

PATENT ASSIGNMENT COVER SHEET

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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	CORRECTIVE JUDGMENT DOCUMENT. TO CORRECT NOS. LISTED IN SECTION 4A OF ORIGINAL REC. COVER AS: 20090047541, 20060078797, 20060073376 TO CORRESPONDING US APPS: 11839049, 11285046, 11285045 RESPECTIVELY. ORIGINALLY REC'D AT 024016/0816

CONVEYING PARTY DATA

Name	Execution Date
MOHAMMED ZAFAR A. MUNSHI	03/13/2008
LITHIUM POWER TECHNOLOGIES, INC.	03/13/2008

RECEIVING PARTY DATA

Name:	ALFRED J LONGI JR
Street Address:	9219 KATY FREEWAY, SUITE 206
Internal Address:	C/O MITCH KREINDLER, KREINDLER & ASSOCIATES
City:	HOUSTON
State/Country:	TEXAS
Postal Code:	77024

Name:	UNITED STATES OF AMERICA, C/O ELIZABETH KARPATI, ESQ., U.S. ATTORNEY'S OFFICE FOR THE SOUTHER DISTRICT OF TEXAS
Street Address:	909 MILAM SUITE 1500
Internal Address:	P.O, BOX 61129
City:	HOUSTON
State/Country:	TEXAS
Postal Code:	77208

PROPERTY NUMBERS Total: 3

Property Type	Number
Application Number:	11839049
Application Number:	11285046
Application Number:	11285045

CORRESPONDENCE DATA

Fax Number: (713)647-8889
Phone: 713-647-8888
Email: jfeinberg@granllp.com, mkreindler@blowthewhistle.com

Correspondence will be sent via US Mail when the email attempt is unsuccessful.

Correspondent Name: MITCHELL R. KREINDLER
Address Line 1: 9219 KATY FREEWAY,
Address Line 2: SUITE 206
Address Line 4: HOUSTON, TEXAS 77024

NAME OF SUBMITTER:	MITCHELL R. KREINDLER
Signature:	/Mitch Kreindler/
Date:	02/27/2014
	This document serves as an Oath/Declaration (37 CFR 1.63).

Total Attachments: 11

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03-03-2010



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To the Director of the U.S. Patent and Trademark Office

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Documents or the new address(es) below.

3-2-10

1. Name of conveying party(ies)

M. Zafar A. Munshi
Lithium Power Technologies, Inc.

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance/Execution Date(s):

Execution Date(s) 3/12/08, 3/13/08, 4/22/08

- Assignment Merger
- Security Agreement Change of Name
- Joint Research Agreement
- Government Interest Assignment
- Executive Order 9424, Confirmatory License
- Other Judgments (Liability and Attorneys Fees)

2. Name and address of receiving party(ies)

Name: Alfred J. Longhi, Jr.
 Internal Address: c/o Mitch Kreindler
 Kreindler & Associates
 Street Address: 9219 Katy Freeway, Suite 206
 City: Houston
 State: TX
 Country: USA Zip: 77024

Additional name(s) & address(es) attached? Yes No

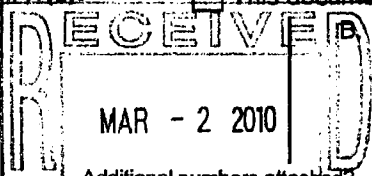
4. Application or patent number(s): This document is being filed together with a new application.

A. Patent Application No.(s)

See attached list.

B. Patent No.(s)

See attached list.



Additional numbers attached? Yes No

5. Name and address to whom correspondence concerning document should be mailed:

Name: Mitch Kreindler, Esq.
 Internal Address: Kreindler & Associates
 Street Address: 9219 Katy Freeway, Suite 206
 City: Houston
 State: TX Zip: 77024
 Phone Number: 713.647.8888
 Fax Number: 713.647.8889
 Email Address: mkreindler@blowthewhistle.com

6. Total number of applications and patents involved: 15

7. Total fee (37 CFR 1.21(h) & 3.41) \$600.00

- Authorized to be charged to deposit account
- Enclosed
- None required (government interest not affecting title)

8. Payment Information

Deposit Account Number: 8370272016 NJMM1 8888844 7481852
 Authorized User Name: 688.00 0P

9. Signature:

Mitch Kreindler
Signature

February 22, 2010
Date

Mitchell R. Kreindler
Name of Person Signing

Total number of pages including cover sheet, attachments, and documents: 10

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RECORDATION FORM

Continuation Sheet

(Conveying Parties: M. Zafar A. Munshi and Lithium Power Technologies, Inc.)

