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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES

10  
11 BARBRA STREISAND, an individual,  
12 Plaintiff,

13 vs.

14 KENNETH ADELMAN, an individual;  
15 PICTOPIA.COM, a California corporation;  
LAYER42.NET, a California corporation;  
16 and DOE 1 through DOE 20, inclusive.  
17 Defendants.

CASE NO. SC 077257

[Honorable Allan J. Goodman]

**PLAINTIFF BARBRA STREISAND'S  
OPPOSITION TO LAYER42.NET'S  
MOTION FOR ATTORNEY'S FEES**

**[Filed Concurrently with Appendix of Non-California Points and Authorities]**

Date: April 30, 2004  
Time: 8:30 a.m.  
Dept.: Dept. H  
Judge: Hon. Allan J. Goodman

Complaint filed: May 20, 2003

1 **I. INTRODUCTION**

2 Defendant Layer42.net (“Layer42”) demands \$21,914 for services rendered in  
3 furtherance of its joinder in Kenneth Adelman’s (“Adelman”) and Pictopia.com’s motion to strike  
4 pursuant to Cal. Civ. Proc. Code § 425.16 (“anti-SLAPP motion.”). It then requests an additional  
5 \$2,620 to file and litigate its attorney’s fees motion.

6 After reviewing Layer42’s lack of participation in this litigation, including not  
7 filings its own motions or briefs, \$23,914 is outrageous by any standard in determining the  
8 reasonableness of attorney’s fees and costs. In “incurring” this amount, Layer42’s counsel  
9 engaged in two primary activities: (a) authoring all of eight lines when it joined in Adelman and  
10 Pictopia.com’s anti-SLAPP motion and (b) passively attending hearings on the anti-SLAPP  
11 motion and Barbra Streisand’s (“Streisand”) motion for preliminary injunction. Layer42’s  
12 joinder does not contain **any** factual or legal arguments and likely took minutes to prepare.  
13 Meanwhile, the participation of Layer42’s counsel at the hearings was minimal, if not non-  
14 existent. It is perverse to suggest that it should cost over \$21,000 to provide these limited  
15 services. Furthermore, because Layer42 has not provided any documentation whatsoever to  
16 justify recovery for services incurred in preparing its attorney’s fees motion and related activities,  
17 Layer42 has not provided the substantial evidence necessary to support its claim.

18 **II. THE COSTS AND FEES DEFENDANT REQUESTS ARE UNREASONABLE,**  
19 **EXCESSIVE, AND UNNECESSARY**

20 Section 425.16 states that a prevailing defendant on a special motion to strike shall  
21 only be entitled to recover attorney’s fees and costs that a court deems are reasonable. Civ. Proc.  
22 Code § 425.16(c); Robertson v. Rodriguez, 36 Cal. App. 4th 347, 362 (1995); Dove Audio, Inc.  
23 v. Rosenfeld, Meyer & Susman, 47 Cal. App. 4th 777, 785 (1996). Reasonableness is determined  
24 by balancing a variety of factors, including:

25 [T]he nature of the litigation, its difficulty, the amount involved, the  
26 skill required and the skill employed in handling the litigation, the  
27 attention given, the success of the attorney's efforts, his learning,  
28 his age, and his experience in the particular type of work demanded  
[citation]; the intricacies and importance of the litigation, the labor  
and the necessity for skilled legal training and ability in trying the

1 cause, and the time consumed. Martino v. Denevi, 182 Cal. App.  
2 3d 553, 558 (1986) (citations omitted).

3 In assessing attorney's fees under this method, however, a Court must exclude  
4 those fees that are "excessive, redundant, [and] otherwise unnecessary." Hensley v. Eckerhart,  
5 461 U.S. 424, 434 (1983).

6 Since the Court's "role is not merely to rubber stamp the defendant's request, but  
7 to ascertain whether the amount sought is reasonable," Robertson, 36 Cal. App. 4th at 361, any  
8 fee award must be established by "substantial evidence" supporting the award. Macias v.  
9 Hartwell, 55 Cal. App. 4th 669, 676 (1997). Therefore, the Court is "not bound by the amount  
10 sought by defendants and [has the] discretion to award them a lesser sum." Robertson, 36 Cal.  
11 App. 4th at 362. Because Layer42 requests an award that is unreasonable and excessive,  
12 Layer42's request for attorney's fees and costs must be denied.

13 **A. Layer42's Fee Request Is Not Commensurate With the Value of the Services**  
14 **Rendered**

15 On its face, Layer42's request for fees is not reasonable. The sum of Layer42's  
16 efforts is the following: authoring 8 lines and attending court hearings in which Layer42 had a  
17 minimal amount of input.

18 Layer42's demand does not satisfy the criteria for determining reasonableness.  
19 Having joined in Adelman and Pictopia.com's anti-SLAPP motion, Layer42 had little or no  
20 involvement in briefing, arguing, or otherwise handling the anti-SLAPP component of the  
21 litigation. A nominal amount of legal training is involved in filing an eight-line joinder.  
22 Furthermore, Layer42's counsel did not significantly contribute to any of the issues discussed  
23 relating to the anti-SLAPP motion. As a result, this Court should deny Layer42's claim for fees.

24 **B. A Substantial Portion of the Fees and Costs Submitted by Layer42's Counsel**  
25 **is Not Recoverable Under § 425.16(c)**

26 Lafayette Morehouse, Inc. v. Chronicle Publishing Company, 39 Cal. App. 4th  
27 1379, 1383 (1995) explicitly provides that the attorney fees provision contained in § 425.16(c)  
28 "applies only to the motion to strike, and not to the entire action." Streisand, therefore, is not

1 responsible to pay any fees that are applicable to non-SLAPP motion matters or both the anti-  
2 SLAPP motion *and* other aspects of the litigation since Lafayette limits recovery to costs and fees  
3 that apply “*only* to the motion to strike.” This is clearly a rule of reason since the purpose of an  
4 attorney’s fees award under § 425.16(c) is to compensate defendants for the additional cost of  
5 litigating the anti-SLAPP motion. Insofar, as research would necessarily have to be performed  
6 were the anti-SLAPP motion never filed, a Defendant should not be able to recover those fees.  
7 Nonetheless, Layer42 attempts to subsume all research relevant to both the anti-SLAPP motion  
8 and other aspects of the litigation even though that research would have needed to be performed  
9 regardless of whether the anti-SLAPP motion had been filed.

10           Indeed, Layer42 does not make any attempt to apportion (a) legal research, (b)  
11 hearing preparation, or (c) client communications between the anti-SLAPP motion and other  
12 issues related to this lawsuit. Consequently, Layer42 has failed to provide substantial evidence to  
13 justify *any* recovery of these fees. Accordingly, Layer42’s recovery must be limited to the clearly  
14 delineated (and reasonable) portion of time spent on activities directly bearing on the anti-SLAPP  
15 motion. Since Layer42 did not cite any case law or factual analysis in its joinder to Adelman and  
16 Pictopia.com’s motion to strike, it is likely that none of the research that it performed was  
17 necessary, or even for the purposes of, the anti-SLAPP litigation.

18           **C. The Expense Report is Replete with Incomplete and Ambiguous Information**

19           Attorneys are required to “maintain accurate records of work done and time spent  
20 in preparing each client’s case” as “a detailed billing record gains the advantage of being able to  
21 evaluate the worth of the services provided.” Martino v. Denevi, 182 Cal. App. 3d 553, 558  
22 (1986). Defendant has failed to provide sufficient information to determine whether the time  
23 spent and billed for various activities was, or was not, reasonable.

24           Layer42’s Expense Report is filled with incomplete and ambiguous information  
25 such that it is impossible to determine whether or not a particular expense is for purposes of the  
26 anti-SLAPP motion. These descriptions do not provide any guidance whatsoever in determining  
27 whether (a) a reasonable amount of time was spent on that activity or (b) whether the expenses  
28 are altogether related to the anti-SLAPP motion. For example, there are numerous expenses titled

1 “telephone call to Adelman’s counsel” and “teleconference with client.” Other descriptions  
2 include activities titled “attention to defendant’s website,” “attention to Westlaw research of case  
3 law,” and other non-descript narratives.

4 Because the non-descript or incomplete billing expenses make it impossible to  
5 determine whether the time spent on those activities is reasonable, Streisand cannot be obligated  
6 to pay for those expenses.

7 **D. Defendant Attempts to Bill Streisand for Work that is Explicitly Unrelated to**  
8 **the Anti-SLAPP Motion**

9 Defendant attempts to charge for fees that clearly were not incurred in furtherance  
10 of Defendant’s joinder to the motion to strike.

11 First, Defendant attempts to require Streisand to pay for thousands of dollars in  
12 telephone calls that are not related to the anti-SLAPP litigation. For example, Layer42 has  
13 numerous billing descriptions that cannot be related to the anti-SLAPP litigation since the  
14 communications occurred (a) well before Defendant conducted any sort of research, (b) prior to  
15 receipt of a copy of Adelman’s anti-SLAPP motion, or (c) even before a litigation file was opened  
16 for the client.

17 Layer42 also improperly attempts to bill Streisand for:

- 18 • Telephone calls to the client and Adelman’s counsel to which there is no  
19 indication or inference that they are anti-SLAPP related;
- 20 • Drafting and sending a letter to Streisand’s counsel requesting that she  
21 voluntarily dismiss her suit;
- 22 • Telephone calls regarding travel plans;
- 23 • Extensive and unnecessary travel time;
- 24 • Discussions and communications regarding a Waiver of Disqualification;
- 25 • Issues relating to calendaring deadlines;
- 26 • Preparation, conversations, and appearance at the case management  
27 conference; and
- 28 • Review of this Court’s tentative decision.

1           Streisand cannot be obligated to pay for any of these fees since they are not  
2 relevant to the anti-SLAPP litigation.

3       **III. LAYER42 IS NOT ENTITLED TO ATTORNEY'S FEES FOR ITS ATTORNEY'S**  
4       **FEES MOTION**

5           Finally, Layer42 is not entitled to attorney's fees incurred in litigating its fee  
6 motion because it has not provided any evidence whatsoever to document those fees or establish  
7 their reasonableness by substantial evidence. Defendant has neither attached an Expense Report  
8 or any other form of itemization that would indicate how Defendant incurred, or will incur,  
9 \$2,620 in attorney's fees. Notwithstanding the fact that Defendant has not provided any evidence  
10 documenting the so-called \$2,620 in fees that Layer42 supposedly incurred, or will incur, the  
11 amount requested is facially unreasonable in light of the minimal amount of work that  
12 Defendant's counsel has performed since this Court's entry of judgment. Indeed, it is  
13 questionable whether Layer42 should altogether receive a total of \$2,620 for Layer42's entire  
14 involvement in litigating the anti-SLAPP motion.

