

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAVID K. MEHL, LOK T. LAU and
FRANK FLORES,

No. 2:03-cv-02682-MCE-KJM

Plaintiffs,

v.

MEMORANDUM AND ORDER

LOU BLANAS, individually and in
his official capacity as SHERIFF
OF COUNTY OF SACRAMENTO; COUNTY
OF SACRAMENTO; SHERIFF'S
DEPARTMENT; COUNTY OF
SACRAMENTO; BILL LOCKYER,
Attorney General, State of
California; RANDI ROSSI, State
Firearms Director and Custodian
of Records,

Defendants.

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Currently before the Court is Defendants' Motion for
Attorneys' Fees and Sanctions, filed pursuant to 42 U.S.C. § 1988
and 28 U.S.C. § 1927, and Plaintiffs' Motion to Suspend the
current proceedings pending its appeal to the Ninth Circuit.
Defendants' Motion is denied, rendering Plaintiffs' Motion moot.
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BACKGROUND

The relevant facts appear in the Court's February 5, 2008 Order. Those facts are incorporated by reference herein. In that Order, this Court found that both Plaintiffs lacked standing to bring this suit and granted Defendants' Motion for Summary Judgment. Defendants now seek to recover attorneys' fees from Plaintiffs and seek sanctions against Plaintiffs' counsel.

ANALYSIS

Defendants request attorneys' fees in the amount of \$199,491.50 pursuant to 42 U.S.C. § 1988, which allows district courts to award such fees to parties that prevail in actions brought under 42 U.S.C. § 1983. Section 1988 states in pertinent part, "In any action or proceeding to enforce a provision of ...section...1983...the court, in its discretion may allow the prevailing party...a reasonable attorney's fee as part of the costs..." 42 U.S.C. § 1988(b).

"42 U.S.C. § 1988's authorization of an award of attorneys' fees applies differently to prevailing defendants than to prevailing plaintiffs. Plaintiffs prevailing in a civil rights action should ordinarily recover an attorneys' fee unless special circumstances would render such an award unjust, but a defendant should be awarded fees not routinely, not simply because he succeeds, but only where the action brought is found to be unreasonable, frivolous, meritless or vexatious."

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1 Mayer v. Wedgewood Neighborhood Coal., 707 F.2d 1020, 1021 (9th
2 Cir. 1983) (internal citations and quotations omitted). Since
3 Defendant brings this Motion for fees, the pressing issue is
4 whether Plaintiffs' claims rose to the level of "unreasonable,
5 frivolous, meritless, or vexatious."

6 The United States Supreme Court elaborated on this standard
7 in Christiansburg Garment Co. v. Equal Employment Opportunity
8 Commission:

9 [T]he term "meritless" is to be understood as meaning
10 groundless or without foundation, rather than simply
11 that the plaintiff has ultimately lost his case,
12 and...the term "vexatious" in no way implies that the
13 plaintiff's subjective bad faith is a necessary
14 prerequisite to a fee award against him. In sum, a
district court may in its discretion award attorney's
fees to a prevailing defendant...upon a finding that
the plaintiff's action was frivolous, unreasonable, or
without foundation, even though not brought in
subjective bad faith.

15 434 U.S. 412, (1978) (addressed Title VII claims, but standard
16 later applied to § 1983 claims in Hughes v. Rowe, 449 U.S. 5, 14-
17 15 (1980)). Furthermore, "[a]n action becomes frivolous when the
18 result appears obvious or the arguments are wholly without
19 merit." Galen v. County of Los Angeles, 477 F.3d 652, 666 (9th
20 Cir. 2007) (citing Christianburg, 434 U.S. at 422; Hughes, 449
21 U.S. at 14-15).

22 Defendant argues that Plaintiffs' claims were wholly lacking
23 in merit, that Plaintiffs' counsel knew or should have known of
24 that fact, and that, despite the frivolous nature of the claims,
25 Plaintiffs' counsel involved the FBI and the media in a campaign
26 to harass the former sheriff. Defendant argues that Plaintiffs'
27 case was frivolous because this Court determined that Plaintiffs
28 lacked standing.

1 However, this Court's finding "does not render [Plaintiffs]
2 case[s] per se frivolous, unreasonable, or without foundation."
3 Galen, 477 F.3d at 667. Indeed, the Supreme Court cautioned
4 against relying on such faulty reasoning when it stated, "[I]t is
5 important that a district court resist the understandable
6 temptation to engage in *post hoc* reasoning by concluding that,
7 because a plaintiff did not ultimately prevail, his action must
8 have been unreasonable or without foundation. This kind of
9 hindsight logic could discourage all but the most airtight
10 claims, for seldom can a prospective plaintiff be sure of
11 ultimate success." Christianburg, 434 U.S. at 421-422.

12 This Court is not willing to find that the outcome of the
13 case was "obvious," simply because the Court rendered a decision
14 in Defendants' favor over four years after the action was
15 initiated. The end result was that Plaintiffs lacked standing,
16 but the only way to reach that conclusion was for the parties to
17 litigate the issue.

18 Finally, Defendants make numerous allegations in their
19 current Motion that Plaintiffs' pursuit of this action served
20 only to harass Defendants. These allegations are without any
21 actual support in the record and, therefore, do not establish
22 that Plaintiffs' claims were vexatious.

23 Defendants' Motion for Attorneys' Fees is therefore Denied.
24 Because the Court finds that Defendants are not entitled to
25 attorneys' fees, Plaintiffs' counsel cannot be jointly and
26 severally liable for such fees pursuant to 28 U.S.C. § 1927.

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1 Additionally, this Court will not independently sanction
2 Plaintiffs' counsel as there is no evidence in the record
3 indicating that counsel "unreasonably and vexatiously" multiplied
4 the proceedings. 28 U.S.C. § 1927. Therefore, Defendants'
5 Motion for Sanctions is denied as well. The Court's disposition
6 of Defendants' Motion renders Plaintiffs' Motion moot.

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8 **CONCLUSION**
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10 Defendants' Motion for Attorneys' Fees and Sanctions is
11 DENIED. Plaintiffs' Motion to Suspend Defendants' Motion Pending
12 Appeal is DENIED as moot¹.

13 IT IS SO ORDERED.

14 Dated: May 1, 2008

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MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE

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¹ Because oral argument will not be of material assistance,
28 the Court ordered this matter submitted on the briefing. E.D.
Cal. Local Rule 78-230(h).