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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DARREN D. CHAKER,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>NATHAN ENTERPRISES CORPORATION, doing business as Online Motors,</p> <p>Defendant - Appellant.</p>

No. 06-55670

D.C. No. CV-04-02726-RSWL

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Ronald S.W. Lew, District Judge, Presiding

Submitted July 22, 2008**

Before: B. FLECTCHER, THOMAS and WARDLAW, Circuit Judges.

Nathan Enterprises Corporation appeals from the district court's order denying its motion for attorneys' fees as the prevailing party in the underlying

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

action brought by Darren D. Chaker alleging violations of the Fair Credit Reporting Act. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review for an abuse of discretion, *Barrios v. Cal. Interscholastic Fed'n*, 277 F.3d 1128, 1133 (9th Cir. 2002), and we vacate and remand.

Under the Fair Credit Reporting Act, the prevailing party is allowed to recover attorneys' fees in relation to the work expended in responding to an unsuccessful pleading, motion, or other paper filed in bad faith or for purposes of harassment. *See* 15 U.S.C. § 1681n(c). Accordingly, we vacate the order denying attorneys' fees and remand this matter for further proceedings in accordance with section 1681n(c).

Appellant's request for publication is denied.

VACATED and REMANDED.