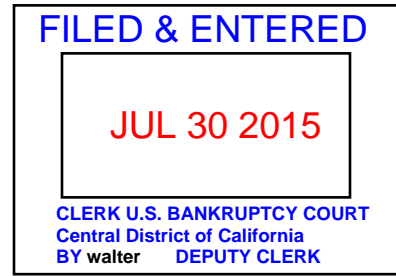


Exhibit 6

1 David M. Stern (State Bar No. 67697)
Colleen M. Keating (State Bar No. 261213)
2 Jonathan M. Weiss (State Bar No. 281217)
KLEE, TUCHIN, BOGDANOFF & STERN LLP
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4 Telephone: 310-407-4000
Facsimile: 310-407-9090
5 Email: dstern@ktbslaw.com;
ckeating@ktbslaw.com;
6 jweiss@ktbslaw.com



7 *Attorneys for R. Todd Neilson, Chapter 11*
8 *Trustee*

9 **UNITED STATES BANKRUPTCY COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **LOS ANGELES DIVISION**

12 In re
13 STATE FISH CO., INC. and
CALPACK FOODS, LLC,

14 Debtors.

Case Nos. 2:15-bk-11084 SK
2:15-bk-11085 SK
Jointly Administered

Chapter 11

**ORDER GRANTING FIRST INTERIM
APPLICATION OF KLEE, TUCHIN,
BOGDANOFF & STERN LLP FOR
ALLOWANCE AND PAYMENT OF FEES
AND EXPENSES**

[Relates to Docket No. 379]

18 **THIS FILING APPLIES TO:**

- 19 ALL DEBTORS
- 20 SPECIFIED DEBTOR
 - 21 STATE FISH CO., INC.
 - 22 CALPACK FOODS, LLC

Hearing

Date: July 29, 2015
Time: 10:00 a.m.
Ctrm: 1575

KLEE, TUCHIN, BOGDANOFF & STERN LLP
1999 AVENUE OF THE STARS, THIRTY-NINTH FLOOR
LOS ANGELES, CALIFORNIA 90067
TELEPHONE: 310-407-4000

1 On June 18, 2015, Klee, Tuchin, Bogdanoff & Stern LLP (“KTBS”), bankruptcy counsel
2 to R. Todd Neilson (the “Trustee”), the duly-appointed, qualified and acting chapter 11 trustee of
3 State Fish Co., Inc. and Calpack Foods, LLC (the “Debtors”), filed its *First Interim Application of*
4 *Klee, Tuchin, Bogdanoff & Stern LLP for Allowance and Payment of Fees and Expenses Incurred*
5 *as Bankruptcy Counsel for the Chapter 11 Trustee for the Period February 27, 2015 through May*
6 *31, 2015* [Docket No. 379] (the “Application”) and evidence in support of the Application. By the
7 Application, KTBS sought (1) approval of its fees in the amount of \$651,404.00, and expenses
8 in the amount of \$24,930.70, for the period from February 27, 2015 through May 31, 2015 (the
9 “Application Period”), and (2) payment of 80% of its allowed fees and 100% of its allowed
10 expenses.

11 There was no opposition to the Application that has not been withdrawn.

12 The Court has considered the Application, the declaration attached to the Application, the
13 Declaration of R. Todd Neilson in Support of First Interim Fee Applications [Docket No. 383], the
14 record in these cases, and all other admissible evidence properly before the Court.

15 Based on this review and consideration, the Court finds that: (i) notice of the Application
16 was adequate and appropriate, and no further notice need be given; (ii) the legal and factual bases
17 set forth in the Application establish good and sufficient cause to grant the relief requested therein;
18 (iii) the services provided and expenses incurred by KTBS in the Application Period were
19 necessary and appropriate; (iv) the services KTBS performed during the Application Period
20 were performed within a reasonable amount of time, commensurate with the complexity,
21 importance, and nature of the problems, issues and tasks that KTBS addressed during the
22 Application Period; and (v) the rates charged by KTBS are reasonable in light of skill and
23 experience of the professionals and consistent with comparably skilled professionals.

24 **THEREFORE, IT HEREBY IS ORDERED THAT:**

- 25 1. The Application is GRANTED in its entirety.
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Exhibit 7

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ORIGINAL FILED
Superior Court of California
County of Los Angeles

SEP 09 2014

Sherri R. Carter, Executive Officer/Clerk
By Anthony Ortiz, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

MITSUYO KUWAHARA, an individual,)
)
Plaintiff,)
)
v.)
)
ASAHI GAKUEN, a corporation; SUEKO)
KAWATA, an individual; and DOES 1)
through 10, inclusive,)
)
Defendants.)

