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7 **IN THE UNITED STATES DISTRICT COURT**  
8 **FOR THE DISTRICT OF ARIZONA**

10 Christine Baker,

11 Plaintiff,

12 vs.

13 Capital One Bank; Capital One, F.S.B.; Capital  
14 One Services, Inc.; Equifax Credit Information  
15 Services; Retailers National Bank; Ameriquest  
16 Mortgage Company; Panda Management, Inc.;  
17 Anthony Ferlanti; Does 1-10,

Defendants.

NO. CV04-1192-PCT-NVW

**MEMORANDUM IN SUPPORT OF  
DEFENDANT CAPITAL ONE'S  
MOTION FOR AWARD OF  
ATTORNEYS' FEES**

(Assigned to Hon. Neil V. Wake)

18 Pursuant to Rule 54 Fed. R. Civ. P., and Rule 54.2, United States District Court  
19 Local Rules of Civil Procedure ("Rule"), and the Court's Order dated October 4, 2006  
20 (Docket No. 160), Capital One Bank, Capital One, F.S.B., and Capital One Services, Inc.  
21 (collectively "Capital One"), by and through undersigned counsel, hereby submit its  
22 Memorandum in Support of its Motion for Award of Attorneys' Fees in the above-entitled  
23 action.

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DATED this 3rd day of November, 2006.

QUARLES & BRADY STREICH LANG LLP  
Renaissance One  
Two North Central Avenue  
Phoenix, AZ 85004-2391

By s/Michelle J. Roddy  
Kevin D. Quigley  
Michelle J. Roddy

Attorneys for Capital One Defendants

1 **MEMORANDUM AND POINTS OF AUTHORITIES**

2 **I. BACKGROUND.**

3 Baker's Second Amended Complaint alleged that Capital One violated the Fair  
4 Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681 *et al.*, by failing to properly investigate  
5 reported account information after receiving notice of a consumer dispute from a credit  
6 reporting agency. Baker's claims against Capital One allege: (1) Capital One failed to  
7 report credit limit information after being notified of a dispute; (2) Capital One incorrectly  
8 verified that the account was discharged in bankruptcy in April 2001; and (3) Capital One  
9 reported a current balance at an amount greater than the reported high balance.

10 Capital One Bank moved for Summary Judgment on April 14, 2006 on each of  
11 Baker's claims.<sup>1</sup> The Court granted Capital One Bank's Motion on August 30, 2006  
12 because the FCRA does not obligate creditors to report credit limit information and  
13 because Baker did not have any evidence that Capital One did not perform a reasonable  
14 investigation. The Court entered an Amended Judgment on September 6, 2006. On  
15 September 11, 2006, Capital One moved for an award of attorneys' fees and non-taxable  
16 expenses pursuant to Fed. R. Civ. P. 54, Local R. Civ. P. 54.2, and the Fair Credit  
17 Reporting Act ("FCRA").<sup>2</sup> On October 4, 2006, this Court ordered that Capital One file a  
18 Memorandum in Support of its Motion and provide a specific basis for the fees and costs  
19 sought in relation to Ms. Baker's bad faith filings.

20 In defending Plaintiff's FCRA claims for the past two years, Capital One incurred  
21 \$100,875.50 in attorneys' fees. As noted below, there is sufficient evidence for this Court  
22 to find that Ms. Baker filed her entire claim in bad faith and for the purposes of  
23 harassment. However, Capital One is not seeking to destroy Ms. Baker financially, and  
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25 <sup>1</sup> Baker's claims against Capital One F.S.B. and Capital One Services, Inc. were  
26 previously dismissed by this Court's Order dated April 20, 2005.

27 <sup>2</sup> Capital One is no longer requesting an award of its non-taxable costs. Under a strict  
28 reading of the FCRA, a party is only allowed to ask for attorneys' fees. As such, Capital  
One does not include non-taxable costs herein.

1 only seeks \$50,000 in attorneys' fees.

