

2014 WL 8396722

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United States District Court,
D. Maryland.

In re SUBPOENA OF AMERICAN NURSES
ASSOCIATION (Hinterberger v. Catholic
Health Sys., Inc. No. 08-cv-0380) (W.D.N.Y.)).

Civil Action No. RWT-11-2836.

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Filed Sept. 12, 2014.

Attorneys and Law Firms

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[Maureen E. Cones](#), American Nurses Association, Silver Spring, MD, for Catholic Health System.

ORDER

[WILLIAM CONNELLY](#), United States Magistrate Judge.

*1 Upon consideration of the American Nurses Association (“ANA”)’s Motion for Attorney Fees and Costs and the deadline for any response in opposition having elapsed, IT IS this 12th day of September, 2014 by the United States District Court for the District of Maryland **ORDERED**:

1. That ANA’s Motion for Attorney Fees and Costs (ECF No. 94) BE, and the same hereby IS, **GRANTED IN PART & DENIED IN PART** for the reasons stated below;

2. That, by way of background, on July 13, 2012, ANA filed a brief in support of this Court’s authority to shift discovery costs to Plaintiffs and ANA’s decision to use an electronic discovery vendor. ECF No. 62. After these matters were fully briefed, the undersigned issued a memorandum opinion and order affirming the Court’s authority to shift reasonable costs of production to the *Hinterberger* Plaintiffs in accordance with [Federal Rule of Civil Procedure 45](#). See ECF No. 79. The undersigned

directed ANA to file its motion for an award of costs and fees within thirty (30) days. Any response in opposition by the *Hinterberger* Plaintiffs had to be filed seventeen (17) days thereafter. If ANA so desired, its reply was due seventeen (17) days after the filing of the *Hinterberger* Plaintiffs’ opposition;

3. That seven days later, on February 20, 2013, the Plaintiffs filed an unopposed motion to extend time to file objections, see ECF No. 80, which the undersigned granted the following day, see ECF No. 81. Any objections by Plaintiffs had to be filed not later than March 22, 2013. *Id.*;

4. That on February 25, 2013, in light of the *Hinterberger* Plaintiffs’ forthcoming objections, ANA filed a consent motion for an extension of time to file motion for attorneys’ fees and costs. ECF No. 82. That same day the undersigned granted the motion. “The deadline for ANA to file the motion (see ECF No. 79) is hereby EXTENDED until such time as the Magistrate Judge’s Opinion is adopted or the issue of fees and costs has been finally determined.” ECF No. 83;

5. That on August 8, 2013 Judge Williams issued an Order overruling the Plaintiffs’ objections to the undersigned’s February 13, 2013 Memorandum Opinion and Order. “The Court concludes that Judge Connelly’s February 13 rulings as to cost-shifting were well-reasoned, and not ‘clearly erroneous’ or ‘contrary to law.’” ECF No. 90 at 4;

6. That on October 21, 2013 the undersigned’s law clerk sent an e-mail to counsel of record in *Camilotes* litigation (AW-11-CV-3021) inquiring whether the issue of attorney fees and costs had been resolved between the parties since the deadline for ANA to file its motion elapsed on August 29, 2013. Counsel for ANA responded that the matter had not been resolved and advised ANA would file its motion shortly;

7. That three weeks later, on November 16, 2013, ANA filed a motion for attorney fees and costs in the *Hinterberger* matter. See ECF No. 94. This motion was preceded by ANA’s Notice of Filing Motion for Attorney Fees and Costs, or, in the Alternative, Motion for Leave to File Instantly. See ECF No. 93;

*2 8. That ANA claims its motion is timely filed. ANA notes, when this Court extended the time for ANA to

file its motion for fees and costs, “[no] specific filing deadline was ordered.” ECF No. 93 at 1 ¶ 2. Although the undersigned did not specify a deadline for ANA to file its motion, ANA was undoubtedly aware its motion should be filed in a timely manner *once* Judge Williams resolved the *Hinterberger* Plaintiffs' objections to the February 13, 2013 Memorandum Opinion and Order;

