UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 04-35182 No. 04-35183

GRANT BAKER, *et al.*, as representative of the Mandatory Punitive Damages Class,

Plaintiffs-Appellees,

VS.

EXXON CORPORATION, et al.,

Defendants-Appellants.

On Remand from the United States Supreme Court

PLAINTIFFS' MEMORANDUM WITH RESPECT TO POST-JUDGMENT INTEREST AND COSTS

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CORPORATE DISCLOSURE STATEMENT

Those few plaintiffs that are corporations have no parent corporation, subsidiaries or affiliates that have issued shares to the public.

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INTRODUCTION

In 1994, a jury awarded plaintiffs \$5 billion in punitive damages for Exxon's reckless conduct related to the Exxon Valdez oil spill. Following two years of further proceedings, the United States District Court for the District of Alaska entered judgment on September 24, 1996 and directed that the jury's award "shall bear interest from and after September 24, 1996, in accordance with 28 U.S.C. § 1961." Amended Judgment in a Civil Case (January 30, 1997) (June 28, 2004 Excerpts of Record at 405).

On December 6, 2002, following a remand from this Court, *see In re: the EXXON VALDEZ*, 270 F.3d 1215 (9th Cir. 2001), the district court reduced the punitive damage award to \$4 billion and again directed that "[i]nterest on the reduced award of punitive damages shall accrue from September 24, 1996, in accordance with 28 U.S.C. § 1961." Order 358 at 52 n.89 (December 6, 2002) (June 28, 2004 Excerpts of Record at 556).

On January 28, 2004, following a second remand from this Court, the district court directed that the punitive damages be set at \$4.5 billion and again directed that "[i]nterest on the reduced award of punitive damages shall accrue from September 24, 1996, in accordance with 28 U.S.C. § 1961." Order 364 at 80 n.117 (January 28, 2004); *In re: the EXXON VALDEZ*, 296 F. Supp. 2d 1071, 1111 n.117 (D. Alaska 2004) (June 28, 2004 Excerpts of Record at 650).

Exxon appealed the 2004 amended judgment to this Court, and then to the U.S. Supreme Court, arguing that maritime law did not allow punitive damages in this case and that, even if punitive damages were allowed, the district court's amended judgment was too high. Exxon ultimately failed to persuade the appellate courts to disallow punitive damages, but it succeeded in obtaining a reduction in the amount.

As directed by the Supreme Court, this Court has now entered an order setting the punitive damages judgment in this case at \$507.5 million. On August 27, 2008, Exxon paid \$383.3 million toward that judgment into the Qualified Settlement Fund previously established by the district court. It withheld from that payment (1) any interest; (2) \$70 million, representing Exxon's alleged cost of securing the earlier judgment amounts; and (3) a rebate of approximately \$55 million, representing approximately 11% of the total award that certain plaintiff-seafood processing companies promised Exxon as part of earlier settlements, *see In re: the EXXON VALDEZ*, 229 F.3d 790 (9th Cir. 2000).

In response to this Court's order directing the parties to brief the issues of interest and costs, plaintiffs submit this memorandum explaining why this Court:

(1) should hold that plaintiffs remain entitled to interest on the reduced punitive damages award (at the applicable statutory rate of 5.9%) from the date of the

original punitive damages judgment, September 24, 1996¹; and (2) should order, as it did when it first affirmed the award of punitive damages subject to reduction in the amount, that "each party [is] to bear its own costs," *In re: the EXXON VALDEZ*, 270 F.3d 1215, 1253 (9th Cir. 2001).

ARGUMENT

I. PLAINTIFFS ARE ENTITLED TO POST-JUDGMENT INTEREST CALCULATED FROM THE DATE OF THE ORIGINAL JUDGMENT.

Settled federal law squarely dictates that plaintiffs who obtain a punitive damages judgment and succeed in defending part of that judgment on appeal are entitled to interest on the reduced award from the date of the original judgment.

That law controls here.

28 U.S.C. § 1961 provides that annually compounded interest "shall be allowed on any money judgment in a civil case recovered in a district court." Punitive damages judgments are among the "money judgments" covered by this statute. See, e.g., Loughman v. Consol-Pennsylvania Coal Co., 6 F.3d 88, 99 (3d Cir. 1993); Brown v. Petrolite Corp., 965 F.2d 38, 51 (5th Cir. 1992); Bank South Leasing, Inc. v. Williams, 778 F.2d 704, 705-06 (11th Cir. 1985).