15           Given that Layer42 has not provided any documentary evidence, let alone  
16 substantial evidence, Layer42's request for fees incurred in litigating this motion must be denied.  
17 See, e.g., Macias, 55 Cal. App. 4th at 676 (holding that defendants must provide "substantial  
18 evidence" in order to supporting a reasonable attorney's fee award).

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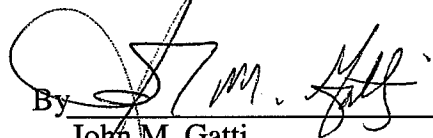
**IV. CONCLUSION**

Layer42's request for almost \$24,000 in fees is absurd. In short, Layer42 seeks this amount for writing an eight line joinder, physically attending—but not having an active role in—a series of hearings, and drafting its four page motion (to which only one published opinion is cited). Since Defendant has failed to justify these fees, Streisand respectfully requests that the Court *deny* Layer42's fee demand.

DATED: April 20, 2004

ALSCHULER GROSSMAN STEIN & KAHAN LLP

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\_\_\_\_\_  
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 WEST DISTRICT

11  
12 BARBRA STREISAND, an individual,

13 Plaintiff,

14 vs.

15 KENNETH ADELMAN, an individual;  
16 PICTOPIA.COM, a California corporation;  
LAYER42.NET, a California corporation;  
and DOE 1 through DOE 20, inclusive,

17 Defendants.  
18

CASE NO. SC 077257

[Assigned to the Honorable Allan J. Goodman,  
Dept. H]

**APPENDIX OF NON-CALIFORNIA  
AUTHORITIES IN SUPPORT OF  
PLAINTIFF BARBRA STREISAND'S  
OPPOSITION TO DEFENDANTS  
LAYER42.NET'S MOTION FOR  
ATTORNEY'S FEES PURSUANT TO  
CALIFORNIA CODE OF CIVIL  
PROCEDURE § 425.16(c)**

[Filed Concurrently with Opposition to  
Defendant's Attorney's Fees Motion]

Date: April 30, 2004  
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Complaint Filed: May 20, 2003



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Plaintiff Barbra Streisand hereby submits the following non-California authorities  
in support of her opposition to Defendant Layer42.net's motion for attorney's fees.

No.

1. *Hensley v. Eckerhart*, 461 U.S. 424 (1983)

DATED: April 20, 2004

ALSCHULER GROSSMAN STEIN & KAHAN LLP

By   
\_\_\_\_\_  
Jonathan E. Stern  
Attorneys for Plaintiff  
BARBRA STREISAND

# **EXHIBIT 1**

Supreme Court of the United States

C. Duane HENSLEY et al., Petitioners

v.

Thomas ECKERHART et al.

No. 81-1244.

Argued Nov. 3, 1982.

Decided May 16, 1983.

Plaintiffs brought action on behalf of all persons involuntarily confined at forensic unit of state hospital, challenging the constitutionality of treatment and conditions at the hospital. The United States District Court found constitutional violations, and awarded plaintiffs attorney fees, and appeal was taken. The Court of Appeals, 664 F.2d 294, affirmed, and certiorari was granted. The Supreme Court, Justice Powell, held that District Court failed to properly consider the relationship between the extent of success and the amount of attorney fee award, and cause would be remanded to permit District Court to determine the proper amount of fee award in light of Supreme Court's determination that the extent of a plaintiff's success is a crucial factor in determining the proper amount of award of attorney fees.

Vacated and remanded.

Chief Justice Burger filed a concurring opinion.

Justice Brennan filed an opinion concurring in part and dissenting in part, in which Justices Marshall, Blackmun and Stevens joined.

West Headnotes

[1] Civil Rights ⇔ 1482

78k1482 Most Cited Cases

(Formerly 78k296, 78k13.17(13), 78k13.17)

The purpose of the Civil Rights Attorney's Fees Awards Act is to ensure effective access

to the judicial process for persons with civil rights grievances, and accordingly, a prevailing plaintiff should ordinarily recover an attorney fee unless special circumstances would render such an award unjust. 42 U.S.C.A. § 1988.

[2] Civil Rights ⇔ 1484

78k1484 Most Cited Cases

(Formerly 78k299, 78k13.17(16), 78k13.17)

Under the Civil Rights Attorney's Fees Awards Act, a prevailing defendant may recover attorney fees only when the suit is vexatious, frivolous, or brought to harass or embarrass defendant. 42 U.S.C.A. § 1988.

[3] Civil Rights ⇔ 1487

78k1487 Most Cited Cases

(Formerly 78k302, 78k13.17(19), 78k13.17)

The amount of fee to be awarded under the Civil Rights Attorney's Fees Awards Act must be determined on the facts of each case. 42 U.S.C.A. § 1988.

[4] Civil Rights ⇔ 1488

78k1488 Most Cited Cases

(Formerly 78k303, 78k13.17(20), 78k13.17)

The most useful starting point for determining the amount of a reasonable fee under the Civil Rights Attorney's Fees Awards Act is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate; party seeking an award of fees should submit evidence supporting the hours worked and rates claimed, and when the documentation of hours is inadequate, district court may reduce the award accordingly. 42 U.S.C.A. § 1988.

[5] Civil Rights ⇔ 1482

78k1482 Most Cited Cases

(Formerly 78k296, 78k13.17(13), 78k13.17)

Under the Civil Rights Attorney's Fees Awards Act, the factor of "results obtained" is particularly crucial when plaintiff is deemed

(Cite as: 461 U.S. 424, 103 S.Ct. 1933)

"prevailing" even though he succeeded on only some of his claims for relief; in that situation, two questions must be addressed: whether plaintiff failed to prevail on claims that were unrelated to the claims on which he succeeded, and whether plaintiff achieved a level of success that made the hours reasonably expended a satisfactory basis for making a fee award. 42 U.S.C.A. § 1988.

**[6] Civil Rights ⇌ 1486**

78k1486 Most Cited Cases

(Formerly 78k301, 78k13.17(18), 78k13.17)

In civil rights suit in which plaintiff presents distinctly different claims for relief that are based on different facts and legal theories, counsel's work on one claim will be unrelated to his work on another claim, and work on the unsuccessful claim cannot be deemed to have been expended in pursuit of the ultimate result achieved, for purposes of Civil Rights Attorney's Fees Awards Act. 42 U.S.C.A. § 1988.

**[7] Civil Rights ⇌ 1487**

78k1487 Most Cited Cases

(Formerly 78k302, 78k13.17(19), 78k13.17)

When civil rights plaintiff obtains excellent results, his attorney should recover a fully compensatory fee, and normally that will encompass all hours reasonably expended on the litigation, and in some cases of exceptional success, an enhanced award may be justified; in those circumstances, the fee award should not be reduced simply because plaintiff failed to prevail on every contention raised in the lawsuit. 42 U.S.C.A. § 1988.

**[8] Civil Rights ⇌ 1487**

78k1487 Most Cited Cases

(Formerly 78k302, 78k13.17(19), 78k13.17)

If civil rights plaintiff achieves only partial or limited success, the product of hours reasonably expended on the litigation as a whole times a reasonable hourly rate may be an excessive amount under the Civil Rights Attorney's Fees Awards Act. 42 U.S.C.A. § 1988.

**[9] Civil Rights ⇌ 1488**

78k1488 Most Cited Cases

(Formerly 78k303, 78k13.17(20), 78k13.17)

Under the Civil Rights Attorney's Fees Awards Act, the fee applicant bears burden of establishing entitlement to an award and documenting the appropriate hours expended and hourly rate; applicant should exercise billing judgment with respect to hours worked, and should maintain billing time records in a manner that will enable reviewing court to identify distinct claims. 42 U.S.C.A. § 1988.

**[10] Civil Rights ⇌ 1490**

78k1490 Most Cited Cases

(Formerly 78k305, 78k13.17(22), 78k13.17)

Under the Civil Rights Attorney's Fees Awards Act, it is important for district court to provide concise but clear explanation of its reasons for the fee award, and when an adjustment is requested on the basis of either the exceptional or limited nature of the relief obtained by plaintiff, district court should make clear that it has considered the relationship between the amount of the fee awarded and the results obtained. 42 U.S.C.A. § 1988.

**[11] Civil Rights ⇌ 1486**

78k1486 Most Cited Cases

(Formerly 78k301, 78k13.17(18), 78k13.17)

**[11] Federal Courts ⇌ 462**

170Bk462 Most Cited Cases

In civil rights suit challenging the conditions of confinement in forensic unit of state hospital, in which district court found constitutional violations in five of the six general areas of treatment, district court failed to properly consider the relationship between the extent of success and the amount of attorney fee award, and cause would be remanded to permit district court to determine the proper amount of the fee award in light of Supreme Court's determination that the extent of a plaintiff's success is a crucial factor in determining the proper amount of award of attorney fees. 42 U.S.C.A. § 1988.

[12] Civil Rights ⇨ 1487

78k1487 Most Cited Cases

(Formerly 78k302, 78k13.17(19), 78k13.17)

The extent of a plaintiff's success is a crucial factor in determining the proper amount of an award of attorney fees under the Civil Rights Attorney's Fees Awards Act. 42 U.S.C.A. § 1988.

\*424 \*\*1935 Syllabus [FN\*]

FN\* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337, 26 S.Ct. 282, 287, 50 L.Ed. 499.

Respondents, on behalf of all persons involuntarily confined in the forensic unit of a Missouri state hospital, brought suit in Federal District Court against petitioner hospital officials, challenging the constitutionality of treatment and conditions at the hospital. The District Court, after a trial, found constitutional violations in five of the six general areas of treatment. Subsequently, respondents filed a request for attorney's fees under the Civil Rights Attorney's Fees Awards Act of 1976, 42 U.S.C. § 1988, which provides that in federal civil rights actions "the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs." After determining that respondents were prevailing parties under § 1988 even though they had not succeeded on every claim, the District Court refused to eliminate from the attorney's fees award the hours spent by respondents' attorneys on the unsuccessful claims, finding that the significant extent of the relief clearly justified the award of a reasonable attorney's fee. The Court of Appeals affirmed.

*Held:* The District Court did not properly consider the relationship between the extent of success and the amount of the attorney's fee award. The extent of a plaintiff's success is a crucial factor in determining the proper amount of an attorney's fee award under § 1988. Where the plaintiff failed to prevail on a claim unrelated to the successful claims, the

hours spent on the unsuccessful claim should be excluded in considering the amount of a reasonable fee. Where a lawsuit consists of related claims, a plaintiff who has won substantial relief should not have his attorney's fee reduced simply because the district court did not adopt each contention raised. But where the plaintiff achieved only limited success, the court should award only that amount of fees that is reasonable in relation to the results obtained. Pp. 1937-1942.

664 F.2d 294 (8th Cir., 1981), vacated and remanded.

\*425 *Michael L. Boicourt*, Assistant Attorney General of Missouri, argued the cause for petitioners. With him on the brief was *John Ashcroft*, Attorney General.

