

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

ARTHUR DOE, *et al.*

Plaintiff,

v.

FITCH,¹ *et al.*,

Defendants.

Case No. 3:16-cv-00789 (CWR) (FKB)

**DECLARATION OF CAROL SOBEL IN SUPPORT OF
PLAINTIFFS' MOTION FOR AN AWARD OF ATTORNEYS' FEES AND COSTS**

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Attorneys for Plaintiffs

¹ Lynn Fitch is substituted for former Attorney General Jim Hood. Fed. R. Civ. P. 25(d).

DECLARATION OF CAROL A. SOBEL

I, CAROL A. SOBEL, declare:

1. I am an attorney admitted to practice before the Supreme Court of the State of California. I submit this declaration in support of the fees requested by counsel in this matter. It is based on facts of which I have personal knowledge and, if I called to testify to those facts, I could and would do so competently.

2. I graduated from law school and was admitted in 1978. Following 20 years with the ACLU Foundation of Southern California, I entered private practice in April of 1997. My practice primarily involves complex civil rights litigation, focusing on issues related to homelessness, First Amendment rights and police practices. I have received many awards for my legal work over the years. These awards are set out in my resumé at Exhibit 1.

3. For the six years prior to 1997, I was a Senior Staff Counsel in the legal department of the ACLU Foundation of Southern California. In this position, I was responsible for preparing many of the fee motions in cases where the ACLU represented the prevailing party. Because the ACLU does not bill clients on an hourly basis for its services, I was required to obtain information to establish reasonable market rates for the ACLU lawyers. It was my practice to obtain current billing rates for lawyers of comparable skill and experience at several firms throughout the City. I did this on an annual basis, contacting partners who were familiar with the ACLU lawyers in question so that they could make an informed judgment about the comparable skill levels of the attorneys at their firms whose rates were used to establish ACLU billing rates.

4. Since leaving the ACLU, I continue to survey firms each year to obtain relevant comparisons for rates. I generally begin this process the first time in each year I prepare a fee motion, or enter into settlement discussions regarding fees. As part of my survey, I make it a

point to obtain information concerning rates for attorneys in both larger law firms engaged in complex litigation, as well as smaller boutique civil rights law firms. Based on the information I obtained regarding rates at each of these firms, I am of the opinion that there is a significant difference between fees sought and awarded to attorneys at smaller civil rights firms and those at larger firms that sometimes do pro bono civil rights work.

5. While most of the declarations I file concerning market rates involve cases brought in the Central District of California, over the past several years I also submitted declarations supporting fee applications for civil rights attorneys in the Eastern, Northern and Southern Districts of California, as well as the Western District of Washington. To obtain information concerning market rates for attorneys in the relevant legal market, I also review attorney fee applications and awards in cases other than my own. Specifically, I review fee applications submitted by, and awards to, private attorneys practicing the range of civil rights law, as well as court awards made to various ACLU offices, Disability Rights Legal Center (“DRLC”), Disability Rights Advocates, Asian Americans Advancing Justice, the Western Center on Law and Poverty (“WCLP”), MALDEF and other public interest groups in the relevant legal market. In some instances, the relevant legal market is the home court for an attorney who seeks out-of-market rates based on special skills not available in the legal market where the case was brought.

6. I also review fee motions filed by private civil rights and public interest firms and attorneys in the relevant geographic market. For Los Angeles, those firms include McLane Bednarski & Litt; Schonbrun Seplow Harris & Hoffman; Hadsell Stormer & Renick, Law Office of Dale Galipo; The Cochran Firm; and McNicholas & McNicholas, among other firms. I do this to determine what is being sought and approved as market rates for lawyers at these firms.

7. Because many of the cases brought by public interest groups are co-counseled by attorneys at commercial firms regularly engaged in complex anti-trust and other business litigation, I review those billing rates as well. In addition, when I become aware of a case where statutory fees are sought, I regularly obtain fee applications and any resulting awards from on-line public records for the courts, including PACER and state court websites, as well as legal research databases such as LEXIS and Westlaw. Declarations by attorneys at, and awards to, large firms engaged in complex litigation provide me with information regarding customary billing rates for these firms, I estimate that I review around 100 or more fee motions, supporting declarations and fee awards annually.

8. My declarations in support of fee applications have been cited repeatedly as evidence of reasonable market rates. For example, in *Nadarajah v. Holder*, 569 F.3d 906, 912–914 (9th Cir. 2009), the Ninth Circuit referenced my declaration with approval in support of the rates for ACLU attorneys under the Equal Access to Justice Act (“EAJA”). In *Torrance Unified School District v. Magee*, 2008 U.S. Dist. LEXIS 95074 (CD CA 2008), granting fees pursuant to the federal IDEA statute, 20 U.S.C. §1415(i)(3)(c), the Court cited to my declaration as persuasive evidence of rates. In *Atkins v. Miller*, CV 01-01574 DDP (CD CA 2007), this Court awarded fees to a 1975 graduate at \$675 an hour, specifically citing to my declaration and that of Barry Litt to support the rate. *Id.* at pp. 8–9 and n.4. Additional cases in which my declarations have been cited favorably include, among others, *Charlebois v. Angels Baseball LP*, SACV 10-0853 DOC (May 30, 2012); *Orantes-Hernandez v. Holder*, 713 F.Supp.2d 29, 963-964 (C.D. CA 2010); *Hiken v. DOD*, 2013 U.S. Dist. LEXIS 118165 (N.D. CA Jan. 14, 2013), *Vasquez v. Rackauckas*, 2011 U.S. Dist. LEXIS 83696 (C.D. CA 2011); *Rauda v. City of Los Angeles*, 2010 U.S. Dist. LEXIS 138837 (C.D. CA 2010); *Jochimsen v. County of Los Angeles, supra*; *Dugan v. County of*

Los Angeles, cv-11-08145 CAS (C.D. CA March 3, 2014); and *Flores v. City of Westminster*, SA-CV-11- 0278 DOC (C.D. CA Oct. 23, 2014). *Xue Lu v. United States*, 2014 U.S. Dist. LEXIS 77789 (C.D. CA May 23, 2014); *Wagafe v. Trump*, Case 2:17-cv-00094-RAJ [Doc. 223] (W.D. WA 02/27/19); *Webb v. Officer J. Ackerman*, 13-cv-01992 PLA (C.D. Cal. January 4, 2018) [Doc. 180, p.5]; and *Carrillo v. Schneider Logistics*, awarding fees in Circuit Case No. 12-55042 (9th Cir. Apr. 2014), following the affirmance of a preliminary injunction (*See* 501 Fed. Appx. 713, 2012 U.S. App. LEXIS 26601 (9th Cir. Dec. 28, 2012)). The Ninth Circuit recently cited to my declaration in approving EAJA rates for the ACLU and other immigration attorneys in *Gomez-Sanchez v. Barr, sub nom Gomez-Sanchez v. Sessions*, 892 F.3d 985 (9th Cir. 2018). In *Jochimsen*, the court found me qualified to opine on reasonable market rates.

9. In addition, I have litigated statutory fee issues at the appellate level in several of my cases. Most notably, I was lead counsel before the California Supreme Court in *Tipton-Whittingham v. City of Los Angeles*, 34 Cal.4th 604 (2004), the companion case to *Graham v. Daimler-Chrysler*, 34 Cal.4th 533 (2004), establishing the continued vitality of the “catalyst” fee doctrine under California law. I was also lead counsel in *Jones v. City of Los Angeles*, 555 Fed. App’x 659 (2014), holding entitlement to fees as a “prevailing party” based on the Ninth Circuit’s necessary approval of a settlement conditioned on vacatur of the panel decision.

10. I am informed that fees are being sought by this motion for Los Angeles attorney Matthew Strugar. I know Mr. Strugar well. He was a summer law clerk in my office in 2001. Since his graduation from law school, we have co-counseled several cases, including when he was an attorney at the Center for Constitutional Rights in New York and since his return to Los Angeles. In the past three years we have co-counseled several cases, all involving complex constitutional issues. Based on my professional interaction with Mr. Strugar over the past 20

years, I am of the opinion that he is a highly skilled and experienced attorney in the area of constitutional litigation in general and First Amendment rights in particular.

11. It is my understanding that Mr. Strugar is requesting a rate of \$450 an hour in this case. I understand that this is based on a blended rate of his Los Angeles rate and the rate his services would command in the Northern Division of the Southern District of Mississippi legal market. While I cannot opine on reasonable rates in the Northern Division of the Southern District of Mississippi legal market, in my experience, the \$450 rate is well below the current reasonable rate for him in the Central District of California. My opinion is based on comparisons to rates approved for attorneys of comparable skill, experience and reputation in the Los Angeles legal market and my review of past fee awards which include time for Mr. Strugar. I look to rates awarded to the attorney in previous cases based on my understanding that such awards are strong evidence of reasonable rates. See *Chaudhry v. City of Los Angeles*, 751 F.3d 1096, 1111 (9th Cir. 2014); *U.S. v. \$28,000 in U.S. Currency*, 802 F.3d 1100, 1106 (9th Cir. 2015); *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 976 (9th Cir. 2008).

12. To support my opinion here, I attach fee awards and supporting declarations in civil rights cases in the Los Angeles legal market. Each is a true and correct copy of the document available in the Court's files, with the state Superior Court's stamp or the federal ECF header. Several are now several years old. These older exhibits illustrate the reasonableness of the rates but do not reflect current rates. In *Hiken v. DOD*, the court noted that "market rates in effect more than two years *before* the work was performed" are not current lodestar rates. 802 F.3d at 1107 (9th Cir. 2016) (emphasis in original).

13. In *Communities Actively Living Independent and Free v. City of Los Angeles*, CASE NO. CV 09-0287 CBM (Rzx) (C/D/ CA 2013), Mr. Strugar's approved rate was \$525 an hour. A true

and correct copy of the Court's order, bearing the ECF filing imprint, is attached at Exhibit 2. The Court noted that the lodestar was calculated using 2012 rates. Ex. 2, ¶3, lines 16-18. Mr. Strugar had eight years of experience in 2012. Ex. 2, p.6, lines 9-11.

14. Attached at Exhibit 3 is a true and correct copy of the decision of the Los Angeles County Superior Court in *Hernandez v. Goliath, Inc.*, LASC BC462953, a wage-and-hour class-action case. In approving the settlement, the Court was required to do a lodestar cross-check on the attorneys' fees. It is my understanding that the fees approved in Exhibit 3 were part of a settlement of the action reached in 2012. Ex. 3, ¶4. The attorneys in the case are from the former law firm of Traber & Voorhees, a well-respected boutique civil rights law firm, and the labor law firm Weinberg, Roger. I am personally familiar with almost all of the attorneys to whom fees were awarded in this case. I have known most of them since they were law students or met them shortly after their graduation. If I did not already know their years of graduation based on personal knowledge, I obtained the information from the State Bar website.

15. Among those awarded fees in *Hernandez* was Laboni Hoq. I have known her personally for approximately 18 years and am aware that she is a 2001 law graduate. In my experience, she is widely regarded as a highly skilled attorney. The rate of \$585 an hour approved in *Hernandez*, when she had 11 years of experience, is now 13-years old. Ex. 5, p.5. With nine years of adjustments to base rates and approximately seven additional years of experience, Mr. Strugar's requested rate is \$135 an hour below the 2012 rate approved for Ms. Hoq.

16. Attached at Exhibit 4 is a true and correct copy of the order in the Central District of California in *Willitts v. City of Los Angeles*, Case No.: CV 10- 5782 CBM (Rzx) (C.D. Ca. 2016), approving fees, *inter alia*, for attorneys at the Disability Rights Legal Center (DRLC), Mr. Strugar's prior employer. In *Willitts*, the Court approved fees for Surisa Rivers. I am personally

familiar with Ms. Rivers and have provided supporting fee declarations for DRLC in which Ms. Rivers was one of the attorneys in the case. Based on my personal knowledge, I believe she is a 2003 law graduate, one year prior to Mr. Strugar. The approved rate for Ms. Rivers in 2016 was \$550. Ex. 4, p.6. At the time, Ms. Rivers had 13 years of experience, four less than Mr. Strugar has now. Based on my experience with both, Mr. Strugar is significantly more skilled and experienced than is Ms. Rivers. While she is an excellent attorney, her practice has focused more on representation of students in individual education cases.

17. Attached at Exhibit 5 is a true and correct copy of the 2018 Declaration of Maronel Barajas in support of DRLC's application for attorney fees in *Jewett v. Shasta County Sheriff's Department*, Case No. 2:13-cv-0882 MCE AC (PC) (E.D. Ca. 2018). As is the case with Exhibit 4, Exhibit 5 involves attorney fees for lawyers at Mr. Strugar's prior employer. The case was filed in the Eastern District of California; however, the attorneys applied market rates in the Central District, where DRLC is based. The district court approved the class settlement. [Doc. 161]. The parties resolved the fees through settlement, which was approved by order of the Court. [Doc. 170]. The 2018 rate in *Jewett* for Maronal Barajas, a 2003 law graduate, was \$715 an hour and the 2018 rate for Anna Rivera, identified in the motion as a 2005 law graduate, was \$690 an hour. Ex. 5, p. 18.

18. Attached at Exhibit 6 is a recent decision from the Ninth Circuit, approving enhanced EAJA rates for 2017 and 2018 for attorneys at the ACLU of Southern California in *Gomez-Sanchez v. Barr*, Case: 14-72506 (9th Cir 2019) [Dkt. 88]. Ex. 6, p.3. I filed a supporting declaration in the case, as noted in the Court's opinion. Although the fees were approved in 2019, the motion was filed earlier for rates only through 2018.

19. Attached at Exhibit 7 is the amended fee order, awarding enhanced EAJA fees to attorneys at the ACLU of Southern California. *Gustavo Rodriguez-Castillo v. Nielsen*, Case 5:18-cv-01317-ODW-KES (C.D. Ca. 2020) [Dkt. 64]. The Court approved the 2019 rates of \$810 an hour for Ahilan Arulanantham and \$645 an hour for Michael Kaufman. Ex.7, p. 10. I hired Michael Kaufman as a summer law clerk to work at the ACLU on a case where I was co-counsel with, among other Ahilan Arulanantham. Based on my personal knowledge with Mr. Kaufman, I understand him to be a 2007 law graduate.

20. The information from the exhibits I cite is summarized in the chart below, listing the exhibit number, the attorney, the year of the award or declaration, the years of experience at the time and the rate.

Ex.	Attorney	Year	Experience	Rate
2	Matthew Strugar	2012	9	\$550
2	Shawna Parks	2013	13	\$665
3	Laboni Haq	2012	11	\$575
4	Surisa Rivers	2016	13	\$550
5	Maronel Barajas	2018	15	\$715
5	Ana Rivera	2018	13	\$690
6	Ahilan Arulanantham	2018	19	\$785
6	Bardis Vakili	2018	12	\$685
7	Ahilan Arulanantham	2019	20	\$810
7	Michael Kaufman	2019	12	\$645

21. Based on the foregoing, I am of the opinion that the rate sought by Matthew Strugar in this motion is well below the range of rates approved for attorneys of comparable experience in the Los Angeles legal market.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 11th day of August, 2021 at Santa Monica, California.


 Carol Sobel

Exhibit 1

CAROL A. SOBEL

725 Arizona Avenue • Suite 300 • Santa Monica, CA 90401 •
Tel. 310 393-3055 • Email carolsobellaw@gmail.com

Employment:

LAW OFFICE OF CAROL A. SOBEL Solo civil rights law firm.	APRIL, 1997 TO PRESENT
SENIOR STAFF COUNSEL <i>ACLU Foundation of Southern California</i>	1990 TO APRIL, 1997
Responsible for conducting civil rights and civil liberties litigation in state and federal courts in California; supervise litigation by ACLU volunteer counsel and other ACLU legal staff.	
STAFF ATTORNEY <i>ACLU Foundation of Southern California</i>	1985 TO 1990
Civil liberties litigation, primarily in the areas of Establishment Clause and Free Exercise violations, as well as other First Amendment rights.	
ASSOCIATE DIRECTOR <i>ACLU Foundation of Southern California</i> <i>American Civil Liberties Union of Southern California</i>	1979 TO 1985
Under the direction of the Executive Director, responsible for administration of two non-profit organizations, including working with Boards of Directors on development of policy on civil liberties issues. Engaged in litigation and assisted Legal Director in coordination and supervision of pro bono attorneys.	
DEVELOPMENT DIRECTOR <i>ACLU Foundation of Southern California</i> <i>American Civil Liberties Union of Southern California</i>	1977 TO 1979
Responsible for conducting a variety of fundraising efforts to meet a million-dollar plus annual budget for a 501(c)(3) and a 501(c)(4).	

Admitted to Practice:

California Supreme Court	November, 1978
United States Supreme Court	September, 1991
Ninth Circuit Court of Appeals	August, 1986
U.S.D.C. Central District of California	February, 1986
U.S.D.C. Eastern District of California	June, 1990

Litigation Experience:

Federal courts: (Partial listing of published opinions and significant cases)

CPR for SKID ROW,
779 F.3d 1098 (9th Cir. 2015)
Partial reversal of summary judgment in favor of the Defendant and holding that California Penal Code §403
could not lawfully be applied to criminalize the expressive activity of the Plaintiffs for protesting on Skid
Row.
(Lead counsel and argued on appeal)

Desertrain v. City of Los Angeles

754 F.3d 1114 (9th Cir. 2014)

Reversal of summary judgment in favor of the Defendants and holding that Los Angeles Municipal Code §85.02, prohibiting parking a vehicle on public streets or parking lots any time of day or night if a person “lives” in the vehicle, is unconstitutionally vague.

(Lead counsel and argued on appeal)

Lavan v. City of Los Angeles

693 F.3d 1022 (9th Cir. 2012), *affirming* grant of preliminary injunction 797 F.Supp.2d 1005 (C.D. Cal. 2011)

Preliminary injunction barring City from confiscating and immediately destroying the property of homeless individuals on Los Angeles’ Skid Row.

(Lead Counsel)

Long Beach Area Peace Network v. City of Long Beach

522 F.3d 1010 (9th Cir. 2008), as amended July 24, 2009

Upholding and reversing in part on appeal a decision of the district court granting Plaintiffs’ request for a preliminary injunction to enjoin a municipal parade ordinance that included vague permit standards setting, *inter alia*, advance-notice requirements police charges based on the past unlawful conduct of third parties without adequate standards to limit the discretion of public officials charged with implementing the parade ordinance.

(Lead counsel)

Fitzgerald v. City of Los Angeles

485 F.Supp.2d 1137 (CD CA 2008)

Extending injunction against police sweeps of homeless persons on Los Angeles’ Skid Row on the grounds of searching for parole and probation violations. See below for discussion of permanent injunction in 2003.

(Co-Counsel)

Multi-Ethnic Immigrant Worker Organizing Network (MIWON) v. City of Los Angeles

246 F.R.D. 621 (C.D. Cal. 2007)

Order granting class certification in challenge to police assault on a lawful assembly of immigrant rights supporters by the Los Angeles Police Department on May Day, 2007.

(Class Co-Counsel)

Edward Jones, et al., v. City of Los Angeles,

444 F.3d 1118 (9th Cir. 2006), vacated pursuant to settlement 505 F.3d 1006 (2007)

Challenge to City of Los Angeles Municipal Code §41.18(d), prohibiting sitting, lying or sleeping on any street or sidewalk anywhere in the City at any time of day or night. Plaintiffs, all of whom are homeless persons, brought an 8th Amendment as-applied challenge to their arrests and citations for violating the ordinance when there was no available adequate shelter.

(Co-counsel)

Terry Tipton-Whittingham, et al. v. City of Los Angeles

316 F.3d 1059 (9th Cir. 2003)

Challenge by City of Los Angeles to interim fee award granting plaintiffs’ fees as “catalysts” under state civil rights fee shifting statutes. Following oral argument, the Ninth Circuit certified issue of continued availability of “catalyst” fees under California law after adverse decision by the United States Supreme Court rejecting catalyst fee doctrine under federal law absent express legislative authorization. Certified for hearing before the California Supreme Court and ultimately upheld the catalyst fee doctrine under California law.

(Co-counsel; argued in Ninth Circuit)

Fitzgerald v. City of Los Angeles

2003 U.S. Dist. LEXIS 27382 (CD CA 2003)

Permanent injunction enjoining Fourth Amendment violations by the Los Angeles Police Department (LAPD). The injunction prevents the LAPD from engaging in stops of homeless persons for parole and probation sweeps on Skid Row without reasonable suspicion to believe that specific individuals are on parole or probation and subject to a search condition, or that the individual has engaged in, or is about to commit a crime.

(Lead counsel)

Khademi v. South Orange County Community College District

194 F.Supp.2d 1011 (C.D. CA 2002)

First Amendment facial challenge invalidating college policy regulating time, place and manner of student speech on campus.

(Lead counsel)

Mardi Gras of San Luis Obispo v. City of San Luis Obispo

189 F. Supp.2d 1018 (C.D. Cal. 2002)

Preliminary injunction to enjoin a municipal parade ordinance that required lengthy advance-notice requirement and permitted high insurance and police charges based on the past unlawful conduct of third parties without adequate standards to limit the discretion of public officials charged with implementing the parade ordinance.

Bauer v. Sampson

261 F.3d 775 (9th Cir. 2001)

First Amendment challenge to disciplinary action against college professor for publication of an alternative newsletter criticizing elected and appointed public officials and disclosing wrongdoing by college officials and personnel. The college sought to discipline the professor for violating the district's policies on discrimination and work-place violence. The policies were declared unconstitutional as applied to the professor's speech.

H.C. v. Koppel

203 F.3d 610 (9th Cir. 2000)

Dismissal of federal civil rights action filed in federal court against state court judge and appointed counsel for minor in family law matter. Circuit held that Younger Abstention applied and non-custodial parent had adequate state court remedy.

Justin v. City of Los Angeles

2000 U.S. Dist. LEXIS (CD Cal. 2000)

Class action to enjoin police sweeps of homeless population on Los Angeles' Skid Row. Permanent injunction stipulated to in settlement following certification of the injunctive relief class.

(Lead counsel)

Los Angeles Alliance for Survival, et al. v. City of Los Angeles

987 F. Supp. 819 (1997); 157 F.3d 1162 (9th Cir. 1998); on certification to the California Supreme Court, 22 Cal.4th 352 (2000); 224 F.3d 1076 (9th Cir. 2000)

Injunction issued in challenge to municipal ordinance barring so-called "aggressive solicitation" in broad areas of traditional public fora. Preliminary injunction entered by district court based on California Constitution. On appeal, the Ninth Circuit certified the California Constitution question to the California Supreme Court. Following decision by the California Supreme Court, the Ninth Circuit upheld the original injunction.

(Co-counsel)

Service Employees International Union 660 v. City of Los Angeles

114 F. Supp.2d 966 (C.D. Cal. 2000)

Challenge to the "no-protest zone" at the Democratic National Convention in Los Angeles in 2000, as well as a preliminary injunction to enjoin the City of Los Angeles parade ordinance.

(Co-counsel)

United States v. Wunsch

54 F.3d 579 (9th Cir. 1995); 84 F.3d 1110 (9th Cir. 1996) (reargument)

First Amendment challenge to discipline of male attorney for "gender bias" in sending note to female Asst. U.S. Attorney after she successfully moved to disqualify him as defense counsel in a criminal case. Ninth Circuit invalidated the penalty and declared unconstitutional California's "offensive personality" regulation on attorneys' professional conduct. (Argued and briefed on appeal).

American Jewish Congress v. City of Beverly Hills

65 F.3d 1539 (9th Cir. 1995); 90 F.3d 379 (9th Cir. 1996) (en banc)

First Amendment challenge to display of a religious symbol on public property and to permit scheme for expressive activities in public fora in the City of Beverly Hills. The en banc panel held the permit scheme unconstitutional and found that a preference had occurred for the display of a particular religious symbol. The en banc decision was unanimous. (Argued and briefed on appeal)

Baca v. Moreno Valley Unified School District

936 F. Supp. 719 (C.D. Cal. 1996)

First Amendment challenge to school board regulations preventing speakers from making disparaging remarks about public employees during public board meetings.

Wallin v. City of Los Angeles,

1194 U.S. App. LEXIS 2343 (9th Cir. 2004)

Circuit dismissed appeal of defendant City and law enforcement officers from denial of qualified immunity. Appellee, a female officer with the Los Angeles Police Department, alleged that appellants violated her right to equal protection, due process and right to petition the government because they violated LAPD confidentiality regulations and delayed the investigation into her allegations of co-worker rape.

(Lead counsel)

National Abortion Federation v. Operation Rescue

8 F.3d 680 (9th Cir. 1993)

Class-action state-wide injunction against blockades of women's health care clinics by anti-abortion activists. First case decided under the "frustrate and hinder" clause of 42 U.S.C. § 1985(3), the 1871 Ku Klux Klan Act. Appeals court held cause of action under "frustrate and hinder" clause was properly plead and reversed 12(b)(6) ruling on that claim.

(Co-lead counsel throughout; argued on appeal)

Hewitt v. Joyner

940 F.2d 1561 (9th Cir. 1991)

Establishment Clause challenge to Christian theme park, Desert Christ Park, owned and operated by San Bernardino County. Ninth Circuit held County ownership and operation of the park violated the Establishment Clause.

(Lead counsel throughout litigation; argued on appeal).

Standing Deer v. Carlson

831 F.2d 1525 (9th Cir. 1986)

First Amendment challenge for Native Americans at Lompoc Federal Penitentiary to regulation barring religious headbands in the dining facilities for purported health reasons.

(Argued and briefed on appeal)

Burbridge v. Sampson

74 F.Supp.2d 940 (C.D. Ca. 1999)

First Amendment challenge to community college policy regulating student speech in public fora on campus. Court issued a preliminary injunction, declaring the college's speech regulations unconstitutional.

Rubin v. City of Santa Monica

823 F.Supp. 709 (C.D. Ca. 1993)

First Amendment challenge to city permit scheme limiting access to public parks for protected expressive activities. Court issued a preliminary injunction and declared the permit scheme unconstitutionally on vagueness grounds and procedural due process grounds. (Lead counsel)

State Court

Terry Tipton-Whittingham, et al. v. City of Los Angeles

34 Cal.4th 604 (2002)

California continues to recognize "catalyst" fee awards to prevailing parties under the private attorney-general statute (Cal. Code of Civ. Proc. §1021.5) and Fair Employment and Housing Act (FEHA) despite change in federal civil rights fee-shifting law. Under California law, there is no requirement of a judicial determination establishing a change in the legal obligations of the parties.

(Co-counsel and argued at California Supreme Court)

Los Angeles Alliance for Survival v. City of Los Angeles

22 Cal.4th 352 (2000)

Ordinance restricting certain activity as "aggressive solicitation" was not content-based under California Constitution

(co-counsel)

Williams v. Garcetti

5 Cal.4th 561 (1993), *sub nom Williams v. Reiner*, 13 Cal.App.4th 392 (1991)

Challenge on due process grounds to portion of STEPP law which imposed a criminal penalty on parents of minor children engaged in or at risk of delinquent conduct.

(Argued and brief on appeal to California Supreme Court)

Sands v. Morongo Unified School District

53 Cal.3d 863, *cert denied*, 112 U.S. 3026 (1991)

225 Cal.App.3d 1385 (1989)

Establishment Clause challenge invalidating prayers at public high-school graduations.

(Argued and briefed as lead counsel throughout litigation)

Walker v. Superior Court of Sacramento

47 Cal.3d 112 (1988)

Establishment Clause/Free Exercise/Due Process challenge to criminal prosecution of Christian Science parents for death resulting from use of prayer instead of traditional medicine in treatment of ill child. (Wrote amicus brief on due process issues).

Irvine Valley College Academic Senate, et al. v. South Orange County Community College District

129 Cal.App.4th 1482 (2005)

Statutory construction of plain language of Education Code §87360, bolstered by legislative intent, requires actual joint agreement and mutual development of revisions to faculty hiring policies.

(co-counsel, drafted final briefs on appeal)

Fashion 21, et al. v. Coalition for Humane Immigrant Rights (CHIRLA), et al.

111 Cal.App.4th 1128 (2004)

Special motion to strike defamation complaint by retainer against garment worker advocates must be granted as the plaintiff retailer could not establish a probability of prevailing on the merits of their claims. Garment worker advocates properly relied on draft labor commission regulations suggesting retailer could be liable for sweatshop conditions of manufacturing of its retail goods.