¹ Pursuant to 28 U.S.C. § 1961(b) the interest is subject to annual compounding from the date of the original judgment. *See* Interest Computations, Administrative Office of the United States Courts, *available at* http://www.uscourts.gov/postjud/methods.html (last visited September 23, 2008).

The reason for this categorical statutory rule is obvious. Once a court enters a money judgment, the plaintiff becomes a judgment creditor. United States v. Michael Schiavone & Sons, Inc., 450 F.2d 875, 876 (1st Cir. 1971). If the defendant does not pay the judgment immediately, the plaintiff has a right to "compensation . . . for the loss of the use of the money" during post-judgment proceedings and appeals. Kaiser Aluminum & Chem. Corp. v. Bonjorno, 494 U.S. 827, 834 (1990); see also Air Separation, Inc. v. Underwriters at Lloyds, 45 F.3d 288, 290 (9th Cir. 1995). Interest compensates the plaintiff for that lost time-value of money. See, e.g., Brown, 965 F.2d at 51; Dunn v. HOVIC, 13 F.3d 58, 60 (3rd Cir. 1993) (Interest "ensure[s] that a [punitive] judgment will be worth the same when it is actually received as when it is awarded."). See generally Till v. SCS Credit Corp., 541 U.S. 465, 487 & n.1 (2004) (Thomas, J., concurring) (describing time value of money). And in the context of punitive damages, interest also limits the dilution of the punitive sting that results from postponing the day of payment. See DeLong Equip. Co. v. Washington Mills Electro Minerals Corp., 997 F.2d 1340, 1342-43 (11th Cir. 1993) (applying same rationale to antitrust treble damages).

A plaintiff's statutory entitlement to interest does not disappear when, as here, an appellate court upholds punitive liability but remits a portion of the punitive award. Under these circumstances, this Court, interpreting Fed. R. App.

P. 37(b) as requiring it to address the matter of interest in its mandate, has consistently held that plaintiffs remain "entitled" to interest from the date of the original judgment on the portion of the award that the Court has upheld. See, e.g., Planned Parenthood of the Columbia/Willamette Inc. v. American Coalition of Life Activists, 518 F.3d 1013, 1021 (9th Cir. 2008) ("Planned Parenthood II"); Leatherman Tool Group, Inc. v. Cooper Indus., Inc., 285 F.3d 1146 (9th Cir. 2002)²; Snyder v. Freight, Const., Gen. Drivers, Warehousemen & Helpers, Local No. 287, 175 F.3d 680, 690 (9th Cir. 1999). All other federal courts of appeals addressing the issue have agreed. Johansen v. Combustion Eng'g, Inc., 170 F.3d 1320, 1339-40 (11th Cir. 1999) ("The law on this issue is clear."); Dunn, 13 F.3d at 60-62 (plaintiffs are "automatically" entitled to such interest); Greenway v. Buffalo Hilton Hotel, 143 F.3d 47, 49, 55 (2d Cir. 1998) (same rule when district court remitted punitive award); Klein v. Grynberg, 127 F.3d 1109, 1997 WL 643899 (10th Cir. 1997) (unpublished) (reaffirming decision on same issue set

² Like this case, *Leatherman* involved a remand to this Court after the Supreme Court reduced the punitive damages award. 285 F.3d at 1152. This Court concluded that interest should run from the date of the original judgment, not the date of the judgment on remand: "the district court is instructed to allow interest from November 18, 1997 [the date of original judgment] on the award of punitive damages in the amount of \$500,000 that was the subject of the mandate." Order Recalling and Modifying Mandate (Docket No. 101), *Leatherman Tool Group, Inc. v. Cooper Indus., Inc.*, No. 98-35147 (9th Cir. July 8, 2002) (copy attached as Appendix A).

forth at 1996 U.S. App. LEXIS 42506 (10th Cir. Aug. 6, 1996) (unpublished));

Morrill v. Becton, Dickinson & Co., 747 F.2d 1217, 1225 (8th Cir. 1984); Maxey v.

Freightliner Corp., 727 F.2d 350, 351 (5th Cir. 1984); Malandris v. Merrill Lynch,

Pierce, Fenner & Smith Inc., 703 F.2d 1152, 1181 (10th Cir. 1983); Ogilvie v.

Fotomat Corp., 641 F.2d 581, 590 (8th Cir. 1981).