*Stanley J. Eichner* argued the cause and filed a brief for respondents.\*

\* *Robert E. Williams*, *Douglas S. McDowell*, and *Lorence L. Kessler* filed a brief for the Equal Employment Advisory Council as *amicus curiae* urging reversal.

*Jack Greenberg*, *James M. Nabrit III*, *Charles Stephen Ralston*, *Steven L. Winter*, *Norman J. Chachkin*, and *E. Richard Larson* filed a brief for the NAACP Legal Defense and Educational Fund, Inc., et al. as *amici curiae* urging affirmance.

Briefs of *amici curiae* were filed for the State of Pennsylvania et al. by *LeRoy S. Zimmerman*, Attorney General of Pennsylvania, and *Andrew S. Gordon* and *Allen C. Warshaw*, Deputy Attorneys General, *Charles A. Graddick*, Attorney General of Alabama, *Wilson L. Condon*, Attorney General of Alaska, *Robert K. Corbin*, Attorney General of Arizona, and *Anthony B. Ching*, Solicitor General, *John Steven Clark*, Attorney General of Arkansas, *George Deukmejian*, Attorney General of California, *J.D. MacFarlane*, Attorney General of Colorado, *Richard S. Gebelein*, Attorney General of Delaware, *Jim Smith*, Attorney General of Florida, *Michael J. Bowers*, Attorney General of Georgia, *Tany S. Hong*, Attorney

General of Hawaii, *David H. Leroy*, Attorney General of Idaho, *Tyrone C. Fahner*, Attorney General of Illinois, *Linley E. Pearson*, Attorney General of Indiana, *Thomas J. Miller*, Attorney General of Iowa, *Robert T. Stephan*, Attorney General of Kansas, *Steven L. Beshear*, Attorney General of Kentucky, *James E. Tierney*, Attorney General of Maine, *Stephen H. Sachs*, Attorney General of Maryland, *Francis X. Bellotti*, Attorney General of Massachusetts, *Frank J. Kelley*, Attorney General of Michigan, *Warren R. Spannaus*, Attorney General of Minnesota, *William A. Allain*, Attorney General of Mississippi, *Paul L. Douglas*, Attorney General of Nebraska, *Richard H. Bryan*, Attorney General of Nevada, *Gregory H. Smith*, Attorney General of New Hampshire, *Irwin I. Kimmelman*, Attorney General of New Jersey, *Jeff Bingaman*, Attorney General of New Mexico, *Rufus L. Edmisten*, Attorney General of North Carolina, *Robert O. Wefald*, Attorney General of North Dakota, *William J. Brown*, Attorney General of Ohio, *Jan Eric Cartwright*, Attorney General of Oklahoma, *Hector Reichard*, Attorney General of Puerto Rico, *Daniel R. McLeod*, Attorney General of South Carolina, *Mark D. Meierhenry*, Attorney General of South Dakota, *William M. Leech, Jr.*, Attorney General of Tennessee, *Mark White*, Attorney General of Texas, *David L. Wilkinson*, Attorney General of Utah, *John J. Easton*, Attorney General of Vermont, *Gerald L. Baliles*, Attorney General of Virginia, *Kenneth O. Eikenberry*, Attorney General of Washington, *Chauncey H. Browning*, Attorney General of West Virginia, *Bronson C. La Follette*, Attorney General of Wisconsin, and *Steven F. Freudenthal*, Attorney General of Wyoming; and for the American Bar Association by *David R. Brink* and *M.D. Taracido*.

\*426 Justice POWELL delivered the opinion of the Court.

Title 42 U.S.C. § 1988 provides that in federal civil rights actions "the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's-fee as part of the costs." The issue in this case is whether a partially \*\*1936 prevailing plaintiff may recover an attorney's fee for legal services on unsuccessful claims.

I  
A

Respondents brought this lawsuit on behalf of all persons involuntarily confined at the Forensic Unit of the Fulton State Hospital in Fulton, Missouri. The Forensic Unit consists of two residential buildings for housing patients who are dangerous to themselves or others. Maximum-security patients are housed in the Marion O. Biggs Building for the Criminally Insane. The rest of the patients reside in the less restrictive Rehabilitation Unit.

In 1972 respondents filed a three-count complaint in the District Court for the Western District of Missouri against petitioners, who are officials at the Forensic Unit and members of the Missouri Mental Health Commission. Count I challenged the constitutionality of treatment and conditions at the Forensic Unit. Count II challenged the placement of patients in the Biggs Building without procedural due process. Count III sought compensation for patients who performed institution-maintaining labor.

Count II was resolved by a consent decree in December 1973. Count III largely was mooted in August 1974 when \*427 petitioners began compensating patients for labor pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* In April 1975 respondents voluntarily dismissed the lawsuit and filed a new two-count complaint. Count I again related to the constitutionality of treatment and conditions at the Forensic Unit. Count II sought damages, based on the Thirteenth Amendment, for the value of past patient labor. In July 1976 respondents voluntarily dismissed this back-pay count. Finally, in August 1977 respondents filed an amended one-count complaint specifying the conditions that allegedly violated their constitutional right to treatment.

In August 1979, following a three-week trial, the District Court held that an involuntarily committed patient has a constitutional right to minimally adequate treatment. 475 F.Supp. 908, 915 (WD Mo.1979). The court

(Cite as: 461 U.S. 424, \*427, 103 S.Ct. 1933, \*\*1936)

then found constitutional violations in five of six general areas: physical environment; individual treatment plans; least restrictive environment; visitation, telephone, and mail privileges; and seclusion and restraint. [FN1] With respect to staffing, the sixth general area, \*428 the District Court found that the Forensic Unit's staffing levels, which had increased during the litigation, were minimally adequate. 475 F.Supp., at 919-920. Petitioners did not appeal the District Court's decision on the merits.

FN1. Under "physical environment" the court found that certain physical aspects of the Biggs Building were not minimally adequate. 475 F.Supp., at 916-919.

Under "individual treatment plans" the court found that the existing plans were adequate, but that the long delay in preparation of initial plans after patients were admitted and the lack of regular review of the plans operated to deny patients minimally adequate plans. *Id.*, at 921-922.

Under "least restrictive environment" the court found unconstitutional the delay in transfer of patients from the Biggs Building to the Rehabilitation Unit following a determination that they no longer needed maximum-security confinement. *Id.*, at 922-923.

Under "visitation, telephone and mail" the court found that the visitation and telephone policies at the Biggs Building were so restrictive that they constituted punishment and therefore violated patients' due-process rights. *Id.*, at 923-925.

Under "seclusion and restraint" the court rejected respondents' claim that patients were given excessive medication as a form of behavior control. The court then found that petitioners' practices regarding seclusion and physical restraint were not minimally adequate. *Id.*, at 925-928.

## B

In February 1980 respondents filed a request for attorney's fees for the period from January 1975 through the end of the litigation. Their four attorneys claimed 2,985 hours worked and sought payment at rates varying from \$40 to \$65 per hour. This amounted to approximately \$150,000. \*\*1937 Respondents also requested that the fee be enhanced by thirty to fifty percent, for a total award of somewhere between \$195,000 and \$225,000.

Petitioners opposed the request on numerous grounds, including inclusion of hours spent in pursuit of unsuccessful claims.

The District Court first determined that respondents were prevailing parties under 42 U.S.C. § 1988 even though they had not succeeded on every claim. It then refused to eliminate from the award hours spent on unsuccessful claims:

"[Petitioners'] suggested method of calculating fees is based strictly on a mathematical approach comparing the total number of issues in the case with those actually prevailed upon. Under this method no consideration is given for the relative importance of various issues, the interrelation of the issues, the difficulty in identifying issues, or the extent to which a party may prevail on various issues." No. 75-CV-87-C, at 7 (WD Mo., Jan. 23, 1981), Record 220.

Finding that respondents "have obtained relief of significant import," Record 231, the District Court awarded a fee of \$133,332.25. This award differed from the fee request in two respects. First, the court reduced the number of hours claimed by one attorney by thirty percent to account for his inexperience \*429 and failure to keep contemporaneous records. Second, the court declined to adopt an enhancement factor to increase the award.

The Court of Appeals for the Eighth Circuit affirmed on the basis of the District Court's memorandum opinion and order. 664 F.2d 294 (1981). We granted certiorari, 455 U.S. 988, 102 S.Ct. 1610, 71 L.Ed.2d 847 (1982), and now vacate and remand for further proceedings.

## II

[1][2] In *Alyeska Pipeline Service Co. v. Wilderness Society*, 421 U.S. 240, 95 S.Ct. 1612, 44 L.Ed.2d 141 (1975), this Court reaffirmed the "American Rule" that each party in a lawsuit ordinarily shall bear its own attorney's fees unless there is express statutory authorization to the contrary. In response Congress enacted the Civil Rights Attorney's Fees Awards Act of 1976, 42 U.S.C. § 1988, authorizing the

(Cite as: 461 U.S. 424, \*429, 103 S.Ct. 1933, \*\*1937)

district courts to award a reasonable attorney's fee to prevailing parties in civil rights litigation. The purpose of § 1988 is to ensure "effective access to the judicial process" for persons with civil rights grievances. H.R.Rep. No. 94-1558, p. 1 (1976). Accordingly, a prevailing plaintiff "should ordinarily recover an attorney's fee unless special circumstances would render such an award unjust." S.Rep. No. 94-1011, p. 4 (1976), U.S.Code Cong. & Admin.News 1976, p. 5912 (quoting *Newman v. Piggie Park Enterprises*, 390 U.S. 400, 402, 88 S.Ct. 964, 966, 19 L.Ed.2d 1263 (1968)). [FN2]

FN2. A prevailing defendant may recover an attorney's fee only where the suit was vexatious, frivolous, or brought to harass or embarrass the defendant. See H.R.Rep. No. 94-1558, p. 7 (1976); *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412, 421, 98 S.Ct. 694, 700, 54 L.Ed.2d 648 (1978) ("[A] district court may in its discretion award attorney's fees to a prevailing defendant in a Title VII case upon a finding that the plaintiff's action was frivolous, unreasonable, or without foundation, even though not brought in subjective bad faith.").

[3] The amount of the fee, of course, must be determined on the facts of each case. On this issue the House Report simply refers to twelve factors set forth in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (CA5 1974). [FN3] The Senate Report cites to *Johnson* as well and also \*\*1938 refers to three district court decisions that "correctly applied" the twelve factors. [FN4] One of the factors in *Johnson*, "the amount involved and the results obtained," indicates that the level of a plaintiff's success is relevant to the amount of fees to be awarded. The importance of this relationship is confirmed in varying degrees by the other cases cited approvingly in the Senate Report.