(lead counsel at all stages)

Gonzalez v. Superior Court

33 Cal.App.4th 1539 (1995)

Challenge to discovery order in sexual harassment case requiring plaintiff to disclose name of confidential informant who provided her with photographic evidence of harassment. "After-acquired evidence" rule applied to require disclosure.

(Lead counsel in trial court and appeal)

Lantz v. Superior Court of Kern County

28 Cal.App.4th 1839 (1994)

Privacy rights challenge to interpretation of Consumer Personnel Records Statute (CCP § 1985(3)), requiring strict adherence to statutory procedures and limiting exemption of local government agencies from adhering to statutory requirements.

(Lead counsel throughout litigation)

Rudnick v. McMillan

25 Cal.App.4th 1183 (1994)

Defamation verdict involving public figure plaintiff and local environmentalist author of letter to editor overturned on basis that letter was protected opinion and public figure subject to constitutional malice proof burden. Wrote amicus brief which formed basis of appellate ruling.

Westside Sane/Freeze v. Hahn

224 Cal.App.3d 546 (1990)

Challenge to restrictions on First Amendment petition activities in shopping center.

(Co-counsel, co-wrote appeal)

City of Glendale v. Robert George

208 Cal.App.3d 1394 (1989)

Reversal of trial court order imposing prior restraints on speech of "Presidential Santa" on the basis that he constituted a public nuisance to his neighbors in a residential area.

(Argued and briefed on appeal)

McCarthy v. Fletcher

207 Cal.App.3d 130 (1989)

Challenge to removal of textbooks from school reading list based on community-based religious objections. Court of Appeal reversed summary judgment decision, holding that there was sufficient evidence of constitutionally impermissible factors in evaluation of appropriateness of class-room reading materials.

(Argued and brief on appeal)

Fiske v. Gillespie

200 Cal.App.3d 130 (1988)

Challenge to sex-based actuarial presumptions in insurance industry rate for particular types of life insurance and annuity benefits.

(Co-Counsel, Argued on appeal)

Publications:

(Partial listing)s

Catalyst Fees After Buckhannon

Civil Rights Litigation and Attorney Fees Annual Handbook

(January 2006)

Free Speech and Harassment: An Overview

in the Public Employee Sector

CPER: CALIFORNIA PUBLIC EMPLOYEE RELATIONS

Institute of Industrial Relations - UC Berkeley

June 1999 No. 136

Defeating Employer Defenses to Supervisor Liability

After Ellerth and Faragher

ADVOCATE, October 1998

Student Expression Under California Law

UCLA Journal of Education

Volume 3, pp. 127-137 (1989)

Should Attorneys Be Disciplined For Gender Bias

Point/Counterpoint ABA Journal August, 1995

Fight Illegal Police Practices in State Court

Los Angeles Daily Journal

March 6, 1992

Judicial Oversight Limited by Supreme Court

Los Angeles Daily Journal

May 6, 1991

Jury Nullification is Conscience of Community

Los Angeles Daily Journal

August 31, 1990

A Basic Right Merits Shield From The Mob

Los Angeles Times

August 11, 1991 p.M5

*Prop 115 revisited: Police charged with crimes
deserve fair trials too*
Los Angeles Daily News
May 7, 1991

Prayer Doesn't Belong at Graduation
USA Today
May 15, 1991 p. A10

Killea Tactic Can Only Hurt the Church in the Long Run
Los Angeles Times (San Diego)
November 20, 1989 p.B7

The Fifth is a Shield for All
Los Angeles Times
August 6, 1988 II8
(authored for Exec. Dir. ACLU)

Which Way Will Rehnquist Court Turn?
Los Angeles Daily News
June 18, 1986 p.21

Constitution Exact Cost for Religious Freedom
Los Angeles Daily News
June 8, 1986 FOCUS p.3

Education:

Peoples College of Law	J.D. May, 1978
Douglass College.For Women, Rutgers University	B.A. June, 1968

Professional and Community Activities:

Adjunct Professor - Loyola Law School Civil Rights Advocacy Practicum	2007-present
Blue Ribbon Panel on LAPD Rampart Inquiry, Member	2004-2006
Ninth Circuit Gender Bias Task Force Convenor, Advisory Committee on Employment Law	1992-1993
Ninth Circuit Conference on "Ethnicity, Race, and Religion in the Ninth Circuit" Member, Working Subcommittee	1993
Los Angeles Public Interest Law Journal Advisory Board	2007-present

Los Angeles Center for Law and Community Action Member, Board of Directors	2015-present
National Police Accountability Project Member, Advisory Board and Board of Directors	2006-present
National Lawyers Guild, Los Angeles - President	2001-2008
National Lawyers Guild - National Executive Vice President	2009-2011
National Lawyers Guild Far West Regional Vice-President	2003-2005
National Lawyers Guild, National Executive Committee	2003-2012
NLG National Mass Defense Committee, Co-chair	2003-2012
Women Lawyers Association of Los Angeles Member, ProChoice Committee	1985-2002
The California Anti-SLAPP Project Member, Board of Directors	1995-2010

Awards:
(Partial listing)

PEN Freedom to Write Award	1991
American Jewish Congress Tzedek Award	1992
Planned Parenthood Los Angeles, Distinguished Service Award	1990
Freethought Heroine Award	1992
National Lawyers Guild - Los Angeles	1999
ACLU of Southern California Pro Bono Attorney Award	2001
Asian Pacific American Legal Center Pro Bono Award	2003
California Lawyer: Super Lawyer -Civil Rights/Constitutional Law	2004-2014
ACLU of Southern California Freedom of Expression Award	2007
Daily Journal Top 100 Most Influential Lawyers in California	2007

National Lawyers Guild - Ernie Goodman Award	2007
Angel Award - California Lawyer Magazine Award for pro bono work	2007
CLAY Award (California Lawyer of the Year - civil rights) - California Lawyer Magazine	2008
Top 75 Women Litigators in California - Daily Journal	2008, 2013
California Super Lawyers - Top 50 Women Lawyers in Southern California	2014
National Lawyers Guild, Los Angeles Law for the People Award	2014
ACLU Lifetime Achievement Award	2017

Exhibit 2

1 monitoring the Settlement Agreement (“Agreement”). Defendant County of Los
2 Angeles does not oppose the motion, and these are the amounts contained in the
3 proposed class settlement agreement between the Plaintiffs and the County.

4 Having read the papers submitted and carefully considered the arguments and
5 relevant legal authority, and good cause appearing, the Court GRANTS Plaintiffs’
6 Motion for Reasonable Attorneys’ Fees and Costs and finds and rules as follows:

7 NOW, THEREFORE, IT IS HEREBY ORDERED:

8 1. The Court finds that Plaintiffs have submitted sufficient evidence
9 supporting their claim for reasonable attorneys’ fees and costs, and hereby
10 approves the settlement of attorneys’ fees and costs in the amount of \$1,225,000
11 for work performed on this matter, as stated in Section VII of the Agreement. The
12 Court also approves the availability of fees and costs for monitoring the
13 Agreement after Final Approval, in an amount up to \$75,000, as stated in Section
14 VI.G of the Agreement.

15 2. The Court finds that Plaintiffs have provided sufficient evidence,
16 including time records detailing the tasks performed on this matter and
17 declarations from practitioners in the field, supporting the reasonableness of their
18 2012 requested hourly rates. The Court finds that the requested hourly rates
19 correspond to the prevailing market rate in the relevant community, considering
20 the experience, skill, and reputation of the attorneys in question.

21 3. Class counsel stated that no other litigation in the country has sought
22 to determine the nature and extent of a municipality’s obligation to include
23 persons with disabilities in its emergency preparedness and planning efforts.
24 Therefore, counsel had to conduct considerable research, familiarize themselves
25 with the fact intensive literature on the subject of emergency planning, and
26 explore untested legal theories. The active litigation included extensive,
27 voluminous discovery, numerous depositions, and thousands of pages of
28

1 documents. The negotiations were thorough, involving many teleconferences, in-
2 person meetings, and conferences and mediation sessions before two judges.
3 Additionally, after a joint request to stay the litigation, the Court approved a
4 process where Plaintiffs and the Defendant County would coordinate to draft a
5 “Persons with Disabilities and Access and Functional Needs Annex,” (“Annex”)
6 for which the experts conferred and resolved many issues, and any disputes were
7 referred to counsel. Resolving the issues involved many settlement conferences
8 on the phone and in person, and multiple proposals and drafts by both parties.
9 After the Annex was sent out for public comment in late 2011, the U.S.
10 Department of Justice detailed its concerns, after which a second draft was
11 developed and Defendant County of Los Angeles developed a work plan.
12 Negotiations continued for five months regarding the scope of the Annex and
13 workplan. Parties then attended two mediation sessions in February and July 2012
14 and were able to resolve all outstanding substantive issues. After the July
15 mediation session, parties continued to work together to finalize the Agreement
16 and other matters, including attorneys’ fees and costs. The proposed settlement
17 was approved by the Los Angeles County Board of Supervisors on October 15,
18 2012.

19 4. The Court finds that Class Counsel was efficient in allocating work.
20 Counsel states that only four attorneys performed the majority of the work
21 required, that discrete tasks were given to other attorneys as needed, and that a
22 small group of attorneys litigated the entire case. Counsel also states that
23 Attorneys Wolinsky, Smith, and Gilbride from Disability Rights Advocates
24 (“DRA”), and Attorney Parks from Disability Rights Legal Center (“DRLC”), did
25 a majority of the work.

26 5. In support of the hourly rates quoted by lead attorneys in this case,
27 Attorney Wolinsky is a graduate of Yale Law School in 1961 and has been
28

1 practicing law and trying cases for over 50 years. He has been the lead and trial
2 attorney in well over 150 class action and high-impact cases, and has tried and
3 argued cases before the California and New York Federal Courts, the California
4 and Hawaii Supreme Courts, and many other appellate courts. He is the Director
5 of Litigation at DRA and is considered one of the foremost experts nationally on
6 civil rights and disability law, and is requesting an hourly rate of \$860. Attorney
7 Parks is a 1999 graduate of University of California at Berkeley, Boalt Hall, and is
8 nationally recognized as a leading disability rights attorney and has been co-
9 director of litigation at DRA since April 2012. From 2005 to March 2012, she
10 was at the DRLC, where she was a litigation attorney, and later the legal director
11 from 2009 to 2012, and is requesting an hourly rate of \$665. Attorney Smith is
12 managing attorney at DRA, and graduated from U.C. Berkeley, Boalt Hall Law
13 School in 2005. She received the 2013 California Lawyer Magazine Attorney of
14 the Year Award in the area of Disability Law for her work on this litigation and
15 the 2010 California Lawyer Attorney of the Year Award in the area of Disability
16 Law for her work on the above referenced Caltrans case, and is requesting an
17 hourly rate of \$555. Attorney Gilbride is a 2007 graduate of Georgetown Law
18 School and worked on this case as part of DRA. Attorney Gilbride served as a
19 law clerk to Judge Ronald Gould on the U.S. Court of Appeals for the Ninth
20 Circuit in Seattle. She conducted much of the written discovery and took and
21 defended several depositions. She was also responsible for all expert discovery,
22 and is knowledgeable in the requirements for emergency preparedness under the
23 law, and is requesting an hourly rate of \$430.

24 6. In support of the hourly rates quoted by other attorneys in this case,
25 Attorney Uzeta is a 1992 graduate of University of California at Davis, King Hall
26 School of Law, with a Certification in Public Interest Law. She has practiced
27 exclusively in the area of civil rights law, in particular disability rights, since
28

1 1993. From February 1995 to August 2008, she worked as an attorney at
2 Disability Rights California (“DRC”), the largest disability rights organization in
3 the nation, where she represented individuals and classes with disabilities in
4 federal and state litigation. From August 2008 to December 2010, she was
5 employed as the Litigation Director of the Southern California Housing Rights
6 Center, a Los Angeles based nonprofit whose mission is to combat housing
7 discrimination, where she engaged mostly in disability discrimination cases, and is
8 requesting an hourly rate of \$700. Attorney Paradis is the Executive Director and
9 Co-Director of Litigation at DRA. He graduated from Harvard Law School in
10 1985 and has extensive experience with disability rights litigation, and has
11 received several awards for his work on precedent setting disability rights cases,
12 including the California Lawyer Magazine Attorney of the Year Award in 2003
13 and 2011 and the Trial Lawyer of the Year Award from the San Francisco Trial
14 Lawyers Association. Mr. Paradis assisted with advising the litigation team on
15 settlement strategy and potential experts, and is requesting an hourly rate of \$800.
16 Attorney Elsberry is a 1987 graduate of University of California, Hastings College
17 of Law. He was a Managing Attorney at DRA from 2009 to 2012, and is currently
18 a Senior Staff Attorney at DRLC. He assisted with certain tasks relating to class
19 certification, and is requesting an hourly rate of \$725. Attorney Weed is a 2002
20 graduate of the University of Michigan Law School. She was involved in the
21 preliminary investigation and review of the voluminous public records, and is
22 requesting an hourly rate of \$600. Attorney Biedermann is a 2007 graduate of
23 Yale Law School and was an Arthur Liman Fellow at DRA from 2007 to 2009.
24 She assisted with the review of many public records and drafting the complaint,
25 and is requesting an hourly rate of \$430. Attorney Chuang is a 2007 graduate of
26 University of Pennsylvania Law School and has been a Staff Attorney at DRA
27 since 2011. Previously, she was a Litigation Associate at Latham & Watkins LLP.
28

1 She primarily worked on finalizing the settlement agreement, providing notice to
2 the class, and drafting the motions for preliminary and final approval, as well as
3 the motion for reasonable attorneys' fees and costs, and is requesting an hourly
4 rate of \$430. Attorney Janssen is currently a Staff Attorney at DRA and graduated
5 from New York University School of Law in 2010. She assisted with discrete
6 tasks relating to the negotiation of the County's Work Plan and draft Annex, and
7 is requesting an hourly rate of \$330. Attorneys Patkin, Lee, and Strugar worked
8 on the case in their capacity as attorneys at DRLC. Former DRLC staff attorney
9 Patkin is a 2007 graduate of UCLA School of Law, and is requesting an hourly
10 rate of \$450. Former DRLC staff attorney Strugar is a 2004 graduate of USC
11 Gould School of Law, and is requesting an hourly rate of \$525. Former DRLC
12 staff attorney Lee is a 2003 graduate of Loyola Law School, and is requesting an
13 hourly rate of \$550. The Fee Experts cited by Attorneys indicate that the hourly
14 rates requested by all of these attorneys is reasonable.

15 7. The Court finds that the rate of \$240 for DRA's paralegals and \$250
16 for its summer associates is reasonable. DRA's paralegals are college graduates
17 that have worked under attorney supervision for over a year. DRA's summer
18 associates generally have two full years of law school experience before working
19 at DRA for their second-year summer. The Court further finds that the hourly rate
20 of \$230 for DRLC's law clerks and litigation assistants is reasonable.

21 8. The Court hereby approves the following 2012 hourly rates and hours
22 expended:

23
24

DRA	Rate	Hours	Fees
Sid Wolinsky	\$860.00	700.00	\$602,000.00
Shawna Parks	\$665.00	81.40	\$54,131.00
Mary-Lee Smith	\$555.00	139.50	\$77,422.50
Karla Gilbride	\$430.00	494.40	\$212,592.00

25
26
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DRA	Rate	Hours	Fees
Larry Paradis	\$800.00	15.80	\$12,640.00
Ron Elsberry	\$725.00	18.30	\$13,267.50
Katherine Weed	\$600.00	20.50	\$12,300.00
Stephanie Biedermann	\$430.00	184.00	\$79,120.00
Christine Chuang	\$430.00	125.00	\$53,750.00
Kara Janssen	\$330.00	36.40	\$12,012.00
Summer Associates	\$250.00	26.70	\$6,675.00
Paralegals	\$240.00	260.90	\$62,616.00

DRLC	Rate	Hours	Fees
Michelle Uzeta	\$700.00	35.50	\$24,850.00
Shawna Parks	\$665.00	285.60	\$189,924.00
Debra Patkin	\$450.00	143.50	\$64,575.00
Jennifer Lee	\$550.00	16.00	\$8,800.00
Matthew Strugar	\$525.00	20.20	\$10,605.00
Law Clerk	\$230.00	122.90	\$28,267.00
Steve Cueller (Litigation Assist.)	\$230.00	4.70	\$1,081.00

9. The Court finds that the hourly rates and hours expended are reasonable under established Ninth Circuit law. *See Fischer v. SJB-P.D. Inc.*, 214 F.3d 1115, 1119 (9th Cir. 2000) (citing the lodestar figure and the requirement to consider factors outlined in *Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 70 (9th Cir. 1975)).¹

¹ The requested Attorneys' Fees and Costs stem from negotiations between Class Counsel and the County of Los Angeles, and are much lower than the fees calculated under the lodestar method. The calculated fees, without any multiplier, are \$1,526,628.00 and the costs expended are \$47,903.05, for a total of \$1,574,531.05, which is \$349,531.05 greater than the amount negotiated by the Settlement. Since this case involved injunctive and declaratory relief, the Fee award will not result in an "inequity" between Counsel and Class Members. *See In re HP Inkjet Printer Litig.*, 11-16097, --- F.3d ----, 2013 WL 1986396, *1, *5 (9th Cir. May 15, 2013) (reasoning that "coupon" settlements may create inequity where Class Counsel request fees and


1 10. The Court further finds that Counsel has submitted sufficient
2 evidence of the time and effort undertaken by Class Counsel in prosecuting and
3 settling the claims, and that this time and effort was reasonable and necessary in
4 light of the needs of the litigation.

5 In accordance with the terms of the Agreement, the County of Los Angeles
6 shall pay attorneys' fees and reimbursement of litigation costs to Class Counsel in
7 the amount of \$1,225,000 within ninety (90) days of this Order (September 9,
8 2013) and up to \$75,000 for monitoring the Agreement within six (6) years of this
9 Order.

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IT IS SO ORDERED.

DATED: June 10, 2013


CONSUELO B. MARSHALL
UNITED STATES DISTRICT JUDGE

costs).

Exhibit 3

COPY

1 BERT VOORHEES (SBN 137623)
REBECCA PETERSON-FISHER (SBN 255359)
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Superior Court of California
County of Los Angeles

APR 16 2014

Sherri R. Carter, Executive Officer/Clerk
By: Benigno Del Barrio, Deputy

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8 Fax (213) 443-5098

9 Attorneys for Plaintiffs and the Class

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF LOS ANGELES

13 JESSIKA DAMARIS HERNANDEZ AND)
14 ROSARIO IDALIA MARTINEZ,)
individually and on behalf of a class of)
15 similarly-situated individuals,)

CLASS ACTION

CASE NO. BC 462953
Assigned to Hon. Jane Johnson

16 Plaintiffs,)
17 vs.)

**[PROPOSED] ORDER GRANTING
MOTION FOR FINAL APPROVAL
AND ENTERING JUDGMENT
THEREON**

18 GOLIATH, INC., d.b.a. CLUB 907, a)
California Stock Corporation; MICHELLE)
19 HUTCHINSON, an individual; DENNIS)
BOWERS, an individual, MICH DEN)
20 IMPOSSIBLE, a California General)
Partnership, and DOES 2 through 10,)
inclusive,)

Date: April 7, 2014
Time: 10:00 a.m.
Courtroom: 308 Central Civil West

21 Defendants.)
22

Complaint filed: June 6, 2011
Trial Date: None

1 The Motion for an Order Granting Final Approval of Class Action Settlement came before
2 this Court, on April 7, 2014, and the Court having considered all the papers filed, arguments of
3 counsel and proceedings herein, having received no objections to the Settlement, having determined
4 that the Settlement is fair, adequate and reasonable, and otherwise being fully informed, hereby
5 adopts the Tentative Ruling attached hereto as Exhibit 1, aside from the language in that ruling with
6 respect to the absence of a declaration from the Special Master, which declaration was, in fact, filed
7 with this Court.

8 The above-captioned Action is a class action lawsuit brought by Plaintiffs JESSIKA
9 DAMARIS HERNANDEZ and ROSARIO IDALIA MARTINEZ (hereinafter "Plaintiffs") against
10 Defendants GOLIATH, INC., d.b.a. CLUB 907; MICHELLE HUTCHINSON; DENNIS BOWERS;
11 and MICHDEN IMPOSSIBLE ("Defendants") (collectively the "Parties"). Plaintiff alleges that ,
12 inter alia, they were employed by defendant Goliath, Inc. ("Goliath") as Hostess Dancers at Club
13 907 between December 5, 2006 and December 5, 2010, and that they were compensated improperly,
14 denied meal breaks and rest breaks, and suffered other violations of their rights under the Labor
15 Code and that they were sexually harassed between June 2, 2010 and December 5, 2010, and
16 subjected to harassment and a hostile work environment in which managers made *quid pro quo*
17 sexual propositions, filmed Hostess Dancers undressing in the locker room, and failed to protect
18 Hostess Dancers from sexually abusive patrons. Defendant denies any and all alleged wrongdoing,
19 and denies any liability to the Plaintiff or to members of the putative class.

20 On August 7, 2013, this Court entered an Order Granting Preliminary Approval Of
21 Settlement, resulting in certification of the following provisional Settlement Classes. The Wage
22 Class and Harassment Classes were defined as follows: (1) All individuals who worked at Club 907
23 as Hostess Dancers at any time between December 5, 2006 and December 5, 2010 (Wage Class);
24 and (2) all individuals who worked at Club 907 as Hostess Dancers at any time between June 2,
25 2010 and December 5, 2010 (Harassment Class).

26 That Order further directed the Parties to provide Notice to the Class, which informed absent
27 class members of: (a) the proposed Settlement, and the Settlement's key terms; (b) the date, time
28 and location of the Final Approval Hearing; (c) the right of any Class Member to object to the

1 proposed Settlement, and an explanation of the procedures to exercise that right; (d) the right of any
2 Class Member to exclude themselves from the proposed Settlement, and an explanation of the
3 procedures to exercise that right; and (e) an explanation of the procedures for class members to
4 participate in the proposed settlement.

5 The Court, upon Notice having been given as required in the Preliminary Approval Order,
6 and having considered the proposed Settlement Agreement, attached hereto as Exhibit 2, hereby
7 ORDERS, ADJUDGES AND DECREES AS FOLLOWS:

8 1. This Court has jurisdiction over the subject matter of the Actions and over all Parties
9 to the Actions, including all members of the Settlement Classes.

10 2. The Court finds that the Settlement Classes are properly certified as classes for
11 settlement purposes only.

12 3. The claims administrator sent notice packets via first-class U.S. Mail to 1,399
13 members for whom it had complete addresses and to 78 additional self-identifying class members.
14 Ultimately, 62 notice packets were undeliverable. In addition to direct mailing, the claims
15 administrator established a bilingual, toll-free telephone line and a settlement website,
16 www.club907settlement.com. Apart from these methods of notice, class counsel provided notice in
17 a number of other ways, including through press conferences, postings on class counsels' websites,
18 and several meetings with class members to explain the claims process and assist class members in
19 filling out claim forms. The estimated recovery to each class member is as follows: (1) from a high
20 of \$15,063.86 to a low of \$4.12 for eligible Wage Class Members, with awards averaging
21 \$2,714.93; and (2) from a high of \$2,461.76 to a low of \$164.12 for eligible Harassment Class
22 Members, with the awards averaging \$1,085.08. As of March 17, 2014, there were no opt-outs, no
23 objections. As of that date, the claims administrator had received 242 claim forms from Wage
24 Class Members and 121 of 361 Harassment Class Members had submitted claims. The Notice
25 provided to the Settlement Class conforms with the requirements of California Code of Civil
26 Procedure section 382, California Civil Code section 1781, California Rules of Court 3.766 and
27 3.769, the California and United States Constitutions, and any other applicable law, and constitutes
28 the best notice practicable under the circumstances, by providing individual notice to all Class

1 Members who could be identified through reasonable effort, and by providing due and adequate
2 notice of the proceedings and of the matters set forth therein to the other Class Members. The
3 notice fully satisfied the requirements of due process.

4 4. The Court finds the settlement was entered into in good faith, that the settlement is
5 fair, reasonable and adequate, and that the settlement satisfies the standards and applicable
6 requirements for final approval of this class action settlement under California law, including the
7 provisions of California Code of Civil Procedure section 382 and California Rules of Court, Rule
8 3.769. The settlement was reached in a mediation before Steve Pearl on June 18, 2012, following
9 “two years of arms[-]length negotiation and an exchange of informal and formal discovery.” Class
10 Counsel conducted sufficient investigation and discovery to allow intelligent assessment of the
11 claims against Defendants as well as the proposed settlement. Class Counsel is experienced in class
12 actions, including wage and hour class actions. The settlement appears to have been positively
13 received by class members.

14 5. No Class Members have objected to the terms of the settlement.

15 6. No Class Members have requested exclusion from the settlement.

16 7. Upon entry of this Order, compensation to the participating members of the
17 Settlement Class shall be effected pursuant to the terms of the Settlement Agreement.

18 8. In addition to any recovery that named Plaintiffs may receive under the Settlement,
19 and in recognition of the Plaintiff’s efforts on behalf of the Settlement Class, the Court hereby
20 approves the payment of an incentive award to each of the two Plaintiffs, in the amount of \$5000
21 each. Each Plaintiff spent well in excess of 100 hours performing tasks such as meeting with class
22 counsel, preparing for and attending the mediation, answering “hundreds” of calls from class
23 members, and participating in press conferences and media interviews (Plaintiff Hernandez only).
24 They also both spent money out of their own pockets in connection with discharging some of these
25 duties. In addition, the incentive awards are reasonable in comparison to the average class member
26 recovery.

27 9. The Court also approves and orders the payment of attorneys’ fees to Class Counsel
28 in the sum of \$335,000, and reimbursement of litigation expenses in the sum of \$17,757.97. The

1 lodestar is the primary method of establishing the amount of reasonable attorney fees in California.
 2 *See, Consumer Privacy Cases* (2009) 175 Cal. App.4th 545, 556-558. This amount may be cross-
 3 checked against the percentage of recovery. *Id.* Here the LAW OFFICES OF TRABER
 4 &VOORHEES claims to have incurred a total of \$875,597 in attorney fees. Co-counsel
 5 WEINBERG, ROGER & ROSENFELD claims to have incurred an additional total of \$192,753.75
 6 in attorney fees. Based on a review of the billing records, the hours spent on the tasks performed
 7 appear to be reasonable for this almost 3-year old case. The hourly rates charged by class counsel
 8 also are reasonable and in line with prevailing rates in the community (For Traber & Voorhees 2013
 9 hourly rates as follows: Theresa Traber - \$795; Bert Voorhees - \$735; Lauren Teukolsky - \$600;
 10 Laboni Hoq - \$585; Maronel Barajas - \$550; Rebecca Peterson-Fisher - \$460; Marisa Hernandez-
 11 Stern - \$350; Law Clerks - \$225; and Paralegals - \$210. For Weinberg, Roger & Rosenfeld 2014
 12 hourly rates as follows: Emily Rich - \$695; Monica Guizar - \$550; Adam Luetto - \$400; Senior
 13 Paralegal - \$250; Paralegal - \$200.) No multiplier was requested and the requested fee of \$335,000
 14 is less than 32% of the lodestar ($\$335,000 \div \$1,068,350.75$ in combined lodestar). The fee request
 15 represents approximately 30% of the gross settlement amount, which is less than the average
 16 percentage generally awarded in class actions. Class counsel seeks reimbursement of litigation
 17 costs in the total amount of \$17,757.97. Based on a review of costs bills, the costs (which include
 18 costs related to filing, attorney services, copies, telephone calls, postage, research, mediation,
 19 parking, and investigative services) appear to be reasonable and necessary to the litigation and are
 20 approved.

21 10. The claims administrator requested a flat fee of \$22,556 for all of its services. Given
 22 the class size and the duties of the claims administrator, the costs sought appear to be reasonable.
 23 Therefore, the Court approves and orders payment in the amount of \$ 22,556 to CPT Group for
 24 performance of its settlement claims administration services. The Court also approves and orders
 25 payment of \$2,500 to Sarita Ordonez in compensation for her services as Special Master, which
 26 included conducting 72 in-person interviews of Harassment Class Members, each interview lasting
 27 an average of 15 minutes each, and assigning values to those claims. In addition, the Court
 28 approves and orders payment of \$3,750 to the Labor and Workforce Development Agency, which

1 represents 75% of the \$5000 allocated to resolution of the PAGA claims in this action.