2. Name and address of receiving party(ies)

United States of America
c/o Elizabeth Karpati, Esq.
U.S. Attorney's Office for the Southern District of Texas
919 Milam, Suite 1500
P.O. Box 61129
Houston, TX 77208

4.A. Patent Application No.(s):

20090047541 Methods and Systems of Dielectric Film Materials For Use in Capacitors
20060078797 Lithium ion battery and methods of manufacture
20060073376 Primary lithium batteries

4.B. Patent No.(s):

7,481,852 Consecutively wound or stacked battery cells
7,462,424 Primary thermal batteries
7,150,938 Structurally embedded intelligent power unit
6,923,837 Consecutively wound or stacked battery cells
6,828,065 Ionically conductive polymer electrolytes
6,758,868 Electrochemical capacitor and methods of fabricating same
6,664,006 All-solid-state electrochemical device and method of manufacturing
6,645,675 Solid polymer electrolytes
6,627,353 Disposable lithium batteries
6,426,863 Electrochemical capacitor
6,426,861 High energy density metallized film capacitors and methods of manufacture thereof
6,413,676 Lithium ion polymer electrolytes

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA, *EX REL.*
ALFRED J. LONGHI, JR.,

Plaintiffs,

v.

DEFENDANT,

Defendant.

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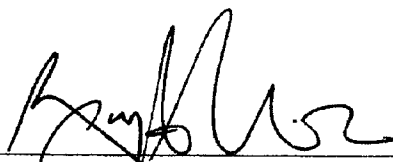
CIVIL ACTION H-02-4329

FINAL JUDGMENT

Pursuant to the court's order of January 17, 2008 granting the parties' stipulation of dismissal, (Dkt. 116) the court enters FINAL JUDGMENT in this matter. However, the court retains jurisdiction over the relator's motion for attorney's fees, costs, and expenses (Dkt. 117) and will issue an order on the motion at a later time.

This is a FINAL JUDGMENT.

Signed at Houston, Texas on March 13, 2008.



Gray H. Miller
United States District Judge

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS**

UNITED STATES OF AMERICA §
 DEPARTMENT OF JUSTICE §
 U.S. ATTORNEY'S OFFICE §
 P.O. BOX 61129 §
 HOUSTON, TEXAS §
 §
 vs. §
 §
 LITHIUM POWER TECHNOLOGIES, INC., §
 AND MOHAMMED ZAFAR A. MUNSHI §

CIVIL ACTION No. 4:02-cv-4329

ABSTRACT OF JUDGMENT

DATE JUDGMENT ENTERED:	MARCH 13, 2008
JUDGMENT IN FAVOR OF:	UNITED STATES OF AMERICA
JUDGMENT AGAINST:	LITHIUM POWER TECHNOLOGIES, INC., AND MOHAMMED ZAFAR A. MUNSHI 20955 MORRIS AVE MANVEL, TX 77578-3819
AMOUNT OF JUDGMENT:	\$5,015,365.00 plus post judgment interest
AMOUNT OF COSTS:	\$0.00
RATE OF INTEREST:	3.28%
AMOUNT OF CREDITS SINCE JUDGMENT:	\$0.00
AMOUNT DUE:	\$

The above and foregoing is a correct Abstract of Judgment entered in the United States District Court, for the Southern District of Texas, in the above captioned case.

MAR 14 2008

Date: _____

MICHAEL N. MILBY, Clerk

By: Shonke Spencer
Deputy Clerk

Return to: United States Attorney Office
 Financial Litigation Section
 P.O. Box 61129
 Houston TX 77208 (BL)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA
EX REL. ALFRED J. LONGHI, JR.,
Plaintiffs,

v.
LITHIUM POWER TECHNOLOGIES, INC. AND
MOHAMMED ZAFAR A. MUNSHI,
Defendants.

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CIVIL ACTION H-02-4329

ORDER

Pending before the court is relator Alfred J. Longhi’s motion for statutory attorney’s fees. Dkt. 117. Upon consideration of Longhi’s motion, the defendants’ response, and Longhi’s reply, the court finds that Longhi’s attorneys’ fees are reasonable and his motion is therefore GRANTED.