CASE NO: BC 454896
[Proposed]
ORDER
1) GRANTING PLAINTIFF'S MOTION FOR STATUTORY ATTORNEY'S FEES;
2) GRANTING PLAINTIFF'S MOTION FOR PRE-JUDGMENT INTEREST; AND
3) GRANTING, IN PART, AND DENYING, IN PART, DEFENDANTS' MOTION TO TAX COSTS
Hearing Date: August 26, 2014
Hearing Time: 8:30 a.m.
Hearing Dept.: 17

*Complaint Filed on September 17, 2010
Assigned to Judge Rico, Dept. 17*

Per the attached Tentative (which became the ruling of the court, except as to the calculation of attorneys fees which did not include fees for the reply papers and hearing on the instant motions),



1 Plaintiff's Motion for Statutory Attorneys Fees, Plaintiff's Motion for Pre-Judgment Interest and
 2 Defendants' Motion to Tax Costs came on for hearing on August 26, 2014 at 8:30 a.m. in Department
 3 17 and before Judge Rico. Plaintiff appeared by Attorneys Arash Homampour and Kelly A. Knight.
 4 Defendants Sueko Kawata and Asahi Gakuen appeared by Attorney Joshua B. Wagner and Eleanor
 5 A. Welke.

6

7 1. Plaintiff's Motion for Statutory Attorneys' Fees.

8 Plaintiff's attorneys sought fees for the attorneys and paralegal at the rates and total hours
 9 detailed in the chart below for an initial sum of \$1,414,707.25. Plaintiff's attorneys also sought
 10 \$26,900 as and for attorneys fees for time spent on the motions for attorneys fees, interest and
 11 opposing Defendants' motion to tax costs and \$22,865 for the time spent on Replies and the hearing.
 12 Plaintiff's attorneys also sought a multiplier of at least 2.0 for the reasons detailed in their motion,
 13 reply papers and at the hearing. Defendant opposed Plaintiff's motion arguing that the rates and hours
 14 were excessive and that there was no justification for a multiplier. As detailed in its tentative, the
 15 Court determined that the rates and hours detailed below and requested by Plaintiff's attorneys were
 16 reasonable and awarded them in full. The court declined to award a multiplier.

17

FULL NAME	TYPE	YEAR ADMITTED	TOTAL HOURS	TOTAL RATE	TOTAL CHARGE
Arash Homampour	Attorney	1993	773.55	\$850	\$657,517.50
Kelly Knight	Attorney	2006	1176.1	\$495	\$582,169.50
Armine Safarian	Attorney	2010	300.80	\$395	\$118,816.00
James Yoon	Attorney	2013	29.70	\$250	\$7,425.00
Lynne Hirota	Paralegal	16 years	250.15	\$195	\$48,779.25
			2530.3	TOTAL	\$1,414,707.25

23

24 Accordingly, IT IS ORDERED that Plaintiff is awarded \$1,464,447.25 against Defendant
 25 ASAHI GAKUEN as attorney's fees under Government Code § 12965(b).

26 \\\

27 \\\

28 \\\

1 2. Plaintiff's Motion for Pre-Judgment Interest

2 On November 30, 2011, Plaintiff served Defendants with a C.C.P. § 998 offer for \$2,000,000.00,
3 *inclusive* of fees and costs. Pursuant to C.C.P. § 998 and Civil Code § 3291, Plaintiff sought a
4 *minimum* sum of \$320,872.40 as and for pre-judgment interest (at 10%) on the \$1,431,765.60
5 judgment from November 30, 2011 through the February 25, 2014 judgment date (or daily interest
6 of \$392.26.) Plaintiff also sought interest on the entire judgment contending that it included any fees
7 and costs awarded by the Court. Defendants opposed Plaintiff's motion arguing that Plaintiff's
8 November 30, 2011 C.C.P. § 998 offer was not reasonable and not made in good faith and that pre-
9 judgment interest would not accrue on fees and costs awarded. As detailed in the attached Tentative,
10 the Court found that the November 30, 2011 C.C.P. § 998 offer was reasonable and was made in good
11 faith. The Court granted Plaintiff's request for pre-judgment interest as to compensatory damage
12 award only.