This Court's *Planned Parenthood II* decision demonstrates the firmness of this rule. There, this Court had reduced the punitive damages award as exceeding the maximum amount allowed under the Constitution, but its mandate (apparently inadvertently) did not instruct the district court concerning post-judgment interest. 518 F.3d at 1015. The district court on remand awarded interest from the date of the original judgment. *Id.* at 1016. When the defendant challenged this award of interest on appeal, this Court explained that its reduction of the amount of punitive damages based on due process review did not alter the evidentiary basis supporting the unremitted portion of the punitive damages award. *Id.* at 1021. Because the basis for the punitive damages award thus was "meaningfully ascertained" in the original judgment, plaintiffs were "entitled" under section 1961(a) to interest on the ultimate punitive award from the original judgment. *Id.*; see also Johansen,

³ The same rule, that interest accrues from the date of the original judgment on the remaining portion of a reduced award, applies to compensatory damages as well. *See, e.g., Snyder*, 175 F.3d at 689-90; *Tinsley v. Sea-Land Corp.*, 979 F.2d 1382, 1383 (9th Cir. 1992).

170 F.3d at 1340 ("The initial judgment is viewed as correct to the extent it is permitted to stand"); *Loughman*, 6 F.3d at 98, 100 ("[P]ost-judgment interest accrues from the entry of the first judgment" because "everything to which the plaintiffs are entitled was supported by the evidence at the first trial and was ascertained from the jury's verdict in that trial."). Accordingly, the *Planned Parenthood II* Court went so far as to recall its mandate from the first appeal, in order to avoid a serious injustice, and to direct under Fed. R. 37(b) that interest run from the original judgment. *Id*.

Planned Parenthood II and the uniform line of authority of which it forms a part comport not only with basic notions of fairness but also with the purposes of punitive damages. Punitive damages function to punish and to deter reprehensible conduct. They are calculated at trial to determine the appropriate amount of punishment and deterrence at that point in time. In maritime cases such as this, as in other areas of federal law, the Supreme Court requires that they be "pegg[ed] . . . to compensatory damages using a ratio." Exxon Shipping Co. v. Baker, 128 S. Ct. 2605, 2629 (2008). To ensure that the effect of the punishment and the ratio to compensatory damages stay the same in real dollars, courts must impose post-judgment interest from the date of the initial judgment. Any other result would alter the ratio, would reward defendants even for unsuccessful portions of appeals,

and would introduce arbitrariness into the process by benefiting defendants solely on the haphazard basis of how long their appeals take to run their course.

Examining how the interest issue plays out in this case illustrates the point. The jury returned its verdict in September 1994, and the district court entered judgment on the verdict in September 1996. Using a discount rate of 5.9% – the judgment interest rate prescribed by section 1961(a) – the value in September 1996 of \$507.5 million to be paid in 2008 would be only \$257.5 million, thus reducing the ratio of the punitive award to compensatory damages (absent an award of interest) from the 1 to 1 ratio that the Supreme Court found appropriate, 128 S. Ct. at 2633, to a ratio of 0.5 to 1. See Appendix B (setting forth calculation). Allowing Exxon to hold onto money that it owed to fishermen, Native Alaskans, and other class members in 1996 without paying interest would reduce the practical size of the award to a fraction of what the Supreme Court and this Court have held the jury was allowed to impose consistent with maritime law. See Till, 541 U.S. at 487 & n.1. Section 1961 exists to prevent just such an injustice and to foreclose a de facto "windfall" to a defendant found to have committed reprehensible conduct. *DeLong*, 997 F.2d at 1342-43.

II. FOLLOWING ITS 2001 DECISION, THIS COURT SHOULD ORDER THAT EACH SIDE SHOULD CONTINUE TO BEAR ITS OWN COSTS RELATING TO THESE APPEALS.

Federal Rule of Appellate Procedure 39(a)(4) provides that when, as here, "a judgment is affirmed in part, reversed in part, modified or vacated, costs are taxed only as the court orders." Although the district court may determine the appropriateness and amounts of some cost items, *see* Fed. R. App. P. 39(e), it is for this Court to decide in the first instance whether appellate costs should be assessed against one party or the other, or whether each party should bear its own costs.