2 11. The parties are ordered to give notice to all Class Members in accordance with CRC
3 3.771 (b). Posting this Order and Judgment on the claims administrator's website,
4 www.club907settlement.com, for a period of no less than thirty (30) days, shall be deemed
5 compliance with CRC 3.771 (b) in this action.

6 12. Upon the Effective Date, the Plaintiff and all members of the Settlement Class,
7 except the excluded individuals referenced in paragraph 6 of this Order, shall have, by operation of
8 this Order and Judgment, fully, finally and forever released, relinquished, and discharged
9 defendant[s] from all claims as defined by the terms of the Settlement, whether or not such
10 Settlement Class members execute and deliver a Claim Form. Upon the Effective Date, all
11 members of the Settlement Class shall be and are hereby permanently barred and enjoined from the
12 institution or prosecution of any and all of the claims released under the terms of the Settlement.

13 13. Upon completion of administration of the Settlement, the parties shall file a
14 declaration setting forth that claims have been paid and that the terms of the Settlement have been
15 completed.

16 14. Pursuant to California Rules of Court, Rule 3.769(h) the Court hereby enters
17 Judgment in this action. This "Judgment" is intended to be a final disposition of the above
18 captioned action in its entirety, and is intended to be immediately appealable.

19 15. This Court shall retain jurisdiction with respect to all matters related to the
20 administration and consummation of the settlement, and any and all claims, asserted in, arising out
21 of, or related to the subject matter of the lawsuit, including but not limited to all matters related to
22 the settlement and the determination of all controversies relating thereto.

23
24 **IT IS SO ORDERED.**

25
26 Dated: 4-10-14

JANE L. JOHNSON
Judge of the Superior Court

Exhibit 1

HERNANDEZ, et al. v. GOLIATH, INC. d/b/a CLUB 907, et al.

MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

Date of Hearing: April 7, 2014

Department: 308

Case No.: BC462953

TENTATIVE RULING: Plaintiffs seek (1) final approval of their wage and hour class action settlement with Defendants Goliath, Inc. d/b/a Club 907, Michelle Hutchinson, Dennis Bowers, and Michden Impossible, and (2) compensation for their work on behalf of the two certified classes. ~~Contingent upon the submission of the declaration from the Special Master re: her fees,~~ the tentative ruling is as follows:

- (1) The Court certifies the class for purposes of settlement;
- (2) The Court finds the settlement is fair, adequate, and reasonable;
- (3) Class counsel is awarded \$335,000 for attorney fees and \$17,757.97 for costs to be divided in accordance with the attorneys' fee splitting agreement (see footnote 5);
- (4) The Court awards:
 - a. Each class representatives \$5,000 for an incentive payment;
 - b. CPT Group, Inc. \$22,556 for claims administration costs;
 - c. Sarita Ordonez is awarded \$2,500 for her services as Special Master;
- (5) Class counsel is ordered to
 - a. file a proposed Order and Judgment, consistent with this ruling, by ~~October 9, 2013~~ *April 11, 2014*;
 - and
 - b. provide notice of the entry of judgment to the class members pursuant to California Rules of Court, rule 3.771(b).
- (6) The Court will set a date for a final report at the time of the hearing.

FINAL APPROVAL OF CLASS ACTION SETTLEMENT

California Rules of Court, rule 3.769(g), provides for an inquiry into the fairness of the proposed settlement prior to the final approval hearing. After this, the court must make and enter judgment, including a provision for the retention of the court's jurisdiction over the parties to enforce the terms of the judgment. See California Rules of Court, rule 3.769(h). The class action may not be dismissed once judgment is entered. See California Rules of Court, rule 3.770. All class settlements are subject to a settlement hearing and court approval before entry of judgment or final order.

CLASS NOTICE AND CLASS RESPONSE

The claims administrator sent notice packets (consisting of the notice, claim form, and IRS Forms W-8ECI and W-7) via first-class U.S. mail to 1,399¹ class members for whom it had

¹ The original class list contained 1,417 class members, but complete addresses were unavailable for 18 of them. Together with the self-identifying class members, the final class size is 1,495 (1,417 + 78).

complete addresses and to 78 additional self-identifying class members. Ultimately, 62 notice packets were undeliverable. In addition to the direct mailing, the claims administrator established a bilingual, toll-free telephone line and a settlement website, www.club907settlement.com. Apart from these methods of notice, class counsel: (1) provided notice of the settlement agreement at their websites; (2) held a joint press conference with the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) to announce the settlement and encourage class members to file claims; (3) held an additional press conference to bolster claims rates; (4) appeared on Univision Spanish-language news programs to discuss the settlement and encourage class members to file claims; and (5) held "several" meetings at CHIRLA to explain the claims process and assist class members in filling out claim forms. As of 3/17/14, there were no opt-outs and no objections. As of 3/17/14, the claims administrator received 242 claim forms from Wage Class members. Of these, 15 are deficient but awaiting cure, 21 are invalid, and 1 is late. If the deficient and late claims are accepted, there will be a total of 221 Wage Class claimants. In addition, 121 out of 361 Harassment Class members submitted claims.

The estimated recovery to each class member is as follows:

- a. Wage Class - \$600,000 will be allocated on a pro rata basis to the eligible Wage Class members based on the wages earned by each claimant. According to the claims administrator's calculations, the highest Wage Class award is approximately \$15,063.86, the average Wage Class award is approximately **\$2,714.93** ($\$600,000 \div 221$), and the lowest Wage Class award is approximately \$4.12.
- b. Harassment Class - The remainder of the net settlement amount² will be allocated to the eligible Harassment Class members based on the category rating assigned by the Special Master.³ According to the claims administrator's calculations, the highest Harassment Class award is approximately \$2,461.76, the average Harassment Class award is approximately **\$1,085.08** ($\$131,294 \div 121$), and the lowest Harassment Class award is approximately \$164.12.

EVALUATION OF THE SETTLEMENT

The Court must determine if the settlement is fair, adequate, and reasonable. The settlement is entitled to a presumption of fairness where: "(1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small." See Dunk v. Ford Motor Company (1996) 48 Cal.App.4th 1794, 1802

The Court finds that the settlement is fair, adequate, and reasonable based on the following:

² The claims administrator estimates the net settlement amount to be \$731,294. Subtracting \$600,000 for the Wage Class members from that amount leaves \$131,294 for the Harassment Class members.

³ First, the Special Master will rate a claim as Category 1, 2, 3, or 4, for which the class member is eligible to receive an "initial award" of \$100, \$500, \$1,000, or \$1,500, respectively. Then, the claims administrator will "adjust the awards up or down on a pro rata basis so as to exactly deplete the entire [amount allocated to the Harassment Class]." See Revised Settlement Agreement, ¶17.

First, the settlement was reached through arm's-length bargaining. The parties mediated with Steven Pearl on 6/18/12 following "two years of arms[-]length negotiations and an exchange of informal and formal discovery."

Second, class counsel conducted sufficient investigation and discovery to allow intelligent assessment of the claims against Defendant as well as the proposed settlement. Class counsel, *inter alia*: propounded written discovery (form interrogatories (general and employment law) and requests for admission); obtained "more than 8,000 documents" from Defendant (including payroll records, asset-related documents, insurance policies); inspected documents seized by the LAPD and the Department of Justice; engaged a private investigator to verify the individual Defendants' representations regarding their personal assets; and "conducted many interviews" of putative class members.

Third, class counsel is experienced in class actions, including wage and hour class actions

Lastly, the settlement appears to have been positively received by the class members. None of the class members opted out or objected. Further, although the response rates are quite low (i.e., 16.2% for the Wage Class and 33.5% for the Harassment Class⁴), class counsel considers them to be good outcomes considering the transient and/or undocumented status of a majority of the class members.

As noted in:

...a trial court's approval of a class action settlement will be vacated if the court "is not provided with basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise." (Kullar, *supra*, 168 Cal.App.4th at pp. 130, 133, 85 Cal.Rptr.3d 20.) In short, the trial court may not determine the adequacy of a class action settlement "without independently satisfying itself that the consideration being received for the release of the class members' claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation." (*Id.* at p. 129, 85 Cal.Rptr.3d 20.)

Here, the moving papers, declarations and exhibits attached thereto, have provided this Court with "basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise" such that this Court is satisfied "that the consideration being received for the release of the class members' claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation." See Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles (2010) 186 Cal.App.4th 399, 408. See also Dunk v. Ford Motor

⁴ These percentages are based on 242 Wage Class claimants out of 1,495 class members and 121 Harassment Class claimants out of 361 Harassment Class members.

Company (1996) 48 Cal.App.4th 1794, 1802 (“So long as the record is adequate to reach ‘an intelligent and objective opinion of the probabilities of success should the claim be litigated’ and ‘form’ an educated estimate of the complexity, expense and likely duration of such litigation...it is sufficient.”).

Based on the foregoing, the Court finds the settlement is fair, adequate and reasonable.

COSTS AND FEES

The lodestar is the primary method of establishing the amount of reasonable attorney fees in California. See Consumer Privacy Cases (2009) 175 Cal.App.4th 545, 556-558. This amount may be cross-checked against the percentage-of-recovery. *Id.* Here, the LAW OFFICES OF TRABER & VOORHEES claims to have incurred a total of **\$875,597** in attorney fees. See Voorhees Declaration Re: Attorney Fees, ¶70. This figure includes: \$88,261 for the period of 11/19/10-1/11/11; \$105,000.50 for the period of 1/12/11-6/6/11; \$119,748.50 for the period of 6/7/11-9/2/11; \$119,497 for the period of 9/3/11-4/3/12; \$140,770.50 for the period of 4/4/12-6/18/12; and \$302,319.50 for the period of 6/19/12-3/16/14. *Id.*, ¶¶56, 58, 60, 64, 66, and 70 and Exhibits B-G. Co-counsel, WEINBERG, ROGER & ROSENFELD claims to have incurred a total of \$192,753.75 in attorney fees. See Amended Guizar Declaration, ¶¶25-27 and Exhibits 3-4.

Based upon a review of class counsel’s billing records, the hours spent on the tasks performed appear to be reasonable for this almost 3-year-old case. The LAW OFFICES OF TRABER & VOORHEES worked 1,625.7 hours and WEINBERG, ROGER & ROSENFELD worked 399.7 hours, for a total of 2,025.4 (1,625.7 + 399.7) hours. See Voorhees Declaration Re: Attorney Fees, ¶¶56, 58, 60, 64, 66, and 70 and Exhibits B-G; Amended Guizar Declaration, Exhibit 4. The hourly rates charged (\$210-\$795 for the LAW OFFICES OF TRABER & VOORHEES and \$150-\$625 for WEINBERG, ROGER & ROSENFELD) also appear to be reasonable and in line with prevailing rates in the community. See Voorhees Declaration Re: Attorney Fees, ¶¶71-73; Amended Guizar Declaration, ¶¶20-24; see also Stormer Declaration Re: Attorney Fees, ¶¶9-18; Munoz Declaration Re: Attorney Fees, ¶15. Accordingly, the actual attorney fees of \$875,597 can be deemed the lodestar.

There is no multiplier requested. In fact, class counsel’s \$335,000⁵ fee request is only 38% of the lodestar. Applying the cross-check, the fee request represents approximately 30% of the gross settlement amount, which is less than the average percentage generally awarded in class actions.⁶ Additionally, the notice expressly advised class members of the fee request and not a single class member objected to the attorney fees (or to any other aspect of the settlement for that matter). Based upon the foregoing, the fees request of \$355,000 is approved.

⁵ In connection with the motion for preliminary approval, Plaintiffs advised the Court that the LAW OFFICES OF TRABER & VOORHEES and WEINBERG, ROGER & ROSENFELD “have agreed to split fees in proportion to their respective lodestars” and that Plaintiffs have agreed to the fee-splitting agreement. See Supplemental Guizar Declaration Re: Preliminary Approval, ¶¶3-6.

⁶ See In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545, 558, FN13 (“Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.”).

Class counsel seeks reimbursement of litigation costs in the total amount of **\$17,757.97**, or \$8,367.09 for the LAW OFFICES OF TRABER & VOORHEES and \$9,390.88 for WEINBERG, ROGER & ROSENFELD. Based on a review of class counsel's cost bills, the costs (which include include costs related to filing, attorney services, copies, telephone calls, postage, research, court reporter services, mediation, parking, and investigative services) appear to be reasonable and necessary to the litigation and are approved.

INCENTIVE AWARD

An incentive fee award to a named class representative must be supported by evidence that quantifies time and effort expended by the individual and a reasoned explanation of financial or other risks undertaken by the class representative. See Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785, 806-807; see also Cellphone Termination Cases (2010) 186 Cal.App.4th 1380, 1394-1395 (“[C]riteria courts may consider in determining whether to make an incentive award include: 1) the risk to the class representative in commencing suit, both financial and otherwise; 2) the notoriety and personal difficulties encountered by the class representative; 3) the amount of time and effort spent by the class representative; 4) the duration of the litigation and; 5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. [Citations.]”) Here, each of the class representatives seeks an incentive award of \$5,000. In support, the named Plaintiffs proffer their declarations. They state, *inter alia*, that they each spent well in excess of 100 hours performing tasks such as meeting with class counsel and class members; preparing for and attending the mediation; answering “hundreds” of telephone calls from class members; and participating in press conferences and media interviews (Plaintiff Hernandez only). They also spent money out of their own pocket in connection with discharging some of these duties. In light of the named Plaintiffs’ time and effort as well as the potential risks and stigma associated with serving as class representatives, the requested incentive awards appear to be reasonable inducements for their longstanding participation in this case. Additionally, the incentive awards are reasonable in comparison to the average class member recovery (i.e., \$2,714.93 for Wage Class members, \$1,085.08 for Harassment Class members, and \$3,800.01 for members of both classes). See Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles (2010) 186 Cal.App.4th 399, 412 (twice the average class member recovery (*including* the named Plaintiff’s individual recovery) deemed reasonable). For all of the foregoing reasons, the requested incentive awards of \$5,000 per named Plaintiff are approved.

CLAIMS ADMINISTRATION COSTS

The claims administrator requests payment of a flat fee of \$22,556 for all of its services. Given the class size and the claims administrator’s duties, the costs sought appear to be reasonable and may be approved.

SPECIAL MASTERS FEES

In connection with the motion for preliminary approval, Plaintiffs indicated that the Special Master seeks a \$2,500 flat fee. Although the motion for final approval references the “Ordonez Decl.,” ~~no such declaration appears to have been submitted with the papers.~~

Exhibit 2

1 LAW OFFICES OF T RABER & VOORHEES
2 BERT VOORHEES (SBN 137623)
3 REBECCA PETERSON-FISHER (SNB 255359)
4 128 North Fair Oaks Avenue
5 Pasadena, California 91103
6 Tel. (626) 585-9611
7 Fax (626) 585-1400

8 WEINBERG, ROGER & ROSENFELD
9 MONICA GUIZAR (SBN 202480)
10 ADAM LUETTO (SBN 264188)
11 800 Wilshire Boulevard, Suite 1320
12 Los Angeles, California 90017
13 Tel. (213) 380-2344
14 Fax (213) 381-1088

15 Attorneys for Plaintiffs JESSIKA DAMARIS HERNANDEZ
16 and ROSARIO IDALIA MARTINEZ

17
18 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
19 FOR THE COUNTY OF LOS ANGELES
20 (UNLIMITED JURISDICTION)
21
22

23 JESSIKA DAMARIS HERNANDEZ AND
24 ROSARIO IDALIA MARTINEZ, individually
25 and on behalf of all others similarly situated,

26 Plaintiffs,

27 vs.

28 GOLIATH INC., d.b.a. CLUB 907, a California
Stock Corporation, MICHELLE HUTCHISON,
an individual, DENNIS BOWERS, an individual,
MICH DEN IMPOSSIBLE, a California General
Partnership, and DOES 2 through 10, inclusive,

Defendants.

Case No. BC462953
(Judge Jane L. Johnson)

SETTLEMENT AGREEMENT

Date: June 6, 2013
Time: 10:00 a.m.
Courtroom: 308 Central Civil West

Trial Date: None set

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SETTLEMENT AGREEMENT

1. This Settlement Agreement is agreed to and entered into by and between (1) plaintiffs Jessika Damaris Hernandez (“Hernandez”) and Rosario Idalia Martinez (“Martinez”), individually and on behalf of all members of the Settling Class hereinafter defined (“Plaintiffs”); and (2) defendants Goliath, Inc. (“Goliath”), Michelle Hutchison (“Hutchison”), Dennis Bowers (“Bowers”), and Michden Impossible (“Michden”), subject to final approval of the Court.

I.

INTRODUCTION

2. On June 6, 2011, named plaintiffs Hernandez and Martinez, former Hostess Dancers at Club 907, filed this class action lawsuit against Goliath and Hutchinson and Bowers, Goliath’s sole directors, officers, and shareholders. On January 31, 2012, plaintiffs filed a First Amended Complaint naming Michden as an additional defendant, and alleging that both Michden and Goliath are alter-egos of defendants Hutchison and Bowers.

3. In the operative First Amended Complaint, plaintiffs alleged that defendants’ policy of paying dancers by the minute danced resulted in violations of Labor Code provisions relating to minimum wage, overtime, waiting time penalties, and the accuracy of wage statements. Plaintiffs further alleged that defendants did not provide dancers with meal breaks or rest breaks, and illegally deducted amounts from Hostess Dancers’ paychecks to compensate themselves when patrons absconded without paying. Specifically, plaintiffs alleged that defendants violated California Labor Code §§ 201, 202, 203, 204(B), 210, 221, 223, 225.5, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, and 2052, and Industrial Welfare Commission (“IWC”) Wage Order 5 §§ 3, 7(A)(3), 7(B), Wage Order 10 §§ 3, 7(A)(3), 7(B). In addition, plaintiffs alleged that defendants violated the Fair Employment and Housing Act (“FEHA”) by failing to prevent sexual harassment and creating a hostile work environment in which managers made *quid pro quo* sexual propositions to dancers, filmed dancers undressing in the locker room, and failed to protect dancers from sexually abusive patrons. Plaintiffs’ First Amended Complaint also alleged common law claims for negligent supervision, hiring, and training. Finally, plaintiffs brought claims under the Private

1 Attorney General Act (“PAGA”), Cal. Lab. Code § 2699, *et seq.*, to impose penalties on defendants
2 for Labor Code violations, and for restitution under the Unfair Competition Law, Bus. & Prof. Code §
3 17200, *et seq.* Defendants denied and continue to deny these allegations, and assert that they have no
4 liability for the claims, and that they have affirmative defenses.

5 4. On April 3, 2012, the parties requested, and the Court granted, a stay of all proceedings
6 in order to explore settlement. The parties agreed to mediate before Steven G. Pearl, a mediator with
7 extensive wage and hour class action litigation experience. On June 18, 2012, the parties reached an
8 agreement at the mediation resolving all claims for \$1,116,667. This settlement amount was
9 memorialized in a Memorandum of Understanding and ratified by the named plaintiffs at two different
10 class meetings.
11

12 5. The parties have engaged in significant investigation of the facts and law during the
13 pendency of the litigation. The investigation included written discovery, exchange of various
14 documents, review of subpoenaed documents from the Los Angeles Police Department, and in-depth
15 interviews with the named plaintiffs and with numerous class members.

16 6. Without admitting the claims or defenses of each other, the parties have now agreed
17 that, in order to avoid uncertain, and costly litigation, this controversy should be resolved through
18 entry of this Settlement Agreement. As indicated by the signature of counsel and the parties at the
19 end of this document, the parties have entered into this Settlement Agreement and have consented to
20 the entry of this document as a final Settlement Agreement.

21 **II.**

22 **DEFINITIONS**

23 7. The following terms when used in this Settlement Agreement, in addition to the terms
24 defined elsewhere in this Settlement Agreement, shall have the following meanings:

- 25 A. “Claimants” means all class members who have filed a claim form.
26 B. “Claims Administrator” means CPT Group of Irvine, California.
27 C. “Special Master” means Sarita Ordoñez, Esq.
28

1 D. "Class Action" means the civil action *Hernandez, et al. v. Goliath, Inc., et al.*,
2 currently pending in the Superior Court of the State of California for the County of Los Angeles, Case
3 No. BC 462953.

4 E. "Class Counsel" means the law firm of Traber & Voorhees, 128 N. Fair Oaks
5 Ave., Pasadena, CA 91103, as well as Weinberg, Roger & Rosenfeld, A Professional Corporation,
6 3435 Wilshire Blvd., Suite 620, Los Angeles, CA 90010.

7 F. "Class Notice" means notice of the proposed class action settlement to be
8 directed to members of the Settling Class pursuant to the terms of the Preliminary Approval Order. A
9 copy of the Class Notice is attached hereto as Exhibit A.

10 G. "Claim Form" means the form to be directed to members of the Settling Class
11 which must be completed and returned by mail to receive a Settlement Award. A copy of the Claim
12 Form is attached hereto as Exhibit B.

13 H. "Wage Class" means all individuals who worked at Club 907 as Hostess
14 Dancers at any time between December 5, 2006 and December 5, 2010.

15 I. "Harassment Class" means all individuals who worked at Club 907 as Hostess
16 Dancers at any time between June 2, 2010 and December 5, 2010.

17 J. "Wage Class Period" means December 5, 2006 through the date the Court grants
18 Plaintiffs' Motion for Preliminary Approval.

19 K. "Harassment Class Period" means June 2, 2010 through the date the Court
20 grants Plaintiffs' Motion for Preliminary Approval.

21 L. "Named Plaintiffs" means Jessika Damaris Hernandez and Rosario Idalia
22 Martinez.

23 M. "Court" means the Superior Court of the State of California for the County of
24 Los Angeles, Central District.

25 N. "Defendants" means (i) Goliath, Inc.; (ii) Michelle Hutchison; (iii) Dennis
26 Bowers; and (iv) Michden Impossible.

27 O. "Eligible Wage Class Member" means a member of the Wage Class who is
28 eligible to receive a Settlement Award based on the submission of a timely and valid claim form

1 pursuant to the Settlement Agreement. Any wage and hour claims for any period prior to December
2 5, 2006 shall not be eligible and the Claims Administrator shall not consider such claims as eligible to
3 share in the Settlement Award.

4 P. "Eligible Harassment Class Member" means a member of the Harassment Class
5 who is eligible to receive a Settlement Award based on the submission of a timely and valid claim
6 form pursuant to the Settlement Agreement. Any harassment claims for any period prior to June 2,
7 2010 shall not be eligible and the Claims Administrator shall not consider such claims as eligible to
8 share in the Settlement Award.

9 Q. "Implementation Schedule" means the agreed-upon dates for implementing the
10 Settlement Agreement, as set forth in Exhibit C attached hereto.

11 R. "Net Claim Fund" means the balance remaining in the settlement fund after the
12 deductions detailed in ¶ 9 have been made.

13 S. "Preliminary Approval Date" means the date of entry of the Court's Order
14 preliminarily approving the Settlement Agreement and authorizing the issuance of the Class Notice.

15 T. "Settlement Award" shall mean the gross payment that each Eligible Class
16 Member shall be entitled to receive under the terms of the Settlement Agreement.

17 U. "Settling Class" shall mean all members of the Wage Class and the Harassment
18 Class.

19 V. "Settlement Fairness Hearing" means the hearing to follow appropriate notice to
20 the Wage Class and Harassment Class and opportunity for members of the Wage Class and
21 Harassment Class to object to the settlement, at which time the parties will request that the Court
22 approve the fairness, reasonableness and adequacy of the terms and conditions of the proposed
23 settlement, enter an order and final judgment granting Plaintiffs' Motion for Final Approval, and take
24 other appropriate action.

25 W. "Settlement Fund" means the sum of One Million One Hundred Sixteen
26 Thousand Six Hundred Sixty-Seven Dollars (\$1,116,667) that Defendants have paid in settlement of
27 this action, which money will be used to establish a fund to be used for resolving the damages portion
28 of this litigation.

1 X. "Order and Final Judgment" means the final judgment and order of dismissal
2 with prejudice to be entered by the Court.

3 III.

4 CLASS MONETARY RELIEF

5 Monetary Settlement Fund & Terms of Monetary Settlement

6 8. Defendants have paid the sum of One Million One Hundred Sixteen Thousand Six
7 Hundred Sixty-Seven Dollars (\$1,116,667) to create a Settlement Fund to resolve all damages claims
8 in this litigation, as well as attorneys' fees and costs, claims administration, and any premium
9 payments to Named Plaintiffs. This \$1,116,667 has been deposited in an interest-bearing account to
10 which Plaintiffs' counsel and Defendants' counsel have access. Upon entry of the Order and Final
11 Judgment, the funds shall be paid to the Claims Administrator.

12 9. Deductions from Settlement Fund: Before any Settlement Awards are paid to Eligible
13 Wage Class and Harassment Class Members, Class Counsel's attorneys' fees shall be paid, subject to
14 Court approval. Defendants agree not to oppose Class Counsel's request for attorneys' fees of
15 \$335,000. From the balance remaining in the Settlement Fund after attorneys' fees are deducted, the
16 parties agree, subject to Court approval, that (a) each of the Named Plaintiffs should be awarded a five
17 thousand dollar (\$5,000) enhancement payment to compensate them for the additional efforts they
18 undertook on behalf of the class which have redounded to the benefit of the entire class, (b) an
19 additional five thousand dollars (\$5,000) shall be designated as PAGA penalties, seventy five percent
20 (75%) of which, or \$3,750, shall be paid to the California Labor and Workforce Development Agency
21 ("LWDA"), (c) any fees or costs incurred or charged by the Claims Administrator shall be paid, (d)
22 the Special Master's fee shall be paid, and (e) Class Counsel's costs shall be paid. The amount
23 remaining in the Settlement Fund after these deductions are made shall constitute the Net Claim Fund.

24 10. Allocation of Net Claim Fund: The parties agree that it is fair and reasonably accurate
25 to allocate exactly \$600,000, or approximately eighty percent (80%) of the Net Claim Fund to Wage
26 Class Settlement Awards, the remainder of the Net Claim Fund, or approximately twenty percent
27 (20%) of the Net Claim Fund to Harassment Class Awards. The parties further agree that it is fair and
28 reasonably accurate to allocate thirty percent (30%) of each Wage Class Settlement Award to the

1 recovery of unpaid wages and the remaining seventy percent (70%) to the recovery of interest,
2 liquidated damages and the disgorgement of profits. All applicable local, state and federal taxes owed
3 by Claimants on any portion of the settlement fund allocated to unpaid wages shall be withheld. No
4 settlement proceeds shall be dispersed to anyone other than the Claims Administrator prior to final
5 court approval of the proposed settlement.

6 11. Claims Administrator: The parties have selected CPT Group of Irvine, California to
7 serve as the Claims Administrator, subject to Court approval. Upon payment of the Settlement Fund,
8 the Claims Administrator will open an interest-bearing account at a financial institution selected and
9 controlled exclusively by the Claims Administrator. Interest accrued on these funds belongs to the
10 Settlement Fund and is to be distributed or utilized as set forth in this Settlement Agreement.

11 12. Class Notice and Claims Administration: The Claims Administrator shall be a
12 responsible for (a) receiving records from Defendants and Class Counsel and extracting the relevant
13 information to create the mailing list and class database; (b) preparing, printing, and mailing a Class
14 Notice, Claim Form, and IRS Form W-7 to each member of the Settling Class in both English and
15 Spanish; (c) dedicating a toll free number where class members are able to speak to multilingual
16 representatives regarding their claim and case information; (d) processing undeliverable mail and
17 locating updated addresses for Settling Class members; (e) receiving and validating Claim Forms or
18 requests for exclusion submitted by Settling Class members; (f) providing Eligible Harassment Class
19 Member information to the Special Master, (g) notifying the parties of the Settling Class members
20 that filed objections; (h) calculating the amounts due to each Eligible Wage Class and Eligible
21 Harassment Class member pursuant to this Settlement Agreement, (i) making payments to Eligible
22 Wage Class and Harassment Class Members through the Net Claim Fund and filing all applicable tax
23 returns; (j) providing certification and notice of completion; and (k) making any necessary *cy pres*
24 distributions. The portion of any Wage Class Settlement Award that is allocable to the settlement of
25 claims for unpaid wages under the terms of this Settlement Agreement, in accordance with ¶ 10, shall
26 be paid through the Claims Administrator in a net amount after withholding all applicable local, state
27 and federal taxes owed by Claimants on the portion of the Net Claim Fund received by them. The
28

1 Claims Administrator shall obtain the necessary information from the Claimants to enable it to
2 comply with the requirements of this paragraph.