13
14 Accordingly, IT IS ORDERED that Plaintiff is awarded \$320,872.40 against Defendants ASAHI
15 GAKUEN and SUEKO KAWATA for pre-judgment interest on the \$1,431,765.60 judgment from
16 November 30, 2011 through February 24, 2014.

17
18 3. Defendant's Motion to Tax Costs

19 Plaintiff submitted a Cost Memorandum seeking \$180,380.34 in costs. Defendant sought to tax
20 Item No. 4 (\$49,586.55 for deposition costs), No. 9 (\$9,705 for trial transcripts), No. 11 (\$10,508.21
21 for models, blowups and copies), and No. 13 (\$62,866.66 for other miscellaneous costs.) Plaintiff
22 conceded that some costs should be stricken and otherwise opposed the motion arguing that the costs
23 were reasonable and the Court had discretion to award them.

24
25 As detailed in the attached tentative, the Court granted and denied Defendant's motion to tax.
26 Specifically, the Court denied Defendant's motion as to Item No. 4, granted it as to Item No. 9,
27 granted it as to only \$163.41 within Item No. 11, and denied it as to Item No. 13 (with Plaintiff
28 agreeing to withdraw the \$1,800 charge for the cancelled deposition of Minoru Osada.)

1 Accordingly, IT IS ORDERED that Plaintiff is awarded \$168,711.93 against Defendants ASAHI
2 GAKUEN and SUEKO KAWATA for costs.

3
4 The clerk is ordered to enter these sums on the judgment or \$1,633,159.19 as and for costs and
5 fees and \$320,872.40 for pre-judgment interest. A copy of the judgment is attached hereto.

6
7 DATED: Sept 9, 2014


JUDGE OF THE SUPERIOR COURT
RICHARD E. RICO

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TENTATIVE RULING

PROCEEDINGS

Kuwahara v. Asahi Gakuen, et al.
BC454896

- (1) Plaintiff's motion for costs and prejudgment interest under CCP § 998 and Civil Code § 3291
- (2) Plaintiff's motion for statutory attorneys fees
- (3) Defendants' motion to tax costs

TENTATIVE RULING

Mitsuyo Kuwahara ("plaintiff") filed this action against defendants Asahi Gakuen and Sueko Kawata ("defendants") for various FEHA and Labor Code violations. The case went to trial which resulted in a verdict for the plaintiff.

(1) Plaintiff's motion for costs and prejudgment interest under CCP § 998 and Civil Code § 3291

Plaintiff moves for costs and prejudgment interest pursuant to CCP § 998 and Civil Code § 3291. It is undisputed that plaintiff is entitled to both. The issue here is the date from which prejudgment interest should be calculated. Plaintiff claims to be entitled to a minimum sum of \$320,872.40 for prejudgment interest (at 10%) from 11/30/11 through February 25, 2014 (the judgment date).

Plaintiff served three CCP § 998 offers on defendant Asahi: (1) 11/30/11 - \$2M, inclusive of fees and costs; (2) 5/7/13 - \$750,000, inclusive of fees and costs; and (3) 1/9/14 - \$250,000, plus fees and costs. (Knight Decl. ¶¶ 103-105, Exhibits D-F.) Judgment was entered in favor of plaintiff for \$1,431,765.60. (Homampour Decl. ¶ 51, Exhibit Q.) Plaintiff contends that with costs and expected attorneys fees, plaintiff is expected to have obtained a more favorable judgment than the \$2M offer served on Asahi. Plaintiff claims that the "judgment" consists of the damages awarded, plus costs, which includes statutory attorneys fees.

In opposition, defendants argue that the calculation of prejudgment interest should not be from 11/30/11 because that statutory offer was not a reasonable or good faith offer. Further, the "first offer" rule should not apply here. In addition, while defendants concede that plaintiff's attorneys fees can be used to calculate whether she obtained a more favorable judgment than defendants for the purposes of section 998, plaintiff has failed to establish that she is entitled to prejudgment interest based on those attorney fees.

More favorable judgment

"If an offer made by a plaintiff is not accepted and the defendant fails to obtain a more favorable judgment or award in any action or proceeding other than an eminent

domain action, the court or arbitrator, in its discretion, may require the defendant to pay a reasonable sum to cover postoffer costs of the services of expert witnesses, who are not regular employees of any party, actually incurred and reasonably necessary in either, or both, preparation for trial or arbitration, or during trial or arbitration, of the case by the plaintiff, in addition to plaintiff's costs." (CCP § 998(d).)

