associate about completion of latest draft of appellate opening brief and need to shorten opening and about new portions of testimony added,		
12/23/2015	3.10	\$728.50
JAK PREP	\$235.00	B
Continued revising Appellate Brief including citations to relevant trial testimony and revision of legal arguments		
12/24/2015	0.20	\$0.00
SWC PREP	\$300.00	N
conference with associate about arguments made about failure to consider open meeting violations		
12/28/2015	2.50	\$587.50
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing revisions to Appellate Brief; continued revising brief accordingly		

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Date: 11/02/2016

12/28/2015	0.70	\$0.00
SWC PREP	\$300.00	N
reviewed draft of appellate brief and noted concerns with introduction and statement of facts and contacted associate and discussed same at length,		
1/04/2016	2.80	\$658.00
JAK PREP	\$235.00	B
Review McNally deposition transcript and Association meetings admitted into evidence in further preparation of Statement of Facts; continued revising accordingly to incorporate thorough discussion of history of dysfunction		
1/05/2016	3.40	\$799.00
JAK PREP	\$235.00	B
Continued revising Statement of Facts for Appellate Brief to include more details of Martens issue and Board preventing C. McNally from executive sessions		
1/06/2016	0.30	\$0.00
SWC PREP	\$300.00	N
conference with associate about ongoing additions to statement of facts and and strategy for same,		
1/06/2016	4.10	\$963.50
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing further strategy for presentations of Statement of Facts; continued revising same accordingly		
1/07/2016	2.90	\$681.50
JAK PREP	\$235.00	B
Continued revising Appellate Brief legal arguments to incorporate revised facts and citations thereto		

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1/11/2016	5.90	\$0.00
JAK PREP	\$235.00	N
Complete revising Statement of Facts for Appellate Brief, inserting citations to transcript, trial exhibits and deposition transcripts		
1/12/2016	4.20	\$987.00
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing further revisions to Appellate Brief; continued revising same accordingly		
1/12/2016	0.80	\$240.00
SWC PREP	\$300.00	B
reviewed argument section of legal brief and noted needed revisions and additions, met with associate and discussed at length needed revisions and additions,		
1/13/2016	5.10	\$1,198.50
JAK PREP	\$235.00	B
Continued revising Appellate Brief per case development meeting with Steven W. Cheifetz		
1/14/2016	5.30	\$1,245.50
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing additional revisions to Appellate Brief; case development meeting with K. Winter discussing preparation of Appendix, filing and service of brief; conduct additional legal research to determine whether Board is prohibited from screening fellow elected directors; shepardized law previously found to confirm whether additional support exists; confer with Westlaw representative R. Mansouri to determine whether we can access Beach on Private Corporations section 223 which says directors cannot infringe upon fellow directors rights; continued revising brief		

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Date: 11/02/2016

1/14/2016	0.70	\$0.00
SWC PREP	\$300.00	N
conference with paralegal about follow up with court of appeals over amount of briefs to be provided and time needed to bind briefs before Tuesday deadline, reviewed fact section of brief and noted minor revisions needed,		
1/15/2016	0.40	\$0.00
SWC PREP	\$300.00	N
conference with associate about strategy for argument section of brief		
1/17/2016	6.10	\$1,433.50
JAK PREP	\$235.00	B
Completed revising Appellate Brief; forward same for review		
1/17/2016	0.40	\$0.00
SWC PREP	\$300.00	N
briefly reviewed revised brief and noted work needed to complete same and discussed work schedule with associate,		
1/19/2016	0.70	\$210.00
SWC PREP	\$300.00	B
reviewed introduction and discussed needed revisions to same, reviewed brief in detail and marked needed revisions to same and need to do minor rework to certain portions and met with associate to discuss same,		
1/19/2016	0.80	\$100.00
KJW PREP	\$125.00	B
Conference with Jacob A. Kubert regarding finalizing appendix for filing with court and preparing Supplemental documents; prepared Certificate of Compliance, Request for Oral Argument, and Certificate of Service.		