2 **II. ELIGIBILITY: BAKER SHOULD BE SANCTIONED UNDER THE FCRA.**

3 The Court may award attorneys' fees under the FCRA pursuant to sections 1681(n)  
4 & (o) of the FCRA. See 15 U.S.C. § 1681.

5 The FCRA provides:

6 Upon a finding by the court that an unsuccessful pleading,  
7 motion, or other paper filed in connection with an action under  
8 this section was filed in bad faith or for the purposes of  
harassment, the court shall award to the prevailing party  
attorney's fees reasonable in relation to the work expended in  
responding to the pleading, motion or other paper.

9 15 U.S.C. § 1681(n) & (o). Capital One should be awarded attorneys' fees pursuant to  
10 these provisions because Plaintiff's Amended Complaints were filed in bad faith under the  
11 FCRA and for purposes of harassment.

12 **III. ENTITLEMENT: MS. BAKER SUED CAPITAL ONE TO EXPOSE AN**  
13 **ALLEGED "CONSPIRACY," NOT BECAUSE CAPITAL ONE VIOLATED**  
14 **THE FCRA.**

15 Ms. Baker maintains a number of websites dealing with credit issues. [See  
16 creditsuit.org; bayhouse.com; fight-back.us; creditfactors.com; forum.creditcourt.com;  
17 creditcourt.com.<sup>3</sup>] On these websites, Ms. Baker has memorialized her autobiography as  
18 well as all of the events taking place in this lawsuit. Ms. Baker's websites reveal that Ms.  
19 Baker's real motivation for suing Capital One was not because Capital One violated the  
20 FCRA. Ms. Baker has a vendetta against corporate America and unfortunately took out  
21 her misplaced anger on Capital One by filing a lawsuit, which Capital One has spent over  
22 \$100,000 defending. [See "Summary of Credit Events Leading Up to My Suit",  
23 http://creditsuit.org/credit.php?/blog/comments/summary\_of\_credit\_events\_leading\_up\_to

24  
25 <sup>3</sup> On the website <http://www.bayhouse.com/FAQ.shtml>, Ms. Baker identifies herself and  
26 the fact that she maintains all of the above-referenced websites. She lists her mailing  
27 address of 989 So. Main St. A-150, Cottonwood, AZ 86326, her email address as  
28 [christine@bayhouse.com](mailto:christine@bayhouse.com), and her fax number as 571-222-1000. The email address and  
fax number listed on the website are the same as Ms. Baker's listed information in her  
filings with this Court.

1 \_my\_suit/, 01/04/2003 (attached hereto as Exhibit A)<sup>4</sup> (“Summary of Credit Events”).]  
2 Ms. Baker’s lawsuit was filed in bad faith and for the purposes of harassing Capital One,  
3 perhaps into changing its policies. As revealed in Capital One’s Motion for Summary  
4 Judgment, there was no evidence that Capital One violated the FCRA. Moreover, Ms.  
5 Baker was suing in an attempt to get Capital One to start reporting her credit limits – a  
6 lawsuit that is completely baseless as the FCRA does not mandate that Capital One report  
7 such items.

8 By way of background, in 1996 Ms. Baker declared bankruptcy and discharged all  
9 of her credit card debts. Id. Around this time, Ms. Baker reports that she had bad  
10 experiences with several creditors including: Home Savings/Washington Mutual, Bank of  
11 America, Pacific Bell, Bay Area Credit Service, Bank One, Orchard/Household and  
12 others. Id. Her dealings with these companies finally pushed Ms. Baker to the edge. She  
13 says, “There I was, 2 years after the discharge . . . My credit was destroyed. I considered  
14 everything from suicide to murdering all those bastards, the collectors and the politicians  
15 who allow this to happen.” Thankfully, Ms. Baker did not execute on these extreme  
16 actions: “So I let everybody live, and I decided to sell my house and travel.” Id. But Ms.  
17 Baker was jaded nonetheless:

18 [A] corporation is not subject to fines or penalties unless there  
19 are literally thousands of complaints. When a corporation  
20 defrauds a widow out of \$15,000, they just have to credit back  
21 those funds. I still don't understand why \*I\* [sic] could get life  
22 in prison for "forgetting to pay" for some food at a store for  
23 the 3rd time, while a corporation merely has to give back what  
24 they took. Why is it a criminal offense when I take something  
25 that's not mine, but corporations can take whatever they want  
26 and NOBODY goes to jail? Talk about double standards!