9. That when the undersigned granted ANA's motion for extension of time to file its motion for fees and costs, the undersigned incorporated language suggested by ANA, namely, “an extension of time to file its Motion for Attorneys' Fees and Costs in this case until such time as the Magistrate's Opinion is adopted or the issue of fees and costs has been finally determined.” ECF No. 82 at 2 ¶ 5. The undersigned's use of the word “adopted” was a poor choice. The February 13, 2013 Memorandum Opinion and Order is **not** a Report and Recommendation which would require a district judge to “**adopt**” the recommendations. When a district judge rules upon objections to a magistrate judge's order on a non-dispositive motion, the district judge either *sustains* the objections or *overrules* the objections;

10. That, moreover, when Judge Williams overruled the *Hinterberger* Plaintiffs' objections, he, in effect, “adopted” the undersigned's Memorandum Opinion and Order. ANA thus should have moved sooner than one hundred (100) days after Judge Williams' ruling;

11. That for the reasons stated above, the undersigned finds ANA's Motion for Attorney Fees and Costs (ECF No. 94) was untimely filed;

12. That, in the alternative, ANA moves for leave to file *instanter*. For the record, although ANA provided notice of filing its motion for attorney fees and costs or, *in the alternative*, motion for leave to file *instanter*, *see* ECF No. 93, when ANA filed its motion for attorney fees and costs, it did so without an alternative motion, *see* ECF No. 94. It is not clear to the undersigned why ANA failed to label ECF No. 94 as a motion for attorney fees and costs, *or* in the alternative, motion for leave to file *instanter*. Based on ANA's intent as expressed in the notice (ECF No. 93), the undersigned hereby considers ECF No. 94 as if filed with an alternative motion;

13. That, preliminarily, a tardiness of *one hundred* (100) days is not excusable. However, Ms. Cones, Associate

General Counsel of ANA and its lead counsel in these cases, has provided an explanation which the undersigned finds qualifies as excusable neglect. The Declaration of Maureen E. Cones states in pertinent part,

Since the second week of July, I have been experiencing medical problems, including but not limited to kidney and digestive problems that have necessitated diagnosis and treatment, including invasive medical procedures, by medical specialists. While the kidney problems appear to have resolved, I remain under the care of a gastroenterologist for digestive problems. I have been referred for surgical evaluation and anticipate that I will require surgery in the immediate future.

*3 The medical problems described above have drastically interfered with my ability to work and, on some days, I have been unable to leave my home due to these conditions.

Further, on Monday, October 21, 2013, I sustained injuries as a result of a slip and fall accident. Since that time, I have missed time from work due to associated pain and discomfort, for diagnostic imaging and treatment.

These problems have interfered with my ability to file ANA's Motion for Attorney Fees and Costs at an earlier time.

ECF No. 93–1 at 1–2 (Cones Decl. ¶¶ 3–6);

14. That based on the above, the undersigned grants ANA's alternative motion to file *instanter*;

15. That after ANA filed its motion for attorney fees and costs, the *Hinterberger* Plaintiffs, on two separate occasions, requested an extension of time to file a response to ANA's motion, *see* ECF Nos. 95, 100, which the undersigned granted on both occasions, *see* ECF Nos. 96, 101. The *Hinterberger* Plaintiffs never filed a response. ANA's motion is thus unopposed. The undersigned now turns his attention to the substance of ANA's motion;

16. That the undersigned refers the parties to the February 13, 2013 Memorandum Opinion and Order for factual background. *See* ECF No. 79. ANA seeks \$74,371.37 as reasonable attorney fees, costs and expenses. In assessing reasonableness the undersigned is guided by the twelve factors set forth in *Johnson v. Ga. Highway Express, Inc.*, 488 F.2d 714 (5th Cir.1974), as follows:

(1) the time and labor expended; (2) the novelty and difficulty of the questions raised; (3) the skill required to properly perform the legal services rendered; (4) the attorney's opportunity costs in pressing the instant litigation; (5) the customary fee for like work; (6) the attorney's expectations at the outset of the litigation; (7) the time limitations imposed by the client or circumstances; (8) the amount in controversy and the results obtained; (9) the experience, reputation and ability of the attorney; (10) the undesirability of the case within the legal community in which the suit arose; (11) the nature and length of the professional relationship between attorney and client; and (12) attorneys' fees awards in similar cases.

