

THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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In Re Terrorist Attacks on September 11, 2001 ) No. 03 MDL 1570 (GBD/FM)  
) ECF Case

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**DEFENDANT WAEL JEL AidAN’S REPLY TO PLAINTIFFS’ RESPONSE TO NOTE  
OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF DEFENDANT’S RESPONSE TO  
PLAINTIFFS’ AFFIDAVITS AND TIME RECORDS**

Defendant Wael Jelaidan, through undersigned counsel, respectfully submits its Reply to the Plaintiffs’ Response (ECF No. 2875) (June 18, 2014).

As stated in Defendant Al Haramain’s Reply (ECF No. 2876) (June 20, 2014), Plaintiffs’ Response fails to acknowledge the dispositive fact that undermines Plaintiffs’ Fee Petition, *i.e.*, that counsel for Plaintiffs adamantly and repeatedly represented to this Court – in their Fee Petition, in their Reply Brief, and at oral argument on April 24, 2014 – that their spreadsheets allegedly reciting attorney time and expenses were based on “contemporaneous time records.” During the motions hearing, no attorney for Plaintiffs stood up and admitted that this representation was false.

It was not until after this Court allowed limited discovery into these “contemporaneous time records” that this Court learned that Plaintiffs had made material misrepresentations to this Court by asserting that their Fee Petition was based on “contemporaneous time records.” Instead, the firm Kreindler & Kreindler belatedly admitted what counsel for Plaintiffs had known all along: its attorneys do not keep time records. *See* J. Kreindler, Affidavit (ECF No. 2856) (May 15, 2014). Plaintiffs’ statement in their Response that Defendants “*allege* that two of [the

Kreindler firm's] attorneys did not maintain contemporaneous time records" is misleading at best. The Kreindler firm specifically admitted that it had not maintained contemporaneous time records. Therefore, as is obvious, Defendants had no need to "allege" that conclusively-proven fact. Inexplicably, the Plaintiffs' attorneys herein have continued their pattern of obfuscating and misleading this Court regarding their Fee Petition.

It is these multiple misrepresentations – that were not uncovered until after this Court allowed limited discovery – that further justify striking or drastically reducing Plaintiffs' Fee Petition beyond the substantial reductions already required due to overbilling, double billing, overstaffing, improperly requesting excessive hourly rates, improperly requesting a lodestar enhancement, and failing to acknowledge clear Supreme Court and Second Circuit precedent governing fee petitions. In *WTC Litigation*, the absence of contemporaneous time records was one of several factors justifying reducing the fee petition. *In re World Trade Center Disaster Site Litigation*, No. 11-4021-cv (L), \_\_\_F.3d\_\_\_, 2014 WL 2565821, at \*10 (2d Cir. June 9, 2014) (quoting *Goldberger v. Integrated Res., Inc.*, 209 F.3d43, 50 (2d Cir. 2000)). Here, the multiple factors justifying a reduction or striking of the Plaintiffs' Fee Petition are even more egregious than those cited in *WTC Litigation*.

For the foregoing reasons and the reasons set forth in Defendant Al Haramain's Response (ECF No. 2864) (May 29, 2014), and Defendant Al Haramain's Notice of Supplemental Authority (ECF No. 2868) (June 9, 2014), this Court is justified in striking or substantially reducing the Fee Petition and granting other relief as warranted under Section 1927 and the Court's inherent powers.

Respectfully submitted,

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Dated: June 30, 2014

*Attorney for Defendant*

## CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2014, I caused the foregoing to be served electronically on counsel of record by the Court's Electronic Case Filing (ECF) System, pursuant to ¶ 9(a) of Case Management Order No. 2 (June 16, 2004).

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