This Court already has performed this exercise once in this case. In the appeal from the district court's initial judgment, this Court rejected Exxon's many challenges to the propriety of the punitive award but held that the amount should be reduced. *In re: the EXXON VALDEZ*, 270 F.3d 1215 (9th Cir. 2001). And with respect to that appeal, this Court ruled that "each party [is] to bear its own costs." *Id.* at 1254. In the second appeal and cross-appeal following the district court's amended judgment, this Court vacated the judgment for reconsideration in light of the Supreme Court's intervening decision in *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408 (2003). Order, No. 03-35166 (Aug. 18, 2003) (June 28, 2004 Excerpts of Record at 289). Neither party sought costs respecting those appeals, and this Court did not award any. The only unresolved matter is how this Court should apportion the appellate costs the parties have incurred in the present

appeal from the district court's subsequent amended judgment, which was entered on January 28, 2004.

On this matter, this Court should follow its 2001 split-costs ruling because the situation now is, for all relevant purposes, equivalent to the situation that existed then. Now, as then, this Court and the Supreme Court have rejected Exxon's challenges to plaintiffs' entitlement to punitive damages and have affirmed the district court in that respect. (Although Exxon did not challenge plaintiffs' entitlement to punitive damages before this Court's three-judge panel during the pending appeal, it did so (unsuccessfully) on two grounds in its January 2007 Petition for Rehearing or Rehearing En Banc: the propriety of the managerial agent jury instruction and purported preemption by the Clean Water Act.) Now, as then, this Court and the Supreme Court have rejected Exxon's arguments that even if maritime law allowed punitive damages here, anything more than \$25 million would be excessive. See Joint Opening Brief of Defendants and Appellants Exxon Mobil Corp. and Exxon Shipping Co. at 58 (9th Cir. June 28, 2004). And now, as then, this Court and the Supreme Court have ruled that plaintiffs may not recover the full amount of the district court's judgment.

Leaving each side to cover its own costs would comport not only with this Court's 2001 decision but also with the practice commonly followed by this Court (and others) in dealing with similar situations. For example, in *Planned*

Parenthood of the Columbia/Willamette Inc. v. American Coalition of Life Activists, 422 F.3d 949, 967 (9th Cir. 2005) (Planned Parenthood I), this Court ruled that "[e]ach party shall bear its own costs" after it affirmed the plaintiff's entitlement to a substantial punitive damages award but reduced the amount of the award on due process review. Indeed, this Court almost uniformly has ordered that each party bear its own costs on appeal when it determines that the evidence supports punitive damages but holds that the amount appealed from cannot pass muster under the due process clause. See, e.g., Mendez v. County of San Bernardino, F.3d , 2008 WL 3916285 at *18 (9th Cir. 2008); Sun Pac. Farming Coop., Inc. v. Sun World Int'l, Inc., 277 Fed. Appx. 727, 730 (9th Cir. 2008); Bennett v. American Med. Response, Inc., 226 Fed. Appx. 725, 729 (9th Cir. 2007); Planned Parenthood I, 422 F.3d at 967; Southern Union Co. v. Southwest Gas Corp., 415 F.3d 1001, amended 423 F.3d 1117 (9th Cir. 2005) (see Nov. 17, 2005 mandate, silent as to costs on appeal); Bains LLC v. ARCO Prods. Co., 405 F.3d 764, 777 (9th Cir. 2005); EXXON VALDEZ, 270 F.3d at 1254; Morgan v. Woessner, 997 F.2d 1244 (9th Cir. 1993) (see September 22, 1993 order directing that each party shall bear its portion of costs on appeal).⁴ And, in at least

(footnote continued)

⁴ This Court also has directed that each party bear its own costs on appeal when it has determined that the evidence supported an award of punitive damages but a new trial was required because of erroneous jury instructions on punitive damages. See Merrick v. Paul Revere Life Ins. Co., 500 F.3d 1007, 1018 (9th Cir. 2007);

one case like this one, this Court awarded the plaintiff her costs on appeal, rather than leaving each party to bear their own costs. *See Ace v. Aetna Life Ins. Co.*, 139 F.3d 1241, 1251 (9th Cir. 1998).⁵

Because this Court's 2001 decision dictates the proper outcome here, plaintiffs do not seek to recover their own costs. But the strength of the argument that plaintiffs could make in that respect underscores how inequitable it would be to award costs to Exxon. The Seventh Circuit has explained:

[W]hen the defendant appeals and the plaintiff incurs expenses in defending against the appeal that are

(footnote continued from previous page)