"To determine under section 998, subdivision (d) whether a defendant fails to obtain a more favorable judgment than a section 998, subdivision (d) offer to compromise which includes a waiver of costs, the amount of the judgment is deemed to be the amount of the damages plus the amount of costs allowed under section 1033.5, subdivision (a). [Citation.]" (*Wickware v. Tanner* (1997) 53 Cal.App.4th 570, 575; see also *Wilson v. Wal-Mart Stores, Inc.* (1999) 72 Cal.App.4th 382, 392.)

Defendants concede that plaintiffs' attorney fees can be used to calculate whether plaintiff obtained a more favorable judgment than defendants for the purpose of CCP § 998. By including costs and attorneys fees, plaintiff obtained a more favorable judgment than the first section 998 offer. Further, the judgment is clearly more favorable than plaintiff's subsequent section 998 offers even without adding in costs or attorneys fees.

Date from which prejudgment interest should be calculated

Defendants first argue that the 11/30/11 statutory offer was not reasonable or a good faith offer. Instead, the offer was made as policy limits demand intended to create coverage issues and leverage a settlement.

"A prevailing party who has made a valid pretrial offer pursuant to Code of Civil Procedure section 998 is eligible for specified costs, so long as the offer was reasonable and made in good faith. [Citation.] Whether a section 998 offer was reasonable and made in good faith is left to the sound discretion of the trial court. [Citation.] Because MPG prevailed in the action, its 998 offer is presumed to have been reasonable, and it was Nelson's burden to show otherwise. [Citation.]" (*Nelson v. Anderson* (1999) 72 Cal.App.4th 111, 134.)

Here, the court declines to find that the 11/30/11 offer was not made in good faith. Given that plaintiff ultimately prevailed in the action and obtained a judgment more favorable than the offer as well as the fact that the original offer included fees and costs, the offer was made in good faith. An examination of the attorney fees, interest and related costs which are now at issue amply demonstrates this point.

Defendant also argues that the first offer rule should not apply here, which would entitle plaintiff to prejudgment interest calculated from 11/30/11.

In *Martinez v. Brownco Const. Co., Inc.* (2013) 56 Cal.4th 1014, our Supreme Court stated that it "need not find the last offer rule or the first offer rule controlling in all circumstances. Indeed, for present purposes we may assume the propriety of applying the last offer rule where, as in *Distefano* and *Wilson*, an offeree obtains a judgment or award less favorable than a first section 998 offer but more favorable than the later offer. The

present circumstances, however, call for a different result.” (*Id.* at 1025-1026.) “Here, plaintiff made two statutory offers, and defendant failed to obtain a judgment more favorable than either. In cases such as this, section 998's policy of encouraging settlements is better served by *not* applying the general contract principle that a subsequent offer entirely extinguishes a prior offer. [Citation.] Not only do the chances of settlement increase with multiple offers [citation], but to be consistent with section 998's financial incentives and disincentives, parties should not be penalized for making more than one reasonable settlement offer. Nor should parties be rewarded for rejecting multiple offers where each proves more favorable than the result obtained at trial. Accordingly, we hold that where, as here, a plaintiff serves two unaccepted and unrevoked statutory offers, and the defendant fails to obtain a judgment more favorable than either offer, the trial court retains discretion to order payment of expert witness costs incurred from the date of the first offer.” (*Id.* at 1026.)

Here, the court finds that since defendant failed to obtain a judgment more favorable than any of the three offers, interest from the date of the first offer is appropriate.

Base amount to calculate prejudgment interest

“In any action brought to recover damages for personal injury sustained by any person resulting from or occasioned by the tort of any other person, corporation, association, or partnership, whether by negligence or by willful intent of the other person, corporation, association, or partnership, and whether the injury was fatal or otherwise, it is lawful for the plaintiff in the complaint to claim interest on the damages alleged as provided in this section. [¶] If the plaintiff makes an offer pursuant to Section 998 of the Code of Civil Procedure which the defendant does not accept prior to trial or within 30 days, whichever occurs first, and the plaintiff obtains a more favorable judgment, the judgment shall bear interest at the legal rate of 10 percent per annum calculated from the date of the plaintiff's first offer pursuant to Section 998 of the Code of Civil Procedure which is exceeded by the judgment, and interest shall accrue until the satisfaction of judgment...” (Civil Code § 3291.)

