

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

11 HALEMA BUZAYAN, an individual,
12 by and through JAMAL MOHAMED
13 BUZAYAN, as Guardian Ad Litem
for a Minor,

11 No. 2:06-cv-01576-MCE-DAD

13 Plaintiff,

14 v.

15 ORDER

16 CITY OF DAVIS POLICE DEPARTMENT,
17 JAMES HYDE, individually and in
18 his capacity as Chief of Police
19 of the City of Davis Police
20 Department, STEVEN PIERCE,
21 individually and in his official
22 capacity with the City of Davis
23 Police Department, PHENG LY,
24 individually and in his capacity
as an officer of the City of Davis
Police Department, BEN HARTZ,
individually and in his capacity
as an officer of the City of Davis
Police Department, GINA ANDERSON,
individually and as Sergeant of
the City of Davis Police Department,

24 Defendants.

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26 By Memorandum and Order dated June 25, 2007, this Court
27 granted the anti-SLAPP Special Motion to Strike brought by
28 Defendants Davis Enterprise, Debbie Davis, and Lauren Keene

("Defendants") pursuant to California Code of Civil Procedure Section 425.16. Presently before the Court is Defendants' July 12, 2007 Motion for Attorney's Fees as a prevailing party, in the wake of their dismissal from this litigation, pursuant to both Section 425.16 and Local Rule 54-293.

The Court may defer its ruling on attorney's fees when an appeal on the merits is pending. See 1993 Advisory Committee notes to FRCP 54(d) ("if an appeal on the merits of the case is taken, the [district] court may rule on the claim for fees, may defer its ruling on the motion, or may deny the motion without prejudice, directing under subdivision (d) (2) (B) a new period for filing after the appeal has been resolved."); Dumas v. New United Motor Mfg., 2007 U.S. Dist. LEXIS 49098 (D. Cal. 2007).

Subsequent to the filing of Defendants' request for attorney's fees, Plaintiff filed an Interlocutory Appeal with the Ninth Circuit Court of Appeals on July 18, 2007. Given the pendency of that appeal, Defendants' Motion for Attorney's Fees is DENIED at this juncture, without prejudice to being renewed following disposition of this matter upon appeal.¹

IT IS SO ORDERED.

Dated: September 18, 2007

Moran C. England Jr.

MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE

¹ Because oral argument will not be of material assistance, the Court ordered this matter submitted on the briefing. E.D. Cal. Local Rule 78-230(h).