FN3. The twelve factors are: (1) the time and labor required; (2) the novelty and difficulty of the questions; (3) the skill requisite to perform the legal service properly; (4) the preclusion of employment by the attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and

the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the "undesirability" of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases. 488 F.2d, at 717-719. These factors derive directly from the American Bar Association Code of Professional Responsibility, Disciplinary Rule 2-106.

FN4. "It is intended that the amount of fees awarded ... be governed by the same standards which prevail in other types of equally complex Federal litigation, such as antitrust cases[,] and not be reduced because the rights involved may be nonpecuniary in nature. The appropriate standards, see *Johnson v. Georgia Highway Express*, 488 F.2d 714 (5th Cir.1974), are correctly applied in such cases as *Stanford Daily v. Zurcher*, 64 F.R.D. 680 (ND Cal.1974); *Davis v. County of Los Angeles*, 8 E.P.D. ¶ 9444 (CD Cal.1974); and *Swann v. Charlotte-Mecklenburg Board of Education*, 66 F.R.D. 483 (WDNC 1975). These cases have resulted in fees which are adequate to attract competent counsel, but which do not produce windfalls to attorneys. In computing the fee, counsel for a prevailing party should be paid, as is traditional with attorneys compensated by a fee-paying client, 'for all time reasonably expended on a matter.' *Davis, supra; Stanford Daily, supra* at 684." S.Rep. No. 94-1011, p. 6 (1976), U.S.Code Cong. & Admin.News 1976, pp. 5908, 5913.

In *Stanford Daily v. Zurcher*, 64 F.R.D. 680 (ND Cal.1974), *aff'd*, 550 F.2d 464 (CA9 1977), *rev'd* on other grounds, 436 U.S. 547, 98 S.Ct. 1970, 56 L.Ed.2d 525 (1978), the plaintiffs obtained a declaratory judgment, then moved for a preliminary injunction. After the defendants promised not to violate the judgment, \*431 the motion was denied. The District Court awarded attorney's fees for time spent pursuing this motion because the plaintiffs "substantially advanced their clients' interests" by obtaining "a significant concession from defendants as a result of their motion." 64 F.R.D., at 684.

In *Davis v. County of Los Angeles*, 8 E.P.D. ¶ 9444 (CD Cal.1974), the plaintiffs won an important judgment requiring the Los Angeles County Fire Department to undertake an affirmative action program for hiring minorities. In awarding attorney's fees the



(Cite as: 461 U.S. 424, \*431, 103 S.Ct. 1933, \*\*1938)

District Court stated:

"It also is not legally relevant that plaintiffs' counsel expended a certain limited amount of time pursuing certain issues of fact and law that ultimately did not become litigated issues in the case or upon which plaintiffs ultimately did not prevail. Since plaintiffs prevailed on the merits and achieved excellent results for the represented class, plaintiffs' counsel are entitled to an award of fees for all time reasonably expended in pursuit of the ultimate result achieved in the same manner that an attorney traditionally is compensated by a fee-paying client for all time reasonably expended on a matter." 8 E.P.D. ¶ 9444, at 5049.

Similarly, the District Court in *Swann v. Charlotte-Mecklenburg Board of Education*, 66 F.R.D. 483, 484 (WDNC 1975), based its fee award in part on a finding that "[t]he results obtained were excellent and constituted the total accomplishment of the aims of the suit," despite the plaintiffs' losses on "certain minor contentions."

In each of these three cases the plaintiffs obtained essentially complete relief. The legislative history, therefore, does not provide a definitive answer as to the proper standard for setting a fee award where the plaintiff has achieved only limited success. Consistent with the legislative history, courts of appeals generally have recognized the relevance of the results obtained to the amount of a fee award. They \*432 have adopted varying standards, however, for applying this principle in cases where the plaintiff did not succeed on all claims asserted. [FN5]

FN5. Some courts of appeals have stated flatly that plaintiffs should not recover fees for any work on unsuccessful claims. See, e.g., *Bartholomew v. Watson*, 665 F.2d 910, 914 (CA9 1982); *Muscara v. Quinn*, 614 F.2d 577, 579-581 (CA7 1980); *Hughes v. Repko*, 578 F.2d 483, 486-487 (CA3 1978). Others have suggested that prevailing plaintiffs generally should receive a fee based on hours spent on all nonfrivolous claims. See, e.g., *Sherkow v. Wisconsin*, 630 F.2d 498, 504-505 (CA7 1980); *Northcross v. Board of Educ. of Memphis City Schools*, 611 F.2d 624, 636 (CA6 1979), cert.

denied, 447 U.S. 911, 100 S.Ct. 2999, 64 L.Ed.2d 862 (1980); *Brown v. Bathke*, 588 F.2d 634, 636-637 (CA8 1978). Still other courts of appeals have held that recovery of a fee for hours spent on unsuccessful claims depends upon the relationship of those hours expended to the success achieved. See, e.g., *Copeland v. Marshall*, 205 U.S.App.D.C. 390, 401-402, n. 18, 641 F.2d 880, 891-892, n. 18 (1980) (en banc); *Jones v. Diamond*, 636 F.2d 1364, 1382 (CA5 1981) (en banc), cert. dism'd, 453 U.S. 950, 102 S.Ct. 27, 69 L.Ed.2d 1033 (1981); *Gurule v. Wilson*, 635 F.2d 782, 794 (CA10 1980) (opinion on rehearing); *Lamphere v. Brown Univ.*, 610 F.2d 46, 47 (CA1 1979).

\*\*1939 In this case petitioners contend that "an award of attorney's fees must be proportioned to be consistent with the extent to which a plaintiff has prevailed, and only time reasonably expended in support of successful claims should be compensated." Brief for Petitioners at 24. Respondents agree that a plaintiff's success is relevant, but propose a less stringent standard focusing on "whether the time spent prosecuting [an unsuccessful] claim in any way contributed to the results achieved." Brief for Respondents at 46. Both parties acknowledge the discretion of the district court in this area. We take this opportunity to clarify the proper relationship of the results obtained to an award of attorney's fees. [FN6]

FN6. The parties disagree as to the results obtained in this case. Petitioners believe that respondents "prevailed only to an extremely limited degree." Brief for Petitioners at 22. Respondents contend that they "prevailed on practically every claim advanced." Brief for Respondents at 23. As discussed in Part IV, *infra*, we leave this dispute for the District Court on remand.

### \*433 III

A

A plaintiff must be a "prevailing party" to recover an attorney's fee under § 1988. [FN7] The standard for making this threshold determination has been framed in various ways. A typical formulation is that "plaintiffs may be considered 'prevailing parties' for attorney's fees purposes if they

(Cite as: 461 U.S. 424, \*433, 103 S.Ct. 1933, \*\*1939)

succeed on any significant issue in litigation which achieves some of the benefit the parties sought in bringing suit." *Nadeau v. Helgemoe*, 581 F.2d 275, 278-279 (CA1 1978). [FN8] This is a generous formulation that brings the plaintiff only across the statutory threshold. It remains for the district court to determine what fee is "reasonable."

FN7. As we noted in *Hanrahan v. Hampton*, 446 U.S. 754, 758 n. 4, 100 S.Ct. 1987, 1989 n. 4, 64 L.Ed.2d 670 (1980) (*per curiam*), "[t]he provision for counsel fees in § 1988 was patterned upon the attorney's fees provisions contained in Title II and VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000a-3(b) and 2000e-5(k), and § 402 of the Voting Rights Act Amendments of 1975, 42 U.S.C. § 19731(e)." The legislative history of § 1988 indicates that Congress intended that "the standards for awarding fees be generally the same as under the fee provisions of the 1964 Civil Rights Act." S.Rep. No. 94-1011, p. 4 (1976), U.S.Code Cong. & Admin.News 1976, p. 5912. The standards set forth in this opinion are generally applicable in all cases in which Congress has authorized an award of fees to a "prevailing party."

FN8. See also *Busche v. Burkee*, 649 F.2d 509, 521 (CA7 1981), cert. denied, 454 U.S. 897, 102 S.Ct. 396, 70 L.Ed.2d 212 (1982); *Sethy v. Alameda County Water Dist.*, 602 F.2d 894, 897-898 (CA9 1979) (*per curiam*). Cf. *Taylor v. Sterrett*, 640 F.2d 663, 669 (CA5 1981) ("[T]he proper focus is whether the plaintiff has been successful on the central issue as exhibited by the fact that he has acquired the primary relief sought").

[4] The most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate. This calculation provides an objective basis on which to make an initial estimate of the value of a lawyer's services. The party seeking an award of fees should submit evidence supporting the hours worked and rates claimed. Where the documentation of hours is inadequate, the district court may reduce the award accordingly.

\*434 The district court also should exclude from this initial fee calculation hours that

were not "reasonably expended." S.Rep. No. 94-1011, p. 6 (1976). Cases may be overstaffed, and the skill and experience of lawyers vary widely. Counsel for the prevailing party should make a good faith effort to exclude from a fee request hours that are excessive, redundant, or otherwise \*\*1940 unnecessary, just as a lawyer in private practice ethically is obligated to exclude such hours from his fee submission. "In the private sector, 'billing judgment' is an important component in fee setting. It is no less important here. Hours that are not properly billed to one's *client* also are not properly billed to one's *adversary* pursuant to statutory authority." *Copeland v. Marshall*, 205 U.S.App.D.C. 390, 401, 641 F.2d 880, 891 (1980) (en banc) (emphasis in original).

## B

[5] The product of reasonable hours times a reasonable rate does not end the inquiry. There remain other considerations that may lead the district court to adjust the fee upward or downward, including the important factor of the "results obtained." [FN9] This factor is particularly crucial where a plaintiff is deemed "prevailing" even though he succeeded on only some of his claims for relief. In this situation two questions must be addressed. First, did the plaintiff fail to prevail on claims that were unrelated to the claims on which he succeeded? Second, did the plaintiff achieve a level of success that makes the hours reasonably expended a satisfactory basis for making a fee award?

FN9. The district court also may consider other factors identified in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717-719 (CA5 1974), though it should note that many of these factors usually are subsumed within the initial calculation of hours reasonably expended at a reasonable hourly rate. See *Copeland v. Marshall*, 205 U.S.App.D.C. 390, 400, 641 F.2d 880, 890 (1980) (en banc).

[6] In some cases a plaintiff may present in one lawsuit distinctly different claims for relief that are based on different facts and legal theories. In such a suit, even where the \*435 claims are brought against the same

(Cite as: 461 U.S. 424, \*435, 103 S.Ct. 1933, \*\*1940)

defendants--often an institution and its officers, as in this case-- counsel's work on one claim will be unrelated to his work on another claim. Accordingly, work on an unsuccessful claim cannot be deemed to have been "expended in pursuit of the ultimate result achieved." *Davis v. County of Los Angeles*, 8 E.P.D. ¶ 9444, at 5049 (CD Cal.1974). The congressional intent to limit awards to prevailing parties requires that these unrelated claims be treated as if they had been raised in separate lawsuits, and therefore no fee may be awarded for services on the unsuccessful claim. [FN10]

FN10. If the unsuccessful claim is frivolous, the defendant may recover attorney's fees incurred in responding to it. See n. 2, *supra*.

