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8 James F. Seitz,
9 and The Seitz Family Partnership, L.P.

10 **SUPERIOR COURT OF CALIFORNIA, ORANGE COUNTY**
11 **CENTRAL JUSTICE CENTER**

12 FRANK JAKSCH, JR.,

13 Plaintiff,

14 vs.

15 THE SEITZ FAMILY PARTNERSHIP, et
16 al.

17 Defendants.

CASE NO. 07CC02397

Assigned for all Purposes to
Judge Franz E Miller
Department: C14

**NOTICE OF RULING ON DEFENDANTS'
MOTION FOR ATTORNEY'S FEES.**

[Code of Civ. Proc. § 1019.5(c)]

18 **TO THE PLAINTIFF AND ATTORNEY OF RECORD:**

19 **PLEASE TAKE NOTICE THAT** the motion of Defendants Seitz Family Partnership, L.P.,
20 and James Seitz was heard on Thursday, May 28, 2009, in this Court. Appearing as attorneys were:
21 James I. McMillan for Defendants Seitz Family Partnership, and James Seitz, and Vernon C. Jolley
22 for the Plaintiff Frank Jaksch, Jr. On that date Judge Franz E. Miller of this Court made an award
23 of attorney's fees to counsel for the Defendants in the amount of \$52,255 as set forth in a minute
24 order dated May 28, 2009, a copy of which is attached to this notice.

25 This order was entered in the minutes of the Court on May 28, 2009.

26 Dated: June 8, 2009

LAW OFFICES OF SHAWN A. MCMILLAN, A.P.C.

27 By: _____
28 J.I. McMillan, Attorneys for Defendants - The Seitz
Family Partnership, L.P., and James Seitz

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

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MINUTE ORDER

Date: 05/28/2009

Time: 01:30:00 PM

Dept: C14

Judicial Officer Presiding: Judge Franz E. Miller
Clerk: Stacie Turner

Bailiff/Court Attendant: R. Vincent

Reporter: Evelyn Ruth Barnett-2232

Case Init. Date: 01/31/2007

Case No: 07CC02397

Case Title: JAKSCH VS SEITZ FAMILY PARTNERSHIP LP

Case Category: Civil - Unlimited

Case Type: Misc Complaints - Other

Event Type: Motion for Attorney Fees
Moving Party: SEITZ FAMILY PARTNERSHIP, L.P., JAMES SEITZ
Causal Document & Date Filed: Motion for Attorney Fees, 03/12/2008

Appearances:

SHAWN A MCMILLAN APC appears in person for SEITZ FAMILY PARTNERSHIP, L.P.

VERNON C JOLLEY appears in person for CHROMADDEX INC

SHAWN A MCMILLAN APC appears in person for JAMES SEITZ

VERNON C JOLLEY appears in person for FRANK JAKSCH JR

Vernon C. Jolley for Plaintiffs

James I. McMillan of The Law Offices of Shawn A. McMillan, APC for Defendants

Tentative Ruling posted on the Internet .

The Court hears oral argument and confirms the tentative ruling as follows:

The motion for attorney fees on special motion to strike is granted in the amount of \$52,255.00 .

Reasoning: Overrule objections – Points & Authorities are not evidence and objections to declarations lack merit; attorney fees award mandatory to prevailing party on motion to strike but must be reasonable; lodestar not appropriate because although it was contingent fee and Moving Party's won (axiomatic re slapp attorney fees), issues were not particularly novel, skill of presentation was not remarkable (albeit certainly very competent), and no evidence of significant loss of other employment; reasonable hourly rate for S. & J.I. McM is \$250 and \$150 for Obra; amount of time spend for functions was reasonable; thus award for is \$52,255.

Date: 05/28/2009

MINUTE ORDER

Page: 1

Dept: C14

Calendar No.:

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PROOF OF SERVICE BY MAIL

I, J.I. McMillan, declare: I am over the age of 18 years and not a party to this action. I am employed in the County of San Diego, California where the mailing occurs. My business address is 4955 Via Lapiz, San Diego, California 92122.

I served the following document(s):

NOTICE OF RULING ON DEFENDANTS' MOTION FOR ATTORNEY'S FEES.

Upon plaintiff(s) by placing a true copy of the document in an envelope addressed to his, her, its, their attorney of record as follows:

Vernon C. Jolley	tel: 801-495-1442
c/o JOLLEY & JOLLEY, APLC	fax 801-495-1444
9710 South 700 East, Suite 111	
Sandy, Utah 84070	

I then sealed the envelope and, with postage thereon fully prepaid, and then I deposited the envelope in the United States Postal Service at San Diego, California, this same day.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: June 8, 2009 _____

J.I. McMillan

PROOF OF SERVICE BY MAIL