Brodziak v. Runyon, 145 F.3d 194, 196 (4th Cir.1998) (citations omitted). These factors are designed to assess the fees of attorneys in private practice, rather than in-house counsel for a non-profit association. The undersigned has reviewed the evaluation of each factor as outlined in ANA's motion, *see* ECF No. 94-1 at 3-14, and hereby adopts them as his own;

17. That ANA seeks \$38,004.00 for billable time incurred by four in-house counsel: (a) Alice Bodley, (b) Maureen E. Cones, (c) Lillian Monfort and (d) Bruke H. Sullivan. *See* ECF Nos. 94-6, 94-10, 94-12, 94-16, 94-18;

18. That Alice Bodley, General Counsel for ANA, lists a total of .70 hour at an hourly rate of \$400.00. The undersigned finds the hourly rate reasonable and within this Court's Guidelines. In reviewing Ms. Bodley's Time Log, every task she performed *predates* ANA's filing of this ancillary matter in this District on October 3, 2011. Although the amount ANA seeks for Ms. Bodley's time is minuscule (\$280.00), this amount shall not be shifted to the *Hinterberger* Plaintiffs because the undersigned finds ANA's preliminary efforts in response to the Plaintiffs' subpoenas "are a cost of doing business in today's society." ECF No. 79 at 32;

*4 19. That Lillian M. Monfort was hired by ANA as a temporary paralegal to coordinate and manage ANA's production. ECF No. 94-2 at 3 (Bodley Decl. ¶ 12). ANA was charged \$52.00 per hour for Ms. Monfort's services and seeks reimbursement at that hourly rate. The undersigned finds the hourly rate of \$52.00 is below this Court's Guidelines and thus is not only very reasonable, but a significant discount. The undersigned has reviewed Ms. Monfort's Time Log. Ms. Monfort worked under the supervision of Maureen E. Cones, Associate General Counsel and lead counsel for ANA in this litigation;

20. That in the February 13, 2013 Memorandum Opinion and Order, the undersigned noted,

Plaintiffs were well aware that the Court had ordered the ANA to produce documents within 45 days. Nevertheless Plaintiffs' counsel did not inquire of ANA's counsel about the selection of an e-discovery vendor, the methodology to be employed or the searches to be conducted. It was only on February 3, 2012, after the ANA presented BIA's proposed scope of work and estimated cost overview, did Plaintiffs object, *for the first time*, about the proposed costs associated with the ordered ANA production. Plaintiffs therefore must bear all reasonable costs incurred by the ANA between January 13, 2012 and February 3, 2012.

ECF No. 79 at 28-29;

21. That the undersigned finds the hours of work performed by Ms. Monfort between January 30, 2012 and February 3, 2012 are reasonable costs incurred by the ANA and shall be shifted to the *Hinterberger* Plaintiffs. In reviewing Ms. Monfort's Time Log for the period after February 3, 2012, the undersigned finds, as reasonable costs incurred by ANA, time spent drafting status reports, communicating with BIA or ANA custodians, reviewing BIA's revised scope of work, coordinating with BIA, attending conference calls, preparing for meet and confer, and researching and drafting briefs on issues such as pre- and post-shift work, choosing a vendor and recovery of fees for in-house counsel. The undersigned does not find,

as reasonable, time spent on administrative tasks, *i.e.*, research on obtaining hearing transcript or Ms. Monfort's research on fees as prevailing party in March of 2012 since the motion was not filed until November 2013 and further since Ms. Monfort's successor, Ms. Sullivan, also dedicated numerous hours on this matter. For these reasons, the undersigned finds **\$1,211.60** ANA incurred for work performed by Ms. Monfort shall be shifted to counsel for the *Hinterberger* Plaintiffs;

22. That Bruke H. Sullivan was hired by ANA through a temporary staffing agency to succeed Ms. Monfort. Ms. Sullivan worked for ANA between May 3, 2012 and December 20, 2012. ANA was charged \$55.00 per hour for Ms. Sullivan's services and seeks reimbursement at that hourly rate. The undersigned finds the hourly rate of \$55.00 is below this Court's Guidelines and thus is not only very reasonable, but a significant discount. The undersigned has reviewed Ms. Sullivan's Time Log. The majority of the work performed by Ms. Sullivan is reasonable. For instance, Ms. Sullivan drafted various status reports, corresponded with BIA regarding revised scope of work and generation of sample reports, and outlined and drafted the motion for attorney fees. The undersigned does not find, as reasonable, time dedicated to administrative type duties such as file management, preparing copies, transcript requests, conference with A. Isaac regarding shepardizing, or filing brief with the court. Further, although the undersigned appreciates Ms. Sullivan's limited familiarity with ANA and thus her need to consult with Ms. Cones or Ms. Bodley, the number of intra office communications borders on excessive. For instance, the undersigned will not shift costs for .10 hour of case administration on November 16, 2012 whereby Ms. Sullivan corresponded with Ms. Cones regarding setting time for call with BIA. ECF No. 94–18 at 18. The undersigned nonetheless recognizes ANA is entitled to reimbursement for the majority of intra office communications. In light of the above, the undersigned finds **\$4,587.00** ANA incurred for work performed by Ms. Sullivan shall be shifted to counsel for the *Hinterberger* Plaintiffs;