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Date: 11/02/2016

1/19/2016	6.90	\$0.00
JAK PREP	\$235.00	N
Completed drafting Appellate Brief, revise and finalize same; revise Table of Contents and Table of Authorities; case development meetings with K. Winter discussing binding, filing and service of brief; revise and finalize Certification of Compliance; Certificates of Service and Request for Oral Argument		
3/01/2016	0.10	\$0.00
JAK PREP	\$235.00	N
Review Court of Appeals website to confirm due date for Response Brief and to determine whether it was filed		
3/08/2016	3.20	\$752.00
JAK PREP	\$235.00	B
Review and analyze the Association's Response Brief; take notes regarding initial inaccuracies found in same; case development meeting with Steven W. Cheifetz discussing strategy for Reply; review record in preparation of Reply to Association's factual misrepresentations; begin drafting Reply		
3/08/2016	0.60	\$0.00
SWC PREP	\$300.00	N
received and reviewed responsive brief submitted by Homeowners Association counsel. repeatedly discussed with associate strategy for reply brief,		
3/09/2016	2.60	\$611.00
JAK PREP	\$235.00	B
Continued drafting Reply Brief		
3/10/2016	4.70	\$1,104.50
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing strategy for Reply Appellate Brief; continued drafting same		

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Date: 11/02/2016

3/10/2016	0.20	\$0.00
SWC PREP	\$300.00	N
conference with associate about strategy for reply memorandum and organization of same,		
3/11/2016	3.40	\$799.00
JAK PREP	\$235.00	B
Completed initial draft of Reply Brief; begin revising same		
3/14/2016	3.10	\$728.50
JAK PREP	\$235.00	B
Conduct additional legal research in further preparation of Reply Brief; continued revising same		
3/15/2016	0.40	\$0.00
SWC PREP	\$300.00	N
conference with associate about strategy for addressing Homeowners Association argument that client refused to agree to maintain secrecy of executive sessions discussions and potential research to support same,		
3/15/2016	2.90	\$681.50
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing additional arguments to make in Reply Brief; continued drafting Reply Brief pursuant to case development meeting with Steven W. Cheifetz		
3/16/2016	3.90	\$916.50
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing further revisions to Reply Brief; continued revising same per meeting		

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3/16/2016	0.60	\$0.00
SWC PREP	\$300.00	N
reviewed draft of reply memorandum prepared by associate and noted needed revisions and additions, met with associate and discussed strategy for revisions and additions to reply brief,		
3/17/2016	2.20	\$517.00
JAK PREP	\$235.00	B
Continued revising Reply Brief		
3/17/2016	0.40	\$0.00
SWC PREP	\$300.00	N
conferences with associate about strategy for brief and addressing record and courts abuse of its discretion,		
3/18/2016	2.40	\$564.00
JAK PREP	\$235.00	B
Completed revisions to recent draft of Reply Brief		
3/21/2016	3.10	\$728.50
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing further revisions to Reply Brief; review trial transcript, McNally deposition transcript and Martens deposition transcript in further preparation of revisions to Reply; revised Reply accordingly		
3/21/2016	0.70	\$210.00
SWC PREP	\$300.00	B
reviewed latest draft of appellate brief reply memorandum and noted needed revisions and additions, met with associate to discuss needed revisions to form of brief,		

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Date: 11/02/2016

3/22/2016	4.20	\$987.00
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing further revisions to Reply Brief; review Answering Brief, trial transcript and deposition testimony to support further revisions; revised Brief accordingly		
3/22/2016	0.30	\$0.00
SWC PREP	\$300.00	N
conference with associate about needed additions to brief to respond to arguments using quotes of client,		
3/23/2016	5.10	\$1,198.50
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing further revisions to Reply Brief; revised accordingly		
3/24/2016	4.00	\$0.00
JAK PREP	\$235.00	N
Case development meeting with Steven W. Cheifetz discussing final revisions to Reply Brief; revised and finalized Brief; case development meeting with paralegal re: preparation of Table of Contents and Table of Authorities; case development meeting with K. Winter discussing preparation of Certificate of Compliance and Certificate of Service; conducted legal research in preparation of Motion to Accelerate Appeal pursuant to ARCAP 29; determine whether legal research for previously filed motion to expedite pursuant to ARCAP 3 is applicable to motions under ARCAP 29; review prior motion in preparation of Motion to Accelerate		
3/24/2016	0.80	\$0.00
SWC PREP	\$300.00	N
reviewed and revised final draft of brief and noted final changes and discussed same with associate, discussed with associate need for clarification of fact that McNally did not reveal executive session discussions publicly,		

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Date: 11/02/2016

3/25/2016	2.20	\$517.00
JAK PREP	\$235.00	B
Case development meeting with Steven W. Cheifetz discussing preparation of Motion to Accelerate Appeal pursuant to ARCAP 29; finalized Reply Brief, Table of Contents and Table of Authorities; drafted Certificate of Compliance and Certificate of Service; begin drafting Motion to Accelerate Appeal		
3/28/2016	0.80	\$188.00
JAK PREP	\$235.00	B
Complete drafting Motion to Accelerate Appeal		
3/29/2016	0.40	\$120.00
SWC PREP	\$300.00	B
received and reviewed motion to accelerate appeal prepared by associate and noted needed revisions,		
4/19/2016	0.40	\$0.00
JAK PREP	\$235.00	N
Review Association's Response to Motion to Expedite; case development meeting with Steven W. Cheifetz discussing strategy for reply		
4/25/2016	0.40	\$94.00
JAK PREP	\$235.00	B
Draft Reply in Support of Motion to Accelerate Appeal		
4/28/2016	0.40	\$120.00
SWC PREP	\$300.00	B
reviewed draft of reply memorandum in support of motion for expedited relief and noted needed revisions and met with associate to discuss same,		