Defendants concede that gender/sexual harassment in the workplace is a “personal injury” within the meaning of section 3291. (*Bihun v. AT&T Information Systems, Inc.* (1993) 13 Cal App 4th 976.) Defendants argue, however, that plaintiff has failed to establish that she is entitled to prejudgment interest based on the amount of attorney fees and instead, section 3291 provides that the “judgment” shall bear interest.

Plaintiff has stated that she is entitled to a minimum sum of \$320,872.40 for prejudgment interest on the \$1,431,765.60 judgment from 11/30/11 through 2/24/14. There is no indication that plaintiff is including attorney fees in this calculation. Thus, defendants' argument is unnecessary.

In light of the foregoing, plaintiff's motion is GRANTED.

(2) Defendants' motion to tax costs

Defendants move to tax Item 4, 9, 11 and 13 costs.

4. Deposition costs-----\$49,586.55

Defendants first move to tax various amounts for interpreter fees for the depositions of defendant Kawata and defendant's employees Jun Kitayama, Minoru Osada, Katsuko Shimizu, and Tomohisa Sato. Defendants claim that the cost of non-court appointed interpreters is not a permissible item of costs. CCP § 1033.5(a)(2) allows "Court interpreter fees for a qualified court interpreter authorized by the court for an indigent person represented by a qualified legal services project, as defined in Section 6213 of the Business and Professions Code or a pro bono attorney as defined in Section 8030.4 of the Business and Professions Code."

Defendants correctly argue that there is no specific authority permitting recovery of non-court appointed interpreters; however, plaintiff is also correct to argue that the court has discretion to award such costs. (*See Ladas v. California State Automotive Assoc.* (1993) 19 Cal.App.4th 761, 773-774.)

Here, plaintiff has indicated that these witnesses could not be deposed without the use of a Japanese interpreter and that interpreter services were required as a result of defendants' own representations to plaintiff that an interpreter would be required. (Homampour Decl. ¶3, Exhibit A.) The court finds that the interpreters were necessary and declines to tax these amounts.

Defendants also move to tax costs for the videotaped depositions of Jun Kitayama, Tomohisa Sato, and Katsuko Shimizu. Defendants claim that the cost of videos in connection with these depositions was "completely unnecessary" and that none of the witnesses were expected to be out of state at the time of trial and the video depositions were never presented in court. (Wagner Decl. ¶3.)

In opposition, plaintiff points out that the cost of video recording necessary depositions are allowable costs under CCP § 1033.5(a)(3). Plaintiff claims that the depositions were reasonably necessary because they were taken to determine what opinions the employee witnesses held and that videotaping the depositions were reasonably necessary because video captures much more information as to witness demeanor, credibility, and believability. (Homampour Decl. ¶¶4-5.) Also, while these witnesses did not ultimately testify at trial, that is not a basis to tax the costs of deposition expenses. The court finds that the cost of video recording depositions are allowed under CCP § 1033.5(a)(3) and the motion is DENIED as to these costs.

9. Court-ordered transcripts-----\$9,705.00

Defendants move to tax the entire amount for the transcript of Tracy Steel Dyrness. This amount is properly taxed because CCP § 1033.5(b)(5) expressly excludes

“Transcripts of court proceedings not ordered by the court.” (Wagner Decl. ¶4.) Plaintiff does not claim that this was a court-ordered transcript and instead argues that the court should exercise its discretion and allow these costs. The court finds this argument unpersuasive and the motion is GRANTED as to the amount of \$9,705.00.

11. Models, blowups, and photocopies-----\$10,508.21

Defendants move to tax \$9763 for the preparation of video exhibits for trial. Defendants argue that plaintiff did not use any video of Jun Kitayama’s deposition at trial. (Wagner Decl. ¶3.) Defendants also claim that there is no evidence in any of the submitted invoices to allow a reasonable determination of how much, if any, of the video clips were used at trial. (*Id.* at ¶5, Exhibit D.)

“MPG claimed \$28,784 for models, blowups, and photocopies of exhibits. “Models and blowups of exhibits and photocopies of exhibits may be allowed if they were reasonably helpful to aid the trier of fact.” (Code Civ. Proc., § 1033.5, subd. (a)(12).) The court disallowed expenses relating to the use of videotapes and laser discs. It held: ‘It is certainly not inappropriate for a party to choose cutting edge technology to present its case to a jury. But that does not mean that it can automatically pass the high cost of that technology to the other side, especially when it is used only sporadically during the trial, and when many times when counsel attempted to use it, they were unable to and reverted to traditional ‘low tech’ methods for presenting the evidence.’ [¶] Burden of proof is not an issue in this instance, since, having presided over the trial, the trial court had all the evidence needed to determine whether the items claimed were reasonably helpful to the trier of fact, and was in the best position to make the determination.” (*Nelson v. Anderson* (1999) 72 Cal.App.4th 111, 132-133.)