It may well be that cases involving such unrelated claims are unlikely to arise with great frequency. Many civil rights cases will present only a single claim. In other cases the plaintiff's claims for relief will involve a common core of facts or will be based on related legal theories. Much of counsel's time will be devoted generally to the litigation as a whole, making it difficult to divide the hours expended on a claim-by-claim basis. Such a lawsuit cannot be viewed as a series of discrete claims. Instead the district court should focus on the significance of the overall relief obtained by the plaintiff in relation to the hours reasonably expended on the litigation.

[7] Where a plaintiff has obtained excellent results, his attorney should recover a fully compensatory fee. Normally this will encompass all hours reasonably expended on the litigation, and indeed in some cases of exceptional success an enhanced award may be justified. In these circumstances the fee award should not be reduced simply because the plaintiff failed to prevail on every contention raised in the lawsuit. See *Davis v. County of Los Angeles*, 8 E.P.D. ¶ 9444, at 5049 (CD Cal.1974). Litigants in good faith may raise alternative legal grounds for a desired outcome, and the court's rejection of or failure to reach certain grounds is not a sufficient reason for reducing a fee. The result is what

matters. [FN11]

FN11. We agree with the District Court's rejection of "a mathematical approach comparing the total number of issues in the case with those actually prevailed upon." Record 220. Such a ratio provides little aid in determining what is a reasonable fee in light of all the relevant factors. Nor is it necessarily significant that a prevailing plaintiff did not receive all the relief requested. For example, a plaintiff who failed to recover damages but obtained injunctive relief, or vice versa, may recover a fee award based on all hours reasonably expended if the relief obtained justified that expenditure of attorney time.

**\*\*1941 [8] \*436** If, on the other hand, a plaintiff has achieved only partial or limited success, the product of hours reasonably expended on the litigation as a whole times a reasonable hourly rate may be an excessive amount. This will be true even where the plaintiff's claims were interrelated, nonfrivolous, and raised in good faith. Congress has not authorized an award of fees whenever it was reasonable for a plaintiff to bring a lawsuit or whenever conscientious counsel tried the case with devotion and skill. Again, the most critical factor is the degree of success obtained.

Application of this principle is particularly important in complex civil rights litigation involving numerous challenges to institutional practices or conditions. This type of litigation is lengthy and demands many hours of lawyers' services. Although the plaintiff often may succeed in identifying some unlawful practices or conditions, the range of possible success is vast. That the plaintiff is a "prevailing party" therefore may say little about whether the expenditure of counsel's time was reasonable in relation to the success achieved. In this case, for example, the District Court's award of fees based on 2,557 hours worked may have been reasonable in light of the substantial relief obtained. But had respondents prevailed on only one of their six general claims, for example the claim that petitioners' visitation, mail, and telephone policies were overly restrictive, see n. 1, *supra*, a fee award based on the claimed hours clearly

would have been excessive.

There is no precise rule or formula for making these determinations. The district court may attempt to identify specific hours that should be eliminated, or it may simply reduce \*437 the award to account for the limited success. The court necessarily has discretion in making this equitable judgment. This discretion, however, must be exercised in light of the considerations we have identified.

C

[9] A request for attorney's fees should not result in a second major litigation. Ideally, of course, litigants will settle the amount of a fee. Where settlement is not possible, the fee applicant bears the burden of establishing entitlement to an award and documenting the appropriate hours expended and hourly rates. The applicant should exercise "billing judgment" with respect to hours worked, see *supra*, at 1939-1940, and should maintain billing time records in a manner that will enable a reviewing court to identify distinct claims. [FN12]

FN12. We recognize that there is no certain method of determining when claims are "related" or "unrelated." Plaintiff's counsel, of course, is not required to record in great detail how each minute of his time was expended. But at least counsel should identify the general subject matter of his time expenditures. See *Nadeau v. Helgemoe*, 581 F.2d 275, 279 (CA1 1978) ("As for the future, we would not view with sympathy any claim that a district court abused its discretion in awarding unreasonably low attorney's fees in a suit in which plaintiffs were only partially successful if counsel's records do not provide a proper basis for determining how much time was spent on particular claims.").

[10] We reemphasize that the district court has discretion in determining the amount of a fee award. This is appropriate in view of the district court's superior understanding of the litigation and the desirability of avoiding frequent appellate review of what essentially are factual matters. It remains important, however, for the district court to provide a concise but clear explanation of its reasons for

the fee award. When an adjustment is requested on the basis of either the exceptional or limited nature of the relief obtained by the plaintiff, the district court should make clear that it has considered the relationship between the amount of the fee awarded and the results obtained.

\*438 \*\*1942 IV

[11] In this case the District Court began by finding that "[t]he relief [respondents] obtained at trial was substantial and certainly entitles them to be considered prevailing ...., without the need of examining those issues disposed of prior to trial in order to determine which went in [respondents'] favor." Record 219. It then declined to divide the hours worked between winning and losing claims, stating that this fails to consider "the relative importance of various issues, the interrelation of the issues, the difficulty in identifying issues, or the extent to which a party prevails on various issues." Record 220. Finally, the court assessed the "amount involved/results obtained" and declared: "Not only should [respondents] be considered prevailing parties, they are parties who have obtained relief of significant import. [Respondents'] relief affects not only them, but also numerous other institutionalized patients similarly situated. The extent of this relief clearly justifies the award of a reasonable attorney's fee." Record 231.

These findings represent a commendable effort to explain the fee award. Given the interrelated nature of the facts and legal theories in this case, the District Court did not err in refusing to apportion the fee award mechanically on the basis of respondents' success or failure on particular issues. [FN13] And given the findings with respect to the level of respondents' success, the District Court's award may be consistent with our holding today.

FN13. In addition, the District Court properly considered the reasonableness of the hours expended, and reduced the hours of one attorney by thirty percent to account for his inexperience and failure to keep contemporaneous time records.

(Cite as: 461 U.S. 424, \*438, 103 S.Ct. 1933, \*\*1942)

We are unable to affirm the decisions below, however, because the District Court's opinion did not properly consider the relationship between the extent of success and the amount of the fee award. [FN14] The court's finding that "the [significant] \*439 extent of the relief clearly justifies the award of a reasonable attorney's fee" does not answer the question of what is "reasonable" in light of that level of success. [FN15] \*\*1943 We \*440 emphasize that the inquiry does not end with a finding that the plaintiff obtained significant relief. A reduced fee award is appropriate if the relief, however significant, is limited in comparison to the scope of the litigation as a whole.

FN14. The District Court expressly relied on *Brown v. Bathke*, 588 F.2d 634 (CA8 1978), a case we believe understates the significance of the results obtained. In that case a fired school teacher had sought reinstatement, lost wages, \$25,000 in damages, and expungement of derogatory material from her employment record. She obtained lost wages and the requested expungement, but not reinstatement or damages. The District Court awarded attorney's fees for the hours that it estimated the plaintiff's attorney had spent on the particular legal issue on which relief had been granted. The Eighth Circuit reversed. It stated that the results obtained may be considered, but that this factor should not "be given such weight that it reduces the fee awarded to a prevailing party below the 'reasonable attorney's fee' authorized by the Act." 588 F.2d, at 637. The court determined that the unsuccessful issues that had been raised by the plaintiff were not frivolous, and then remanded the case to the District Court. *Id.*, at 638.

Our holding today differs at least in emphasis from that of the Eighth Circuit in *Brown*. We hold that the extent of a plaintiff's success is a crucial factor that the district courts should consider carefully in determining the amount of fees to be awarded. In *Brown* the plaintiff had lost on the major issue of reinstatement. The District Court found that she had "obtained only a minor part of the relief she sought." *Id.*, at 636. In remanding the Eighth Circuit implied that the District Court should not withhold fees for work on unsuccessful claims unless those claims were frivolous. Today we hold otherwise. It certainly was well within the *Brown* District Court's discretion to make a limited fee

award in light of the "minor" relief obtained.

FN15. The dissent errs in suggesting that the District Court's opinion would have been acceptable if merely a single word had been changed. See *post*, at 1949. We note, for example, that the District Court did not determine whether petitioners' unilateral increase in staff levels was a result of the litigation. Petitioners asserted that 70%-80% of the attorney time in the case was spent on the question of staffing levels at the Forensic Unit. Memorandum in Opposition to Plaintiffs' Request for an Award of Attorneys' Fees, Expenses and Costs 30. If this is true, and if respondents' lawsuit was not a catalyst for the staffing increases, then respondents' failure to prevail on their challenge to the staffing levels would be material in determining whether an award based on over 2500 hours expended was justifiable in light of respondents' actual success. The District Court's failure to consider this issue would not have been obviated by a mere conclusory statement that this fee was reasonable in light of the success obtained.

## V

[12] We hold that the extent of a plaintiff's success is a crucial factor in determining the proper amount of an award of attorney's fees under 42 U.S.C. § 1988. Where the plaintiff has failed to prevail on a claim that is distinct in all respects from his successful claims, the hours spent on the unsuccessful claim should be excluded in considering the amount of a reasonable fee. Where a lawsuit consists of related claims, a plaintiff who has won substantial relief should not have his attorney's fee reduced simply because the district court did not adopt each contention raised. But where the plaintiff achieved only limited success, the district court should award only that amount of fees that is reasonable in relation to the results obtained. On remand the District Court should determine the proper amount of the attorney's fee award in light of these standards.

The judgment of the Court of Appeals is vacated, and the case is remanded for further proceedings consistent with this opinion.

*It is so ordered.*

(Cite as: 461 U.S. 424, \*440, 103 S.Ct. 1933, \*\*1943)

Chief Justice BURGER, concurring.

I read the Court's opinion as requiring that when a lawyer seeks to have his adversary pay the fees of the prevailing party, the lawyer must provide detailed records of the time and services for which fees are sought. It would be inconceivable that the prevailing party should not be required to establish at least as much to support a claim under 42 U.S.C. § 1988 as a lawyer would be required to show if his own client challenged the fees. A District Judge may not, in my view, authorize the payment of attorney's fees unless the \*441 attorney involved has established by clear and convincing evidence the time and effort claimed and shown that the time expended was necessary to achieve the results obtained.

A claim for legal services presented by the prevailing party to the losing party pursuant to § 1988 presents quite a different situation from a bill that a lawyer presents to his own client. In the latter case, the attorney and client have presumably built up a relationship of mutual trust and respect; the client has confidence that his lawyer has exercised the appropriate "billing judgment," *ante*, at 1940, and unless challenged by the client, the billing does not need the kind of extensive documentation necessary for a payment under § 1988. That statute requires the losing party in a civil rights action to bear the cost of his adversary's attorney and there is, of course, no relationship of trust and confidence between the adverse parties. As a result, the party who seeks payment must keep records in sufficient detail that a neutral judge can make a fair evaluation of the time expended, the nature and need for the service, and the reasonable fees to be allowed.