*5 23. That Ms. Cones is ANA's lead counsel in this litigation and has performed or supervised the vast majority of the substantive work. The undersigned finds the rate of \$400.00 per hour reasonable and within this Court's Guidelines. The undersigned has carefully reviewed Ms. Cones' Time Log. In determining what

attorney fees shall be borne by the *Hinterberger* Plaintiffs, the undersigned reaffirms statements made during the March 28, 2012 telephone conference. “[M]y normal view is that in a corporation it gets a request for [] discovery that a certain amount of time will be donated by the corporation. Maybe a day or two of their counsel's time and maybe two or three days of search time for their administrati[ve] staff. But after that, I began to shift costs.” ECF No. 33 at 14 (Tr. of Mar. 28, 2012 Tel. Conf. 14:18–23). The undersigned finds all hours incurred by Ms. Cones prior to the January 10, 2012 hearing and the issuance of the written order on January 13, 2012 are costs associated with doing business in today's society and shall not be shifted. On January 16 and 17, 2012 Ms. Cones began corresponding with Kansas University Medical Center Research Institute's legal counsel regarding the production of NDNQI data. The undersigned finds ANA is entitled to compensation for time Ms. Cones spent on this litigation between January 24, 2012 (when Ms. Cones sent correspondence to Plaintiffs' counsel regarding signed agreements to be bound under the protective order), ECF No. 94–12 at 5, until September 27, 2012 (when the undersigned suspended the Order of January 13, 2012), *see* ECF No. 71;

24. That not all time spent by Ms. Cones on this litigation between January 24, 2012 and September 27, 2012 shall be shifted to the *Hinterberger* Plaintiffs. For instance, throughout this period Ms. Cones corresponded with temporary legal employees Lillian Monfort and Bruke Sullivan. *See, e.g.*, ECF No. 94–12 at 6 (.10 hour on February 15, 2012 for correspondence with L. Monfort regarding February 28, 2012 hearing), at 15 (.10 hour on July 12, 2012 for correspondence with B. Sullivan regarding finalization of fee brief). Second, the *Hinterberger* Plaintiffs shall not bear the costs of Ms. Cones' communications with her supervisor, Alice Bodley. Third, Ms. Cones corresponded with counsel for the Defendant hospital in the underlying litigation. From the undersigned's perspective, this ancillary matter concerns Plaintiffs' efforts to obtain information from ANA. The undersigned does not find, as absolutely essential, communications with the Defendant hospital in the underlying litigation in order for ANA to seek protection of its highly confidential and proprietary information. Therefore, under the circumstances, the attorney fees “generated” are not sufficiently related and thus are not reasonable for purposes of shifting costs to the Plaintiffs. Fourth, while the undersigned is cognizant that

the NDNQI database is maintained by a separate entity, this entity's interests and the ANA's interests (preventing disclosure of highly proprietary information) are very much aligned. The undersigned has permitted ANA to recover a portion of Ms. Cones' time spent communicating with personnel at Kansas University Medical Center Research Institute but not all hours claimed;

*6 25. That during the period of January 24, 2012 through September 27, 2012 the undersigned finds ANA is entitled to recover, as reasonable attorney fees, time Ms. Cones spent communicating with counsel for the *Hinterberger* Plaintiffs; time Ms. Cones spent communicating with BIA (the Court approved e-discovery vendor); time spent preparing for and attending telephone conferences; and time spent on status reports. Based on the above, the undersigned finds **\$12,200.00** ANA incurred for work performed by Ms. Cones shall be shifted to counsel for the *Hinterberger* Plaintiffs;

