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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DR. PAULA SMALL,

Plaintiff,

- against -

IMPLANT DIRECT MFG. LLC d/b/a  
IMPLANT DIRECT, LLC,

Defendants.

-----X  
NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE

O R D E R

06 Civ. 683 (NRB)


**WHEREAS** this Court retains the authority to set the schedule for the filing of a motion for attorney's fees, pursuant to Federal Rule of Civil Procedure 54(d)(2)(B); and

**WHEREAS** an unresolved claim for attorney's fees does not prevent a court's earlier merits judgment from becoming final for purposes of appeal, see Ray Haluch Gravel Co. v. Cent. Pension Fund of the Int'l Union of Operating Eng'rs & Participating Emp'rs, 134 S. Ct. 773, 777 (2014); and

**WHEREAS** currently pending before the Supreme Court is Octane Fitness v. Icon Health and Fitness, which addresses the question of the standard for awarding attorney's fees in "exceptional cases" under the Patent Act, 35 U.S.C. § 285; it is hereby

ORDERED that if defendant elects to file a motion for attorney's fees, it shall do so within fourteen (14) days after the Supreme Court's decision in Octane Fitness.

Dated: New York, New York  
April 10, 2014

  
NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE

Copies of the foregoing Order have been mailed on this date to the following:

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