3 13. Eligible Wage Class Members: In accordance with ¶¶ 10 and 16, the Claims
4 Administrator shall pay Settlement Awards from the Net Claim Fund to Eligible Wage Class
5 Members who timely submit and properly complete the Claim Form, a sample of which is attached
6 hereto as Exhibit B, to the Claims Administrator. Among other things, the Claim Form shall require
7 the Claimant to identify all employee identification numbers under which she worked at Club 907, all
8 names under which she worked at Club 907, all residential addresses which she provided to Club 907,
9 and her dates of employment at Club 907, and shall be signed under penalty of perjury.

10 14. Eligible Harassment Class Members: In accordance with ¶¶ 10 and 17, the Claims
11 Administrator shall pay Settlement Awards from the Net Claim Fund to Eligible Harassment Class
12 Members who timely submit and properly complete the Claim Form and who declare under penalty of
13 perjury that they worked as Hostess Dancers at Club 907 at some time between June 2, 2010 and
14 December 5, 2010, and who the Claims Administrator certifies did in fact work as Hostess Dancers at
15 Club 907 at some time between June 2, 2010 and December 5, 2010. Harassment Class members
16 shall also be required to provide a written description under penalty of perjury of any profound
17 incidents of sexual harassment suffered between June 2, 2010 and December 5, 2010, and to submit
18 any documentary evidence of such incidents. In addition, each Eligible Harassment Class Member
19 who claims to have suffered profound incidents of sexual harassment must personally appear, unless
20 the Special Master decides that it is appropriate to interview that individual over the phone, and
21 present her claim to the Special Master in a non-adversarial hearing lasting approximately fifteen (15)
22 minutes. The Claim Form will instruct Eligible Harassment Class Members appearing before the
23 Special Master to bring any evidence to support their harassment claims. The Special Master shall
24 assign a numerical rating "1" through "4" to each Eligible Harassment Class Member who claims to
25 have suffered a profound incident of sexual harassment pursuant the terms of ¶ 17 of this Settlement
26 Agreement, which rating shall be used by the Claims Administrator to calculate Harassment Class
27 Settlement Awards.

28

1 15. Parties to provide information: Defendants shall provide the Claims Administrator and
 2 Class Counsel with the names, employee identification numbers, addresses, and earnings as Club 907
 3 employees during the Wage Class Period of all members of the Settling Class. Plaintiffs shall provide
 4 the Claims Administrator with all information in their possession regarding the same, as well as any
 5 additional contact information in their possession.

6 16. Wage Class Settlement Awards: The Claims Administrator shall utilize the information
 7 provided by the parties together with the information provided by the Eligible Wage Class Members
 8 on their Claim Forms to determine whether the claim is valid and to calculate the amount of the
 9 individual Settlement Awards for each Eligible Wage Class Member. It shall identify the total wages
 10 earned by each Eligible Wage Class Member as a Club 907 employee during the Wage Class Period
 11 and the total wages earned by all Wage Class Members at Club 907 during the Wage Class Period.
 12 Wage Class Settlement Awards will be calculated based on the following formula:

$$13 \quad \frac{\text{Claimant's total wages in relevant time period}}{\text{Total wages of claimant class members during time period}} = \frac{\text{Award}}{\$600,000}$$

14 In accordance with the terms of ¶ 10, thirty percent (30%) of each Wage Class Settlement Awards
 15 shall be allocated to unpaid wages, and the Claims Administrator shall withhold all applicable local,
 16 state, and federal taxes on those amounts.

17 17. Harassment Class Settlement Awards: Once the Claims Administrator certifies based on
 18 second, third and fourth quarter 2010 payroll records that Claimants in fact worked between June 2,
 19 2010 and December 5, 2010, any such Claim Form in which the Claimant makes any claim for sexual
 20 harassment will be forwarded to the Special Master for further evaluation. After reviewing the Claim
 21 Form, any documents submitted with the Claim Form, and after conducting a non-adversarial hearing
 22 lasting approximately fifteen (15) minutes with each Claimant who has described any profound
 23 incidents of sexual harassment, and reviewing any additional evidence provided at that hearing, the
 24 Special Master will rate each claim as Category 1, 2, 3 or 4. Category 1 will include both Claimants
 25 who did not report any incidents of profound sexual harassment, but who worked at Club 907 during
 26 the relevant time period, and Claimants whose reports of profound incidents of sexual harassment the
 27 the relevant time period, and Claimants whose reports of profound incidents of sexual harassment the
 28

1 Special Master does not find credible. Category 1 Claimants shall receive an initial award of one
2 hundred dollars (\$100) for being subjected to the hostile work environment experienced by all Hostess
3 Dancers. Claimants who make reports of profound incidents of sexual harassment that the Special
4 Master finds credible will be rated by her as Category 2, 3, or 4 depending on 1) the severity of the
5 incidents suffered, and 2) the effect of those incidents on the claimant. For Categories 2 through 4,
6 initial awards shall be five hundred dollars (\$500), one thousand dollars (\$1,000), and fifteen hundred
7 dollars (\$1,500), respectively. When all hearings have been held, these awards shall be conveyed to
8 the Claims Administrator, who shall then adjust the awards up or down on a *pro rata* basis so as to
9 exactly deplete the entire Harassment Class Fund. Settling Class Members who are both Eligible
10 Wage Class Members and Eligible Harassment Class Members shall receive both a Wage Class
11 Settlement Award and a Harassment Class Settlement Award.
12

13
14 18. Reversion of Claim Fund: There shall be no reversion to Defendants.

15 19. Cy Pres Distribution: If any class member fills out a timely claim form but does
16 not cash her award check within 88 days after its mailing, or there is any small residual sum left in the
17 Settlement Fund at that time, a *cy pres* distribution will be made to the Garment Worker Center, 1250
18 S. Los Angeles St., LA 90015 so as to completely deplete the fund.

19 IV.

20 **CLASS NOTICE AND SETTLEMENT FAIRNESS HEARING**

21 20. As part of this Settlement Agreement, the parties agree to the following procedures for
22 obtaining the Court's preliminary approval of this proposed settlement, notifying the Settling Class of
23 the terms of the proposed settlement, obtaining final Court approval of this Settlement Agreement,
24 and processing the Settlement Awards.

25 21. The Named Plaintiffs shall request a hearing date from the Court for preliminary
26 approval of the proposed settlement. In conjunction with that request, the Named Plaintiffs shall
27 submit this Settlement Agreement with supporting papers, which shall set forth the terms of this
28

1 Settlement Agreement, and shall include the proposed forms of all notices and other documents that
2 are necessary to implement this Settlement Agreement.

3 22. Solely for purposes of this Settlement Agreement, and within the time specified by the
4 Implementation Schedule, the Named Plaintiffs shall request the Court to enter an order preliminarily
5 approving the proposed settlement, and setting a date for the Settlement Fairness Hearing. The order
6 shall also approve the form and manner of providing notice to the members of the Settling Class of
7 the terms of the proposed settlement and the schedule for making claims, making objections and/or
8 appearing at the Settlement Fairness Hearing.

9 23. Class Notice shall be provided to the Settling Class, and members of the Settling Class
10 shall submit objections to the proposed settlement, using the following procedures:

11 A. Within five (5) days after the Preliminary Approval Date, Defendants and Class
12 Counsel shall provide the Claims Administrator with documents or electronic data containing the
13 names, last known addresses and/or phone numbers, if any, earnings, and dates of employment of all
14 Hostess Dancers who worked in Club 907 during the Wage Class Period. Within twenty-five (25)
15 days after the Preliminary Approval Date, the Claims Administrator shall utilize the information
16 received from Defendants and from Class Counsel to mail by first class U.S. mail, postage prepaid, a
17 Class Notice, a Claim Form, and IRS Form W-8ECI and W-7 to each Settling Class Member. Prior to
18 doing so, the Claims Administrator shall attempt to contact Settling Class members by phone, where a
19 phone number has been provided in order to determine the current mailing address for each Settling
20 Class member. The Claims Administrator shall be responsible for preparing, printing and mailing to
21 members of the Settling Class the Class Notice and the Claim Form, in substantially the same form as
22 the attached Exhibits A and B. IRS Forms W-8ECI and W-7 are attached hereto as Exhibit D. A
23 Spanish language translation of the Class Notice and Claim Form shall be mailed to members of the
24 Settling Class by the Claims Administrator as a part of the same mailing. The Claims Administrator
25 shall also be responsible for receiving and reviewing the Claim Forms submitted by Eligible Wage
26 Class and Eligible Harassment Class Members to determine eligibility for payment.

27 B. Class Counsel also intend to post Class Notice on their websites and broaden
28 notice via a press release.

1 C. For any Class Notice returned to the Claims Administrator as non-deliverable
2 within forty-five (45) days of the original mailing date, the Claims Administrator shall make prompt
3 and reasonable efforts to locate the person involved, using appropriate search methods. If new
4 address information is obtained, the Claims Administrator shall promptly re-mail the Class Notice to
5 the addressee via First Class regular U.S. mail, postage prepaid, using the new address, no later than
6 forty-five (45) days after the original mailing date. If the Claims Administrator is unable to obtain
7 new address information with regard to any Class Notice returned as non-deliverable within 45 days
8 following the original mailing date, or if a Class Notice is returned as non-deliverable more than 45
9 days following the original mailing date, the Claims Administrator shall be deemed to have satisfied
10 its obligation to provide the Class Notice, Claim Form, and IRS Form W-7 to the affected member of
11 the Settling Class through the original mailing. In the event the procedures in this paragraph are
12 followed and the intended recipient of the Class Notice does not receive the Class Notice, the intended
13 recipient shall nevertheless remain a member of the Settling Class and shall be bound by all the terms
14 of this Settlement Agreement and the Order and Final Judgment.

15 D. The Class Notice shall provide that those members of the Settling Class who
16 wish to object to the settlement must file a written statement objecting to the settlement with the
17 Claims Administrator. Such written statement must be filed with the Claims Administrator no later
18 than the date specified in the Implementation Schedule. Members of the Settling Class who fail to file
19 timely written objections in the manner specified in the Class Notice shall be deemed to have waived
20 any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to
21 this Settlement Agreement.

22 E. The Class Notice shall also provide that those members of the Settling Class
23 who wish to opt-out of the settlement must send a written opt-out request to the Claims Administrator
24 no later than the date specified in the Implementation Schedule. To be effective, any opt-out request
25 must contain the Class Member's full name, current address, date, signature, and the following
26 statement: "I exercise my right to opt-out of the class action lawsuit known as *Hernandez v. Club 907*,
27 Case No. BC462953. I understand that by opting out I will not be awarded any money from the class
28

1 action settlement of this lawsuit, but that I am preserving any rights I would otherwise have to sue
2 Club 907 for the claims made in the lawsuit.”

3 24. Notwithstanding any other provision of this Settlement Agreement, Defendants shall
4 retain the right, in the exercise of their sole discretion, to nullify the settlement within thirty (30) days
5 after the expiration of the opt-out period set forth in the Implementation Schedule if more than thirty
6 (30) Class Members opt out of this settlement.

7 25. At no time shall any of the parties or their counsel seek, solicit or otherwise encourage,
8 directly or indirectly, members of the Settling Class to submit written objections to the settlement, to
9 opt-out of the settlement, to fail to submit timely claims, to appeal from the Order and Final
10 Judgment, or to file a false or misleading claim with the Claims Administrator. The Court shall have
11 the authority to enforce this provision consistent with ¶ 38 of this Settlement Agreement.

12 26. The Settlement Fairness Hearing shall be conducted on a date set by the Court to
13 determine final approval of the settlement along with the amounts properly payable for (i) all costs of
14 claims administration, (ii) the fees and costs of the Claims Administrator, (iii) the fees of the Special
15 Master, (iv) attorneys' fees and costs, and (v) the enhancement payments to the Named Plaintiffs. In
16 connection with the final approval of the settlement by the Court at the Settlement Fairness Hearing,
17 Class Counsel shall present a proposed Order and Final Judgment to the Court for its approval and
18 entry.

19 27. All members of the Settling Class who have submitted a valid and timely Claim Form,
20 and, if applicable under the terms set forth in this Settlement Agreement, have appeared in a non-
21 adversarial hearing before the Special Master, and who are ultimately determined by the Claims
22 Administrator to be eligible to receive an award, shall receive a Settlement Award. Among other
23 things, the Claim Form shall include instructions on how to submit the form, and shall notify
24 recipients that the Claim Form must be completed, signed and returned no later than the date specified
25 in the Implementation Schedule. The Claim Form must be returned by mail. The date of the
26 postmark on the return envelope or a date stamp entered on the Claim Form by the Claims
27 Administrator's authorized agent or employee shall be the exclusive means used to determine whether
28 a member of the Settling Class has timely returned his or her Claim Form on or before the applicable

1 deadline. Claim Forms received by the Claims Administrator, but which are post-marked after the
2 applicable deadline (including any extended deadline), shall be disregarded. Although members of
3 the Settling Class who do not submit a valid and timely Claim Form shall not receive a Settlement
4 Award, such persons shall nonetheless be bound by all of the terms of this Settlement Agreement.

5 28. Settlement Awards shall be paid pursuant to the settlement formulas set forth herein no
6 later than the date specified in the Implementation Schedule. The Claims Administrator shall
7 determine the eligibility for, and the amounts of, any Settlement Awards under the terms of this
8 Settlement Agreement, which shall be conclusive, final and binding on all parties, including all
9 members of the Settling Classes, subject to review by Class Counsel and approval by the Court.
10 Administration of the settlement shall be completed on or before the date specified in the
11 Implementation Schedule. Upon completion of the administration of the settlement, the Claims
12 Administrator shall provide written certification of such completion to the Court, Class Counsel, and
13 defendants. Any checks reflecting Settlement Awards shall remain valid and negotiable for 88 days
14 from the date of their issuance and may thereafter automatically be canceled if not cashed by an
15 Eligible Wage Class or Eligible Harassment Class Member within that time, at which time the
16 Eligible Wage Class or Eligible Harassment Class Member's claim shall be deemed void and of no
17 further force and effect. *Cy Pres* distribution shall be made of the amounts reflected in canceled
18 checks pursuant to ¶ 19 no later than the date specified in the Implementation Schedule.

19 29. The parties agree to cooperate in the settlement administration process and to make all
20 reasonable efforts to facilitate the administration of the settlement.

21 30. In the event that (i) the Court does not enter Plaintiffs' Motion for Preliminary Approval
22 of the proposed settlement, (ii) the Court does not finally approve the settlement terms as provided
23 herein, (iii) the Court does not enter the Order and Final Judgment as provided herein, or (iv) the
24 settlement does not become final for any other reason, this Settlement Agreement shall be null and
25 void and any order or judgment entered by the Court in furtherance of this settlement shall be treated
26 as void *nunc pro tunc*. In such a case, any and all unexpended funds in the trust account, including
27 any and all interest earnings, shall be returned immediately to Defendants by the Claims
28

1 Administrator, and the parties shall proceed in all respects as if this Settlement Agreement had not
2 been executed.

3 V.

4 **DISMISSALS**

5 31. Upon entry of the Order and Final Judgment, the First Amended Complaint will be
6 dismissed with prejudice as to all Defendants.

7 VI.

8 **RELEASE OF CLAIMS**

9 32. Except for the obligations created by this Settlement Agreement, upon the Court's
10 granting of final approval of this Settlement Agreement the Named Plaintiffs and each of them, and
11 the Settling Class and each member thereof, on the one hand, and the Defendants, and each of them,
12 on the other hand hereby forever, finally and fully release and discharge each other, Plaintiffs'
13 attorneys and agents, and Defendants' parent companies, subsidiaries, affiliates, shareholders,
14 members, agents (including, without limitation, any investment bankers, accountants, insurers,
15 reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors,
16 successors, and assigns, from any and all individual and/or class-wide claims which were alleged or
17 which could have been alleged in the Complaint, First Amended Complaint, or in any Cross-
18 Complaint which Defendants could have filed, including but not limited to failure to pay minimum
19 wage and overtime, violations of California's meal and rest period law, violations of Labor Code
20 sections 226, 201, 202, and 203, unlawful deductions, failure to reimburse, negligent
21 training/supervision, sexual harassment, failure to prevent sexual harassment, negligent appointment,
22 training, and/or supervision, violation of Business and Professions Code section 17200 *et seq.* and
23 claims under the California Private Attorney General Act, California Labor Code section 2699 *et seq.*
24 With respect to all wage and hour claims this mutual release will be from December 5, 2006 to the
25 date of the entry of the order preliminarily approving this settlement as to the released parties. With
26 respect to all Fair Employment and Housing Act claims, this mutual release will be from June 2,
27 2010, to the date of the entry of the order preliminarily approving this settlement as to the released
28 parties. Nothing in this Settlement Agreement shall be construed to bar any wage and hour, sexual

1 harassment, or common law claims of members of the Settling Class that arise after the Wage Class
2 Period or Harassment Class Period from any and all individual and/or class-wide claims, demands,
3 charges, complaints, rights, and causes of action of any kind, known or unknown by them, with regard
4 to any matter arising subsequent to the date of the Court's granting of Plaintiffs' Motion for
5 Preliminary Approval.

6 33. Waiver of California Civil Code Section 1542: Defendants, Named Plaintiffs, and
7 members of the Settling Class expressly waive any rights or benefits available to them under the
8 provisions of Section 1542 of the California Civil Code which provides as follows:

9 "A general release does not extend to claims which the creditor does not know
10 or suspect to exist in his favor at the time of executing the release, which if known
11 to him must have materially affected his settlement with the debtor."

12 Defendants, Named Plaintiffs, and the named Plaintiffs acting on behalf of members of the Settling
13 Class understand fully the statutory language of Civil Code Section 1542, and with this
14 understanding, nevertheless, elect to, and do, assume all risks for claims that have arisen and that may
15 arise in the future, whether known or unknown, from the subject of the release in this Settlement
16 Agreement, and specifically waive all rights they may have under California Civil Code Section 1542.
17 Defendants and members of the Settling Class fully understand that if the facts relating in any manner
18 to the release in this Settlement Agreement and dismissal are later found to be other than or different
19 from the facts now believed to be true, they expressly accept and assume the risk and agree that this
20 Settlement Agreement and the release contained in this Settlement Agreement shall remain effective.

21 **VII.**

22 **DISPUTE RESOLUTION**

23 34. The parties shall endeavor in good faith to resolve informally any differences regarding
24 interpretations of and compliance with this Settlement Agreement prior to bringing such matters to the
25 Court for resolution. However, in the event of a failure by any party, whether willful or otherwise, to
26 perform in a timely manner any act required by this Settlement Agreement or otherwise to act in
27 violation of any provision thereof, the burdened party may, after failure of good faith efforts to
28 resolve the matter, move the Court to impose any remedy authorized by law or equity. The Court

1 shall grant reasonable costs and attorneys' fees to the prevailing party in any action to enforce the
2 Settlement Agreement under the standards applicable under the California Labor Code, including but
3 not limited to § 1194.

4 **VIII.**

5 **NO ADMISSION OF LIABILITY**

6 35. This Settlement Agreement does not constitute and shall not be deemed to be a finding
7 or determination by the Court, nor an admission by any party regarding the merits, validity or
8 accuracy of any of the allegations, claims or defenses. This Settlement Agreement represents a
9 compromise of disputed claims that the parties recognize would require protracted and costly
10 litigation to determine. Defendants deny that they have engaged in any unlawful conduct as alleged in
11 the lawsuit, and their entry into this Settlement Agreement is not and may not be used by any person
12 in any proceeding as an admission or evidence that Defendants have on any occasion engaged in
13 unlawful conduct as alleged in this lawsuit. Neither this Settlement Agreement nor anything in it, nor
14 any part of the negotiations had in connection with it, shall constitute evidence with respect to any
15 issue or dispute, except that any and all provisions of this Settlement Agreement may be admitted into
16 evidence in any and all proceedings to enforce any or all terms of this Settlement Agreement, or in
17 defense of any claims released or barred by this Settlement Agreement. Without limiting the
18 generality of the foregoing, nothing herein shall be deemed to be an admission that this Settlement
19 Agreement constitutes a final judgment that the Settling Class Members were the employees of the
20 Defendants, or any of them.

21 **IX.**

22 **ENTIRE AGREEMENT**

23 36. This Settlement Agreement constitutes the entire agreement among the parties and
24 supersedes all prior agreements, written or oral, between Plaintiffs and Defendants. In the event any
25 provision or term of this Settlement Agreement is determined to be or is rendered invalid or
26 unenforceable, all other provisions and terms of this Settlement Agreement shall remain unaffected to
27 the extent permitted by law.

28 **X.**

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MODIFICATION OF AGREEMENT

37. No modification of this Settlement Agreement shall be binding unless it is in writing and signed by the Named Plaintiffs and Defendants and approved by the court.

XI.

CONTINUING JURISDICTION

38. The Court shall have continuing jurisdiction to interpret and enforce the specific provisions of this Settlement Agreement; to effectuate its purposes; to supervise the administration and distribution of the resulting Settlement Fund; to hear and adjudicate any dispute or litigation arising from the interpretation or application of this Settlement Agreement or the issues of law and facts asserted in the lawsuit; and to grant reasonable costs and attorneys' fees to the prevailing party in any action to enforce the Settlement Agreement under the standards applicable under the California Labor Code, including but not limited to § 1194.

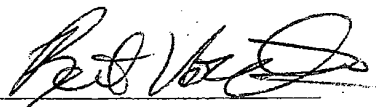
XII.

COUNTERPARTS

39. This Settlement Agreement may be signed in counterparts, and all so executed counterparts shall constitute the Settlement Agreement, which shall be binding on the Parties.

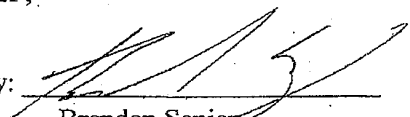
WEINBERG, ROGER AND ROSENFELD
TRABER & VOORHEES

DATED: May 13, 2013

By: 
Bert Voorhees
Attorneys for Plaintiffs Hernandez et al.

DATED: May 13, 2013

LEWIS BRISBOIS BISGAARD AND SMITH
LLP,

By: 
Brendan Sapien
Attorneys for Defendants
Goliath, Inc. et al.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

CASE NAME: GOLIATH INC., d.b.a. CLUB 907, et al.

CASE NUMBER: BC 462953

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 128 North Fair Oaks Avenue, Pasadena, California 91103-3650.

On April 10, 2014, I served the foregoing document described as:

[PROPOSED] ORDER GRANTING MOTION FOR FINAL APPROVAL AND ENTERING JUDGMENT THEREON

on the interested parties in this action, by placing a true copy(ies) thereof enclosed in sealed envelopes addressed as stated below:

Jeffrey S. Ranen William Archer Brendan T. Sapien LEWIS BRISBOIS BISGAARD & SMITH LLP 221 North Figueroa Street, Suite 1200 Los Angeles, CA 90012-2601	<i>(Attorney for Defendants)</i>
Monica T. Guizar Emily Rich WEINBERG, ROGER & ROSENFELD A Professional Corporation 800 Wilshire Boulevard, Suite 1320 Los Angeles, California 90017	<i>(Attorney for Plaintiffs)</i>

BY MAIL

I caused such envelope to be mailed with postage thereon fully prepaid in the United States mail at PASADENA, California.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Pasadena, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on April 10, 2014 at Pasadena, California.


Carolyn Y. Spencer

Exhibit 4

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MARK WILLITS, JUDY GRIFFIN,
BRENT PILGREEN, and
COMMUNITIES ACTIVELY LIVING
INDEPENDENT & FREE (“CALIF”),
on behalf of themselves and all others
similarly situated,

Plaintiffs,

vs.

CITY OF LOS ANGELES, a public
entity,

Defendant.

Case No.: CV 10-5782 CBM (RZx)

**ORDER GRANTING MOTION FOR
ATTORNEYS’ FEES AND COSTS**

The matter before the Court is Plaintiffs’ unopposed Motion For Attorneys’ Fees and Costs brought pursuant to Fed. Rule of Civ. Proc. 23(h) (the “Motion”). (Dkt. No. 380.)

I. PROCEDURAL AND FACTUAL OVERVIEW

On August 4, 2010, Plaintiffs Mark Willits, Judy Griffin, Brent Pilgreen, and Communities Actively Living Independent and Free (“CALIF”) (collectively, “Named Plaintiffs”) filed a class action lawsuit on behalf of persons with mobility disabilities against the City of Los Angeles (the “City”) and various individual defendants based on the alleged inaccessibility of the City’s sidewalks and other

1 “pedestrian rights of way.” The Complaint asserted two federal claims under the
2 American with Disabilities Act (the “ADA”) and Section 504 of the Rehabilitation
3 Act of 1973 (“Rehabilitation Act” or “Section 504”), and four state law claims.

4 **A. State Court Actions**

5 In December 2006, Sandra Carter and nine other individuals filed a class
6 action complaint in state court against the City alleging disability discrimination in
7 connection with the City’s sidewalks. (Los Angeles Superior Court Case No.
8 BC363305.) In December 2007, Nicole Fahmie commenced a class action
9 against the City in state court based on, among other things, lack of ramps or
10 cutouts on the City’s curbs. (Los Angeles Superior Court Case No. BC381773.)
11 *Carter* and *Fahmie* (collectively, “*Carter/Fahmie*”) were consolidated on January
12 27, 2011 under Case No. BC363305.¹

13 Victor Pineda, Anatoli Ilyashov, and CALIF commenced a state court class
14 action against the City and various individual defendants in December 2008 on
15 behalf of persons with mobility disabilities who have been denied access to
16 pedestrian rights of way in the City. (Los Angeles Superior Court Case No.
17 BC403327, hereinafter “*Pineda*”.)

18 **B. Procedural History**

19 On December 10, 2010, the Court denied defendants’ motion to stay
20 proceedings pending *Pineda*, but dismissed the state law claims without prejudice
21 “to be pursued in state court.”² (Dkt. No. 57.) The Named Plaintiffs commenced
22 a state court action against the City following this Court’s dismissal of their state
23

24 ¹ A settlement was reached in 2011 in *Carter/Fahmie*. Although the Named
25 Plaintiffs objected to the *Carter/Fahmie* class action settlement, the settlement
26 was approved by the Superior Court in 2012. The Named Plaintiffs appealed the
27 Superior Court’s approval of the *Carter/Fahmie* settlement, and the California
28 Court of Appeal reversed the Superior Court order certifying the settlement class
and approving the settlement based on due process grounds. *Carter v. City of Los Angeles*, 224 Cal. App. 4th 808 (Cal. Ct. App. 2014).

² The Court also dismissed the individual defendants on that date. (Dkt. No. 57.)

1 law claims. (Case No. BC457403, hereinafter “*Griffin*”).³

2 The Court granted Plaintiffs’ motion for class certification for injunctive
3 and declaratory relief only on January 3, 2011, and appointed Schneider Wallace
4 Cottrell Konecky Wotkyns LLP (“SWCKW”), Disability Rights Legal Center
5 (“DRLC”), Goldstein, Borgen, Dardarian & Ho (“GBDH”), and the Legal Aid
6 Society – Employment Law Center (“LAS-ELC”) as Class Counsel. (Dkt. Nos.
7 59, 177.)

8 Defendants filed a motion for judgment on the pleadings based on the
9 purported res judicata effect of the State Court Actions, which was denied as
10 premature by this Court on August 10, 2012. (Dkt. No. 150.)

11 The Court granted preliminary and final approval of the parties’ class action
12 settlement agreement in this case (the “Settlement Agreement”).

13 Plaintiffs’ instant Motion seeks \$13,300,000 in attorneys’ fees and
14 \$1,700,000 in costs expended in connection with this litigation and the State Court
15 Actions.⁴

16 II. STATEMENT OF THE LAW

17 Federal Rule of Civil Procedure Rule 23(h) provides that “[i]n a certified
18 class action, the court may award attorney’s fees and nontaxable costs that are
19 authorized by law or by the parties’ agreement.” Fed. R. Civ. P. 23(h).

20 In “civil rights and other injunctive relief class actions, courts often use a
21 lodestar calculation because there is no way to gauge the net value of the
22 settlement or any percentage thereof.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011,
23 1029 (9th Cir. 1998). In determining the amount of a reasonable fee, the Court
24 first determines “the number of hours reasonably expended on the litigation
25 multiplied by a reasonable hourly rate.” *Jankey*, 537 F.3d at 1132 (citing *Hensley*

26 ³ *Carter/Fahmie, Pineda*, and *Griffin* shall be collectively referred to herein as the
27 “State Court Actions.”