23 [“About Me,” <http://www.bayhouse.com/ChristineBaker.shtml>, October 8, 2000 (“About  
24 Me”) (attached hereto as Exhibit C).]  
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27 <sup>4</sup> See Declaration of Carla Walters authenticating the Websites referenced in Defendant  
28 Capital One’s Memorandum in Support of Attorneys’ Fees (attached hereto as Exhibit B).

1 Ms. Baker's story does not end there. Ms. Baker reports she continued to have  
2 problems with her credit. On her website, she tells stories of problems with numerous  
3 creditors, including Equifax, Experian, Compass Bank, Providian and PayPal. [See  
4 "Summary of Credit Events."] Sometime after these problems, Ms. Baker decided to sue  
5 Capital One. She explains the reason why she filed the complaint against Capital One,  
6 "The major issue of my complaint is the conspiracy by the FTC, the credit bureaus, Fair  
7 Isaac and creditors such as Capital One . . . There WILL be a public record of my  
8 complaint, those who will be served will never be able to claim that they didn't know." Id.  
9 (Emphasis added.)<sup>5</sup> Ms. Baker apparently believes that her conspiracy theory is correct,  
10 "And the more I see and learn about how the system works, the more I wonder whether  
11 some of these conspiracy theories aren't right on the money." [See "About Me."] Ms.  
12 Baker has also recently said, "It's totally amazing that Capital One, the CDIA and the  
13 CRAs get away with conspiring to deliberately harm many millions of consumers, year  
14 after year after year . . . ." [See "The Credit LIMITS have to be reported according to the  
15 e-Oscar manual," <http://www.creditsuit.org/> 11/01/06 (attached hereto as Exhibit D).]

16 According to Ms. Baker's own statements, she filed this lawsuit against Capital  
17 One to expose an alleged conspiracy – simply, she filed this lawsuit to seek revenge on  
18 corporate America. Ms. Baker wanted to make a public record of the perceived  
19 conspiracy against her, but not because she actually suffered any provable damages as a  
20 result of Capital One's conduct, and not because Capital One allegedly violated the  
21 FCRA.

22 Ms. Baker's delusion that Capital One was conspiring against her was not the only  
23 motivation for filing this lawsuit. It appears Ms. Baker also filed her lawsuit to squeeze  
24 Capital One for thousands of dollars. However, Capital One was not willing to resolve  
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26 <sup>5</sup> Ms. Baker says, "It was also quite satisfying to use the Capital One card to pay the \$150  
27 filing fee." [See "Filed Complaint on 3/19/03 in Phoenix,"  
<http://creditsuit.org/credit.php/P1495/>, 03/20/2003 (attached hereto as Exhibit E).]  
28

1 her baseless claims for more than \$3,000.<sup>6</sup> [See “About Me,” (“Occasionally, someone  
2 tells me to get a "real" job, to get back into "the real world." . . . I hope I won't ever again  
3 have to get back to the booring world of 9 – 5 . . . Been there, done that. And it  
4 sucked!"); see also id. (“I'm a sucker for luxuries as much as anyone . . .”). If that were  
5 not enough, Ms. Baker is shameless when it comes to paying (or not paying) her credit  
6 card bills as she has now taken to encouraging others not to pay their credit card debt.  
7 [See “My complaint with the AZ State Bar about Capital One perjury and their lying  
8 scumbag lawyers” [http://creditsuit.org/credit.php/blog/comments/my\\_complaint\\_with  
9 the\\_az\\_state\\_bar\\_about\\_capital\\_one\\_perjury/](http://creditsuit.org/credit.php/blog/comments/my_complaint_with_the_az_state_bar_about_capital_one_perjury/) July 11, 2005 (attached hereto as Exhibit  
10 F).] Ms. Baker says, “I hope that this documentary will encourage many debtors to  
11 discharge their debts or to simply not pay their debts. There are many more important  
12 things to worry about than credit card debts . . . .” Id.

