

Quentin M. Rhoades  
State Bar No. 3969  
**SULLIVAN, TABARACCI & RHOADES, P.C.**  
2075 Charlotte St., Ste. 1  
Bozeman, MT 59718  
Telephone: (406) 556-1121  
Facsimile: (406) 556-1129  
[gmr@montanalawyer.com](mailto:gmr@montanalawyer.com)

Attorneys for Richard Celata

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION

**UNITED STATES OF AMERICA,**

Plaintiff,

v.

**MODEL 1911, .45 CALIBER PISTOL,  
UNKNOWN MANUFACTURER,  
SERIAL NUMBER KTO 03041002;  
MODEL AR15, .223 CALIBER  
FIREARM, UNKNOWN  
MANUFACTURER, NO SERIAL  
NUMBER;  
MODEL 1911, .45 CALIBER PISTOL,  
UNKNOWN MANUFACTURER,  
SERIAL NUMBER 03041001; and  
RIFLE, NO CALIBER, UNKNOWN  
MANUFACTURER, NO SERIAL  
NUMBER,**

Defendants.

**Cause No. CV 06-85-BU-SEH**

**AFFIDAVIT OF  
ATTORNEY FEES AND EXPENSES**

STATE OF MONTANA        )  
  :SS  
County of Missoula        )

I, Quentin M. Rhoades, being duly sworn and upon oath, states as follows:

1. I am of adult age. I am mentally sound and competent to testify in the courts of the State of Montana. The matters set forth in this Affidavit are based upon my own personal knowledge unless otherwise stated. I would testify in open court, if called upon to do so, as to the facts set forth herein.

2. I am a shareholder with the law firm of Sullivan, Tabaracci & Rhoades, P.C., and attorney of record for Richard Celata, in the above-referenced matter.

3. The figures for fees and expenses submitted in this matter, are true and correct to the best of my knowledge.

4. The fees as submitted in this matter are necessary and reasonable for this type of litigation.

5. **General Information about the legal services.**

A. The terms of employment between Richard Celata and his counsel – SULLIVAN, TABARACCI & RHOADES, P.C., – requires, pursuant to written fee agreement, reimbursement for all actual costs incurred in representation and compensation at standard hourly rates for attorney time actually spent by its counsel.

B. Richard Celata has been given the opportunity to review all billing statements reflecting the itemized billing request herein, and has approved the requested amounts.

C. This application covers the time period commencing August 8, 2006 through February 22, 2007.

D. The undersigned certifies that none of the compensation or reimbursement for costs requested herein will be shared with any entity or otherwise disbursed in violation of applicable law.

6. **Hourly rates and hours expended.**

A. This application is based upon professional services rendered by attorneys Quentin M. Rhoades, Nathan Wagner, and paralegals Darcy McLean, Michelle Thompson and Michelle Fontaine of SULLIVAN, TABARACCI & RHOADES, P.C. Services were rendered at the rates and for the number of hours described below:

| <u>ATTORNEY</u>      | <u>RATE</u> | <u>TOTAL HOURS</u> | <u>TOTAL COMP. (\$)</u> |
|----------------------|-------------|--------------------|-------------------------|
| Quentin M. Rhoades   | \$175.00    | 84.13              | 14,722.75               |
| Nathan Wagner        | \$110.00    | 5.37               | 590.70                  |
|                      | \$40.00     | 16.61              | 664.40                  |
| Darcy R. McLean      | \$60.00     | .75                | 45.00                   |
| Michelle Thompson    | \$60.00     | 49.50              | 2,970.00                |
| Michelle M. Fontaine | \$60.00     | 1.0                | <u>60.00</u>            |
|                      |             | <b>TOTAL FEES</b>  | <b><u>19,052.85</u></b> |

The compensation request is based on the customary compensation charged by comparably skilled practitioners considering the lodestar factors required by the Montana Ethical Guidelines, and 9<sup>th</sup> Circuit law. In setting this rate, counsel notes that rates charged by Western Montana attorneys of similar reputation and experience range from \$140.00 to \$225.00 per hour.

B. Richard Celata incurred the total fees between lead and associate counsel and staff in the sum of \$19,052.85.

C. Total litigation expenses, based upon those set forth in Exhibit A attached hereto, are \$1,422.27.

7. **Explanation of services.**

Efforts were made to use counsel with the lowest hourly rate per task assigned. The bulk of litigation activity consisted of analyzing the factually detailed complaint, studying the federal statutory and case law relevant to the case, preparing a substantive brief in support of Celata's motion to dismiss, and seeking dismissal with prejudice. Every effort was made to have the work done by the qualified individual with the lowest billing rate. We delegated many responsibilities to associate counsel and paralegals within the firm, as warranted for particular tasks. Finally, billing judgment was exercised by not billing for more than one professional when necessary consultations were required between them, and by, as reflected in the billing entries, "no charging" services actually performed when appropriate.

**8. Evaluation standards.**

In setting our rates, SULLIVAN, TABARACCI & RHOADES, P.C., has considered the factors set forth in applicable law as well as standards set forth in Rule 1.5 of the Montana Rules of Professional Conduct and case law in this U.S. District and Montana relative to a court's award of reasonable attorney fees to a prevailing party. Factors considered include the novelty and difficulties of the litigation; the skill required to perform the services; the impact of representation in this proceeding on the ability of counsel to take other work and control schedules; the fees customarily charged in the localities; the amount of work and risk involved; the time limitations imposed by circumstances; the nature, length and professional relationship with the client; the experience, reputation and ability of the lawyers as well as the actual time and labor required. Additionally, counsel has considered the traditional "lodestar" standards of rate setting.