28 ⁴ Currently pending before the Clerk is Plaintiffs’ application to tax costs. (Dkt.
No. 377.)

1 v. *Eckerhart*, 461 U.S. 424, 433-34 (1983)). “The hours expended and the rate
2 should be supported by adequate documentation and other evidence.” *Hanlon*,
3 150 F.3d at 1029. The Court then “exclude[s] from th[e] initial fee calculation
4 hours that were not reasonably expended,” such as hours that are “excessive,
5 redundant, or otherwise unnecessary.” *Jankey*, 537 F.3d at 1132 (citing *Hensley v.*
6 *Eckerhart*, 461 U.S. 424, 433-34 (1983)). The Court, however, must provide a
7 “comprehensible” explanation for any fee reductions. *T.B. ex rel. Brenneise v.*
8 *San Diego Unified Sch. Dist.*, 806 F.3d 451, 486 (9th Cir. 2015), *cert. denied sub*
9 *nom. San Diego Unified Sch. Dist. v. T.B.*, 136 S. Ct. 1679 (2016).

10 III. DISCUSSION

11 A. Prevailing Party

12 The Court finds Plaintiffs are entitled to reasonable fees and costs as a
13 prevailing party under the ADA and Section 504. *See* 42 U.S.C. § 12205; 29
14 U.S.C. § 794a(b); *Jankey v. Poop Deck*, 537 F.3d 1122, 1130 (9th Cir. 2008); *La*
15 *Asociacion de Trabajadores de Lake Forest v. City of Lake Forest*, 624 F.3d 1083,
16 1089 (9th Cir. 2010).⁵

17 B. Lodestar

18 a. Hourly Rates

19 The Court finds, based on the evidence submitted, that the following hourly
20 rates are reasonable:⁶

21
22 ⁵ The Court declined to exercise supplemental jurisdiction over Plaintiffs’ state
23 law claims and dismissed those claims without prejudice. Accordingly, Plaintiffs
24 are not entitled to fees and costs as a prevailing party under state law, and are not
25 entitled to a state-law multiplier of the lodestar. *See Chaudhry v. City of Los*
Angeles, 751 F.3d 1096, 1112 (9th Cir.), *cert. denied sub nom. City of Los*
Angeles, Cal. v. Chaudhry, 135 S. Ct. 295 (2014); *Mangold v. Cal. Pub. Utilities*
Comm’n, 67 F.3d 1470, 1478 (9th Cir. 1995); *City of San Jose v. San Jose Police*
Officers’ Ass’n, 2013 WL 4806453, at *3 (N.D. Cal. Sept. 9, 2013); *Yates v.*
Union Square, 2008 WL 346418, at *4 (N.D. Cal. Feb. 7, 2008).

27 ⁶ *See Blum v. Stenson*, 465 U.S. 886, 895 n.11 (1984); *United Steelworkers of Am.*
28 *v. Phelps Dodge Corp.*, 896 F.2d 403, 407 (9th Cir. 1990); *Camacho v. Bridgeport*
Fin., Inc., 523 F.3d 973, 980 (9th Cir. 2008).

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Name	Title	Hourly Rate
Guy Wallace	Attorney	\$750
Mark Johnson	Attorney	\$700
Andrew Lee	Attorney	\$525
Jennifer Uhrowczik	Attorney	\$450
Kiran Prasad	Attorney	\$450
Michelle Nguyen	Attorney	\$300
Katharine White	Attorney	\$300
Amanda Riley	Attorney	\$300
Chris Springer	Paralegal/Law Clerk	\$235
Charles Greenlee	Paralegal/Law Clerk	\$200
Scott Gordon	Paralegal/Law Clerk	\$200
Sam Marks	Paralegal/Law Clerk	\$200
David A. Borgen	Attorney	\$795
Linda Dardarian	Attorney	\$775
Andrew Lee	Attorney	\$550
Jason Tarricone	Attorney	\$525
Katrina Eiland	Attorney	\$400
Nancy Hanna	Attorney	\$375
Raymond Wendell	Attorney	\$325
Scott G. Grimes	Paralegal/Law Clerk	\$250
Elizabeth Kramer	Paralegal/Law Clerk	\$250
Damon Valdez	Paralegal/Law Clerk	\$225
Wendy E. Whitt	Paralegal/Law Clerk	\$225
Charlotte Nguyen	Paralegal/Law Clerk	\$195
Stuart Kirkpatrick	Paralegal/Law Clerk	\$195
Jinny Kim	Attorney	\$644
Rachael Langston	Attorney	\$473
Alexis Alvarez	Attorney	\$385
Mary Broughton	Paralegal/Law Clerk	\$165

Michael Hsueh	Paralegal/Law Clerk	\$110
Shawna Parks	Attorney	\$695
Ronald Elsberry	Attorney	\$680
Surisa E. Rivers	Attorney	\$550
Trevor Finneman	Attorney	\$375
Law Clerk	Law Clerk	\$230
Shawna L Parks	Attorney	\$695
José R. Allen, Esq.	Attorney	\$1,115.60

b. Hours Worked

Based on the evidence submitted, the Court finds the following hours were reasonably expended:

<i>Willits</i>			
Name	Hourly Rate	Hours	Lodestar
Guy Wallace	\$750	2,902.5	\$2,176,875.00
Mark Johnson	\$700	1,922.4	\$1,345,680
Andrew Lee	\$525	1,034.7	\$543,217.50
Jennifer Uhrowczik	\$450	331.4	\$149,130.00
Kiran Prasad	\$450	272.2	\$122,490.00
Michelle Nguyen	\$300	101.3	\$30,390.00
Katharine White	\$300	76.0	\$22,800.00
Amanda Riley	\$300	217.7	\$65,310.00
Chris Springer	\$235	277.5	\$65,212.50
Charles Greenlee	\$200	534.1	\$106,820.00

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Scott Gordon	\$200	100.1	\$20,020.00
Sam Marks	\$200	1,026.7	\$205,340.00
David A. Borgen	\$795	113.8	\$90,471.00
Linda Dardarian	\$775	1,276.1	\$988,977.50
Andrew Lee	\$550	576.3	\$316,965.00
Jason Tarricone	\$525	278.0	\$145,950.00
Katrina Eiland	\$400	207.3	\$82,920.00
Nancy Hanna	\$375	44.4	\$16,650.00
Raymond Wendell	\$325	133.7	\$43,452.50
Scott G. Grimes	\$250	372.2	\$93,050.00
Elizabeth Kramer	\$250	63.3	\$15,825.00
Damon Valdez	\$225	946.4	\$212,940.00
Wendy E. Whitt	\$225	329.3	\$74,092.50
Charlotte Nguyen	\$195	100.3	\$19,588.50
Stuart Kirkpatrick	\$195	178.5	\$34,807.50
Jinny Kim	\$644	859.4	\$553,453.60
Rachael Langston	\$473	180.2	\$85,234.60
Alexis Alvarez	\$385	28.6	\$11,011.00

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Mary Broughton	\$165	567.9	\$93,703.50
Michael Hsueh	\$110	77.4	\$8,514.00
Shawna Parks (DRLC) ⁷	\$695	101.9	\$70,820.50
Ronald Elsberry	\$680	63.7	\$43,316.00
Surisa E. Rivers	\$550	810.6	\$445,830.00
Trevor Finneman	\$375	112.9	\$42,337.50
Unnamed Law Clerk	\$230	149.3	\$34,339.00
Shawna L Parks	\$695	15.2	\$10,564.00
José R. Allen, Esq.	\$1,115.60	560.2	\$624,962.12
TOTAL			\$9,013,060.32

<i>Carter/Fahmie</i>			
Name	Hourly Rate	Hours	Lodestar
Guy Wallace	\$750	499.7	\$374,775.00
Mark Johnson	\$700	141.2	\$98,840.00
Andrew Lee	\$525	1.7	\$892.50
Charles Greenlee	\$200	11.6	\$2,320.00

⁷ Shawna Parks was the Legal Director / Director of Litigation at DRLC until her departure in 2012. The fees sought for Park’s time spent during her employment with DRLC is designated under “Shawna Parks (DRLC),” and the fees sought for Park’s time spent in connection with her own law practice is designated under “Shawna L Parks.”

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Sam Marks	\$200	4.4	\$880.00
TOTAL			\$477,707.50

<i>Pineda</i>			
Name	Hourly Rate	Hours	Lodestar
Guy Wallace	\$750	188.2	\$141,150.00
Mark Johnson	\$700	142.9	\$100,030.00
Andrew Lee	\$525	67.4	\$35,385.00
Kiran Prasad	\$450	13.5	\$6,075.00
Shawna Parks (DRLC)	\$695	121.6	\$84,512.00
Sage Reeves	\$625	236.9	\$148,062.50
Surisa E. Rivers	\$550	67.2	\$36,960.00
Debra J. Patkin	\$450	410.2	\$184,587.75
Unnamed Law Clerk	\$230	108.5	\$24,955.00
TOTAL			\$761,717.25

<i>Griffin</i>			
Name	Hourly Rate	Hours	Lodestar
Guy Wallace	\$750	0.8	\$600.00
Mark Johnson	\$700	6.5	\$4,550.00
Shawna Parks (DRLC)	\$695	2.0	\$1,390.00
Surisa E.	\$550	18.6	\$10,230.00

Rivers			
Trevor Finneman	\$375	1.4	\$490.00
TOTAL			\$17,260.00

The Court also finds, based on the evidence submitted, that the above-listed hours expended by non-appointed class counsel Shawna Parks and Jose Allen, and hours expended in connection with the State Court Actions, benefitted the class in this case. *See* F.R.C.P. 23(h) 2003 Advisory Committee Notes; *Winger v. SI Mgmt. L.P.*, 301 F.3d 1115, 1121 (9th Cir. 2002).

Accordingly, the Court awards \$10,269,745.07 in reasonable attorneys' fees to Plaintiffs' counsel.

C. Costs

Plaintiffs seek \$1,631,511.98 in costs as follows: (1) SWCKW: \$1,079,353.37; (2) GBDH: \$231,937.31; (3) LAS-ELC: \$276,257.48; (4) DRLC: \$43,918.94; and (5) Parks: \$44.88.

(1) SWCKW

Plaintiffs seek a total of \$1,079,353.37 in costs expended by SWCKW as follows:⁸

CATEGORY	AMOUNT REQUESTED
Copying/Scanning (external)	\$94,122.20
Copying (internal)	\$86,565.00
Document Management	\$393,837.20
Experts	\$324,429.95
Filing/Service Fees	\$23,702.74
Legal Research	\$34,395.54

⁸ The amount of costs sought on behalf of SWCKW is based on the amounts set forth in the declarations of Eugenia Gueorguieva.

1	Mediation	\$58,929.50
2	Messenger	\$1,853.90
3	Overnight Mail	\$2,169.79
4	Telephonic Court Appearance	\$473.00
5	Travel and Transportation	\$52,953.09
6	Depositions (video services)	\$4,472.50
7	Postage	\$509.96
8	System Access Fees	\$939.00
9	TOTAL	\$1,079,353.37

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11 Copying (internal). SWCKW seeks \$86,565.00 in internal copying costs.
12 The evidence demonstrates SWCKW made 290,629 internal copies for this action
13 and 11,222 in connection with the State Court Actions, at a cost of \$0.20 per page,
14 totaling \$60,370.20. Accordingly, the Court awards \$60,370.20 in costs expended
15 by SWCKW for internal copying.

16 Travel and Transportation. SWCKW seeks \$52,953.09 in travel and
17 transportation costs. SWCKW submits evidence verifying \$51,791.49 in travel
18 and transportation costs were expended by SWCKW. SWCKW declares that it
19 cannot locate receipts confirming \$9 and \$409.80 in travel expenses purportedly
20 expended on December 15, 2012 and January 11, 2013, respectively, and therefore
21 do not seek reimbursement for those costs. SWCKW fails to submit evidence that
22 \$742.80 was actually expended for airfare on March 16, 2012.⁹ Accordingly, the
23 Court decreases travel and transportation costs by \$1,161.60, and awards
24

25 ⁹ SWCKW submits evidence that the \$742.80 travel cost sought “is consistent
26 with airfares charged by Southwest Airlines for other events that took place in Los
27 Angeles during the above-captioned litigation,” but fails to submit evidence of the
28 actual cost for the March 16, 2012 airfare requested. *See Vectren Commc’ns
Servs. v. City of Alameda*, 2014 WL 3612754, at *7 (N.D. Cal. July 22, 2014);
Butler v. Homeservices Lending LLC, 2014 WL 5460447, at *9 (S.D. Cal. Oct. 27,
2014).

1 \$51,791.49 for travel and transportation costs expended by SWCKW.

2 Other Categories. The evidence submitted demonstrates that the amount of
3 the costs sought for the remaining categories were reasonably expended by
4 SWCKW. Accordingly, the Court awards the following amounts for costs
5 reasonably expended by SWCKW: (1) Copying/Scanning (external): \$94,122.20;
6 (2) Document Management: \$393,837.20; (3) Experts: \$324,429.95; (4)
7 Filing/Service Fees: \$23,702.74; (5) Legal Research: \$34,395.54; (6) Mediation:
8 \$58,929.50; (7) Messenger: \$1,853.90; (8) Overnight Mail: \$2,169.79; (9)
9 Telephonic Court Appearance: \$473.00; (10) Depositions (video services):
10 \$4,472.50; (11) Postage: \$509.96; and (12) System Access Fees: \$939.00.

11 The Court therefore awards \$1,051,996.97 in costs reasonably expended by
12 SWCKW.¹⁰

13 **(2) GBDH**

14 Plaintiffs seek \$231,937.31 in costs expended by GBDH in this action as
15 follows:

CATEGORY	AMOUNT REQUESTED
Court Reporters/Transcripts	\$10,267.05
Special masters/Mediators/Arbitrators	\$7,816.12
Copying Costs - In-house	\$10,664.80
Depositions	\$3,100.00
Experts	\$157,804.65
Overnight Mail	\$180.06
Copying and Scanning - outside agency	\$1,023.12

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¹⁰ Plaintiffs seek costs expended by SWCKW in this action and in connection with the State Court Actions. The Court finds, based on the evidence submitted, that costs which were reasonably expended by SWCKW in connection with the State Court Actions benefitted the class in this litigation.

Filing/Service Fees	\$7,360.90
Class Notice:	\$990.00
Postage/USPS	\$64.04
Legal Research	\$19,812.27
Telephone/Conference Calls	\$45.33
Travel and Transportation	\$10,362.35
Travel – Lodging	\$2,446.62
TOTAL	\$231,937.31

Taxable Costs. Plaintiffs seek \$18,083.17 in taxable costs expended by GBDH (i.e., \$10,267.05 (court reporters/transcripts), and \$7,816.12 (Special masters/Mediators/Arbitrators). Accordingly, the Court decreases GBDH’s costs by \$18,083.17.¹¹ See Fed. R. Civ. P. 23(h); Fed. R. Civ. P. 54; Local Rule 54.

Other Categories. The evidence submitted demonstrates that the amount of costs sought for the remaining categories were reasonably expended by GBDH in this action. Accordingly, the Court awards the following amounts for costs reasonably expended by GBDH in this action: (1) Copying Costs - In-house: \$10,664.80; (2) Depositions: \$3,100.00; (3) Expert Fees: \$157,804.65; (4) Overnight Mail: \$180.06; (5) Copying and Scanning - outside agency: \$1,023.12; (6) Filing Service Fees: \$7,360.90; (7) Class Notice: \$990.00; (8) Postage USPS: \$64.04; (9) Legal Research: \$19,812.27; (10) Telephone/Conference Calls: \$45.33; (11) Travel and Transportation: \$10,362.35; and (12) Travel – Lodging: \$2,446.62.

The Court therefore awards \$213,854.14 in costs reasonably expended by GBDH.

¹¹ To the extent not already including in Plaintiff’s pending application to the Clerk to tax costs (Dkt. No. 377), Plaintiffs are directed to apply for all taxable costs with the Clerk pursuant to Rule 54.

1 **(3) LAS-ELC**

2 Plaintiffs seek \$276,257.48 in costs expended by LAS-ELC in this action as
3 follows:

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CATEGORY	AMOUNT REQUESTED
clerk's fees	\$230.00
depositions	\$539.70
reproducing exhibits to deposition	\$9.99
Special Master	\$27,697.87
copying (in house)	\$6,721.40
copying/scanning (outside)	\$28,189.65
document management and hosting	\$16,290.04
Experts	\$167,325.98
legal research	\$245.10
mediation	\$21,462.98
messenger	\$134.29
overnight mail	\$69.37
travel and transportation	\$5,418.33
long distance phone charges	\$119.78
photo reproduction	\$20.92
temporary staffing	\$872.08
investigator fees	\$910.00
TOTAL	\$276,257.48

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25 Taxable Costs. Plaintiffs seek \$28,477.56 in taxable costs expended by
26 LAS-ELC (i.e., \$230 (clerk's fees), \$539.70 (depositions), \$9.99 (reproducing
27 exhibits to deposition), and \$27,697.87 (Special Master fees)). Accordingly, the
28 Court decreases LAS-ELC's costs by \$28,477.56. *See* Fed. R. Civ. P. 23(h); Fed.

1 R. Civ. P. 54; Local Rule 54.

2 Long Distance Phone Charges. Plaintiffs originally requested \$119.78 in
3 long distance phone charges purportedly expended by LAS-ELC. LAS-ELC,
4 however, declares that it was unable to locate evidence supporting any of the long
5 distance phone charges, and therefore will not be seeking reimbursement of those
6 costs. Accordingly, the Court does not award LAS-ELC any amount for long
7 distance phone charges.

8 Other Categories. The evidence submitted demonstrates that the amount of
9 costs sought for the remaining categories were reasonably expended by LAS-ELC
10 in this action. Accordingly, the Court awards the following amounts for costs
11 reasonably expended by LAS-ELC: (1) copying (in house): \$6,721.40; (2)
12 copying/scanning (outside): \$28,189.65; (3) document management and hosting:
13 \$16,290.04; (4) expert fees: \$167,325.98; (5) legal research: \$245.10; (6)
14 mediation fees: \$21,462.98; (7) messenger: \$134.29; (8) overnight mail: \$69.37;
15 (9) travel and transportation: \$5,418.33; (10) photo reproduction charges: \$20.92;
16 (11) temporary staffing: \$872.08; and (12) investigator fees: \$910.00.

17 The Court therefore awards \$247,660.14 in costs reasonably expended by
18 LAS-ELC.

19 **(4) DRLC**

20 Plaintiffs seek \$40,908.94 in costs expended by DRLC as follows:

21

CATEGORY	AMOUNT REQUESTED
Clerks' fees	\$1,891.45
Depositions	\$10,135.95
Interpreter's and Translator Fees	\$2,067.50
Fees for Service of Process	\$1,028.00
Reporter's Transcripts	\$789.00

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1	Reproduction of Documents - Chambers Copies	\$1,736.40
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3	Other Costs - Photographs	\$6,075.00
4	Copying and Scanning - outside agency	\$4,050.09
5	Copying Costs - In-house	\$833.98
6	Filing/Service Fees	\$87.40
7	Experts	\$10,821.12
8	Messenger	\$99.00
9	Overnight Mail	\$261.13
10	Travel and Transportation	\$2,891.86
11	Postage	\$45.76
12	System Access Fees	\$580.30
13	Translation of Documents	\$145.00
14	Official Court Reporter	\$380.00
15	TOTAL	\$43,918.94

16 Taxable Costs. Plaintiffs seek \$23,723.30 in taxable costs expended by
17 DRLC (i.e., \$1,891.45 (clerks fees), \$10,135.95 (Depositions), \$2,067.50
18 (Interpreter's and Translator Fees), \$1,028.00 (Fees for Service of Process),
19 \$789.00 (Reporter's Transcripts), \$1,736.40 (Reproduction of Documents -
20 Chambers Copies), and \$6,075.00 (Other Costs - Photographs)). Accordingly, the
21 Court decreases DRLC's costs by \$23,723.30. *See* Fed. R. Civ. P. 23(h); Fed. R.
22 Civ. P. 54; Local Rule 54.

23 Other Categories. The evidence submitted demonstrates that the entire
24 amount of costs sought for the remaining categories were reasonably expended by
25 DRLC in this action. Accordingly, the Court awards the following amounts for
26 costs reasonably expended by DRLC: (1) Copying and Scanning - outside
27 agency: \$4,050.09; (2) Copying Costs - In-house: \$833.98; (3) Filing/Service
28 Fees: \$87.40; (4) Expert Fees: \$10,821.12; (5) Messenger: \$99.00; (6) Overnight

1 Mail: \$261.13; (7) Travel and Transportation: \$2,891.86; (8) Postage: \$45.76; (9)
2 System Access Fee: \$580.30; (10) Translation of Documents: \$145.00; and (11)
3 Official Court Reporter: \$380.00.¹²

4 The Court therefore awards \$20,195.64 in costs reasonably expended by
5 DRLC.

6 **(5) Parks**

7 Plaintiffs seek \$44.88 in costs expended by Parks. The evidence submitted
8 demonstrates the \$44.88 in costs were reasonably expended and benefitted the
9 class. The Court therefore awards \$44.88 in costs reasonably expended Parks.

10 **IV. CONCLUSION**

11 Accordingly, the Court **GRANTS** the Motion, and awards \$10,269,745.07
12 in attorneys' fees and \$1,533,751.77 in costs to Plaintiffs.

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14 **IT IS SO ORDERED.**

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16 DATED: August 25, 2016.



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Honorable Consuelo B. Marshall
United States District Judge

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CC:FISCAL

¹² Plaintiffs seek costs expended by DRLC in this action and in connection with the State Court Actions. The Court finds, based on the evidence submitted, that costs which were reasonably expended by DRLC in connection with the State Court Actions benefitted the class in this litigation.

Exhibit 5

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16 Attorneys for Plaintiffs
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 17 HAROLD EVERETT, MICHAEL DONALD ACKLEY, HAROLD ROBERT MARQUETTE

18 UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA

19 EVERETT JEWETT, LEGAL SERVICES
 FOR PRISONERS WITH CHILDREN,
 20 GLEN HAROLD EVERETT, MICHAEL
 DONALD ACKLEY, HAROLD
 21 ROBERT MARQUETTE, on behalf of
 themselves and all others similarly
 22 situated,

Plaintiffs,

v.

23 SHASTA COUNTY SHERIFF'S
 24 DEPARTMENT, a public entity; TOM
 BOSENKO, as Sheriff of the Shasta
 25 County; SHASTA COUNTY, a public
 entity; and CALIFORNIA FORENSIC
 26 MEDICAL GROUP, INC. a private entity;
 and DOES 1 through 25, in their
 27 individual capacities,

Defendants.

Case No. 2:13-cv-0882 MCE AC (PC)

**DECLARATION OF MARONEL
 BARAJAS IN SUPPORT OF PLAINTIFFS'
 MOTION FOR REASONABLE
 ATTORNEYS' FEES AND COSTS**

Date: June 28, 2017
 Time: 10:00 a.m.
 Dept.: Courtroom 7
 Judge: Hon. Hon. Morrison England

Date Filed: May 6, 2013

1 I, Maronel Barajas, declare as follows:

2 1. I am an attorney duly licensed to practice law in the State of California and am
3 counsel of record for Plaintiffs in the above-captioned case. I am the Director of Litigation at the
4 Disability Rights Legal Center. The facts set forth herein are within my personal knowledge or
5 knowledge gained from interviews or review of pertinent documents. If called as a witness, I
6 could and would competently testify thereto.

7 2. I submit this declaration in support of Plaintiffs' Motion for Reasonable Attorneys'
8 Fees, Expenses, and Costs.

9 3. Disability Rights Legal Center (DRLC), along with co-counsel Kecker, Van Nest &
10 Peters LLP ("KVP") and Atabek & Associates, P.C. ("Atabek") are counsel for named Plaintiffs
11 Everett Jewett, Glen Harold Everett, Michael Donald Ackley, and Legal Services for Prisoners
12 with Children, and the class of persons with detainees and prisoners with mobility disabilities
13 (collectively, "Plaintiffs").

14 **BACKGROUND AND EXPERIENCE OF DRLC**

15 4. DRLC is a 501(c)(3) non-profit public interest organization dedicated to advancing
16 the civil rights of people with disabilities through education, advocacy and litigation. Founded in
17 1975, DRLC is one of the oldest non-profit, public interest law centers to focus on representing
18 individuals with diverse disabilities. DRLC's mission is to champion the rights of people with
19 disabilities through education, advocacy and litigation. DRLC accomplishes its work through
20 several programs, including the Civil Rights Litigation Program, Education Advocacy Program,
21 Cancer Legal Resource Center, the Inland Empire Program, and the Community Advocacy
22 Program. DRLC, engages in, *inter alia*, class action, multi-plaintiff and other complex impact
23 litigation on behalf of individuals with disabilities who face discrimination or other violations of
24 civil rights or federal statutory protections. DRLC is generally acknowledged to be a leading
25 public interest organization. DRLC also participates in various *amici curiae* efforts in a number
26 of cases affecting the rights of people with disabilities. Attorneys in the firm have lectured at
27 local, state, and national legal and professional organizations on the law applicable to individuals
28 with disabilities.

1 5. DRLC has litigated complex civil rights and public interest cases for over 40 years
2 with a focus on high impact litigation affecting the disability community. Examples include:
3 *Peter Johnson et al. v. Los Angeles County Sheriff's Department et al.*, USDC Case No. CV 08-
4 03515 DDP (SHx) (a successfully settled class action currently in the monitoring stage on behalf
5 of individuals with mobility impairments to obtain program and physical access while detained in
6 the Los Angeles County Jail); *Michael Garcia v. Los Angeles County Sheriff's Dept.*, USDC Case
7 No. CV-09-08943 DMG (SHx) (a successfully settled class action with three defendants resulting
8 in access to education for individuals with disabilities held at the Los Angeles County Jail;
9 litigation is ongoing as to defendant, California Department of Education); *Willits et. al. v. City of*
10 *Los Angeles*, USDC Case No. CV 10-05782 CBM (RZx) (a successfully settled class action
11 challenging the City of Los Angeles' failure to maintain pedestrian right of ways, including
12 sidewalks and curb ramps for people with mobility disabilities); *Ms. Wheelchair California v.*
13 *Starline Tours*, USDC Case No. CV11-02620 JFW (CWx) (a successfully settled class action
14 resulting in company-wide change in policy governing accessible tours and seating); *Casey A., et*
15 *al. v. Robles, et al.*, USDC Case No. CV10-00192 GHK (FMx) (a successfully settled class action
16 addressing Los Angeles County's failure to provide youth in the County's largest probation camp
17 with basic and appropriate education and rehabilitative services); *Doe2 v. County of San*
18 *Bernardino, et al.*, USDC Case NO. EDCV 02-962 RT (SGLx) (a successfully settled class action
19 addressing the County's failure to provide special education and mental health services to
20 children with disabilities in their custody in juvenile detention); *Valenzuela v. County of Los*
21 *Angeles*, USDC Case No. CV 02-9092 ABC (JWJx) (a successfully settled class action
22 addressing failure to provide effective communication for people who are deaf and hard of
23 hearing in field and jail settings by Los Angeles County Sheriff's Department); and *Lauderdale v.*
24 *Long Beach Police Department*, USDC Case No. CV 08-979 ABC (JWJx) (a successfully settled
25 class action addressing police department's failure to provide effective communication for people
26 who are deaf or hard of hearing.)

27 6. As a non-profit law firm and a provider of legal services pursuant to grants and
28 other funding, DRLC does not charge fees to its clients for any work undertaken on their behalf.

1 DRLC primarily handles cases in which the client cannot afford to retain a law firm, where other
2 lawyers will not handle the matter, and/or where the injunctive relief is the primary outcome of
3 the litigation. Our legal services are provided free of charge to our clients, with attorneys' fees
4 generally paid pursuant to fee shifting statutes.

5 **DRLC RATES**

6 7. In setting our rates, DRLC reviews published cases and unpublished decisions
7 concerning attorneys' fees rates used by comparable non-profit public interest organizations,
8 awards that DRLC has received for attorneys' fees, and other information from private attorneys
9 relating to the rates charged by private firms for comparable litigation. DRLC also carefully
10 monitors its billing practices to ensure that courts are able to properly perform the lodestar analysis
11 for a fee award. We also take into account the experience of the attorneys and staff working on the
12 case and the complexity of the case.