White v. Ford Motor Co., 500 F.3d 963, 977 (9th Cir. 2007); White v. Ford Motor Co., 312 F.3d 998, 1020 (9th Cir. 2002). In cases not involving punitive damages, this Court also routinely orders that each party must bear its own costs of appeal when neither party fully prevailed. See, e.g., Perfect 10, Inc. v. Amazon.com, Inc., 508 F.3d 1146, 1177 (9th Cir. 2007); Lozano v. AT&T Wireless Servs., Inc., 504 F.3d 718, 737 (9th Cir. 2007); Stoner v. Santa Clara County Office of Educ., 502 F.3d 1116, 1128 (9th Cir. 2007); Wells Fargo Bank N.A. v. Boutris, 419 F.3d 949, 970 (9th Cir. 2005); Western States Paving Co. v. Washington State DOT, 407 F.3d 983, 1003 (9th Cir. 2005); Union Pac. R.R. v. California PUC, 346 F.3d 851, 873 (9th Cir. 2003).

⁵ Leatherman appears to be the sole exception to the line of cases in this Court refusing to require plaintiffs in this situation to pay a defendant's costs. There, defendant requested and was awarded costs following the reduction of a punitive damage award on remand from the Supreme Court. This Court's docket sheet does not record any objection from plaintiff, presumably because the amount at issue was very small. Defendant requested costs of \$1,417.48 and the clerk allowed costs of \$89.12, for reproduction of defendant's brief and excerpts of record. See Bill of Costs, Leatherman Tool Group, Inc. v. Cooper Indus., Inc., No. 98-35147 (9th Cir. May 31, 2002) (copy attached as Appendix C). That amount bears no resemblance to the \$70 million sought by Exxon in this case.

reasonable even though they are not crowned by complete success, ordinarily he should be entitled to reimbursement of those fees; he had no choice but to incur them or forfeit his victory in the district court.

Ustrak v. Fairman, 851 F.2d 983, 990 (7th Cir. 1988). Here, plaintiffs prevailed entirely on the central issue of their entitlement to punitive damages and partially on the issue of the amount of punitive damages. Thus, as in A&M Records, Inc. v. Napster, Inc., 239 F.3d 1004 (9th Cir. 2001), where the plaintiff successfully defended its entitlement to an injunction but the defendant convinced the appellate court to limit the scope of the injunction, the Court here properly could award costs to plaintiffs because they "substantially and primarily prevailed on appeal." Id. at 1029; see also Ace, 139 F.3d at 1251; Hines v. Perez, 242 F.2d 459, 466 (9th Cir. 1957) ("A plaintiff recovering is 'the prevailing party,' entitled to costs, even though he failed to sustain all his claim.")

CONCLUSION

For the foregoing reasons, this Court should include in its mandate direction that plaintiffs are entitled to statutorily compounding interest from the date of entry of the original judgment, September 26, 1996, and that each party bear its own appellate costs.

RESPECTFULLY SUBMITTED this

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PROOF OF SERVICE

I hereby certify that the foregoing Plaintiffs' Memorandum With Respect to Post-Judgment Interest and Costs has been served by hand delivery on the 24th day of September, 2008 to the following:

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APPENDIX A

ORIGINAL

DOCKETED

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 0 8 2002

CATHY A. CATTERSON, CLERK U.S. COURT OF APPEALS

LEATHERMAN TOOL GROUP, INC., an Oregon Corporation,

Plaintiff-Appellee,

v.

COOPER INDUSTRIES, INC., an Ohio Corporation,

Defendant-Appellant.

Nos. 98-35147 98-35415

D.C. No. CV-96-01346 MA

ORDER RECALLING AND MODIFYING MANDATE

Before:

CANBY and T.G. NELSON, Circuit Judges, and FOGEL, District Judge¹

Appellee's petition to recall the mandate issued May 31, 2002 is granted. Pursuant to F.R.A.P. 37(b), the district court is instructed to allow interest from November 18, 1997 on the award of punitive damages in the amount of \$500,000 that was the subject of the mandate. The mandate shall re-issue forthwith. SO ORDERED.

¹The Honorable Jeremy Fogel, United States District Judge for the Northern District of California, sitting by designation.

APPENDIX B

Present Value Calculation: Federal Judgment Rate

Objective

Calculate the real cost to Exxon of \$507.5 million in punitive damages as of the original judgment date, assuming payment of judgment on July 18, 2008, but no payment of post-judgment interest.

Method

Use the federal statutory judgment rate of 5.9% as the discount rate to discount the punitive damages amount of \$507.5 million back to the judgment date.