BACKGROUND

On September 27, 2007, the court granted the plaintiffs’ motion for partial summary judgment against defendants for violations of the False Claims Act, 31 U.S.C. §§ 3729(a)(1)-(2). Dkt. 107. Later, on January 3, 2008 the court awarded the plaintiffs a total of \$5,015,365.00 in damages. Dkts. 114. And, on March 13, 2008, the court entered a final judgment. Dkt. 124. Now before the court is Longhi’s motion for statutory attorneys’ fees. Dkt. 117.

ANALYSIS

Along with a percentage of damages recovered under the False Claims Act, a relator “shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys’ fees and costs.” 31 U.S.C. § 3730(d)(1). Calculating reasonable attorneys’ fees involves establishing a lodestar fee—the reasonable number of hours expended on the case multiplied by the reasonable hourly rates for the participating lawyers. *Migas v. Pearle*

Vision, Inc., 135 F.3d 1041, 1047 (5th Cir. 1998). Once the court has determined the lodestar rate, it may accept the lodestar or adjust it up or down—depending on a series of factors. *La. Power & Light Co. v. Kellstrom*, 50 F.3d 319, 324 (5th Cir. 1995).

1. Reasonable Hourly Rate

According to Longhi's motion and attached declaration of counsel, the attorneys' fees include hours billed by primary counsel, Mitch Kreindler, at \$300 per hour, and hours billed by an associate, Sharon Gurak, at \$250 per hour. Dkt. 117, Ex. 1. Mr. Kreindler has practiced for over 20 years, the last 14 of which have been devoted solely to the representation of False Claims Act relators. Ms. Gurak has practiced for approximately 25 years. She joined Mr. Kreindler's firm 8 years ago and since then has represented relators along with Mr. Kreindler. Longhi submitted surveys of hourly rates for attorneys with comparable practices to Kreindler's. The fees ranged from approximately \$130 per hour to over \$700 per hour. The court finds, and the defendants do not dispute, that the rates charged by Mr. Kreindler and Ms. Gurak are reasonable hourly rates as compared to attorneys with similar experience in a similar market.

2. Reasonable Number of Hours Expended

False Claims Act cases are notoriously long-lived. The instant case was filed under seal in 2002. Dkt. 1. After much investigation, the United States decided to intervene in part as to five contracts and filed its election in September of 2005. Dkt. 20. Over the seven-year span of the case, Longhi's attorneys billed approximately 945 hours of work—Kreindler accounting for as much as 95% of the hours. Dkt. 117, Ex. 1-C. Multiplied by the reasonable hourly rates described above, the total billed attorneys' fees are \$281,230.83. Defendants contend that Longhi is not entitled to an award for all of his attorneys' fees because the fees are not segregated according to claim. Dkt.

118. They argue that since Longhi did not prevail on all of his claims, he is not entitled to attorneys' fees for his unsuccessful claims. Defendants divide Longhi's "unsuccessful claims" into two types: (1) claims unrelated to the four contracts ("Four Contracts") at issue in the motion for partial summary judgment; and (2) claims related to the Four Contracts at issue but regarding the performance of the contracts rather than on the fraudulent inducement of the contracts—the theory upon which summary judgment was granted.

The Supreme Court in *Hensley v. Eckerhart* held that "where a lawsuit presents 'distinctly different claims for relief that are based on different facts and legal theories' the claims should be parsed out and attorneys' fees granted to a plaintiff only on successful claims." *Mikes v. Straus*, 274 F.3d 687, 705 (2d Cir. 2001) (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 434-35, 103 S. Ct. 1933 (1983)) (applying *Hensley's* reasoning regarding segregation of § 1988 attorneys' fees to the False Claims Act). However, the Court also recognized that when a plaintiff's claims are based on "a common core of facts or . . . related legal theories," counsel will devote time to the case as whole "making it difficult to divide the hours expended on a claim-by-claim basis." *Hensley*, 461 U.S. at 435.

Defendants argue that the claims regarding the performance of the Four Contracts rather than the fraudulent inducement of the Four Contracts are factually distinct. The court disagrees. In order to require that the plaintiff segregate fees, the Supreme Court requires that the claims be "distinct in all respects." *Hensley*, 461 U.S. at 440. The claims regarding the Four Contracts, whether they are based on fraudulent inducement or not, all arise from the same set of contracts, the same actors, and the same illegal intent to defraud the government of money in violation of the False Claims Act. Contrary to defendants' arguments, all of the claims arising from the Four Contracts are enmeshed.