13 As demonstrated above, Ms. Baker filed her Complaint against Capital One for an  
14 improper purpose – purportedly to expose an alleged conspiracy. She simply sought to  
15 make a record of her opinion so that she could prove that Capital One knew that it should  
16 have been reporting credit limits. But Ms. Baker’s assertion that Capital One violated the  
17 FCRA because it failed to report credit limits was something that only the legislature  
18 could change. As Capital One argued in its Motion for Summary Judgment, the language  
19 of the FCRA does not require Capital One to report such information. The only way to  
20 make such a change would be to change the language of the FCRA – a change for  
21 Congress to make, not this Court. If Ms. Baker had actually wanted such changes, she  
22 should have spent these past four years lobbying Congress. Instead, she filed a nuisance  
23 lawsuit against Capital One with the hopes that Capital One would pay her to go away.

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25 <sup>6</sup> Ms. Baker told this Court that she was looking for money from Capital One, “So I’m just  
26 looking for some – I’m very open to settle, and I’m looking to – not for millions of dollars  
27 . . . So I’m looking for some money.” [Transcript of Motion Hearing with Hon. Wake,  
28 Nov. 17, 2005, 10:03 a.m. at p. 9:2-4 & 9:20.] On June 8, 2006, Capital One served an  
offer of judgment in the amount of \$3,000 on Ms. Baker to resolve this nuisance lawsuit,  
but Ms. Baker rejected this offer.

1           There was never sufficient evidence for a reasonable person to determine in good  
2 faith that Capital One violated the FCRA. Ms. Baker's Complaint was filed to harass  
3 Capital One as part of Ms. Baker's vendetta against corporate America and as a result,  
4 should be liable for attorneys' fees expended by Capital One for its defense.

5 **IV. MS. BAKER NOW SEEKS TO EXPOSE THE CORRUPTION OF THE**  
6 **AMERICAN LEGAL SYSTEM.**

7           What used to be Ms. Baker's vendetta against corporate America has now turned  
8 into a vendetta against the American legal system. Ms. Baker filed a baseless complaint  
9 with the Arizona State Bar against the attorneys of record Kevin Quigley and former  
10 attorney of record Kathleen Biesterveld and Joseph Udall. With regard to this bar  
11 complaint and with her complaint against Capital One, Ms. Baker says, "Of course the  
12 purpose of this Bar complaint and my filing with the court is to document the corruption  
13 of the US legal system." Id. The State Bar of Arizona summarily dismissed that  
14 complaint.

15           Ms. Baker recently posted an interesting update on one of her websites regarding  
16 this very Memorandum in Support of Attorneys' Fees filed by Capital One. [See  
17 "10/5/06: Court Orders Capital One to File Memorandum re. the \$50,000 Attorneys Fees  
18 Demand," [http://creditsuit.org/credit.php?/blog/comments/10\\_5\\_06\\_court\\_orders\\_capital  
19 one\\_to\\_file\\_memorandum\\_re\\_50000\\_attorneys\\_fees/](http://creditsuit.org/credit.php?/blog/comments/10_5_06_court_orders_capital_one_to_file_memorandum_re_50000_attorneys_fees/), 10/5/2006 (attached hereto as  
20 Exhibit G).] Ms. Baker's words speak volumes about her intent with this litigation:

21           **I can't WAIT to see the Capital One memorandum!**

22           This is as absurd as it gets. The perjurers at Capital One and  
23 their scum sucking lying attorneys must have **nothing** but air  
between their ears. I just finally posted several recent filings,  
appreciate Capital One motivating me.

24           ...

25           It is so upsetting to have these bastards waste my time. And  
26 then there's the bigger issue, knowing that people die because  
of Capital One's deliberately incorrect credit credit [sic]  
reporting.

27           I tried to make a difference for all. Instead, I've proven that  
28 only violence will make a difference, even in today's so-called  
civilized world.