Each attorneys' specific background, experience and area of expertise was also considered. For example, I attended Montana State University, earning a Bachelor of Science degree in Economics in 1989, with honors, and a Master of Arts degree in American History in 1992, with highest honors. I then attended the University of Montana School of Law, earning a Juris Doctorate Degree in 1995, and later served as Law Clerk for the Bankruptcy Court, District of Montana, before joining SULLIVAN, TABARACCI & RHOADES, P.C., in 1997. I have been a principal shareholder in the firm since 2000. I am admitted to practice before the Montana Supreme Court, the U.S.

District of Montana, the Ninth Circuit Court of Appeals, the Eighth Circuit Court of Appeals, the Ninth Circuit Bankruptcy Appellate Panel, the U.S. Immigration Court for the Districts of Montana, Washington and Colorado, the United States Court of Claims, the United States Tax Court, and the U.S. Board of Immigration Appeals. I have also made *pro hac vice* appearances and/or actually tried jury cases before federal courts in the Eastern and Southern Districts of Texas, the Western District of Washington, and the District for Minnesota. My practice emphasizes both civil trials and appeals, and I have experience in the following areas: real estate, commercial and construction disputes; lender liability; real estate foreclosures; bankruptcy; litigation; white collar criminal defense; insurance bad faith; and Federal and Montana housing discrimination claims. With respect to firearms law, I represent Montana Shooting Sports Association and am publicly recommended by MSSA as preferred counsel for firearms law. I also have been requested and compensated by and Gun Owners of America and the National Rifle Association to carry litigation on behalf of their members. My customary hourly billing rate, which I charge all hourly clients is \$175.00 per hour.

Nathan Wagner, as associate with the law firm who also served on the case as a law clerk prior to his admission to the State Bar of Montana in September of 2006, obtained a B.A in Political Science from the University of Montana in 2003. Mr. Wagner graduated from the University of Montana School of Law in May of 2006. Prior to his obtaining his law degree he worked and helped start the Wireless Alliance, Inc. business in Whitefish, Montana. His practice focuses on commercial, real estate and general civil

litigation and transactional matters. Based on his background and experience, his customary hourly rate is \$140.00, and is charged to all clients upon whose cases he is called upon to assist. Prior to his admission, when serving as a law clerk, his time was charged at \$40.00 per hour.

9. **Time records.**

Attached hereto as Exhibit A, are time entries from actual time records for each service performed by date, description and time expended related specifically to this case. The time records were based upon notes taken by the professionals contemporaneously with the time the services were performed. In most instances, counsel has noted the actual time spent on a task or set of related tasks contemporaneously with the start and conclusion of the task and entered to the nearest sixth of an hour or in actual minutes. The summary of services and the time records are entered into the undersigned's computer-maintained timekeeping program on a regular basis. The entries are then compiled into a billing statement for each individual client. Time records and the billing statement are prepared and kept in the normal course of business operations.

10. **Certification of reasonableness and necessity.**

In undersigned's professional opinion, the time spent on services listed in Exhibit A attached was reasonably required and necessary to fully protect the client's

substantial interests in the property at issue. Services rendered were reasonably necessary to the successful completion of the litigation.

DATED this 22<sup>nd</sup> day of February, 2007.

Respectfully submitted,

SULLIVAN, TABARACCI & RHOADES, P.C.

By: /s/ Quentin M. Rhoades  
Quentin M. Rhoades,  
Attorneys for Richard Celata



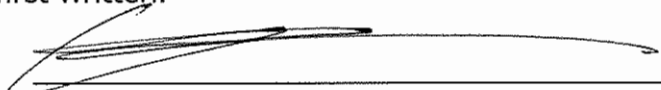
**VERIFICATION**

STATE OF MONTANA        )  
  :SS.  
County of Missoula        )

QUENTIN M. RHOADES, being first duly sworn, state as follows:


1.     That he the attorney for Richard Celata in this action.
2.     That he has read the foregoing and understand the contents.
3.     That the matters, facts and things stated herein are true, accurate and complete.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year herein above first written.

  
\_\_\_\_\_  
Quentin M. Rhoades

**SUBSCRIBED AND SWORN TO** before me this 22<sup>nd</sup> day of February, by Quentin M. Rhoades, attorney for Richard Celata.



  
\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public for the State of Montana  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

SUSAN D. SCHWARZ  
NOTARY PUBLIC for the State of Montana  
Residing at Missoula, Montana  
My Commission Expires Sept 3, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that on the 22<sup>nd</sup> day of February, 2007 a copy of the foregoing document was served on the following persons by the following means:

- 1          CM/ECF
- Hand Delivery
- Mail
- Overnight Delivery Service
- Fax
- E-Mail

1.     Paulette L. Stewart  
       Assistant U.S. Attorney  
       U.S. Attorney's Office  
       901 Front Street, Suite 1100  
       Helena, MT 59626

          /s/ Quentin M. Rhoades