Justice BRENNAN, with whom Justice MARSHALL, Justice BLACKMUN, and Justice STEVENS join, concurring in part and dissenting in part.

The Court today holds that "the extent of a plaintiff's success is a crucial factor in determining the proper amount of an award of attorney's fees under 42 U.S.C. § 1988." *Ante*,

at 1943. I agree with the Court's carefully worded statement because it is fully consistent with the purpose of § 1988 as well as the interpretation of that statute reached by the courts of appeals. I also agree that plaintiffs may receive attorney's fees for cases in which "they succeed on any significant issue in litigation which achieves some of the benefit the parties sought in bringing suit," *id.*, at 1939, citing *Nadeau v. Helgemoe*, \*\*1944 581 F.2d 275, 278-279 (CA1 1978), and that plaintiffs may receive fees for all hours reasonably spent litigating \*442 a case even if they do not prevail on every claim or legal theory, see *ante*, at 1940.

Regretfully, however, I do not join the Court's opinion. In restating general principles of the law of attorney's fees, the Court omits a number of elements crucial to the calculation of attorney's fees under § 1988. A court that did not take account of those additional elements in evaluating a claim for attorney's fees would entirely fail to perform the task Congress has entrusted to it, a task that Congress—I think rightly—has deemed crucial to the vindication of individuals' rights in a society where access to justice so often requires the services of a lawyer.

Furthermore, whether one considers all the relevant factors or merely the relationship of fees to results obtained, the District Court in this case awarded a fee that was well within the court's zone of discretion under § 1988, and it explained the amount of the fee meticulously. The Court admits as much. See *ante*, at 1942. Vacating a fee award such as this and remanding for further explanation can serve only as an invitation to losing defendants to engage in what must be one of the least socially productive types of litigation imaginable: appeals from awards of attorney's fees, after the merits of a case have been concluded, when the appeals are not likely to affect the amount of the final fee. Such appeals, which greatly increase the costs to plaintiffs of vindicating their rights, frustrate the purposes of § 1988. Where, as here, a district court has awarded a fee that comes within the range of possible fees that the facts, history, and results of the case

(Cite as: 461 U.S. 424, \*442, 103 S.Ct. 1933, \*\*1944)

permit, the appellate court has a duty to affirm the award promptly.

## I

In *Alyeska Pipeline Co. v. Wilderness Society*, 421 U.S. 240, 269, 95 S.Ct. 1612, 1627, 44 L.Ed.2d 141 (1975), this Court held that it was beyond the competence of judges to "pick and choose among plaintiffs and the statutes under which they sue and to award fees in some cases but not in others." Congress, however, has full authority to make such decisions, and it responded to the challenge \*443 of *Alyeska* by doing the "picking and choosing" itself. Its legislative solution legitimates the federal common law of attorneys fees that had developed in the years before *Alyeska* [FN1] by specifying when and to whom fees are to be available. [FN2] Section 1988 manifests \*\*1945 a finely balanced congressional \*444 purpose to provide plaintiffs asserting specified federal rights with "fees which are adequate to attract competent counsel, but which do not produce windfalls to attorneys." S.Rep. No. 94-1011, 94th Cong., 2d Sess. 6 (1976) (hereinafter Senate Report); cf. H.R.Rep. No. 94-1558, 94th Cong., 2d Sess. 9 (1976) (hereinafter House Report), U.S.Code Cong. & Admin.News 1976, p. 5913. [FN3] The Court today emphasizes those aspects of judicial discretion necessary to prevent "windfalls," but lower courts must not forget the need to ensure that civil rights plaintiffs with bona fide claims are able to find lawyers to represent them.

FN1. See cases cited at 421 U.S., at 284-285, 95 S.Ct., at 1634-1635 (MARSHALL, J., dissenting). See also S.Rep. No. 94-1011, 94th Cong., 2d Sess. 6, U.S.Code Cong. & Admin.News 1976, p. 5913 ("This bill creates no startling new remedy--it only meets the technical requirements that the Supreme Court has laid down if the Federal courts are to continue the practice of awarding attorneys' fees which had been going on for years prior to the Court's ... decision.").

FN2. Because of this selectivity, statutory attorney's fee remedies such as those created by § 1988 and its analogues bear little resemblance to either common-law attorney's fee rule: the "American Rule," under

which the parties bear their own attorney's fees no matter what the outcome of a case, or the "English Rule," under which the losing party, whether plaintiff or defendant, pays the winner's fees. They are far more like new causes of action tied to specific rights than like background procedural rules governing any and all litigation. This fundamental distinction has often been ignored. See *ante*, at 1937; *Alyeska Pipeline Co. v. Wilderness Society*, 421 U.S., at 247, 95 S.Ct., at 1616.

For certain rights selected by Congress, § 1988 facilitates litigation by plaintiffs and encourages them to reject half-measure compromises, see *New York Gaslight Club v. Carey*, 447 U.S. 54, 63, 100 S.Ct. 2024, 2030, 64 L.Ed.2d 723 (1980); *Newman v. Piggie Park Enterprises, Inc.*, 390 U.S. 400, 402, 88 S.Ct. 964, 966, 19 L.Ed.2d 1263 (1968) (per curiam), while at the same time it gives defendants strong incentives to avoid arguable civil rights violations in the first place and to make concessions in hope of an early settlement, see *Copeland v. Marshall*, 205 U.S.App.D.C. 390, 407, 641 F.2d 880, 897 (1980) (en banc); *Dennis v. Chang*, 611 F.2d 1302, 1307 (CA9 1980). Civil rights plaintiffs with meritorious claims "appear before the court cloaked in a mantle of public interest." H.R.Rep. 94-1558, 94th Cong., 2d Sess. 6 (1976) (citing *United States Steel Corp. v. United States*, 519 F.2d 359, 364 (CA3 1975)). Congress has granted them a statutory right to attorney's fees in addition to any rights they have under fees rule of general applicability. *Newman v. Piggie Park Enterprises, supra*, 390 U.S. at 402, n. 4, 88 S.Ct., at 966 n. 4; see *Christianburg Garment Co. v. EEOC*, 434 U.S. 412, 416-417, 98 S.Ct. 694, 697-698, 54 L.Ed.2d 648 (1978). Both of the traditional rules reflect the assumption that plaintiff and defendant approach litigation on a more-or-less equal basis. They leave the parties to private, essentially symmetrical calculations as to whether litigation--including the attorney's fees it entails--represents a better investment than compromise and settlement or simply acceding to the opposing party's demands. Of course, the parties approach those calculations with different risk preferences and financial positions, and the principal difference between the two rules is that the English Rule, by enhancing the cost of losing after litigation, gives the party with superior ability to undertake risk more of a tactical advantage than does the American Rule. But--in theory, at least--neither common-law rule systematically favors plaintiffs over defendants, or

vice versa.

FN3. The portion of § 1988 at issue in this case states:

"In any action or proceeding to enforce a provision of sections 1981, 1982, 1982, 1985, and 1986 of [Title 42], title IX of Public Law 92-318 ... or title VI of the Civil Rights Act of 1964, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs." Civil Rights Attorney's Fees Awards Act of 1976, 90 Stat. 2641.

Section 1988 was drafted based on Congress's experience with over 50 fee-shifting provisions in other statutes, dating back to Reconstruction-era civil rights statutes, see Senate Report 3-4; *Abyeska Pipeline Co. v. Wilderness Society*, 421 U.S. 240, 260, n. 33, 95 S.Ct. 1612, 1623, n. 33, 44 L.Ed.2d 141 (1975).

In enacting § 1988, Congress rejected the traditional assumption that private choices whether to litigate, compromise, or forgo a potential claim will yield a socially desirable level of enforcement as far as the enumerated civil rights statutes are concerned. [FN4]

FN4. For most private-law claims, the public interest lies primarily in providing a neutral, easily available forum for resolving the dispute, and a plaintiff's choice to compromise a claim or to forgo it altogether, based on his private calculation that what he stands to gain does not justify the cost of pursuing his claim, is of little public concern. But, in enacting § 1988, Congress determined that the public as a whole has an interest in the vindication of the rights conferred by the statutes enumerated in § 1988, over and above the value of a civil rights remedy to a particular plaintiff. Simply put, Congress decided that it would be better to have more vigorous enforcement of civil rights laws than would result if plaintiffs were left to finance their own cases.

**\*445** "All of these civil rights laws depend heavily upon private enforcement, and fee awards have proved an essential remedy if private citizens are to have a meaningful opportunity to vindicate the important Congressional policies which these laws contain.

"In many cases arising under our civil rights laws, the citizen who must sue to enforce the

law has little or no money with which to hire a lawyer. If private citizens are to be able to assert their civil rights, and if those who violate the Nation's fundamental laws are not to proceed with impunity, then citizens must recover what it costs them to vindicate these rights in court." Senate Report 2; see House Report 1-3, U.S.Code Cong. & Admin.News 1976, p. 5910. [FN5]

FN5. Congress had other reasons as well to believe that civil rights plaintiffs would often be unable to pay for the desirable level of law enforcement themselves. Civil rights remedies often benefit a large number of persons, many of them not involved in the litigation, making it difficult both to evaluate what a particular lawsuit is really worth to those who stand to gain from it and to spread the costs of obtaining relief among them. Cf. *Hall v. Cole*, 412 U.S. 1, 5-7, 93 S.Ct. 1943, 1946-1947, 36 L.Ed.2d 702 (1973); *Mills v. Electric Auto-Lite Co.*, 396 U.S. 375, 396, 90 S.Ct. 616, 627-628, 24 L.Ed.2d 593 (1970) (finding nonstatutory awards under traditional "common fund" exception to the American Rule appropriate for this reason). This problem is compounded by the facts that monetary damages are often not an important part of the recovery sought under the statutes enumerated in § 1988, cf. *Newman v. Piggie Park Enterprises, Inc.*, 390 U.S., at 402, 88 S.Ct., at 966, and that doctrines of official immunity often limit the availability of damages against governmental defendants, see House Report 9, and n. 17.