**That is so depressing.**

1 Of course Capital One will have to report the credit limits  
2 sooner or later, but it won't be a victory for **consumers**. By  
3 the time that happens, Capital One, the CRAs and the Fair  
4 Isaac will have found new ways to exploit the disadvantaged.

5 The main issue is no longer Capital One's credit reporting, but  
6 that my lawsuits document the **corruption** of the American  
7 legal system. Of course I filed my appeal and I'll take this to  
8 the Supreme Court if necessary, but the court SHOULD have  
9 put Capital One in its place 2 years ago.

10 NOBODY should ever have to go through what I've been  
11 through and I hope that my efforts keep others from making  
12 my mistakes. It's one thing to file a credit repair lawsuit for  
13 deletions/corrections (to date Capital One does NOT report  
14 my correct credit limit), but don't expect to find JUSTICE in  
15 American courts unless you are a multi-millionaire. Of course  
16 it all depends on **your** judge, but you can expect to be  
17 railroaded in Kangaroo Courts like MANY other consumer  
18 litigants.

19 I don't know of ANY consumer who prevailed in court against  
20 a major corporation. Secret payoffs (settlements) are NOT  
21 victories.<sup>7</sup>

22 Capital One spent over \$100,000 to defend against me to  
23 ensure that consumers get the message:

24 **"We have UNLIMITED funds for attorneys and we will**  
25 **ruin your life, bankrupt you, destroy you ..."**

26 And no, nobody paid me to deter consumer suits. I just want  
27 people to know that they ought to think of OTHER ways to  
28 fight back. Americans didn't become independent because  
they sued the Queen, Hitler wasn't stopped by a court order  
and the slaves weren't freed because they voted for freedom.<sup>8</sup>

**Nothing** ever changes ...

19 Id. (**Bold** in original; Underline emphasis added). Ms. Baker's motivation now  
20 appears to be to expose corruption in the American legal system's "Kangaroo Courts" and  
21 is using Capital One as her sounding board.

22 **V. REASONABLENESS OF REQUESTED REWARD: THE AMOUNT OF**  
23 **FEES REQUESTED BY CAPITAL ONE IS REASONABLE.**

24 Pursuant to Arizona District Court Local Rule 54.2(c)(3), Capital One hereby

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25 <sup>7</sup> Ms. Baker cannot keep her story straight. In November 2005 she told this Court that she  
26 was looking for money and wanted to settle this case. See Footnote 6, *supra*.

27 <sup>8</sup> Capital One is thoroughly disturbed by Ms. Baker's latest call for violence and hopes  
28 that Ms. Baker does not decide to act on her rage.

1 certifies that the fees it is requesting are reasonable. [See Declaration of Kevin D.  
2 Quigley at ¶ 26, attached hereto as Exhibit H.] As provided in the Declaration of Kevin  
3 D. Quigley, the billing rates utilized in this case were the normal billing rates for the  
4 attorneys involved, and those rates are consistent with the rates charged by other  
5 comparable commercial litigation firms in the Phoenix area for like services. [Id. at ¶¶ 6-  
6 17.]

7 The total fees of \$100,875.50 paid by Capital One for its attorneys' fees is a  
8 reasonable sum based upon the amount at issue in this lawsuit, the quality of the firm  
9 performing the legal work, the character and difficulty of the work to be done, the work  
10 actually performed by the law firm on behalf of Capital One, and the results obtained and  
11 to be obtained by the law firm in representing Capital One. [Id. at ¶¶ 26.] In this case,  
12 Capital One was forced to defend a meritless lawsuit. To that extent, Capital One's  
13 attorneys' incurred fees in determining initial case strategy, answering the First and  
14 Second Amended Complaints, filing Motions to Dismiss, and filing a Motion for  
15 Summary Judgment. In sum, Capital One's fees are reasonable given the work performed  
16 and the quality thereof. [Id. at ¶ 27.] Also, the Task-Based Itemized Statement of  
17 Attorneys' Fees and Related Non-Taxable Expenses provides detailed descriptions of the  
18 professional services rendered on behalf of Capital One, together with the date the  
19 services were performed, the attorney or legal assistant who performed the service, the  
20 time spent on the service, and the rate at which the service was billed. [See Task-Based  
21 Itemized Statement of Attorneys' Fees ("Statement of Fees"), attached hereto as Exhibit  
22 I.]