26. That ANA seeks reimbursement of \$92.30 incurred for accessing PACER. Any PACER fees incurred before the motions hearing on January 10, 2012 are hereby disapproved. In reviewing the PACER summary, ANA is entitled to be reimbursed for fees incurred from February 6, 2012 through August 21, 2013. This period includes costs incurred by ANA *after* the undersigned suspended the Order of January 13, 2012 on September 27, 2012, *i.e.*, the dispute about the undersigned's authority to shift costs, as well as time spent on the motion for attorney fees and costs. In reviewing the PACER summary, *see* ECF No. 94-7, reviewing the total amount claimed, *see* ECF No. 94-10 and deducting any fees incurred *before* February 6, 2012, the total incurred by ANA equals **\$75.82**. This cost is shifted to and must be paid to ANA by counsel for the *Hinterberger* Plaintiffs;

27. That ANA seeks reimbursement for Federal Express expenses totaling \$28.25. *See* ECF Nos. 94-9, 94-10.

Date of Service	Task Code	Description	Hinterberger Matter Portion
3/13/2012	1430100	BIA Input ID: 36 Gordon Survey Materials; # of files: 1	54.17
4/11/2012	1510000	Daniel Hardy: [B] Call with ANA to	8.33

ANA incurred these expenses for (a) a delivery of a motion to the courthouse regarding the *Hinterberger* case on or about July 5, 2012 totaling \$15.05, (b) a delivery to the courthouse on or about July 16, 2012 in the *Hinterberger* and *Gordon* cases totaling \$15.05 and (c) a delivery to the courthouse on or about August 10, 2012 in the *Hinterberger* and *Gordon* cases totaling \$11.34. The latter two expenses¹ are divided in half, with \$13.20 being applied to the *Hinterberger* case.² The undersigned finds the expenses incurred are directly related to this litigation. The Federal Express expenses are not unreasonable. This cost, **\$28.25**³, is shifted to and must be paid to ANA by counsel for the *Hinterberger* Plaintiffs;

28. That ANA seeks \$36,246.82 for services provided by the e-discovery vendor BIA. *See* ECF Nos. 94-8, 94-10. By the Order of May 9, 2012 the undersigned designated BIA as the e-discovery vendor. *See* ECF No. 41. In the Memorandum Opinion and Order of February 13, 2013 the undersigned outlined why ANA is entitled to recover the reasonable costs of BIA's six revisions of the scope of work. *See* ECF No. 79. But the costs ANA incurred for BIA's services is not limited to the multiple revisions of the scope of work. At the January 10, 2012 motions hearing the undersigned ordered ANA to produce specific, limited information to the *Hinterberger* Plaintiffs within forty-five (45) days or by February 25, 2012. ANA moved promptly to ensure compliance with the undersigned's Order by retaining BIA because ANA could not handle the task internally.⁴ The undersigned finds it reasonable to reimburse ANA for the services provided by BIA to ensure timely compliance with the undersigned's Order;

*7 29. That, having reviewed BIA's invoices pertaining to this litigation, the undersigned disapproves the following line items:

		discuss[] the items to be included in the budget report for Camesi work completed.	
4/12/2012	1510000	Daniel Hardy: [B] Arranged to have a modified report created for Camesi case work performed; Reviewed report and sent it to ANA for review.	25.00
4/9/2012	1580000	Barry Schwartz: [B] Research public dockets re D4 ⁵ pricing.	70.83
4/10/2012	1580000	Barry Schwartz: [B] Located D4 pricing schedule and forward of same to Ms. Cones.	42.50
4/11/2012	1580000	Barry Schwartz: [B] Review and edit draft affidavit including discussions w/ B. Schrader re same.	56.67
4/11/2012	1580000	Brian Schrader: [B] Review initial letter and claims, review D4 filings in other cases for comparison, draft declaration, disc w/ BSchwartz re same.	325.83
4/12/2012	1580000	Barry Schwartz: [B] Review final affidavit drafts; discussion w/ B. Schrader re same.	42.50
4/12/2012	1580000	Brian Schrader: [B] Finalize declaration.	170.00
4/23/2012	1580000	Barry Schwartz: [B] Review status of matter including discussions w/ B. Schrader and R. Uhlmann.	42.50