Congress **\*\*1946** could, of course, have provided public funds or government attorneys for litigating private civil rights claims, but it chose to "limi[t] the growth of the enforcement bureaucracy," Senate Report 4, U.S.Code Cong. & Admin.News 1976, p. 5911, by continuing **\*446** to rely on the private bar [FN6] and by making defendants bear the full burden of paying for enforcement of their civil rights obligations. [FN7]

FN6. This case reflects the fact that Congress has provided public funding to some limited extent through a number of programs such as the Legal Services Corporation: respondents' attorneys are associated with Legal Services of Eastern Missouri, Inc. They may not, however, use the money they receive from the Federal Government for cases in



(Cite as: 461 U.S. 424, \*446, 103 S.Ct. 1933, \*\*1946)

which fees are available. See 42 U.S.C. § 2996f(b)(1). For purposes of § 1988, such attorneys should be paid as if they were in private practice, in order both to avoid windfalls to defendants and to free public resources for other types of law enforcement. See *New York Gaslight Club, Inc. v. Carey*, 447 U.S., at 70, n. 9; *Copeland v. Marshall*, 205 U.S.App.D.C., at 409-410, 641 F.2d, at 899-900; *Rodriguez v. Taylor*, 569 F.2d 1231, 1248 (CA3 1977).

FN7. Congress's imposition of liability for attorney's fees under § 1988 also represents a decision to abrogate the sovereign immunity of the States in order to accomplish the purposes of the Fourteenth Amendment. See Senate Report 5; *Fitzpatrick v. Bitzer*, 427 U.S. 445, 96 S.Ct. 2666, 49 L.Ed.2d 614 (1976); *Maher v. Gagne*, 448 U.S. 122, 128-129, 100 S.Ct. 2570, 2574-2575, 65 L.Ed.2d 653 (1980).

Yet Congress also took steps to ensure that § 1988 did not become a "relief fund for lawyers." 122 Cong.Rec. 33,314 (remarks of Sen. Kennedy). First, it limited fee awards to "prevailing" plaintiffs, rather than allowing fees for anyone who litigated a bona fide claim in good faith, see House Report 6-8, and it expressly reaffirmed the common-law doctrine that attorney's fees could be awarded *against* plaintiffs who litigated frivolous or vexatious claims, see *id.*, at 1938-1939; *Christianburg Garment Co. v. EEOC*, 434 U.S. 412, 416-417, 98 S.Ct. 694, 697-698, 54 L.Ed.2d 648 (1978). It also left district courts with discretion to set the precise award in individual cases and to deny fees entirely in "special circumstances" when an award would be "unjust," even if the plaintiff prevailed, see Senate Report 4; House Report 6; *Newman v. Piggie Park Enterprises, Inc.*, 390 U.S. 400, 402, 88 S.Ct. 964, 966, 19 L.Ed.2d 1263 (1968) (per curiam).

"[A] key feature of the bill is its mandate that fees are to be allowed in the discretion of the court. Congress has passed many statutes requiring that fees be awarded to a prevailing party. Again, the Committee \*447 adopted a more moderate approach here by leaving the matter to the discretion of the judge, guided of course by the case law interpreting similar attorney's fee provisions." House Report 8 (footnote omitted).

At a number of points, the legislative history of § 1988 reveals Congress's basic goal that attorneys should view civil rights cases as essentially equivalent to other types of work they could do, even though the monetary recoveries in civil rights cases (and hence the funds out of which their clients would pay legal fees) would seldom be equivalent to recoveries in most private-law litigation. Thus, the Senate Report specifies that fee awards under § 1988 should be equivalent to fees "in other types of equally complex Federal litigation, such as antitrust cases, and not be reduced because the rights involved may be nonpecuniary in nature." Senate Report 6, U.S.Code Cong. & Admin.News 1976, p. 5913. Furthermore, "counsel for prevailing parties should be paid, as is traditional with attorneys compensated by fee-paying clients, for all time reasonably expended on a matter." *Ibid.*

As nearly as possible, market standards should prevail, for that is the best way of \*\*1947 ensuring that competent counsel will be available to all persons with bona fide civil rights claims. This means that judges awarding fees must make certain that attorneys are paid the full value that their efforts would receive on the open market in non-civil-rights cases, see generally *Copeland v. Marshall*, 205 U.S.App.D.C. 390, 400-410, 641 F.2d 880, 890-900 (1980) (en banc), both by awarding them market-rate fees, *id.*, at 899, and by awarding fees only for time *reasonably* expended, *id.*, at 881. If attorneys representing civil rights plaintiffs do not expect to receive full compensation for their efforts when they are successful, or if they feel they can "lard" winning cases with additional work solely to augment their fees, the balance struck by § 1988 goes awry.

The Court accepts these principles today. As in litigation for fee-paying clients, a certain amount of "billing judgment" \*448 is appropriate, taking into account the fact that Congress did not intend fees in civil rights cases, unlike most private-law litigation, to depend on obtaining relief with substantial monetary value. Where plaintiffs prevail on some claims and lose on others, the Court is

(Cite as: 461 U.S. 424, \*448, 103 S.Ct. 1933, \*\*1947)

correct in holding that the extent of their success is an important factor for calculating fee awards. Any system for awarding attorney's fees that did not take account of the relationship between results and fees would fail to accomplish Congress's goal of checking insubstantial litigation.

At the same time, however, courts should recognize that reasonable counsel in a civil rights case, as in much litigation, must often advance a number of related legal claims in order to give plaintiffs the best possible chance of obtaining significant relief. As the Court admits, "Such a lawsuit cannot be viewed as a series of discrete claims." *Ante*, at 1940. And even where two claims apparently share no "common core of facts" or related legal concepts, see *ibid*, the actual work performed by lawyers to develop the facts of both claims may be closely intertwined. For instance, in taking a deposition of a state official, plaintiffs' counsel may find it necessary to cover a range of territory that includes both the successful and the unsuccessful claims. It is sometimes virtually impossible to determine how much time was devoted to one category or the other, and the incremental time required to pursue both claims rather than just one is likely to be small.

Furthermore, on many occasions awarding counsel fees that reflect the full market value of their time will require paying more than their customary hourly rates. Most attorneys paid an hourly rate expect to be paid promptly and without regard to success or failure. Customary rates reflect those expectations. Attorneys who take cases on contingency, thus deferring payment of their fees until the case has ended and taking upon themselves the risk that they will receive no payment at all, generally receive far more in winning cases than they would if they charged an hourly rate. The difference, however, reflects the time-value of money and the \*449 risk of nonrecovery usually borne by clients in cases where lawyers are paid an hourly rate. Courts applying § 1988 must also take account of the time-value of money and the fact that attorneys can never be 100% certain they will win even the best case.

Therefore, district courts should not end their fee inquiries when they have multiplied a customary hourly rate times the reasonable number of hours expended, and then checked the product against the results obtained. They should also consider both delays in payment and the pre-litigation likelihood that the claims which did in fact prevail would prevail. [FN8] *Copeland v. \*\*1948 Marshall*, 205 U.S.App.D.C., at 402-403, 641 F.2d, at 892-893; *Northcross v. Board of Education*, 611 F.2d 624, 638 (CA6 1979); *Lindy Bros. Builders v. American Radiator & Standard Sanitation Corp.*, 540 F.2d 102, 117 (CA3 1976). These factors are potentially relevant in every case. Even if the results obtained do not justify awarding fees for all the hours spent on a particular case, no fee is reasonable unless it would be adequate to induce other attorneys to represent similarly situated clients seeking relief comparable to that obtained in the case at hand.

FN8. Thus, the Court's opinion should not be read to imply that "exceptional success" provides the only basis for awarding a fee higher than the reasonable rate times the reasonable number of hours. See *ante*, at 1940. To the contrary, the Court expressly approves consideration of the full range of *Johnson v. Georgia Highway Express* factors. See *infra*, at 1940. If the rate used in calculating the fee does not already include some factor for risk or the time value of money, it ought to be enhanced by some percentage figure. By the same token, attorneys need not obtain "excellent" results to merit a fully compensatory fee, see *ante*, at 1940; merely prevailing to some significant extent entitles them for full compensation for the work reasonably required to obtain relief. See *infra*, at 1941, and n. 9.

## II

Setting to one side theoretical issues about how district courts should approach attorney's fees questions under \*450 § 1988, I fear the Court makes a serious error in vacating the judgment in this case and remanding for further proceedings. There is simply no reason for another round of litigation between these parties, and the lower courts are in no need of guidance from us.

## A

The Court admits that the District Court made a "commendable effort" to explain the fee award and that the award "may be consistent" with today's opinion. *Ante*, at 1942. It professes to be "unable to affirm" solely because the District Court's finding that "[t]he extent of this relief clearly justifies the award of a reasonable attorney's fee," App. to Pet. for Cert. A-16, is not accompanied by a further finding as to "what is 'reasonable' in light of that level of success." *Ante*, at 1942-1943.

Even if the District Court had been silent on the reasonableness of the amount of its fee award, it would be difficult to imagine why this Court would presume, as it apparently does, that a federal judge had awarded an *unreasonable* fee without explaining how such a result was compelled. In any event, the District Court stated expressly that:

"The Court concludes that, in this case, the entire award made to plaintiffs constitutes a reasonable attorney's fee. No portion of it can be characterized as a penalty or damage award against the state of Missouri." App. to Pet. for Cert. A-11.

The District Court also addressed each of the factors mentioned in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (CA5 1974), discussed by the Court *ante*, at 1937, under the general rubric "Reasonableness of the Fee." App. to Pet. for Cert. A-11-A-18. It explained why it was not enhancing respondents' fee to account for the uncertainty factor, *id.*, at A-15-A-16, and it discounted one attorney's hours by 30% to yield "a reasonable claim of time," *id.*, at \*451 A-13. The District Court had this to say under the subheading "Amount Involved/Results Obtained":

"The significance of this case cannot be measured in terms of dollars and cents. It involves the constitutional and civil rights of the plaintiff class and resulted in a number of changes regarding their conditions and treatment at the state hospital. Not only should plaintiffs be considered prevailing parties, they are parties who have obtained relief of significant import. Plaintiffs' relief affects not only them, but also numerous

other institutionalized patients similarly situated. The extent of this relief clearly justifies the award of a reasonable fee." *Id.*, at A-16.

It is clear from the context that the District Court regarded the fee it was awarding as reasonable compensation for the results obtained. Simply changing the word "a" to "this," in the last sentence quoted, would provide the additional finding the Court demands.

## \*\*1949 B

No more significant legal error requires today's judgment. The Court notes that the District Court relied on *Brown v. Bathke*, 588 F.2d 634 (CA8 1978), an opinion the "emphasis" of which the Court regards as misplaced. See *ante*, at 1942, n. 14. What the Court finds suspicious in *Brown* is the implication that a district court must award attorney's fees for all work "reasonably calculated to advance a client's interest," *i.e.*, all nonfrivolous claims, whenever the client satisfies the "prevailing party" test. See 588 F.2d, at 637-638. The District Court did not, however, refer to the language criticized by the Court. Rather, it cited a footnote in *Brown* for the proposition that "mechanical division of claimed hours ... ignores the interrelated nature of many prevailing and non-prevailing claims." App. to Pet. for Cert. A-7, citing 588 F.2d, at 637, n. 5. The remainder of the *Brown* footnote \*452 makes clear that the court was concerned with related legal theories, only one of which ultimately becomes the basis for relief. To that extent, *Brown* is perfectly consistent with today's opinion. See *ante*, at 1940-1941, and n. 11. The Court of Appeals for the Eighth Circuit, in its brief, unpublished memorandum affirming the District Court, did not cite *Brown* at all. App. to Pet. for Cert. A-1-A-2.