23 The amount of attorneys' fees paid by Capital One was \$100,875.50. From the  
24 evidence noted above, Capital One could easily argue that the entire claim was brought in  
25 bad faith and for the purpose of harassment, as it most likely was. But Capital One is not  
26 looking to profit at Plaintiff's expense or destroy Plaintiff financially. Capital One is only  
27 requesting approximately half of the attorneys' fees, or \$50,000. All of the work  
28 performed by Quarles & Brady was necessitated by Ms. Baker's filing of the Complaint

1 and Amended Complaint. Specifically, Quarles & Brady charged a total of approximately  
2 \$13,728 for analysis, research, and drafting of Capital One’s Motion to Dismiss the First  
3 Amended Complaint. [Statement of Fees at ¶ 22.] Quarles & Brady charged a total of  
4 approximately \$15,572 for analysis, research, and drafting of Capital One’s Motion to  
5 Dismiss the Second Amended Complaint. [Statement of Fees at ¶ 23.] Quarles & Brady  
6 charged a total of approximately \$14,803.50 for discovery and related pre-trial matters.  
7 [Statement of Fees at ¶ 24.] Finally, Quarles & Brady charged a total of approximately  
8 \$25,307 for analysis, research, and drafting of Capital One’s Motion for Summary  
9 Judgment. [Statement of Fees at ¶ 25.] These four categories of activities amount to  
10 approximately \$94,717.50. The remaining costs charged to Capital One included  
11 researching Plaintiff’s public discourse and fact investigation, reviewing and analyzing  
12 co-Defendants’ motions, and various tasks that do not fall squarely within one of the  
13 above categories. Given the above totals, \$50,000 for the amount of work performed  
14 defending this action is a very reasonable amount.

15 Additionally, Capital One’s lawyers were appropriately qualified to defend Capital  
16 One in this action, and billed a reasonable fee for their services over the past four years.  
17 [See Declaration of K. Quigley at ¶¶ 6-15.] The fees charged by Capital One’s attorneys  
18 are appropriate given their skill and experience. The hourly rate charged to Capital One is  
19 the standard hourly rate charged to Capital One. The rates charged are consistent with the  
20 rates charged by comparable law firms. [Id. at ¶ 16.] The fees charged by Capital One’s  
21 attorneys are hourly and are not fixed or contingent.<sup>9</sup> [Id. at ¶ 18.] Given this experience  
22 and ability, the fees charged by Capital One’s attorneys are reasonable.

23 Finally, Capital One’s counsel attempted to contact Ms. Baker and used good faith  
24 efforts to try to settle this dispute over attorneys’ fees. Ms. Baker left a message for  
25 Capital One’s counsel, “Yeah Hi, this is Christine Baker returning your call regarding  
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27 <sup>9</sup> Capital One is an ongoing client of this law firm and does not have a written fee  
28 agreement for any particular matter. [See Declaration of K. Quigley at ¶¶ 18-19.]

1 paying you attorneys' fees. I don't know, apparently you have no idea who I am, what I do  
2 and that I filed my notice of appeal. So no, I'm not going to pay you attorneys' fees.  
3 Don't know what you're smoking. Bye.” [See Statement of Consultation (attached hereto  
4 as Exhibit J).]

5 **VI. CONCLUSION.**

6 For all of the foregoing reasons Capital One respectfully asks that the Court impose  
7 appropriate sanctions on Plaintiff and award Capital One its reasonable attorneys' fees in  
8 the amount of \$50,000.00 pursuant to the FCRA.

9 DATED this 3rd day of November, 2006.

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14 By s/Michelle J. Roddy  
15 Kevin D. Quigley  
16 Michelle J. Roddy

17 Attorneys for Capital One Defendants  
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