13 8. Several courts have found DRLC's hourly rates reasonable. Examples of courts
14 finding DRLC's hourly rates reasonable include:

- 15 • *Michael Garcia et al. v. Los Angeles County Sheriff's Dept.*, USDC Case No. CV-
16 09-08943 DMG (SHx), the United States District Court for the Central District of
17 California approved DRLC's 2017 rates in a class action. This included a range of
18 \$525 - \$660 for staff attorneys who graduated from law school from 2009 to 2004
19 and an hourly rate of \$250 for law clerks. In addition, a 2017 hourly rate of \$675
20 was approved for Ms. Barajas. Attached as Exhibit A is a true and correct copy of
21 that order. *See*, Declaration of Anna Rivera in support of Plaintiffs' Motion for
22 Attorneys' Fees, attached as Exhibit B (summary of hourly rates sought by
23 Plaintiffs at para. 65 of Rivera Declaration) (exhibits to Declaration omitted due to
24 length).
- 25 • *Communities Actively Living Independent and Free, et al. v. City of Los Angeles et*
26 *al.*, USDC Case No. CV 09-0287 CBM (RZx) the United States District Court for
27 the Central District of California found DRLC's 2012 historical rates reasonable.

28 In particular, the motion that was granted sought time billed by DRLC attorneys at

1 2012 hourly rates of \$550 for a 2003 graduate, \$665 for a Director of Litigation
2 who was a 1999 graduate and \$700 for a Director of Litigation who was a 1992
3 graduate. The court also found a 2012 hourly rate of \$230 for a law clerk
4 reasonable. *Id.* at 6: 21 - 7:17. The court further found that the plaintiffs had
5 “provided sufficient evidence . . . supporting the reasonableness of their 2012
6 requested hourly rates” and “that requested hourly rates correspond to the
7 prevailing market rates in the relevant community, considering the experience,
8 skill, and reputation of the attorneys in question.” *Id.* at 2:18-20. Attached hereto
9 as Exhibit C is a true and correct copy of that order.

- 10 • *Peter Johnson et al. v. Los Angeles County Sheriff’s Department*, USDC Case No.
11 CV 08-03515 DDP (SHx), the United States District Court for the Central District
12 of California granted Plaintiffs’ Motion for Attorneys’ Fees and Costs. Attached as
13 Exhibit D is a true and correct copy of that order. In particular, the motion sought
14 time billed by DRLC attorneys at 2014 historical hourly rates of \$800 for a 1982
15 graduate, \$700 for a 1992 graduate, \$500 for a 2005 graduate and an hourly rate of
16 \$230 for law clerks. In addition, a 2014 historical hourly rate of \$325 was
17 approved for Mr. Diaz, a 2012 graduate. *See*, Declaration of Richard Diaz in
18 support of Plaintiffs’ Motion for Attorneys’ Fees, attached as Exhibit E (summary
19 of hourly rates sought by Plaintiffs at para. 38 of Diaz Declaration) (exhibits to
20 Declaration omitted due to length).
- 21 • *Willits et al v. City of Los Angeles et al*, USDC Case No. CV 10-5782 CBM
22 (RZx), the United States District Court for the Central District granted Plaintiffs’
23 Motion for Attorneys’ Fees and Costs and approved DRLC’s 2014 historical
24 hourly rates. Attached as Exhibit F is a true and correct copy of that order. In
25 particular, the motion that was granted sought time billed by DRLC attorneys at
26 2014 historical hourly rates of \$680 for a 1987 graduate, \$550 for a 2003 graduate,
27 \$375 for a 2010 graduate, and an hourly rate of \$230 for law clerks. *Id.* at pg.6.
- 28 • *Greater Los Angeles Agency on Deafness, Inc. et al. v. Krikorian Premiere*

1 the Interim Co-Director of DRLC's Clinical Program at the University of La Verne College of
2 Law.

3 13. A true and correct copy of my resume is attached hereto as Exhibit H.

4 14. I am a 2003 graduate of Columbia Law School and 2000 graduate of the
5 University of California, Irvine. While in law school, I was involved with Columbia's Tenants
6 Rights Project and the Unemployment Action Committee. I was also a member of the Columbia
7 Human Rights Law Review and the Columbia Journal of Gender and the Law. I graduated *magna*
8 *cum laude* and with departmental honors from the University of California, Irvine, where I
9 received Bachelor of Arts degrees in Criminology, Law & Society, and Sociology. I am a
10 member of Phi Beta Kappa, Golden Key National Honor Society. I am also a member of the
11 Disability Rights Bar Association (DRBA), California Association of Parent Child Advocacy
12 Law Group (CAPCALaw), and Directors of Litigation and Advocacy (DoLA) section of the
13 Legal Aid Association of California (LAAC).

14 15. After law school, from late 2004 through early 2005, I worked as a legal
15 representative for MACS Copy and Interpreting Inc., where my work focused primarily on
16 worker's compensation matters. In early 2005, I joined DRLC and held various positions until I
17 left in late 2008. These positions included being an Education Advocate, Staff Attorney,
18 Associate Director and ultimately Director of the Education Advocacy Program. During 2005-
19 2008, my work was exclusively on behalf of people with disabilities, with a focus on matters on
20 behalf of students with disabilities. I worked on cases at the administrative and federal court
21 level. I also regularly lectured and trained on issues relating to individuals with disabilities,
22 including participating in legislative and regulatory comment on behalf of the organization. By
23 way of example, I was an Adjunct Professor at Loyola Marymount University in Los Angeles
24 where I taught an upper division Special Education and the Law course; guest lectured at Loyola
25 Law School's Disability Rights and Special Education Law class; and wrote articles related to the
26 rights of students with disabilities. In my capacity as Director of the Education Advocacy
27 program, I also supervised attorney staff and managed DRLC's Education Advocacy Program's
28 externship program. In 2007, during my tenure as the Director, the Education Advocacy Program

1 along with DRLC's litigation program was recognized as the Agency Winner at the National
2 Association of Counsel for Children in Keystone, Colorado for improving the educational
3 opportunity for students with disabilities held in detention facilities and for improving the access
4 to courts for individuals with disabilities.

5 16. In late 2008, I left DRLC to become an associate with the former law firm of
6 Traber & Voorhees, a prominent civil rights litigation firm in Pasadena, California. Traber &
7 Voorhees recently dissolved after one its founding partners, Theresa M. Traber, was appointed to
8 the bench. At Traber & Voorhees, I focused primarily on discrimination cases in the
9 employment, education, and custodial context. I handled matters at the state, federal and state
10 appellate level. I remained an associate with Traber & Voorhees until early 2011.

11 17. In early 2011, I returned to work with DRLC as the sole Senior Staff Attorney in
12 the litigation program. In addition to focusing on impact and complex litigation, I co-authored an
13 article with Paula Pearlman, Esq. for the 2011-2012 Ability magazine issue, titled "A boy and his
14 dog" regarding a case where I was lead counsel from DRLC. To my knowledge, it was the first
15 case of its kind where a federal court judge held that a student with autism had the right to attend
16 school with his service dog. Until approximately 2013, I also served as an Adjunct Professor at
17 Loyola Marymount University where I taught an upper division Special Education and the Law
18 course. I also oversaw DRLC's externship program with Loyola Law School until that
19 partnership ended. In 2015, I was promoted to Managing Attorney of the litigation department,
20 and in late 2016, I was again promoted, this time to Director of Litigation, a position that I still
21 hold.

22 18. Throughout my career, I have focused on complex civil rights cases in the areas of
23 disability law, housing, education and employment. I have worked exclusively on high impact
24 cases relating to the rights of persons with disabilities for over ten years. During this time, I have
25 litigated various cases in the area of disability rights, including individual, multi-plaintiff and
26 class action cases. These cases have primarily been against public entities, and most often with
27 the goal of system reform. I have also supervised attorneys in numerous lawsuits affecting the
28 rights of people with disabilities. As a result, I have developed extensive knowledge in the area of

1 disability rights cases, cases requiring policy reform, and cases involving public entities.

2 Representative cases that I have worked on while at DRLC include:

- 3 • *Ochoa et al. v. City of Long Beach et al.*, USDC Case No. CV 14-04307 DSF
4 (FFMx), a successfully settled class action case challenging the City of Long
5 Beach's failure to maintain pedestrian right of ways, including sidewalks and curb
6 ramps for people with mobility disabilities. The class action is currently in the
7 monitoring stage.
- 8 • *Michael Garcia et al. v. Los Angeles County Sheriff's Dept.*, USDC Case No. CV-
9 09-08943 DMG (SHx), a successfully settled class action case with three
10 defendants resulting in access to special education for individuals with disabilities
11 held at the Los Angeles County Jail. Litigation as to defendant, California
12 Department of Education is ongoing. The class action is currently in the
13 monitoring stage as two defendants.
- 14 • *Johnson et al. v. Los Angeles County Sheriff's Department et al.*, USDC Case No.
15 CV 08-03515 DDP (SHx), a successfully settled class action case challenging the
16 Los Angeles Sheriff's Department alleged failure to provide inmates with mobility
17 impairments to obtain program and physical access while in Los Angeles County
18 Jail. This class action is currently in the monitoring stage.
- 19 • *Gundry et al. v. Long Beach Unified School District*, USDC Case No. 2:15-CV-
20 05490 GW (PJWx), a successfully settled multi-plaintiff case addressing Long
21 Beach Unified School District's alleged failure to provide transition services for
22 students with cognitive disabilities.
- 23 • *M.R. v. Los Angeles Unified School District*, USDC Case No. 2:14-CV-09811-AB
24 (RZx), a successfully settled federal case addressing the need to provide program
25 and physical access to a student with a mobility disability.
- 26 • *C.S. v Public Safety Academy of San Bernardino and San Bernardino Unified*
27 *School District*, USDC Case No. EDCV-14-00941 RGK (DTBx), a successfully
28 settled case of first impression in California federal court challenging charter

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- school's use of a 2.0 grade policy to exclude students with disabilities.
- *Bresolin v. Los Angeles Unified School District*, USDC Case No. CV-10-78888 DSF (AJWx), a successfully settled case on behalf of parent with mobility disability addressing need to provide program and physical access to her child's school.
 - *Guzman v. California Department of Corrections and Friends Outside*, USDC Case Number 5:13-CV-00175 AB (DTBx), a successfully settled case on behalf of plaintiff with a mobility disability addressing the need for accessible services, programs and activities at the California Department of Corrections and Rehabilitation.
 - *S.T. v. Compton Unified School District*, USDC Case Number CV-13-1889 PSG (PLAx), a successfully settled case on behalf of a plaintiff with a mobility disability resulting in program and facility changes to ensure that Compton Unified School District provides program and physical access to students with mobility disabilities.
 - *C.C. v. Cypress School District et al*, USDC Case Number CV 11-00352 AG (RNBx), a successfully settled case of first impression in federal court allowing a student with autism to attend school with his service dog; preliminary injunction motion granted in favor of Plaintiff.
 - *Zepeda et al., v. Los Angeles Unified School District*, USDC Case Number CV-10-08034 JFW (FMOx), a successfully settled multi-plaintiff case addressing Los Angeles Unified School District's alleged failure to provide accessible transportation for students with disabilities to Grad Night and other school related events.

19. In the instant matter, I began work on this case since DRLC was retained. I supervised a team of attorneys from DRLC in the work necessary to prosecute this case and negotiate the class settlement. I assisted in drafting, reviewing and revising discovery, worked on settlement, and engaged in strategy sessions. I also worked on motions, worked with experts, and

1 participated in regular conferences calls with co-counsel to discuss strategy and tasks.

2 20. DRLC seeks compensation for my work at an hourly rate of \$715, which is
3 DRLC's 2018 billing rate for an attorney of my experience. A 2017 historical hourly rate of \$675
4 was previously approved for my work in *Michael Garcia v. Los Angeles County Sheriff's Dept.*,
5 USDC Case No. CV-09-08943 DMG (SHx); that order and related declaration are attached hereto
6 as Exhibits A and B.

7 21. Anna Rivera worked on this matter as a Managing Attorney at DRLC, a position
8 she currently holds. Ms. Rivera is the only Managing attorney with DRLC. Ms. Rivera graduated
9 from Southwestern Law School in 2005. Ms. Rivera first joined DRLC in 2006 as a Staff
10 Attorney in the Education Advocacy Program. Her case work dealt exclusively with disability
11 rights cases, with a focus on cases on behalf of students with disabilities. Ms. Rivera worked on
12 cases at the administrative and federal court level. She also guest lectured on education and
13 disability rights issues. A true and correct copy of Ms. Rivera's resume is attached hereto as
14 Exhibit I.

15 22. Ms. Rivera left DRLC in late 2009 to become an associate at the law firm of
16 Martin & Martin in Los Angeles, California. I understand that at Martin & Martin, Ms. Rivera
17 focused on individual education cases in administrative hearing proceedings and individual
18 employment discrimination cases in state court.

19 23. Ms. Rivera returned to work with DRLC in 2011 as a Staff Attorney. She was
20 promoted to Senior Staff Attorney in 2015. In early 2018, she was promoted again, this time to
21 Managing Attorney, a position that she still holds. Ms. Rivera has been involved in litigating,
22 negotiating and supervising attorneys in numerous lawsuits affecting the rights of people with
23 disabilities. She taught a Special Education and the Law class at Loyola Marymount University
24 as well as guest-lectured on educational law and policy. Examples of Ms. Rivera's cases include:

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- 26 • *Garcia et al. v. Los Angeles Sheriff's Dept. et al*, USDC Case Number CV-09-
27 08943 DMG (SHx), a successfully settled class action case challenging the City
28 of Los Angeles' failure to maintain pedestrian right of ways, including sidewalks
and curb ramps for people with mobility disabilities. The class action is currently

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in the monitoring stage.

- *Meister et al. v. Hawthorne Police Department*, USDC Case Number CV-14-1096 MWF (SHx), a successfully settled multi-plaintiff lawsuit addressing failure to provide effective communication to individuals who are deaf and hard of hearing by the Hawthorne Police Department. This case is currently in the monitoring stage.
- *Greater Los Angeles Agency on Deafness, Inc. et al v. Krikorian Premiere Theaters, LLC*, USDC Case No. CV 13-07172-PSG (ASx), a successfully settled class action case addressing Krikorian Theaters’ alleged failure to provide close captioning services to individuals who are deaf and/or hard of hearing by a movie theater. The class action is currently in the monitoring stage.
- *S.T. v. Compton Unified School District*, USDC Case Number CV-13-1889 PSG (PLAx), a successfully settled case on behalf of a plaintiff with a mobility disability resulting in program and facility changes to ensure that Compton Unified School District provides program and physical access to students with mobility disabilities.
- *Goldkorn v. County of Riverside*, USDC Case Number CV 14-982 RSWL (SHx), a successfully settled case on behalf of a plaintiff with a mobility disability resulting in program and facility changes to ensure that Riverside Regional County Regional Medical Center programs program and physical access visitors and patients with a mobility disability.
- *Ms. Wheelchair California v. Starline Tours*, USDC No. CV11-02620 JFW (CWx), a successfully settled class action resulting in company-wide change in policy governing accessible tours and seating.

24. In the instant matter, Ms. Rivera began working on this matter in late 2015. She assisted on drafting and reviewing discovery, worked on settlement, engaged in strategy sessions, and participated in clients meetings. Ms. Rivera also worked on motions, including drafting, reviewing and revising them. Ms. Rivera also worked with experts on this matter. And, she

1 conferred within DRLC and participated in regular conference calls with co-counsel to discuss
2 strategy and tasks.

3 25. DRLC seeks compensation for Ms. Rivera at an hourly rate of \$690, which is
4 DRLC's 2018 billing rate for an attorney of her experience. A 2015 historical hourly rate of \$500
5 was previously approved for Ms. Rivera in *Greater Los Angeles Agency on Deafness, Inc. et al v.*
6 *Krikorian Premiere Theaters, LLC*, Case No. CV 13-07172-PSG (ASx) that order is attached
7 hereto as Exhibit G.

8 26. Mallory Sepler-King worked on this matter as a Staff Attorney at DRLC, a
9 position she currently holds. Ms. Sepler-King graduated from the University of California, Irvine
10 School of Law in 2013. Since joining DRLC in June 2017, Ms. Sepler-King has focused on class
11 action and impact litigation centered on physical and programmatic accessibility for individuals
12 with disabilities, including special education matters.

13 27. Prior to joining the DRLC, Ms. Sepler-King was an associate attorney at a
14 plaintiff-side employment firm, where she worked exclusively on employment litigation, with a
15 focus on cases of workplace discrimination. She has also held a fellowship with the California
16 Department of Fair Employment and Housing ("DFEH"), where she assisted the Fair Housing
17 Council to draft comprehensive anti-discrimination housing regulations to enact the provisions of
18 the Fair Housing Act. While at the DFEH, Ms. Sepler-King authored numerous articles on state
19 and federal laws regarding assistive animals in housing, employment, and public
20 accommodations. A true and correct copy of her resume is attached hereto as Exhibit J.

21 28. In the instant matter, Ms. Sepler-King conducted legal research, worked on
22 settlement, obtained declarations, engaged in strategy sessions, and worked on plaintiffs'
23 preliminary approval motion. She also conferred within DRLC and participated in regular
24 conference calls with co-counsel to discuss strategy and tasks.

25 29. DRLC seeks compensation for Ms. Sepler-King at an hourly rate of \$475, which is
26 DRLC's 2018 billing rate for an attorney of her experience.

27 30. Kara Janssen was a Staff Attorney with the litigation program when she worked on
28 this matter. While at DRLC, Ms. Janssen focused on class action and impact litigation centered

1 on physical and programmatic accessibility for individuals with disabilities. I understand that Ms.
2 Janssen graduated from New York University School of Law in 2010. I understand that prior to
3 joining DRLC she was an associate at Disability Rights Advocates where she managed a caseload
4 involving civil rights cases in state and federal court and litigated a wide variety of disability-
5 related civil rights issues. Ms. Janssen left DRLC to join Rosen Bien Galvan & Grunfeld LLP
6 where she continues to practice civil rights litigation. A true and correct copy of her resume is
7 attached hereto as Exhibit K.

8 31. In the instant matter, Ms. Janssen conducted outreach and engaged in interviews
9 with affected individuals throughout the litigation. She assisted on drafting and reviewing
10 discovery, including attending a site inspection. Ms. Janssen also handled discovery disputes,
11 including engaging in meet and confers with opposing counsel. She engaged in strategy sessions,
12 and participated in clients meetings, identified and worked with bona fides, and worked with
13 experts. She also conferred within DRLC and participated in regular conference calls with co-
14 counsel to discuss strategy and tasks.

15 32. DRLC seeks compensation for Ms. Janssen at an hourly rate of \$565, which is
16 DRLC's 2018 billing rate for an attorney of her experience.

17 33. Jonathan Gibson is a 2014 graduate from Georgetown University Law Center.
18 When he worked on this matter, he was a Staff Attorney with the litigation department. While at
19 DRLC, Mr. Gibson focused on class action and impact litigation centered on physical and
20 programmatic accessibility for individuals with disabilities. Prior to his work with DRLC, Mr.
21 Gibson was a Staff Attorney with Greater Bakersfield Legal Assistance. In the instant matter, Mr.
22 Gibson assisted on drafting and reviewing discovery, conducted legal research and amended
23 complaint and motion work. He also conferred within DRLC to discuss strategy and tasks.

24 34. Mr. Gibson left DRLC to join Public Law Center where he continues to practice in
25 the public interest. A true and correct copy of his resume is attached hereto as Exhibit L.

26 35. DRLC seeks compensation for Mr. Gibson at an hourly rate of \$450, which is
27 DRLC's 2018 billing rate for an attorney of his experience.

28 36. Richard Diaz is a 2012 graduate of Southwestern University School of Law. Mr.

1 Diaz joined DRLC as a staff attorney in 2013. He then held the position of Kirkland and Ellis
2 Fellow from 2014 to 2015. While at DRLC Mr. Diaz's case work focused on class action and
3 impact litigation centered on physical and programmatic accessibility for individuals with
4 disabilities. In this litigation, Mr. Diaz conducted significant investigation work, research,
5 assisted in drafting initial amended complaint. A true and correct copy of Mr. Diaz's resume is
6 attached hereto as Exhibit M. DRLC's hourly rate for an attorney of Mr. Diaz's experience is
7 \$545.

8 37. A 2014 historical hourly rate of \$325 was previously approved for Mr. Diaz in
9 *Peter Johnson v. Los Angeles County Sheriff's Department*, Case No. CV 08-03515 DDP (SHx);
10 that order and related declaration are attached hereto as Exhibits D and E. In an exercise of billing
11 judgement, DRLC is not seeking compensation for Mr. Diaz's work in the instant matter. This cut
12 represents 14.9 hours of attorney time for a value of \$8,120.50.

13 38. DRLC regularly works, directs and supports law clerks to, among other things,
14 assist with conducting legal and factual research, drafting memoranda, contact with clients, as
15 well as synthesis of facts and data. DRLC's law clerks are law students who primarily attend law
16 school within the greater Los Angeles area. DRLC law clerks primarily performed legal research
17 and other post filing work in this matter. DRLC's hourly rate for law clerks is \$260. In an
18 exercise of billing judgment, DRLC is not seeking compensation for law clerk time in the instant
19 matter. This cut represents 6.9 hours of law clerk for a value of \$1,794.00.

20 39. DRLC's legal assistants also performed substantial work in this case necessary for
21 discovery and litigation of this matter. DRLC's hourly rate for legal assistants is \$255. A 2017
22 historical hourly rate of \$250 was previously approved for DRLC's legal assistants in *Michael*
23 *Garcia v. Los Angeles County Sheriff's Dept.*, USDC Case No. CV-09-08943 DMG (SHx), that
24 order and related declaration are attached hereto as Exhibits A and B. In an exercise of billing
25 judgment, DRLC is not seeking compensation for time spent by legal assistants in the instant
26 matter. This cut represents 66.1 hours of legal assistant time for a value of \$16,855.50.

27 40. In my experience, the manner in which DRLC staffed this case is standard for a
28 case of this size and importance. Further, DRLC was careful and thorough throughout the case,

1 and staffed and prosecuted this action in the manner that best protected class interests.

2 41. DRLC's representation of Plaintiffs is on a wholly contingent basis, as it is with all
3 of its clients. DRLC devoted substantial resources to this matter, and has received no payment for
4 any of the over 700 hours of work done that was necessary to fully litigate this case and achieve
5 the historical settlement at hand.

6 42. Each year, DRLC is called upon to represent significantly more individuals with
7 disabilities than we can actually represent. Due to the complexity of this case, and hours required
8 to be spent by the Director of Litigation as well as the only Managing Attorney in the litigation
9 department, and due to that substantial time commitment, DRLC was unable to investigate several
10 new matters even when they seemed meritorious. This resulted in DRLC being unable to
11 investigate and take potentially meritorious cases.

12 43. DRLC made every effort to litigate this matter efficiently by coordinating our work,
13 minimizing duplication, and assigning tasks in a time and cost efficient manner, based on the time
14 keepers' experience levels and talents.

15 **Method of Recording Time**

16 44. DRLC's method of recording attorneys' fees consists of recording time spent on
17 particular cases as contemporaneously as possible with the actual expenditure of the time, in tenths
18 of an hour increments, and submitting those time records in the regular course of business.
19 DRLC's law clerks and support staff do the same.

20 **Exercise of Billing Judgment**

21 45. In the exercise of billing judgment, I have reviewed and revised the billing records
22 on an entry-by-entry basis to eliminate inefficiencies and other billing entries. In total, DRLC has
23 no-charged 97.9 hours. These cuts represent 24.9 hours of attorney time, 66.1 hours of legal
24 support time, and 6.9 hours of law clerk time. Stated differently, DRLC's exercise of billing
25 discretion cut nearly 14% of total hours spent on this matter, for a value of \$33,512.50.

26 46. Further, DRLC's fees and costs in this matter do not include any time or expense
27 related to Plaintiff Everett Jewett's individual claims. The total time and costs associated with
28 Plaintiff Everett Jewett's individual claims is not calculated in the above discount associated with

1 Plaintiffs’ requested Lodestar.

2 47. First, I reviewed all of the time on an entry-by-entry basis and no charged or
 3 deleted time to the extent that particular time entries by DRLC reflected arguably unproductive or
 4 duplicative hours. I did so as to eliminate any potential inefficiencies arising from the use of
 5 lawyers who were unfamiliar with the case and who would require the expenditure of time to
 6 achieve working familiarity with the claims. I also made these deletions to minimize the
 7 possibility of billing based on overstaffing and to minimize any overbilling resulting from the use
 8 of additional attorneys. For example, where more than one attorney attended a particular case-
 9 related event, Class Counsel billed for only one attorney unless the other attorney’s presence was
 10 warranted based their participation and contribution

11 48. Additionally, we also reduced or excised time entries that were excessive in
 12 relation to the task at issue. And finally, Class Counsel eliminated time entries for a number of
 13 tasks that were administrative in nature.

14 49. I also no charged all time expended on the matter for work performed by Richard
 15 Diaz, law clerks and legal assistants.

16 50. I have further applied a 5% across-the-board cut on attorney fees to ensure that this
 17 request does not include any time that was unnecessary, redundant, or administrative. This is a
 18 cut of \$18,887.05.

19 **Requested Fees**

20 51. DRLC’s final requested lodestar for work related to the prosecution and settlement
 21 of this class action (“merit-related lodestar”) through March 31, 2018 is \$358,853.95 for 622.80
 22 hours. A true and correct copy of DRLC’s billing statement is attached hereto as Exhibit N.

23 52. In my opinion, DRLC’s hours are reasonable and all were necessary to litigate this
 24 case in light of the large scope of this case, the almost three and a half year period of
 25 litigation and the excellent results achieved.

26 53. The chart below provides DRLC’s timekeepers in this matter including hours and
 27 total fees sought.

NAME	GRADUATION DATE	RATE	TOTAL HOURS	TOTAL FEES
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1	Maronel Barajas, Director of Litigation	2003	\$715	117.9	\$84,298.50
2	Anna Rivera, Managing Attorney	2005	\$690	145	\$100,050
3	Kara Janssen, Staff Attorney	2010	\$565	259	\$146,335
4	Mallory Sepler-King, Staff Attorney	2013	\$475	66.1	\$31,397.50
5	Jonathan Gibson, Staff Attorney	2014	\$450	34.8	\$15,660
6	Richard Diaz, Staff Attorney	2012	\$545	149	\$0
7	Law Clerks	N/A	\$260	6.9	\$0
8	Legal Assistants	N/A	\$255	66.1	\$0
9	DRLC Total Fees				\$377,741
10	DRLC's Final Merit- Related Lodestar				\$358,853.95

11 54. DRLC has also expended time through March 31, 2018 on the preparation of this
12 Motion in the amount of \$17,109 (“fees lodestar”). A true and correct copy of DRLC’s billing
13 statement is attached hereto as Exhibit O.

14 **Requested Costs**

15 55. Plaintiffs’ costs are well-documented and reasonable for litigation of this kind.

16 56. The costs incurred by DRLC were necessary for the prosecution of this litigation,
17 and are consistent with a matter of this scope and complexity. These costs include: process serving
18 fees; travel expenses; photocopying and mailing expenses; and other reasonable litigation-related
19 costs. In the exercise of billing judgment, I have reviewed and revised the costs records on an
20 entry-by-entry basis to eliminate or no charge costs to reduce inefficiencies and other billing.

21 57. DRLC has incurred the following categories of expenses: Legal Services, such as
22 couriers, service of process and filing fees; Travel, such as mileage, lodging, and airfare; Parking;
23 and Photocopying expenses. For expenses, DRLC uses a computerized billing system, Sage
24 Timeslips, in the regular course of business. DRLC then generates a report from Sage Timeslips
25 that reflects the expenses in each case, in the regular course of business. The total amount of these
26 expenses in this matter for expenses related to the prosecution and settlement of this class action is
27 \$8,557.89. A true and correct copy of the total expenses related to the prosecution and settlement
28 of this class action as generated by the Sage Timeslips system and exported in Excel is attached

1 hereto as Exhibit P. DRLC has also expended \$30.19 for attendant expenses and costs related to
2 this Motion through March 31, 2018. A true and correct copy of the total expenses related to this
3 Motion as generated by the Sage Timeslips system and exported in Excel is attached hereto as
4 Exhibit Q.