Perhaps if the questionable language in *Brown* were being misapplied in other cases from the Eighth Circuit, or if courts in some other circuit were misinterpreting § 1988 in light of precedents with similar implications, today's result would have some instructive value. But such is not the case. The Court of

(Cite as: 461 U.S. 424, \*452, 103 S.Ct. 1933, \*\*1949)

Appeals for the Eighth Circuit has never applied *Brown* in the manner the Court fears. Rather, its published opinions following *Brown* have made clear that, although it is an abuse of discretion to deny fees entirely to any plaintiff who has crossed the "prevailing party" threshold, district courts should consider the degree of plaintiffs' success in setting a fee award. See, e.g., *Williams v. Trans World Airlines, Inc.*, 660 F.2d 1267, 1274 (CA8 1981); *United Handicapped Federation v. Andre*, 622 F.2d 342 (CA8 1980) (rejecting claim for over \$200,000 in fees and setting \$10,000 limit on award because of limited success in case); *Oldham v. Ehrlich*, 617 F.2d 163, 168, n. 9 (CA8 1980); *Cleverly v. Western Electric Co.*, 594 F.2d 638, 642 (CA8 1979).

The law in other circuits is substantially identical. Federal courts of appeals have adopted a two-stage analysis, whereby plaintiffs who obtain any significant relief are considered "prevailing parties," and district courts are directed to take into consideration the overall degree of a plaintiff's success, and the extent to which work on claims on which no relief was obtained contributed to that success, in setting the exact amount of the award due. The mere fact that plaintiffs do not prevail on every claim does not preclude an award of fees for all work reasonably performed, [FN9] but it is rarely an \*453 abuse of discretion to refuse to \*\*1950 award fees for work done on non-prevailing claims that are not closely related to the relief obtained. See, e.g., *Syvocek v. Milwaukee Boiler Mfg. Co.*, 665 F.2d 149, 163-165 (CA7 1981); *Jones v. Diamond*, 636 F.2d 1364, 1382 (CA5 1981) (en banc); *Lamphere v. Brown University*, 610 F.2d 46, 47 (CA1 1979); *Equal Employment Opportunity v. Safeway Stores*, 597 F.2d 251 (CA10 1979); cf. *Copeland v. Marshall*, 205 U.S.App.D.C., at 401-402, 641 F.2d, at 891-892, and n. 18. Many of the same courts, however, have also stressed Congress's clearly expressed intent that the apparent monetary value of the relief obtained should not be the measure of success in a civil rights case, and they have recognized that in many cases various claims are essentially part and parcel of a single attempt to establish and vindicate the plaintiffs' rights. See, e.g., *Copeland v.*

*Marshall, supra; Gurule v. Wilson*, 635 F.2d 782, 794 (CA10 1981) (as modified en banc); *Nadeau v. Helgemoe*, 581 F.2d 275 (CA1 1978).

FN9. Both the Senate and House reports make clear Congress's conclusion that success on every claim is not necessary. See *ante*, at 1937-1938, and n. 4. In addition, in its discussion of awards before final judgment, the Senate Report states:

"In appropriate circumstances, counsel fees under [§ 1988] may be awarded pendente lite. See *Bradley v. School Board of the City of Richmond*, 416 U.S. 696, 94 S.Ct. 2006, 40 L.Ed.2d 476 (1974). Such awards are especially appropriate where a party has prevailed on an important matter in the course of litigation, even when he ultimately does not prevail on all issues." Senate Report 5 (emphasis added).

See also *Mills v. Electric Auto-Lite Co.*, 396 U.S. 375, 392, 90 S.Ct. 616, 625-626, 24 L.Ed.2d 593 (1970) (allowing fees pendente lite in suit which "has not yet produced, and may never produce, a monetary recovery," an issue still to be tried).

The House Report notes that "courts have awarded counsel fees to a plaintiff who successfully concludes a class action suit even though that individual was not granted any relief." House Report 8 (citing *Parham v. Southwestern Bell Telephone Co.*, 433 F.2d 421 (CA8 1970), and *Reed v. Arlington Hotel Co.*, 476 F.2d 721 (CA8 1973)). Note that in *Reed* the Court of Appeals awarded "reasonable attorney's fees, including services for this appeal," although the appellant obtained no significant relief at all on a major issue, either before the trial court or on appeal. See 476 F.2d, at 726.

Evaluation of the interrelatedness of several claims within a single lawsuit, and of the legal work done on those claims, is \*454 most appropriately a task for the district court that heard and decided the case, subject to appellate review for abuse of discretion. As the Court implicitly recognizes, the case before us manifests no clear abuse of discretion. Although plaintiffs obtained only part of the specific injunctive relief they requested, the District Court's opinion on the merits both confirmed the existence of the constitutional right to minimally adequate treatment they claimed, App. 173-179, and established strict standards for staffing, treatment plans, and environment, against which the future conduct of defendants and other state mental

health authorities will be measured, *id.*, at 188-195. To a large extent, the District Court's opinion fixed plaintiffs' entitlement to improvements instituted by defendants during the course of litigation. See *id.*, at 192-193 (treatment plans), 190-191 (staff); compare Deposition of H. Bratkowski 12-13, 39, with App. 106-114, 120-121 (increase in staff during litigation). It is thus entirely understandable that the District Court considered respondents to have prevailed to an extent justifying fees for all hours reasonably spent, subject to one substantial reduction of over 300 hours for wasteful litigation practices, see *ante*, at 14, n. 13.

C

To remain faithful to the legislative objectives of § 1988, appellate courts, including this Court, should hesitate to prolong litigation over attorney's fees after the merits of a case have been concluded. Congress enacted § 1988 solely to make certain that attorneys representing plaintiffs whose rights had been violated could expect to be paid, not to spawn litigation, however interesting, over which claims are "related" or what constitutes optimal documentation for a fees request. Paragraph-by-paragraph scrutiny of the explanations for specific exercises of the district courts' broad discretion under § 1988 serves no productive purpose, vindicates no \*455 one's civil rights, and exacerbates the myriad problems of crowded appellate dockets. [FN10]

FN10. Cf. Note, Promoting the Vindication of Civil Rights Through the Attorney's Fees Awards Act, 80 Colum.L.Rev. 346, 352 (1980).

If a district court has articulated a fair explanation for its fee award in a given case, the court of appeals should not reverse or remand the judgment unless the award is so low as to provide clearly inadequate compensation to the attorneys on the case or so high as to constitute an unmistakable windfall. See, e.g., *Gurule v. Wilson*, 635 F.2d 782, 792 (CA10 1981); *Furtado v. Bishop*, 635 F.2d 915, 923, n. 16 (CA1 1980). Any award that falls between those rough poles

substantially accomplishes Congress's objectives. [FN11] More exacting review, for which \*\*1951 there is no clear mandate in the statute or its legislative history, frustrates rather than advances the policies of § 1988.

FN11. Congress having delegated responsibility for setting a "reasonable" attorney's fee to the court that tried the case, reviewing courts, as a matter of good judicial policy, should not disturb the trial court's solution to the problem of balancing the many factors involved unless the end product falls outside of a rough "zone of reasonableness," or unless the explanation articulated is patently inadequate. Cf. *Permian Basin Area Rate Cases*, 390 U.S. 747, 767, 88 S.Ct. 1344, 1360, 20 L.Ed.2d 312 (1968).

In systemic terms, attorney's fee appeals take up lawyers' and judges' time that could more profitably be devoted to other cases, including the substantive civil rights claims that § 1988 was meant to facilitate. Regular appellate scrutiny of issues like those in this case also generates a steady stream of opinions, each requiring yet another to harmonize it with the one before or the one after. Ultimately, § 1988's straightforward command is replaced by a vast body of artificial, judge-made doctrine, with its own arcane procedures, which like a Frankenstein's monster meanders its well-intentioned way through the legal landscape leaving waste and confusion (not to mention circuit-splits) in its wake. Within the confines of \*456 individual cases, from prevailing plaintiffs' point of view, appellate litigation of attorney's fee issues increases the delay, uncertainty, and expense of bringing a civil rights case, even after the plaintiffs have won all the relief they deserve. Defendants-- who generally have deeper pockets than plaintiffs or their lawyers, and whose own lawyers may well be salaried and thus have lower opportunity costs than plaintiffs' counsel--have much to gain simply by dragging out litigation. The longer litigation proceeds, with no prospect of improved results, the more pressure plaintiffs and their attorneys may feel to compromise their claims or simply to give up.

This case itself provides a perfect example. Petitioners, who have little prospect of

(Cite as: 461 U.S. 424, \*456, 103 S.Ct. 1933, \*\*1951)

substantially reducing the amount of fees they will ultimately have to pay, have managed to delay paying respondents what they owe for over two years, after all other litigation between them had ended, with further delay to come. Respondents' attorneys can hardly be certain that they will ever be compensated for their efforts here in defending a judgment that five Justices find deficient only in minor respects. Apart from the result in this case, the prospect of protracted appellate litigation regarding attorney's fee awards to prevailing parties is likely to discourage litigation by victims of other civil rights violations in Missouri and elsewhere. The more obstacles that are placed in the path of parties who have won significant relief and then seek reasonable attorney's fees, the less likely lawyers will be to undertake the risk of representing civil rights plaintiffs seeking equivalent relief in other cases. It may well become difficult for civil rights plaintiffs with less-than-certain prospects for success to obtain attorneys. That would be an anomalous result for judicial construction of a statute enacted "to attract competent counsel in cases involving civil and constitutional rights," House Report 9; cf. *Copeland v. Marshall*, 205 U.S.App.D.C., at 400, 641 F.2d, at 890 (fee awards intended to provide "an incentive to competent lawyers to undertake Title VII work).

31 Fair Empl.Prac.Cas. (BNA) 1169, 32 Empl. Prac. Dec. P 33,618

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\*457 D

Few, if any, differences about the basic framework of attorney's fees law under § 1988 divide the Court today. Apart from matters of nuance and tone, largely tangential to the case at hand, I object to only two aspects of today's judgment. First, I see no reason for us to have devoted our scarce time to hearing this case, and I fear that the sudden appearance of a new Supreme Court precedent in this area will unjustifiably provoke new litigation and prolong old litigation over attorney's fees. More fundamentally, the principles that the Court and I share should have led us, once we had granted a writ of *certiorari*, to affirm the judgment below. To that extent, I dissent.

103 S.Ct. 1933, 461 U.S. 424, 76 L.Ed.2d 40,