The plaintiffs made a strategic choice regarding which alleged fraud to pursue at the summary judgment stage out of many frauds alleged on the Four Contracts. That choice does not so separate the other theories of fraud that they are “distinct in all respects.” *Id.*

Next, the defendants argue that fees related to claims other than those for the Four Contracts should be segregated. Again, the court disagrees. The Fifth Circuit has noted “that fee entitlement for unsuccessful claims does not rest solely upon a commonality of facts or legal theories.” *Albright v. Good Shepherd Hosp.*, 901 F.2d 438, 440 (5th Cir. 1990). The court questions whether claims voluntarily dismissed after significant success on a partial summary judgment may be described as “unsuccessful.” However, even if the plaintiffs had included every single claim in their motion for summary judgment, the court would find that the level of success on the Four Contracts alone was sufficient to merit entitlement to the full fee. *Hensley*, 461 U.S. at 440 (“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.”). Moreover, an in-depth review of Longhi’s counsel’s billing records shows no duplicative effort or unnecessary hours. Therefore, the court finds that the number of hours reflected on Longhi’s counsel’s billing record is reasonable.

3. The *Johnson* Factors

Having established the lodestar figure, the court next determines whether to adjust the figure up or down based on a series of factors—the *Johnson* factors. *Migis*, 135 F.3d at 1047. The *Johnson* factors are:

- (1) the time and labor required for the litigation;
- (2) the novelty and difficulty of the questions presented;
- (3) the skill required to perform the legal services properly;
- (4) the preclusion of other 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 result 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.

Id. (citing *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974)).

The court finds that under the *Johnson* factors, the amount of fees requested is reasonable.

“‘The most critical factor’ in determining the reasonableness of a fee award . . . is ‘the degree of success obtained.’” *Id.* (quoting *Farrar v. Hobby*, 506 U.S. 103, 114, 113 S. Ct. 566 (1992)). The claims requiring the most briefing to the court—and therefore the most time—were those regarding the Four Contracts. The court granted partial summary judgment on all Four Contracts for the total amounts paid out under those contract—totaling \$4,972,365.00 in damages. Therefore, on those claims the plaintiffs chose to pursue at summary judgment, they were completely successful. Additionally, the case involved one issue—the validity of a release of all claims signed by the relator—that was an issue of first impression in the Fifth Circuit and all other Circuit Courts of Appeals requiring significant research and briefing to the court. Moreover, the theory of recovery—fraudulent inducement of a government research contract—was extremely complex both in the liability and damages stages. So much so, that liability and damages necessitated separate and extensive briefing.

As discussed above, Longhi’s counsel’s rates are reasonable within the Houston market for attorneys of comparable skill levels. Counsel’s practice focuses on False Claims Act litigation—a specialized area. These factors are subsumed in the initial lodestar calculation. *Id.* (citing *Shipes v. Trinity Industries*, 987 F.2d 311, 320 (5th Cir. 1993)). Also, the relationship between attorney and

client in this case has been a long one—over 5 years since the complaint was first filed under seal. And, False Claims Act cases involve extensive initial briefing to the government.¹ Therefore, the court concludes that in every respect, Longhi's counsel's fees bills are reasonable.

4. Costs

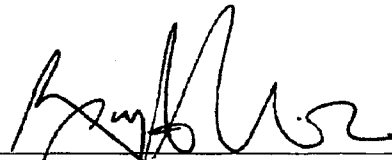
Section 3730(d)(1) also allows for the award of reasonable costs. 31 U.S.C. § 3730(d)(1). Longhi's counsel has submitted bills reflecting \$2,534.35 in expenses mainly for parking, research, postage, and depositions. Dkt. 117, Ex. 1-C. For the reasons outlined above, the court finds that these costs are reasonable, especially given the length of the case.

CONCLUSION

Pending before the court is the relator's motion for statutory attorneys' fees. Dkt. 117. For the reasons enumerated above, the court finds that the attorneys' fees and costs are reasonable. Therefore, it is ORDERED that pursuant to 31 U.S.C. § 3730(d)(1), judgment is awarded against defendants for reasonable attorneys' fees in the amount of \$281,230.83 and costs in the amount of \$2,534.35 for an aggregate of \$283,765.18.

It is so ORDERED.

Signed at Houston, Texas on April 22, 2008.



Gray H. Miller
United States District Judge

¹ In that sense Longhi's case may also be seen as successful, because the United States elected to intervene in claims related to five contracts. Longhi's counsels' declaration points out that the United States intervenes in less than 20% of cases filed. Dkt. 117, Ex. 1.