5 58. As to the category of Travel Expenses: DRLC staff is reimbursed for reasonable
6 and actual expenses for mileage, airfare, lodging, and meals related to each case. DRLC staff may
7 use their personal vehicle for business purposes if it is cost effective to do so. For mileage, DRLC
8 reimburses staff at the standard mileage rate as set by the Internal Revenue Service. When
9 reimbursing DRLC staff for reasonable and actual meal expenses, it is DRLC's practice for staff to
10 submit requests for reimbursement detailing each expense. When reimbursing DRLC staff for
11 expenses, such as mileage, parking, airfare, lodging, and meal expenses, it is DRLC's practice for
12 staff to submit requests for reimbursement detailing each expense. After approval, those expenses
13 are then recorded in our billing system, Sage Timeslips, in the regular course of business. In this
14 matter the total amount of travel expenses related to the prosecution and settlement of this class
15 action was \$6,182.65. DRLC further expended \$4.36 of travel charges for attendant expenses and
16 costs related to this Motion through March 31, 2018

17 59. As to the category of Parking: DRLC staff is reimbursed for reasonable and actual
18 parking and toll expenses. When reimbursing DRLC staff for reasonable and actual parking and
19 toll expense, it is DRLC's practice for staff to submit requests for reimbursement detailing each
20 expense. After approval, those expenses are then recorded in our billing system, Sage Timeslips, in
21 the regular course of business. In this matter the total amount of parking and toll expenses related
22 to the prosecution and settlement of this class action was \$326. DRLC did not incur any parking
23 expenses related to this Motion through March 31, 2018

24 60. As to the category of Legal Services: All reported expenses pertain to services
25 necessary to litigation of this case, including service of process, couriers, Pacer fees, and fees
26 related to court filings. In this matter the total amount of legal services charges was \$1,449.15.
27 DRLC did not incur any legal services charges related to this Motion through March 31, 2018

28 61. All reported photocopying and mailing expenses pertain to services necessary to the

1 litigation of this case. In this matter the total amount of photocopying and shipping chargers was
2 \$600.09. DRLC further expended \$25.83 in photocopying and mailing charges for attendant
3 expenses and costs related to this Motion through March 31, 2018

4 62. I have personally reviewed all the entries and calculations in this declaration. Any
5 calculation errors in the totals of hours, fees, costs or expenses are inadvertent.

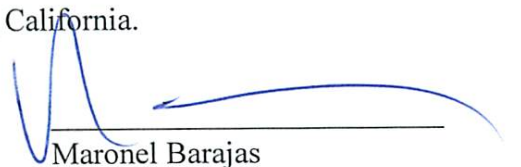
6 I declare under penalty of perjury under the laws of the United States of America and the
7 State of California that the foregoing is true and correct.

8

9 Executed on April 10, 2018 in Fullerton, California.

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12 Maronel Barajas
13 Attorneys for Plaintiffs and the Class

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Exhibit 6

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JUL 17 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

GUILLERMO GOMEZ-SANCHEZ,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 14-72506

Agency No. A092-924-179

ORDER

Before: Peter L. Shaw, Appellate Commissioner.

I
Background

Guillermo Gomez-Sanchez, a Mexican citizen, was charged with removability and applied for withholding of removal and relief under the Convention Against Torture (“CAT”). *See Gomez-Sanchez v. Sessions*, 892 F.3d 985, 988 (9th Cir. 2018). Gomez-Sanchez, who has schizophrenia and speaks poor English, was detained for two-and-one-half years while his case was administratively closed to obtain a competency evaluation. After a pro bono attorney learned about Gomez-Sanchez’s case and began representing him, an Immigration Judge (“IJ”) determined that Gomez-Sanchez was statutorily ineligible for withholding of removal because he had been convicted of a

particularly serious crime, and that an applicant's mental health as a factor in a criminal act falls within the criminal court's province and is not a factor to be considered in the particularly serious crime analysis. *Id.* The IJ also determined that Gomez-Sanchez was entitled to deferral of removal under the CAT. *Id.* at 989 n.2.

Gomez-Sanchez appealed the IJ's denial of withholding of removal. *Id.* at 988, 989. The Board of Immigration Appeals ("BIA") issued a published decision dismissing the appeal, and remanded for background checks needed for CAT relief. *Id.* at 988.

Gomez-Sanchez filed a petition for review of the denial of withholding of removal. *Id.* at 989. This court granted the petition, vacated the BIA's decision, and remanded to the BIA for further proceedings consistent with its amended opinion. *Id.* at 988, 989, 996-97. The court held that the agency must take all relevant information into consideration when making the particularly serious crime determination, including the individual's mental condition at the time of the crime, whether it was considered during the criminal proceedings or not, and that the BIA's interpretation of the Immigration and Nationality Act was not entitled to deference. *Id.* at 996-97. Gomez-Sanchez filed a petition for panel rehearing

requesting to change part of the court’s opinion that cited a BIA decision then under review. The court amended the opinion and denied rehearing. *Id.* at 987.

Gomez-Sanchez filed a motion for attorneys’ fees under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412. The government filed an opposition, and Gomez-Sanchez filed a reply. The court granted the motion and referred the fee amount determination to the Appellate Commissioner. *See* 9th Cir. R. 39-1.9.

II Discussion

A. Attorneys’ Fees

“The most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate.” *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983).

Gomez-Sanchez requests \$109,960.42 in attorneys’ fees for 232.93 hours of work by five attorneys and one paralegal from the ACLU Foundation of Southern California and the ACLU Foundation of San Diego and Imperial Counties.¹

Gomez-Sanchez requests enhanced, prevailing market hourly rates of \$710 to \$785 for attorney Ahilan T. Arulanantham, \$510 to \$620 for attorney Bardis Vakili, and \$450 to \$475 for attorney Carmen Iguina. Gomez-Sanchez requests cost-of-living-

¹ The result of the requested hours multiplied by the requested hourly rates is \$109,960.42. An unexplained \$0.02 “time slip adjustment” is disallowed.

adjusted EAJA statutory maximum hourly rates of \$190.06 for 2014, \$190.28 for 2015, \$192.68 for 2016, and \$200.78 for 2018 for attorney Lorie Alexander, attorney Jonathan Markovitz, and paralegal Geneva Tien.

1. Enhanced Hourly Rates

The government objects to awarding enhanced hourly rates for Arulanantham, Vakili, and Iguina. EAJA provides that fees may be awarded based upon prevailing market rates for the kind and quality of the services furnished, except that attorneys' fees shall not be awarded in excess of \$125 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee. *See* 28 U.S.C. § 2412(d)(2)(A).

a. Special Factor Enhancement

Gomez-Sanchez requests enhanced hourly rates based on the special factor of the limited availability of qualified attorneys for the proceedings involved. *Id.* In support of the request, Gomez-Sanchez provides declarations by Arulanantham, Iguina, and experienced Los Angeles immigration attorney Stacy Tolchin and Los Angeles civil rights attorney Carol Sobel.

Enhanced hourly rates based on the special factor of the limited availability of qualified attorneys for the proceedings involved may be awarded where the

attorneys “hav[e] some distinctive knowledge or specialized skill needful to the litigation in question [that] can be obtained only at rates in excess of the [statutory] cap.” *Pierce v. Underwood*, 487 U.S. 552, 572 (1988).

i. Distinctive Knowledge Or Specialized Skill

Gomez-Sanchez shows, and the government does not dispute, that Arulanantham has distinctive knowledge and specialized skill “in constitutional immigration law and litigation involving the rights of detained immigrants,” as this court determined in awarding enhanced hourly rates in *Nadarajah v. Holder*, 569 F.3d 906, 912 (9th Cir. 2009), as well as at the intersection of criminal, immigration, mental health, and disability law, and that Vakili and Iguina have distinctive knowledge and specialized skill at the intersection of immigration and mental health law.

Arulanantham has 15 years of experience as an ACLU attorney litigating numerous cases involving the intersection of criminal and immigration law, as well as the statutory and constitutional rights of non-citizens. Vakili has 11 years of experience as an ACLU attorney representing individuals with mental disabilities and individuals subject to removal for criminal convictions in immigration proceedings. Iguina spent five years as an ACLU attorney working on many cases at the intersection of mental health and immigration issues.

Arulanantham was lead counsel in *Nadarajah*, where the court concluded that Nadarajah's indefinite detention was unreasonable, unjustified, and illegal; reversed the district court's denial of Nadarajah's habeas corpus petition; and ordered Nadarajah's immediate release. *See Nadarajah v. Gonzales*, 443 F.3d 1069, 1084 (9th Cir. 2006). Arulanantham was co-lead counsel, and Vakili and Iguina were co-counsel, in *Franco-Gonzales v. Holder*, 2013 WL 3674492, at *20 (C.D. Cal. 2013), where the court held as a matter of first impression under Section 504 of the Rehabilitation Act that detained mentally ill immigrants have a right to counsel. *Franco* resulted in an injunction requiring the government to identify and provide counsel to mentally ill immigrants in detention. *See Franco-Gonzalez v. Holder*, 2018 WL 8115423, at *1-2 (C.D. Cal. 2013). Later, the government voluntarily chose to apply the *Franco* injunction nationwide.

Arulanantham, Vakili, and Iguina were awarded the American Immigration Lawyers' Association Jack Wasserman Memorial Award for Excellence in the Field of Immigration Law for their *Franco-Gonzales* work. Arulanantham has received many other awards for his immigration work, including a MacArthur Fellowship, and he serves as a resource for immigration attorneys nationwide. Tolchin states that Arulanantham is "unquestionably one of the most skilled [immigration] litigators in the country," and that Arulanantham, Vakili, and Iguina

all have particular knowledge and specialized skill in immigration cases involving people with serious mental disorders.

ii. Needful To The Litigation In Question

The government argues that Gomez-Sanchez has not shown that Arulanantham's, Vakili's, and Iguina's distinctive knowledge or specialized skill was needful to the litigation in question, or that "knowledge of foreign cultures or of particular, esoteric nooks and crannies of immigration law . . . [was] needed to give the alien a fair shot at prevailing." *Thangaraja v. Gonzales*, 428 F.3d 870, 876 (9th Cir. 2005). The government argues that Gomez-Sanchez's case was dictated by existing Ninth Circuit precedent and was not as novel or complex as *Nadarajah*, where Arulanantham's prevailing market hourly rates were awarded, and that Gomez-Sanchez's case did not involve Arulanantham's distinctive knowledge or specialized skill in constitutional immigration law and litigation involving detained immigrants' rights, as *Nadarajah* did. *See Nadarajah*, 569 F.3d at 913-15. The government argues that the court did not address Gomez-Sanchez's argument that the BIA's categorical bar against considering mental health in the particularly serious crime analysis discriminates against the mentally disabled in violation of the Rehabilitation Act, *see Gomez-Sanchez*, 892 F.3d at 997 n.11, and that only the Rehabilitation Act argument required the attorneys' distinctive

knowledge or specialized skill at the intersection of criminal, immigration, mental health, and disability law. The government's arguments lack merit.

Like *Nadarajah*, Gomez-Sanchez's case involved more than established principles of law with which the majority of attorneys are familiar, and more than a straightforward application of the rules of immigration law and appellate practice. *See Nadarajah*, 569 F.3d at 914; *Ramon-Sepulveda v. INS*, 863 F.2d 1458, 1462-63 (9th Cir. 1988). Gomez-Sanchez's case was novel and complex, as evidenced by the court's lengthy amended opinion holding that the BIA's published decision interpreting the Immigration and Nationality Act to establish the categorical bar was contrary to congressional intent, unreasonable, based on a flawed assumption, inconsistent with earlier BIA decisions, and not entitled to deference. *See Gomez-Sanchez*, 892 F.3d at 990-97. Indeed, the government argues elsewhere in its opposition that its position was substantially justified because the BIA decision was "a novel but credible extension or interpretation of the law."

Arulanantham's distinctive knowledge or specialized skill in constitutional immigration law and litigation involving detained immigrants' rights was necessary to this litigation, as it was in *Nadarajah*. Moreover, Arulanantham's distinctive knowledge or specialized skill at the intersection of criminal, immigration, mental health, and disability law, and Vakili's and Iguina's

distinctive knowledge or specialized skill at the intersection of immigration and mental health law were needed to give Gomez-Sanchez a fair shot at prevailing here. Although the court determined in light of its disposition not to address the Rehabilitation Act argument, *see Gomez-Sanchez*, 892 F.3d at 997 n.11, Gomez-Sanchez's attorneys' distinctive knowledge or specialized skill was necessary to every argument presented, not only the Rehabilitation Act argument.

As Tolchin states, even though the court decided Gomez-Sanchez's case under existing law, the preparation and presentation of Gomez-Sanchez's briefs and oral argument, which effectively demonstrated to the court that the BIA's decision was not entitled to deference, required the attorneys' distinctive knowledge or specialized skill regarding particular, esoteric nooks and crannies of federal immigration and state criminal law. *See Thangaraja*, 428 F.3d at 876. Specifically, Gomez-Sanchez's case involved an interplay of the laws governing the consideration in removal proceedings of whether an individual has been convicted of a particularly serious crime and is a danger to the community, the question whether reliable, relevant evidence of mental health at the time of a crime must be considered in removal proceedings, the mens rea element of criminal offenses, and the insanity defense in criminal cases. *See Gomez-Sanchez*, 892 F.3d at 990-97.

iii. Not Available Elsewhere At Statutory Rate

The government argues that Gomez-Sanchez has not shown, and Tolchin's declaration does not state, that Arulanantham's, Vakili's, and Iguina's distinctive knowledge or specialized skill was not available elsewhere at cost-of-living-adjusted EAJA statutory maximum hourly rates, citing *United States v. Real Prop. Known As 22249 Dolorosa St.*, 190 F.3d 977, 985 (9th Cir. 1999) and *Ramon-Sepulveda*, 863 F.2d at 1463. In the government's cases, however, courts had determined that distinctive knowledge or specialized skills were not needed for the litigation. *Id.*

Also, Gomez-Sanchez submits in reply a second declaration by Tolchin, stating that "I know of no one with expertise in the specialized subject matter needed to litigate this case who would have been available to do so at the statutory EAJA rate of \$200.78 an hour. I am confident that no such person exists." Tolchin's second declaration satisfies Gomez-Sanchez's burden to show that qualified counsel is not available elsewhere at the cost-of-living-adjusted EAJA statutory maximum hourly rates. *See Nadarajah*, 569 F.3d at 915 (citing *Atl. Fish Spotters Ass'n v. Daley*, 205 F.3d 488, 493 (1st Cir. 2000)); *Pirus v. Bowen*, 869 F.2d 536, 542 (9th Cir. 1989).

iv. Prevailing Market Hourly Rates

The government argues that Gomez-Sanchez has not shown that the requested enhanced hourly rates of \$710 to \$785 for Arulanantham, a 1999 law school graduate; \$510 to \$620 for Vakili, a 2006 law school graduate; and \$450 to \$475 for Iguina, a 2010 law school graduate, are “in line with those prevailing in the community for similar services by lawyers of reasonably comparable skill, experience and reputation.” *Blum v. Stenson*, 465 U.S. 886, 895 n.11 (1984). The government argues that Sobel’s declaration is not probative of prevailing market hourly rates for immigration litigation, because her expertise is in complex civil rights and class action litigation and her opinion relies on hourly rates for large commercial law firms engaged in complex business litigation. The government argues that Tolchin’s declaration does not state the prevailing market hourly rate for immigration practitioners in the relevant community, or her own hourly rate. The government’s arguments lack merit.

The market for Gomez-Sanchez’s attorneys’ services is defined more broadly than immigration cases. *See Blum*, 465 U.S. at 893; *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 455 (9th Cir. 2010); *Van Skike v. Dir., OWCP*, 557 F.3d 1041, 1046-47 (9th Cir. 2009). “[T]he proper scope of comparison is not so limited, but rather extends to all attorneys in the relevant community engaged in

‘equally complex Federal litigation,’ no matter the subject matter.” *See Prison Legal News*, 608 F.3d at 455 (quoting *Blum*, 465 U.S. at 893)).

Gomez-Sanchez has satisfied his burden to show that the requested hourly rates are in line with prevailing market hourly rates in the community for similar services by comparable attorneys. *See Blum*, 465 U.S. at 895 n.11. Arulanantham states that the ACLU polls Los Angeles attorneys and then sets its attorneys’ hourly rates “at or near the low end of the spectrum.” Sobel states that she has analyzed the fees charged by and awarded to Southern California attorneys in a variety of civil rights and other contexts. In Sobel’s opinion, Gomez-Sanchez’s requested enhanced hourly rates are reasonable. In Tolchin’s opinion, the requested enhanced hourly rates are “well within the range of reasonable rates for attorneys of their skill, experience, and reputation in Southern California.”

Sobel, a 1978 law school graduate, states that her 2018 hourly rate is \$990. Tolchin, a 2001 graduate, replies in her second declaration that her 2018 hourly rate is between \$500 and \$630. The requested hourly rates for Gomez-Sanchez’s attorneys are in line with Sobel’s and Tolchin’s hourly rates. In addition, Sobel provides many specific examples showing that Gomez-Sanchez’s requested enhanced hourly rates are in line with hourly rates requested and awarded for similar services by comparable attorneys in Southern California, and she supports

these examples with the fee requests and awards accompanying her declaration.

This court relied in part on a declaration by Sobel to award \$300 to \$335 enhanced hourly rates for Arulanantham's 2004 to 2006 work in *Nadarajah*, 569 F.3d at 916-918.

The government submits nothing to refute Arulanantham's, Sobel's, and Tolchin's declarations, and fails to meet its own "burden of rebuttal that requires submission of evidence . . . challenging the accuracy and reasonableness of the . . . facts asserted by the prevailing party in its submitted affidavits." *Gates v. Deukmejian*, 987 F.2d 1392, 1397-98 (9th Cir. 1992). Gomez-Sanchez's requested enhanced hourly rates are reasonable, and they are awarded. *See Blum*, 465 U.S. at 895 n.11; *see also Ingram v. Oroudjian*, 647 F.3d 925, 928 (9th Cir. 2011) (court also may rely on its own knowledge of prevailing market hourly rates).

b. Cost-Of-Living-Adjusted EAJA Statutory Maximum Hourly Rates

The government does not object to the requested cost-of-living-adjusted EAJA statutory maximum hourly rates for attorneys Alexander and Markovitz, and they are awarded. But the government objects to the requested cost-of-living-adjusted EAJA statutory maximum hourly rates for paralegal Tien, arguing that Gomez-Sanchez has not provided evidence of prevailing market hourly rates for

paralegals and that a paralegal should not be compensated at the same hourly rates as attorneys. This objection lacks merit.

The requested cost-of-living-adjusted EAJA statutory maximum hourly rates for paralegal Tien are in line with prevailing market rates for comparable paralegals, and they are awarded. *See Blum*, 465 U.S. at 895 & n.11. According to their website, after serving as a legal assistant at the Federal Public Defender's office, Tien joined the ACLU of Southern California as a paralegal in 2007, and she is now the director of advocacy support.

Arulanantham states that the requested cost-of-living-adjusted EAJA statutory maximum hourly rates for paralegal Tien are comparable to hourly rates awarded for paralegals in other EAJA litigation. The court may also rely on its own knowledge of prevailing market hourly rates for paralegals. *See Ingram*, 647 F.3d at 928. Moreover, EAJA caps paralegal and attorney fees at the same rate; Congress was not troubled that paralegals' fees could be recovered at a greater percentage of their full market value than attorneys fees' could be recovered under EAJA. *See Richlin Sec. Serv. v. Chertoff*, 553 U.S. 571, 587-88 (2008).

2. Reasonably Expended Hours

Gomez-Sanchez requests 232.93 hours for the attorneys' and paralegal's preparation of a petition for review, a motion to proceed in forma pauperis, a

motion to stay proceedings pending completion of the remand, two status reports, four notices regarding counsel, six motions for extensions of time or supplements to such motions, a 10,367-word opening brief, a 6,952-word reply brief, a hearing acknowledgment notice, a supplemental authorities citation, a letter to the court, a petition for panel rehearing, a fee motion, and a fee reply, as well as for Vakili's appearance at oral argument in San Francisco.

Arulanantham states that he analyzed the time records and eliminated duplicative or unnecessary hours, including some of Alexander's time for researching issues not critical to the fee motion. The government objects to the requested 232.93 hours, arguing that they are excessive and should be substantially reduced. (Gomez Sanchez originally requested more hours but, in reply to certain objections by the government, Gomez-Sanchez submitted corrected time records and reduced the requested hours.)

a. Level Of Success

The government argues that Gomez-Sanchez's requested hours should be reduced, because the court did not address Gomez-Sanchez's argument that the agency's determination that mental health can never be considered as a factor in the particularly serious crime determination violates the Rehabilitation Act, 29 U.S.C. § 794. *See Gomez-Sanchez*, 892 F.3d at 997 n.11. The government argues

that Gomez-Sanchez's fee award "should be reduced to represent the portion of his counsels' efforts that led to his success." This argument lacks merit.²

"Litigants in good faith may raise alternative legal grounds for a desired outcome, and the court's rejection of or failure to reach certain grounds is not sufficient reason for reducing a fee. The result is what matters." *Hensley*, 461 U.S. at 435; see *Ibrahim v. U.S. Dep't of Homeland Sec.*, 912 F.3d 1147, 1173 (2019). Thus, when a party prevails on only some claims, the court must consider whether: (1) the party failed to prevail on claims that were unrelated to the claims on which the party succeeded, and (2) the party achieved a level of success that makes the hours reasonably expended a satisfactory basis for the fee award. See *Hensley*, 461 U.S. at 434; *Ibrahim*, 912 F.3d at 1172.

Gomez-Sanchez's prevailing arguments and the unaddressed Rehabilitation Act argument were related because they involved a common core of facts or were based on related legal theories. See *Hensley*, 461 U.S. at 435; *Ibrahim*, 912 F.3d at

² Contrary to the government's argument, *Hardisty v. Astrue*, 592 F.3d 1072, 1077 (2010), is not relevant to the reasonably expended hours determination. In *Hardisty*, the district court denied EAJA fees because the government's position was substantially justified regarding the prevailing issue. *Id.* at 1075. This court held that the district court was not required to evaluate whether the government's position was substantially justified as to unaddressed issues. *Id.* at 1076-78. Here, in contrast, the court has held that the government's position was not substantially justified, and the question whether fees may be recovered for related issues is subject to a different, well-developed analysis.

1172. The focus is on whether the claims arose out of a common course of conduct. *Id.* The relief sought on Gomez-Sanchez's unaddressed Rehabilitation Act argument was not intended to remedy a course of conduct "entirely distinct and separate" from the course of conduct that gave rise to the injury upon which the relief granted was premised -- the denial of withholding of removal based on a determination that Gomez-Sanchez was convicted of a particularly serious crime that did not consider his mental health as a factor. *See Ibrahim*, 912 F.3d at 1174 & n.23; *O'Neal v. City of Seattle*, 66 F.3d 1064, 1069 (9th Cir. 1995). As Tolchin states, Gomez-Sanchez's attorneys might have violated their ethical duties if they failed to raise the Rehabilitation Act as an alternative ground for relief, as that statute was the source of the most significant change in the law governing people with serious mental disorders in the immigration context. *See Ibrahim*, 912 F.3d at 1177.

Gomez-Sanchez achieved full relief based on his prevailing arguments -- the court granted Gomez-Sanchez's petition for review, vacated the BIA's decision, and remanded for further proceedings consistent with the amended opinion. *See Gomez-Sanchez*, 892 F.3d at 996-97. The precedential BIA decision affected every person with a mental disorder who seeks withholding of removal and is subject to a particularly serious crime determination, underscoring Gomez-Sanchez's

achievement. *See Ibrahim*, 912 F.3d at 1178. Courts have uniformly declined to apportion fees where full relief was granted on some claims, rendering it unnecessary to reach related claims. *See Ibrahim*, 912 F.3d at 1173. Also, the Rehabilitation Act argument was not lost or unsuccessful; the court decided it was unnecessary to address it. *Id.* Because Gomez-Sanchez obtained excellent results on review, his attorneys should recover a fully compensable fee. *See Hensley*, 461 U.S. at 435. Gomez-Sanchez's level of success makes his attorneys' hours reasonably expended on the litigation as a whole a satisfactory basis for the fee award. *See Hensley*, 461 U.S. at 434; *Ibrahim*, 912 F.3d at 1178.

b. Correspondence Regarding Gathering Fee Records

The government objects to a portion of 1.33 hours block billed by Arulanantham in part for correspondence regarding gathering fee records, arguing that the government should not have to pay for time spent seeking to reconstruct Iguina's lost records and that the work was clerical in nature. *See Missouri v. Jenkins*, 491 U.S. 274, 288 n.10 (1989). Gomez-Sanchez replies that most of the record-gathering time was billed by an administrative assistant and not included in the fee request. Gomez-Sanchez contends that it was most efficient for Arulanantham to perform this particular work, because of his unique awareness of who worked on the case and when they did so.

Nevertheless, the record-gathering work was not legal in nature, and it may not be billed at an attorney's hourly rate, regardless of who performed it. *Id.* Arulanantham block billed the work with other tasks, so the court cannot determine what portion of time he spent on it. *See Welch v. Metro. Life Ins. Co.*, 480 F.3d 942, 948 (9th Cir. 2007). The entire 1.33 hours (\$1,044.05 in fees) are disallowed.

c. Moot And Oral Argument Travel

Gomez-Sanchez objects to 11.5 hours billed by Vakili for moot and oral argument travel, arguing that the time should be disallowed or awarded at half of the EAJA statutory maximum hourly rate. Gomez-Sanchez argues that it is not clear whether Vakili worked on this matter or worked at all during the travel, citing *Furtado v. Bishop*, 635 F.2d 915, 922 (1st Cir. 1980). In reply, Gomez-Sanchez submits Vakili's declaration stating that he worked on this case during 4.83 hours of train travel to and from San Diego to Los Angeles for the moot, preparing for the moot and following up on matters arising from the moot. Vakili also states that he worked on the case during 3.67 hours of plane travel from San Diego to San Francisco for the oral argument, finalizing his preparations for oral argument.

Vakili's 8.5 hours of travel while working on this matter were reasonably expended, and these hours are awarded at Vakili's enhanced hourly rate. *See Davis v. City & Cnty. of San Francisco*, 976 F.2d 1536, 1543 (9th Cir. 1992); *Henry v.*

Webermeier, 738 F.2d 188, 194 (7th Cir. 1984). Because Vakili does not state if he worked on another case during his 3 hours of return travel from the oral argument, these hours (\$1,770 in fees) are disallowed. *See Henry*, 738 F.2d at 194.

d. Other Objections

The government's objection to Iguina's billing of 3.17 hours and 3.83 hours for the same work on the same date lacks merit. Iguina reasonably expended 7 hours in one day reviewing the administrative record and relevant case law and drafting a litigation memorandum for approval of the litigation. *See Hensley*, 461 U.S. at 433-34; *Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th Cir. 2008). The government's objection to discrepancies in the hours that Arulanantham and Vikili billed for the same activities also lacks merit. In reply, Vakili states that Arulanantham left moots or co-counsel calls earlier than he did.

The government argues that Iguina's reconstruction of 40 hours based on the other attorneys' time records, after her post-August 2015 time records were lost, makes it difficult to determine the hours' accuracy or reasonableness. The government also questions the reliability of the recordkeeping, and requests reduction of the fee award on this ground. These arguments lack merit.

Although the court prefers contemporaneous records, they are not absolutely necessary. *See Fischer v. SJB-P.D. Inc.*, 214 F.3d 1115, 1121 (9th Cir. 2000).

“Fee requests can be based on ‘reconstructed records developed by reference to litigation files.’” *Id.* (quoting *Davis*, 976 F.2d at 1473). Iguina states she conservatively estimated that she spent 40 hours reviewing the agency record, researching the relevant case law, and drafting the opening and reply briefs. Because the time claimed is corroborated by the other attorneys’ time records, the court’s docket, and Gomez-Sanchez’s pleadings, the reliability of the recordkeeping is not reasonably in question, and no reduction is warranted on this ground.

e. Reasonably Expended Hours Summary

A review of the time records, the docket, the briefs and other pleadings, and the oral argument reveals no excessive, redundant, or otherwise unnecessary hours. *See Hensley*, 461 U.S. at 434. No other clerical work was billed at attorney or paralegal hourly rates. *See Jenkins*, 491 U.S. at 288 n.10. Gomez-Sanchez’s attorneys and paralegal reasonably expended the remaining 228.6 hours, and these hours are awarded. *See Hensley*, 461 U.S. at 433-34; *Moreno*, 534 F.3d at 1112.