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4/29/2016	0.30	\$90.00
SWC PREP	\$300.00	B
reviewed revised reply memorandum and made final revisions to same,		
5/03/2016	0.50	\$150.00
SWC PREP	\$300.00	B
received and reviewed e mail from the court of appeals indicating motion to expedite appeal was granted, phone call with associate about same, began preparation for oral argument,		
5/04/2016	0.40	\$120.00
SWC PREP	\$300.00	B
conference with associate about gathering records for preparation for oral argument, met with associate and went over documents provided to prepare for oral argument,		
5/05/2016	1.00	\$300.00
SWC PREP	\$300.00	B
reviewed opening appellate brief and made notes for upcoming oral argument,		
5/08/2016	1.40	\$420.00
SWC PREP	\$300.00	B
reviewed response and reply briefs and prepared outline of argument points to address at upcoming oral argument,		
5/11/2016	0.50	\$150.00
SWC PREP	\$300.00	B
continued with preparation for oral argument and outline for same,		

Regarding: McNally adv. Sun Lakes HOA

Date: 11/02/2016

5/15/2016	0.70	\$210.00
SWC PREP	\$300.00	B
continued with preparation for upcoming oral argument and noted areas of defendants brief where facts are cited that we believe are not supported by the record,		
8/12/2016	0.20	\$60.00
SWC PREP	\$300.00	B
received and reviewed notice of oral argument and return receipt for same, conference with paralegal about need to prepare return receipt for court,		
8/28/2016	0.60	\$180.00
SWC PREP	\$300.00	B
worked on outline for upcoming appeal oral argument,		
9/05/2016	0.80	\$240.00
SWC PREP	\$300.00	B
continued preparation of outline for upcoming oral argument before the court of appeals,		
9/09/2016	2.80	\$770.00
CRE PREP	\$275.00	B
Research cases that consider standard of review for appeal of denial of preliminary injunction. Confer with Attorney Cheifetz regarding oral argument and trial court failure to set forth findings of fact and conclusions of law.		
9/11/2016	2.50	\$750.00
SWC PREP	\$300.00	B
received and reviewed memorandum from associate about standard of review and failure to obtain findings of fact and conclusions of law, added introduction and conclusion to outline for upcoming oral argument and added additional arguments through out outline for each subpart, reviewed case law cited in associate memorandum and revised argument based upon law		

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regarding lack of findings of fact,

9/12/2016	1.50	\$450.00
SWC PREP	\$300.00	B
Met with associate and went over memorandum from Friday and discussed additional case needed regarding lack of findings of fact and conclusions of law, dictated new outline for upcoming oral argument, received and reviewed additional case provided by associate, reviewed Homeowners Association responsive appellate brief and added arguments to outline for upcoming oral argument,		
9/12/2016	0.60	\$165.00
CRE PREP	\$275.00	B
Meeting with Attorney Cheifetz to prepare argument of standard of review and court's steps to fashion appropriate remedy for underlying error of trial court denial of Preliminary injunction. follow up research of earlier case citations concerning reversible error of trial court failures.		
9/13/2016	1.80	\$540.00
SWC PREP	\$300.00	B
continued preparation for oral argument of appeal, researched judge panel for case, made revisions to outline for oral argument, reviewed applicable case law,		
9/14/2016	1.80	\$540.00
SWC PREP	\$300.00	B
prepared for and participated in oral argument before the court of appeals, met with client following argument.		

Cheifetz Iannitelli Marcolini, PC  
111 West Monroe Street, 17th Floor  
Phoenix, Arizona 85003

## HISTORY BILL

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Date: 11/02/2016

10/13/2016	0.20	\$0.00
CRE PREP	\$275.00	N
Meeting with Attorney Cheifetz regarding Application for Attorney fees.		
10/13/2016	0.50	\$150.00
SWC PREP	\$300.00	B
received and reviewed opinion of the court of appeals, phone calls with co-counsel and client about same, conference with associate about needed follow up preparing Application for attorneys fees,		
<b>Subtotal:</b>	<b>[ 273.90</b>	<b>\$54,323.00 ]</b>
<b>History Bill Total:</b>	<b>[</b>	<b>\$55,467.23 ]</b>