Present Value Calculation

		Years	Judgment	Beginning		Ending
Ye	ar	Interest (1)	Rate	Balance	Interest	Balance
1	1996	0.27	5.9%	\$257,541,767	\$4,102,640	\$261,644,408
2	1997	1.00	5.9%	\$261,644,408	\$15,437,020	\$277,081,428
3	1998	1.00	5.9%	\$277,081,428	\$16,347,804	\$293,429,232
4	1999	1.00	5.9%	\$293,429,232	\$17,312,325	\$310,741,557
5	2000	1.00	5.9%	\$310,741,557	\$18,333,752	\$329,075,308
6	2001	1.00	5.9%	\$329,075,308	\$19,415,443	\$348,490,752
7	2002	1.00	5.9%	\$348,490,752	\$20,560,954	\$369,051,706
8	2003	1.00	5.9%	\$369,051,706	\$21,774,051	\$390,825,757
9	2004	1.00	5.9%	\$390,825,757	\$23,058,720	\$413,884,476
10	2005	1.00	5.9%	\$413,884,476	\$24,419,184	\$438,303,660
11	2006	1.00	5.9%	\$438,303,660	\$25,859,916	\$464,163,576
12	2007	1.00	5.9%	\$464,163,576	\$27,385,651	\$491,549,227
13	2008	0.55	5.9%	\$491,549,227	\$15,950,772	\$507,500,000
Т	otal Years	11.82				

The discounted value of punitive damages as of the date of the original judgment is \$257,541,767

This figure is 50.7% of the punitive damages amount.

(1) The first and last years are partial years. For 1996, the start date is September 24, 1996, the date of the district court's judgment, for a partial year factor of .27. For 2008, the end date is July 18, 2008, the date of filing this paper, for a partial year factor of .55.

APPENDIX C

, Deputy Clerk

wpdoca/forma/bill REV 11/95

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT BILL OF COSTS

The Clerk is rec	eatherman T	NOTE:	_
quested to tax the following costs against	must be accompanied by a mouon showing good cause risese when preparing your bill of costs. eatherman Tool Group, Inc.v. Cooper Industries, Inc.	lf you wish to file a bill of costs, it MUST b พ่เมนก 14 days of the date of entry of เมชูม	ic.
The Clerk is requested to tax the following costs against: Leatherman Tool Group, Inc.	when preparing your bill of costs. Tool Group, Inc.v. Cooper Industries, Inc. CA No. 98-35147 and 98-354	If you wish to file a bill of costs, it MUST be submitted on this form and filed, with the clerk, with proof of service, within 14 days of the date of entry of tudgment, and in accordance with Circuit Rule 39-1. A late bill of costs	STEAST STEAST

TOTAL: \$1,417.48	Other (U.S. Supreme Ct) 1 (See attached) 1,328.36 not allowed.	Appellant's Reply Brief	Appellee's Brief	Appellant's Brief 20 18 16¢ 57.44 20 18	Excerpt of Record 9 22 16¢ 31.68 9 22	No. Of Pages per Cost per Total No. Of Pages for Documents Document Page** Cost Document Document	COST TAXABLE UNDER REQUESTED FRAP 39, 28 U.S.C. 1920, Each column must be completed Circuit Rule 39-1 ALLOWED UNDER To be completed by the clerk Octoor	
	+ allowed			0 8		_	ALLOWE	
TOTAL: \$ 89.12	,	,		164 657.44	164 \$31.68	Page Cost	by the clerk C. CATT!	V AP

Other: Any other requests must be accompanied by a statement explaining why the item(s) should be taxed pursuant to Circuit Rule 39-1, Additional items without such supporting statements will not be considered.

Attorneys Fees cannot be requested on this form.

*If more than 7 excerpts or 20 briefs are requested, a statement explaining the excess number must be submitted. *** Costs per page may not exceed 20¢ or actual cost, whichever is less. Circuit Rule 39-1.

Signature: Win. Bradford Reynolds
I, swear under pensity of perjury that the services for which costs are taxed were actually and necessarily performed, and that the requested costs were actually expended as listed. The printer's itemized statement showing actual costs per page is attached. Date: April 18, 2002 Attorney for Cooper Industries, Inc.

Costs are taxed in the amount of \$ 89.12Clerk of Court

Name of Counsel (printed or typed)_

Bradford Reynolds

DOCKETED -