3. Attorneys’ Fees Summary

Gomez-Sanchez is awarded \$107,146.37 in attorneys’ fees.

B. Costs

Gomez-Sanchez requests \$57.52 in costs for a FedEx delivery to the court and for Pacer research. The government argues that these costs should be denied because Gomez-Sanchez did not file a timely bill of costs, citing Federal Rule of Appellate Procedure 39(d)(1) and *Haselwander v. McHugh*, 797 F.3d 1, 2 (D.C. 2015). This argument lacks merit. Only certain limited costs for copying the briefs and excerpts of record are taxable in a cost bill. *See* Fed. R. App. P. 39(c); 9th Cir. R. 39-1.1 - 1.3. Gomez-Sanchez's requested costs are non-taxable, and they may be included in an EAJA fee award. *See* *Grove v. Wells Fargo Fin. Cal., Inc.*, 606 F.3d 577, 579-82 (9th Cir. 2010); *Trs. of Constr. Indus. & Laborers Health & Welfare Trust*, 460 F.3d 1253, 1257-59 (9th Cir. 2006). Gomez-Sanchez's requested non-taxable costs are reasonable, and they are awarded.

III Conclusion

Pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, attorneys' fees and non-taxable costs in the amount of \$107,203.89 are awarded in favor of Guillermo Gomez-Sanchez and against William P. Barr, Attorney General.

This order amends the court's mandate.

Exhibit 7.

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**United States District Court
Central District of California**

GUSTAVO RODRIGUEZ CASTILLO,
Plaintiffs-Petitioners,

v.

KIRSTJEN NIELSEN, Secretary,
Department of Homeland Security, et al,
Defendants-Respondents.

Case No. 5:18-cv-01317-ODW (KESx)

**AMENDED ORDER GRANTING
PLAINTIFFS’ MOTION FOR
ATTORNEYS’ FEES [49]**

I. INTRODUCTION

Before the Court is a Motion for Attorneys’ Fees (“Motion”) filed by Plaintiffs Gustavo Rodriguez Castillo (“Castillo”), Gabriela M. Lopez (“Lopez”), and Immigrant Defenders Law Center (“IDLC”) (collectively “Plaintiffs”) seeking \$190,718.89 in fees and costs from Defendants pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412. (See Mot., ECF No. 49.) For the reasons discussed below, the Court **GRANTS** Plaintiffs’ Motion.

II. BACKGROUND

The Court recited this case’s facts in its Temporary Restraining Order and Order to Show Cause (“TRO”) and incorporates that discussion here. (See TRO, ECF No. 10.) Plaintiffs brought this action on June 19, 2018, to challenge practices concerning civil immigration detainees held at FCI Victorville Medium Security

1 Prison (“FCI Victorville”), a federal correctional facility used to house convicted
2 criminals. (*See generally* Compl., ECF No. 1.) On or about June 4, 2018, the Bureau
3 of Prisons (“BOP”) received hundreds of immigration detainees for temporary
4 housing in FCI Victorville. (Compl. ¶ 17; *see also* Decl. of Jess Pino (“Pino Decl.”)
5 ¶ 3, ECF No. 7-1.) The federal government began transferring detainees to FCI
6 Victorville on or about June 8, 2018. (Compl. ¶ 19.)

7 Detainees were incarcerated pending a screening known as a “credible fear”
8 interview and, if found to have a “credible fear,” pending immigration court
9 proceedings. (Compl. ¶ 20.) Due to the volume of detainees, medical screenings, and
10 other administrative tasks, Defendants did not finalize attorney visitation procedures
11 until June 19, 2018. (Pino Decl. ¶ 5.) Consequently, detainees at FCI Victorville
12 could not consult an attorney before June 19, 2018. (Compl. ¶ 22.)

13 Here, Castillo was held as a detainee, Lopez served as Castillo’s attorney, and
14 IDLC is a nonprofit organization that provided legal services to detained immigrants.
15 (Compl. ¶¶ 5–7.) On June 19, 2018, Plaintiffs filed their Complaint and sought a
16 TRO. Plaintiffs’ Complaint alleged that Defendants’ denial of attorney access
17 violated their due process rights and First Amendment rights, and Defendants’
18 policies regarding access to attorneys violated the Administrative Policy Act and the
19 Immigration and Nationality Act. (Compl. ¶¶ 52–69.) Plaintiffs’ TRO sought to:
20 (1) permit Lopez to meet with Castillo; (2) permit other detainees at FCI Victorville to
21 communicate with attorneys; (3) permit the IDLC to conduct “know your rights”
22 training for the detainees at FCI Victorville; and (4) stop immigration proceedings at
23 FCI Victorville, or deportation of any such detainees, until they could consult an
24 attorney and attend an IDLC training. (*See* Pls.’ Ex. Parte Appl. (“Ex Parte”), ECF
25 No. 4.)

26 Defendants opposed on June 20, 2018. (Opp’n to Ex Parte, ECF No. 7.)
27 Defendants affirmed that they were “acutely aware of the need to allow” attorney
28 visitation and that it had “now implemented procedures” for attorneys to visit with

1 detainees. (Pino Decl. ¶ 7.) Defendants also provided details concerning the
2 implemented procedures for attorney visitation. (Pino Decl., Ex. A (“Mem. for
3 FCI”).) Namely, Defendants’ new policies permitted attorney visitations to occur in a
4 single visitation room, Tuesday through Friday from 8:30 a.m. to 3:00 p.m., and only
5 if the visiting attorney and individuals accompanying the attorney successfully
6 completed the necessary paperwork. (Mem. for FCI.) In their reply, Plaintiffs argued
7 these policies did not ensure sufficient visitation, provide adequate “know your rights”
8 training, or guarantee that Defendants would not proceed with detainees’ cases until
9 they had access to counsel. (Reply to Opp’n to Ex Parte, ECF No. 8.)

10 On June 21, 2018, the Court issued the TRO and an order to show cause why a
11 preliminary injunction should not issue. (TRO 7.) The TRO decided that in-person
12 communications may proceed according to the protocols Defendants provided and
13 required Defendants to:

- 14 (1) Permit Lopez to conduct an attorney-client conversation with Castillo;
- 15 (2) Permit other FCI Victorville detainees to communicate with attorneys;
- 16 (3) Permit IDLC to conduct “know your rights” trainings at FCI Victorville; and
- 17 (4) Refrain from immigration proceedings or deportations until detainees could
18 consult an attorney or attend “know your rights” training.

19 (TRO 6–7.)

20 In their Response and Request to Dissolve the TRO, Defendants argued “there
21 is a perfectly valid and reasonable explanation for” initially denying attorney access
22 and then allowing restricted visitation: “[n]amely, the facility only just began housing
23 immigrants immediately prior to the outset of the litigation.” (Defs.’ Resp. and Req.
24 Dissolve TRO (“Resp.”) 18, ECF No. 20.) Yet, Defendants did not address Plaintiffs’
25 allegations concerning their due process or First Amendment claims. (Resp. 18.)

26 Thereafter, the Court held a hearing on the order to show cause on July 30,
27 2018. (Min. of TRO Hr’g, ECF No. 22.) After being updated on Defendants’ lack of
28 progress, the Court told the parties “we’re going to make meaningful progress or I am

1 going to draft a preliminary injunction.” (See Decl. of Michael Kaufman (“Kaufman
2 Decl.”), Ex. F (“Hr’g Tr.”) 39, 48, ECF No. 54-1.) Defendants assured the Court that
3 they would make progress in satisfying the conditions of the TRO and not “simply
4 move people to Adelanto [to] fast track removal proceeding[s],” and thus would not
5 require a court issued preliminary injunction. (See Hr’g Tr. 40.)

6 The parties then stipulated to extend the TRO for two weeks to pursue
7 settlement, and later stipulated to extend the TRO two more times. (ECF Nos. 23, 28,
8 34.) The parties then came to an impasse and stipulated on August 27, 2018 to extend
9 the TRO pending the Court’s consideration of whether a preliminary injunction should
10 issue. (ECF No. 37.) The Court approved the parties’ stipulation and ordered them
11 to file a joint status report concerning whether a preliminary injunction should issue.
12 (ECF No. 38.) The parties filed their joint status report on August 29, 2018. (Status
13 Report, ECF No. 39.) In the report, Defendants: (1) noted that FCI Victorville had
14 decreased its detainee population to 202 and taken no new detainees since July 24,
15 2018; (2) described new visitation policies and implementation of Court-ordered
16 “know your rights” training; and (3) concluded that if “the Court is inclined to grant
17 Plaintiff a preliminary injunction based on this status report, Defendants request
18 instead that the Court set this matter for hearing in 30 days...” (See generally Status
19 Report.) After reviewing the parties’ submissions, the Court set a preliminary
20 injunction hearing for October 19, 2018. (ECF No. 40.)

21 On September 28, 2018, Defendants filed their Opposition to Plaintiffs’ Motion
22 for Preliminary Injunction, affirming that they had transferred all immigration
23 detainees out of FCI Victorville effective September 14, 2018 and would no longer
24 hold immigration detainees at the facility. (See Defs.’ Opp’n to Mot. for Prelim. Inj.
25 4, ECF No. 41.) Afterwards, on October 10, 2018, Plaintiffs filed a Notice of
26 Withdrawal of their Motion for a Preliminary Injunction. (ECF No. 42.) The Court
27 granted that request and vacated the hearing. (ECF No. 43.)
28

1 On October 30, 2019, the parties filed a Joint Stipulation to Voluntarily Dismiss
2 the Case Without Prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(ii).
3 (ECF No. 48.) The Court dismissed all claims without prejudice and closed the case.
4 (ECF No. 58.) Plaintiffs now seek fees incurred from June 18, 2018 through
5 December 9, 2019. (*See* Mot.; Pls.’ Reply, ECF No. 59.)

6 III. LEGAL STANDARD

7 A. Attorneys’ Fees Under the EAJA.

8 Pursuant to the EAJA, federal courts are authorized to award attorneys’ fees,
9 court costs, and other expenses. *See* 28 U.S.C. § 2412(a)(1); 28 U.S.C. § 2412(d);
10 *Hardisty v. Astrue*, 592 F.3d 1072, 1076 (9th Cir. 2010). For the district court to
11 award attorney’s fees and costs pursuant to the EAJA, it must be shown that (1) the
12 plaintiff is the prevailing party, (2) the government has not met its burden of showing
13 that its positions were substantially justified or that special circumstances make an
14 award unjust, and (3) the requested attorney’s fees and costs are reasonable. *Murgolo*
15 *v. Astrue*, 257 F. App’x 53, 54 (9th Cir. 2007).

16 A litigant must meet two criteria to qualify as a “prevailing party” under the
17 EAJA. *Buckhannon Bd. and Care Home, Inc. v. W. Va. Dep’t of Health and Human*
18 *Res.*, 532 U.S. 598, 604 (2001). First, the litigant must achieve a “material alteration
19 of the legal relationship of the parties.” *Carbonell v. I.N.S.*, 429 F.3d 894, 898 (9th
20 Cir. 2005). Second, that alteration must be “judicially sanctioned.” *Id.* (citations
21 omitted). The Ninth Circuit has “previously held that when a plaintiff wins a
22 preliminary injunction and the case is rendered moot before final judgment, either by
23 the passage of time or other circumstances beyond the parties’ control, the plaintiff is
24 a prevailing party eligible for a fee award.” *Higher Taste, Inc. v. City of Tacoma*, 717
25 F.3d 712, 717 (9th Cir. 2013) (citations omitted).

26 The burden of proving the substantial justification exception to the mandatory
27 award of fees under the EAJA lies with the government. *Love v. Reilly*, 924 F.2d
28 1492, 1495 (9th Cir. 1991). “Substantial justification” is defined as:

1 justified in substance or in the main – that is, justified to a degree that
2 could satisfy a reasonable person. [This standard] is no different from the
3 “reasonable basis in both law and fact” formulation adopted by the Ninth
4 Circuit and the vast majority of other Courts of Appeals that have
5 addressed this issue.

6 *Pierce v. Underwood*, 487 U.S. 552, 565 (1988).

7 In determining the reasonableness of the government’s position under the
8 “totality of the circumstances” test, the court reviews the underlying governmental
9 action being defended and the positions taken by the government in the litigation
10 itself. *Gutierrez v. Barnhart*, 274 F.3d 1255, 1259 (9th Cir. 2001).

11 “The amount of attorneys’ fees awarded under EAJA must be reasonable.”
12 *Nadarajah v. Holder*, 569 F.3d 906, 910 (9th Cir. 2009). Attorney’s fees for hours
13 that are not “reasonably expended” or that are “excessive, redundant, or otherwise
14 unnecessary” are not compensable. *Hensley v. Eckerhart*, 461 U.S. 424, 434 (1983).
15 “[C]ourts should generally defer to the ‘winning lawyer’s professional judgment as to
16 how much time he was required to spend on the case.’” *Costa v. Comm’r of Soc. Sec.*
17 *Admin.*, 690 F.3d 1132, 1136 (9th Cir. 2012) (citations omitted).

18 IV. DISCUSSION

19 Plaintiffs assert that they are entitled to \$190,718.89 in fees and costs under the
20 EAJA. (*See* Mot.; Reply.) Defendants respond that the Court should deny Plaintiffs’
21 Motion as: (1) Plaintiffs were not prevailing parties; (2) Defendants position was
22 substantially justified; and (3) Plaintiffs’ fees are unreasonable and should be reduced.
23 (*See* Opp’n to Mot. (“Opp’n”), ECF No. 57.)

24 A. Prevailing Party

25 Plaintiffs argue that they are prevailing parties because the TRO and its
26 extensions, created a “material alteration in the legal relationships between the
27 parties,” which was “judicially sanctioned.” (Mot. 8–9.) Defendants oppose by
28 asserting that the remedial actions it took, after the Complaint was filed, made it “not
necessary for Plaintiffs to continue to seek a TRO.” (Opp’n 3.) Defendants further

1 argue that fees are improper due to the abbreviated schedule for opposing the TRO
2 and as the Court never expressly ruled that Plaintiffs were likely to succeed on the
3 merits. (Opp’n 3.) Finally, Defendants argue that without court intervention, the
4 procedures implemented at FCI Victorville and the transfer of detainees from FCI
5 Victorville would have occurred. (Opp’n 3.)

6 The Court rejects Defendants’ arguments. Foremost, the actions cited by
7 Defendants—know your rights training and communication between Lopez and
8 Castillo—occurred only after the TRO issued. (Opp’n 2–5.) In fact, they were
9 mandated by the TRO. (See TRO 6–7.) Defendants’ assertion that they immediately
10 complied with the TRO does not disprove that Plaintiffs are prevailing parties.
11 Rather, it is evidence that Plaintiffs prevailed. *Shapiro v. Paradise Valley Unified*
12 *Sch. Dist. No. 69*, 374 F.3d 857, 865 (9th Cir. 2004) (“[E]ssentially, in order to be
13 considered a ‘prevailing party’ after *Buckhannon*, a plaintiff must not only achieve
14 some material alteration of the legal relationship of the parties, but that change must
15 also be judicially sanctioned.”) (internal quotations and citations omitted). Here,
16 despite Defendants moving to dissolve it, the Court’s three orders extending the TRO,
17 further demonstrates that Defendants’ remedial actions were “judicially sanctioned.”
18 Accordingly, Plaintiffs are prevailing parties with regards to the TRO and any ensuing
19 litigation to enforce it. *See Carbonell*, 429 F.3d at 901 (“[W]hen a court incorporates
20 the terms of a voluntary agreement into an order, that order is stamped with sufficient
21 ‘judicial imprimatur’ for the litigant to qualify as a prevailing party for the purpose of
22 awarding attorney’s fees.”).

23 Defendants’ argument that the Court never expressly found that Plaintiffs were
24 likely to succeed on the merits—also fails; clearly, by granting the TRO, the Court
25 determined that Plaintiffs were likely to succeed on the merits. (See TRO 5.)
26 Likewise, the proceedings’ expedited nature is irrelevant to whether Plaintiffs were
27 prevailing parties, Plaintiffs achieving a TRO on a necessarily abbreviated timeline is
28 sufficient to create a “judicially sanctioned,” “material alteration in the legal

1 relationships between the parties.” *Int’l Refugee Assistance Project v. Kelly*, 2017
2 WL 3263870, at *4 (C.D. Cal. July 27, 2017) (determining plaintiffs as the prevailing
3 party even though TRO was issued on the same day that the TRO motion was made).

4 Finally, Defendants’ attempt to attribute adoption of Plaintiffs’ requested
5 changes to their uncoerced decision-making—is contrary to the record. Plainly, the
6 TRO, the Court-ordered extensions, and litigation necessitating Plaintiffs’ fees, while
7 the TRO was in effect, make clear that Court involvement, not Defendants’ discretion,
8 produced the changes that resulted in voluntary dismissal. *Higher Taste, Inc.*, 717
9 F.3d at 717 (“The defendant’s action in rendering the case moot ensures that the
10 [preliminary] injunction’s alteration of the parties’ legal relationship will not be
11 undone by subsequent rulings in the litigation.”); *see also Int’l Refugee Assistance*
12 *Project*, 2017 WL 3263870, at *4 (“[T]hat [the government] retained discretion” to
13 implement immigration policies following temporary restraining order “does not mean
14 that Petitioners cannot be the prevailing party.”).

15 Hence, Plaintiffs were prevailing parties under the EAJA.

16 **B. Substantially Justified Position**

17 Defendants bear the burden to establish that their position, which includes both
18 their underlying conduct and arguments during litigation, was substantially justified
19 under the “totality of the circumstances.” *Gutierrez*, 274 F.3d at 1259. The
20 underlying conduct here is primarily Defendants’ decision to hold hundreds of civil
21 immigration detainees for approximately two weeks without access to counsel.
22 (TRO 6 (“[T]he parties do not dispute that many of the detainees were without access
23 to legal communication for as many as 9 to 13 days, possibly longer in Castillo’s case.
24 Defendants have made no representations regarding the status of removal proceedings
25 for those detainees who have not had access to counsel.”).)

26 Defendants do not and cannot dispute that holding civil immigration detainees
27 incommunicado for such prolonged periods implicates due process concerns.
28 *Halvorsen v. Baird*, 146 F.3d 680, 688 (9th Cir. 1998) (“There is a well established

1 tradition against holding prisoners incommunicado in the United States.”) Instead,
2 Defendants argue that circumstances at FCI Victorville delayed their ability to ensure
3 due process, pointing to previously discussed measures taken in response to the
4 Complaint and TRO. (Opp’n 5–7.) However, Defendants’ pre-litigation conduct
5 necessitated this lawsuit, and their lack of progress, post-TRO, required protracted
6 extension of the TRO until Defendants transferred all detainees, an action finally
7 taken on the eve of potential injunctive relief. (See Hr’g Tr. 39 (“I am going to be
8 convinced that we’re going to make meaningful progress or I am going to draft and
9 enter a preliminary injunction that, well, somebody’s not going to like.”); *see also*
10 Status Report 14 (“In the event that the Court is inclined to grant Plaintiff a
11 preliminary injunction based on this status report, Defendants request instead that the
12 Court set this matter for hearing in 30 days...”))

13 Defendants’ assertion that confining detainees at a facility for convicted
14 criminals complicated access to counsel does not justify Defendants’ position.
15 Instead, it is an indictment of their decision to house them there in the first place.
16 *Colindres-Aguilar v. INS*, 819 F.2d 259, 261 n.1 (9th Cir. 1987) (noting an
17 immigrant’s right to counsel is a statutory right under 8 U.S.C. § 1362, as well as a
18 right protected by the due process clause). This underlying action, alone, warrants a
19 finding that Defendants’ position was not substantially justified, regardless of
20 arguments made during litigation. *United States v. Marolf*, 277 F.3d 1156, 1163–64
21 (9th Cir. 2002) (“A reasonable litigation position does not establish substantial
22 justification in the face of a clearly unjustified underlying action.”) (citing *Wilderness*
23 *Soc’y v. Babbitt*, 5 F.3d 383, 388–89 (9th Cir. 1993) (holding government was not
24 substantially justified despite reasonable defense in litigation); *Andrew v. Bowen*, 837
25 F.2d 875, 877–80 (9th Cir. 1988) (same)).

26 The Court therefore concludes that Defendants have not established their
27 position was substantially justified.

28

1 **C. Reasonable Attorneys’ Fees and Costs**

2 Plaintiffs seek \$190,718.89 in fees and costs incurred from June 18, 2018
3 through December 9, 2019, when Plaintiffs filed the Reply.¹ (*See* Reply 8–12.)
4 Plaintiffs seek enhanced rates for attorneys Arulanantham (\$785 for 2018 and \$810
5 for 2019); Kaufman (\$620 for 2018 and \$645 for 2019); and Bitran (\$450 for 2018
6 and \$480 for 2019) and statutory rates for the remaining attorneys. (Mot. 16 (citing
7 28 U.S.C. § 2412(d)(2)(A)(ii)).) Defendants argue the underlying dispute was not
8 complex and thus did not require the specialized skill necessary to justify enhanced
9 rates. (Opp’n 8–9.)

10 “The Ninth Circuit has specifically recognized that Mr. Arulanantham’s
11 knowledge and skill warrant enhanced rates under the EAJA for his work litigating the
12 constitutional rights of detained immigrants.” *Arroyo v. United States Dep’t of*
13 *Homeland Sec.*, No. SACV 19-815 JGB (SHKx), 2020 WL 1228665, at *6 (C.D. Cal.
14 Jan. 2, 2020) (citing *Nadarajah v. Holder*, 569 F.3d 906, 914 (9th Cir. 2009)). Here,
15 as in other instances recognized by the Ninth Circuit, counsels’ undisputed expertise
16 on issues of statutory construction, detainee rights, and effective advocacy in this
17 challenging context was needed to effectively pursue the emergency relief their clients
18 obtained. *Nadarajah*, 569 F.3d at 915 (“Nadarajah has established and the record
19 shows that... Arulanantham... possessed ‘distinctive knowledge’ and ‘specialized
20 skill’ that was ‘needful to the litigation in question.’”) (citation omitted).

21 Plaintiffs cite extensive evidence establishing the specialized expertise of
22 Arulanantham, Kaufman, and Bitran; moreover, Defendants fail to rebut this evidence.
23 *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 980 (9th Cir. 2008) (“The party
24 opposing the fee application has a burden of rebuttal that requires submission of
25 evidence ... challenging the accuracy and reasonableness of the ... facts asserted by the
26 prevailing party in its submitted affidavits.”) (citations omitted). For example,

27 _____
28 ¹ Defendants do not dispute Plaintiffs’ costs of \$999.38, thus, the Court finds that these costs are well-documented, reasonable, and therefore shall be recovered. 28 U.S.C. § 2412(d)(1)(A).

1 Defendants do not dispute Stanford Law Professor Jayashri Srikantiah’s evidence-
2 based opinion that “this case would [not] have been successful without the particular
3 knowledge and specialized skill that Mr. Arulanantham, Mr. Kaufman, and Ms. Bitran
4 brought to this litigation.” (Decl. of Jayashri Srikantiah, ECF No. 52 ¶ 8.) They
5 similarly do not dispute well-grounded evidence that the rates Plaintiffs seek are equal
6 to market-based rates for comparable services. (See, e.g., Kaufman Decl. ¶¶ 32–34.)
7 As such, the Court finds that Plaintiffs’ requested enhanced rates are reasonable and
8 justified considering the expertise needed to effectively litigate Plaintiffs’ case.

9 Defendants also object to Plaintiffs’ specific bills, claiming they are wasteful
10 and redundant. (Opp’n 7–9.) Defendants argue that Ms. Bitran’s discussion of case
11 issues with a Congressman is not recoverable, but Plaintiffs attest to the need for this
12 discussion, which the Ninth Circuit has held that such expenses are recoverable.
13 *Gilbrook v. City of Westminster*, 177 F.3d 839, 877 (9th Cir. 1999) (“Prevailing civil
14 rights counsel are entitled to fees for ‘press conferences and performance of other
15 lobbying and public relations work’ when those efforts are ‘directly and intimately
16 related to the successful representation of a client.’”). The Court also finds that hours
17 for “mass representation” and presentations that educated local immigration attorneys,
18 about post-TRO practices for visiting FCI Victorville, are likewise “directly and
19 intimately related to successful representation of” detainees. *Id.* These efforts were
20 necessary to facilitate access to counsel. *Id.*

21 Defendants further object to Ms. Bitran’s presence at the July 30, 2018 hearing,
22 arguing that the presence of two attorneys was unnecessary given the hearing’s
23 agenda. (Opp’n 9.) However, the Ninth Circuit has held that two attorneys attending
24 an important hearing, such as the July 30, 2018 hearing, is not redundant. *Probe v.*
25 *State Teachers’ Ret. Sys.*, 780 F.2d 776, 785 (9th Cir. 1986) (“In an important class
26 action litigation [], the participation of more than one attorney does not constitute an
27 unnecessary duplication of effort.”). Defendants’ unfounded argument is further
28

1 undermined by the presence of its own two attorneys at the same proceeding.
2 (Reply 10.)

3 Defendants object to other various bills which Defendants perceive to be
4 excessive given the purported lack of complexity involved in the tasks. (Opp’n 8–10.)
5 For example, Defendants point to ten hours billed for the TRO, over thirty hours for a
6 twelve-page brief, and five hours for Plaintiffs’ reply in further support of the motion
7 that resulted in the TRO. (Opp’n 8–10.) There is insufficient evidence before the
8 Court to find these hours excessive or redundant. *Rutti v. Lojack Corp.*, No. SACV
9 06-350 DOC (JCx), 2012 WL 3151077, at *2 (C.D. Cal. July 31, 2012) (“To reduce
10 the number of hours worked, “it must appear that the time claimed is obviously and
11 convincingly excessive under the circumstances.”) (citations omitted). This is
12 particularly true where, as here, the hours expended, and the proceedings’ hectic
13 nature were necessitated by Defendants. *Int’l Refugee Assistance Project*, 2017 WL
14 3263870, at *7 (“Petitioners’ ‘all hands on deck’ strategy was not only
15 understandable, it was likely a necessity... The Court declines to penalize Petitioners
16 for operating as they did within the rushed timetable Respondents created.”)

17 Finally, Defendants object to the hours billed by Mr. Arulanantham, claiming
18 the billing entries are ambiguous and the work unnecessary. (Opp’n 8 (citing bills for
19 “warehousing,” habeas cases, “reinstatement,” conversations with Federal Public
20 Defender and other attorneys).) In response, Mr. Arulanantham submitted a
21 declaration establishing the background of each disputed bill, and why the work was
22 necessary to prosecute Plaintiffs’ case. (See Decl. of Ahilan Arulanantham ¶¶ 5–9,
23 ECF No. 61.) Because the Ninth Circuit instructs district courts to “defer to the
24 ‘winning lawyer’s professional judgment as to how much time he was required to
25 spend on the case,’” the Court finds that this declaration is sufficient to overrule
26 Defendants’ objection. *Costa*, 690 F.3d at 1136 (citations omitted). Such deference is
27 further supported by the excellent outcome that resulted from counsels’ zealous and
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competent advocacy. *Hensley*, 461 U.S. at 435 (“Where a plaintiff has obtained excellent results, his attorney should recover a fully compensatory fee.”)

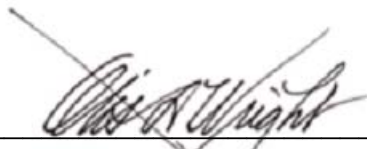
Accordingly, the Court finds the request for \$190,718.89 in fees and costs to be well-documented and reasonable.

V. CONCLUSION

For the reasons discussed above, the Court **GRANTS** Plaintiffs’ Motion for Attorneys’ Fees. (ECF No. 49.) Plaintiffs’ counsels are awarded \$190,718.89.

IT IS SO ORDERED.

June 1, 2020



OTIS D. WRIGHT, II
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

This is to certify that on this day I, Matthew Strugar, Counsel for Plaintiffs, electronically filed the foregoing document with the Clerk of the Court using the ECF system which sent notice of such filing to the following:

WILSON MINOR, MSB No. 102663
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ATTORNEY FOR DEFENDANTS

THIS, the 10th day of December, 2021.

/s/Matthew Strugar
Matthew Strugar