10/16/2012	1430100	BIA Input ID: 42; Custodian: Gordon— Survey—Reports— Redacted; # of files: 19	54.17
10/16/2012	1430500	BIA ID: 3, Delivery Volume: 03050-001—PROD003— PRO-1893; Bates Begin: Gordon-000195; Bates End: Gordon000370; # of Files: 18	291.67
TOTAL			\$1,184.17

30. That in light of the Order of September 27, 2012 suspending the Order of January 13, 2012, *see* ECF No. 71, any costs ANA incurred for services provided by BIA *after September 27, 2012* shall **not** be shifted to the *Hinterberger* Plaintiffs. In reviewing BIA's invoices, all expenses from September 28, 2012 through January 8, 2013 are the responsibility of ANA. The undersigned has already disapproved the two October 16, 2012 expenses related to the Gordon case. *See supra*. The remaining expenses incurred between September 28, 2012 and January 8, 2013 total \$3,047.05. The undersigned disapproves of this amount and ANA must bear this portion of BIA's expenses;

31. That the undersigned recognizes some rates BIA charged ANA are not the lowest or cheapest. Nevertheless the undersigned finds the rates BIA charged for various services are reasonable based on the Declaration of J. Douglas Baldrige, Chair of Venable LLP's Washington, DC Litigation Group.

While a portion of the costs incurred through the outside e-discovery vendor were higher than a large law firm such as mine would normally pay, ANA's payment of these higher charges was reasonable given the limited resources of ANA's legal department, the complexity of the issues and the inability of ANA to realize the same economies of scale and negotiation leverage as my firm. In particular, ANA paid \$785 per hour in data collection costs for a total of \$3,990.41, while my firm typically pays \$275 per hour for

these services and it would have cost \$1,397.92.

*8 ECF No. 94-13 at 2 (Baldrige Decl. ¶ 11);

31. That, moreover, counsel for the *Hinterberger* Plaintiffs sought to compel information from ANA, a non-party, instead of pursuing information from the Defendant hospital in the underlying case. As the undersigned noted during the February 28, 2012 telephone conference,

ANA is not a party to this law suit. They are a third party. They are sitting in Silver Spring, Maryland. They don't even want to give you this information and I, using the authority of the federal court, have told them to go into what they consider highly proprietary, highly sensitive information and give it to you and before they give it up— I mean, it is not unreasonable for them to make that review. So why should they bear the cost of that?

ECF No. 26 at 21 (Tr. of Feb. 28, 2012 Tel. Conf. 21:8-15). The same rationale applies to the cost of BIA's services;

33. That based on the above, counsel for the *Hinterberger* Plaintiffs must pay ANA **\$32,015.60** for services provided by the e-discovery vendor, BIA; and

34. That the total amount owed to ANA by the *Hinterberger* Plaintiffs is **\$50,118.27**, 67.4% of the total amount (\$74,371.37) of attorney fees, costs and expenses requested by ANA. The vast majority of the awarded amount (63.8%) consists of the e-discovery vendor's expenses. The amount of **\$50,118.27** must be paid by

counsel for the *Hinterberger* Plaintiffs within ninety (90) days from the date of this Order.

All Citations

Not Reported in F.Supp.3d, 2014 WL 8396722

Footnotes

1 \$15.05 + \$11.34 = \$26.39.

2 The other half, \$13.19, shall be applied to the *Gordon* case.

3 \$15.05 + \$13.20 = \$28.25.

4 "Shortly after the Court issued its January 13, 2012 Order compelling ANA to provide limited discovery ("Order"), ANA's legal team consulted with ANA's information technology staff, NDNQI program staff, and representatives of ANA's NDNQI contractor, Kansas University Medical Center ("KUMCRI") to develop a plan to comply with the Court's order to provide the limited discovery within 45 days (i.e., by February 25, 2012). After careful consideration, it was determined that ANA and KUMCRI do not have the resources or knowledge necessary to comply timely with the Court's Order, and that it would be necessary for ANA to obtain assistance from an electronic discovery ("e-discovery") vendor. Accordingly, after informally exploring vendor options, ANA engaged an e-discovery vendor, Business Intelligence Associates, Inc. ("BIA"), to assist in the data collection, review and production process." ECF No. 94-2 at 3 (Bodley Decl. ¶ 10).

5 D4 is the e-discovery consultant retained by the *Hinterberger* Plaintiffs.

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