In opposition, plaintiff argues that the amount represents costs for video clips that were reasonable, necessary, and used during the trial multiple times. (Homampour Decl. ¶8.)

Plaintiff also request \$163.41 for “Heavy Litigation Scanning” and “Electronic Data Conversion to PDF.” (*Id.*) Defendants seek to tax this amount because there is no evidence regarding what was scanned or for what purpose. They simply appear to be photocopying and scanning costs plaintiff is attempting to pass on to defendants. However, photocopying costs are not allowed. (CCP § 1033.5(b)(3).) These amounts are not specifically addressed by plaintiff in the opposition. This amount is properly taxed and the motion is GRANTED as to \$163.41.

13 Other-----\$62,866.66

These costs are for translations of trial exhibits (\$14,357.08), interpreting services (\$17,105.75), attorney service re: filing of pre-trial documents (\$715), messenger service re: trial materials and equipment (\$237), messenger service re: service of documents (\$478.39), and attorney service re: filing of documents (123.44). (Memo of Costs, Attachment 13.)

Defendants argue that the invoices attached do not show whether these costs were reasonably necessary to the conduct of litigation. Also, as noted above, there is no authority governing recovery of interpreters' fees other than for court appointed interpreters.

As for the costs of translation, plaintiff points out that it was defendants who produced large quantities of documents in Japanese to plaintiff and that plaintiff had no choice but to translate these documents. (Homampour Decl. ¶11.) Translation services were necessary to trial. (*Id.* at ¶12.) This is sufficient to justify this cost and the court declines to tax this amount. This argument applies to the interpreter costs as well.

It is noted that plaintiff agrees to withdraw \$1800 for the cancelled deposition of Minoru Osada. (Opposition p. 8.)

As for messenger fees, which are allowable in the discretion of the court, the court finds that these costs are proper and declines to tax these amounts.

(3) Plaintiff's motion for statutory attorneys fees

Plaintiff moves for attorneys fees pursuant to Government Code § 12965(b) against Asahi. It is clear here that plaintiff, as the prevailing party, is entitled to fees. This is not disputed by defendants. The issue is whether the amount of fees sought is reasonable.

The lodestar amount sought by plaintiff is \$1,414,707.25. Plaintiff provides detailed declarations and billing statements to support this amount. (*See* Homampour and Knight Declarations and exhibits attached thereto.) Plaintiff also seeks an enhancement of at least 2.0 given the contingent risk, the time spend in the matter precluding other work, the skill of the attorneys, and the exceptional results obtained in the case. Plaintiff also seeks \$26,900 for time spent on these motions, for a total of \$2,856,314.50.

In opposition, defendants argue that the amount is unreasonable and inflated. Defendants argue that the attorneys fees rates are unreasonable and that plaintiff has failed to adequately deduct time incurred in litigating her nine wage and hour claims, which resolved prior to trial (equating to approximately 453 hours and \$237,815.50 in fees). (Welke Decl. ¶¶12-15, Exhibit E.) Further, defendants claim that a 2.0 multiplier is not justified here, as this was a single plaintiff "run of the mill" employment law case. The "exceptional skill" of counsel is already taken into account when with counsel's high hourly rate. Further, the litigation did not preclude plaintiff's counsel from taking on other cases. For instance, attorney Knight only spent approximately 26 hours a month on this case while attorney Homampour spent approximately 28 hours a month on this case. On numerous occasions, depositions and other litigation dates were rescheduled due to Homampour's packed trial schedule. (Welke Decl. ¶¶9-10.) Further, defendants claim that there were an unnecessary number of billers at the same events. (*Id.* at ¶24.) Also, defendants claim that fees based on block billing should be reduced. (*Id.* at ¶¶25-28.)

Also, there is no competent evidence attesting to the hours billed by James Yoon (except for a declaration by attorney Knight), who Knight previously stated was involved for the learning experience. (Wagner Decl. ¶11; Welke Decl. ¶30.) Finally, defendants argue that plaintiff cannot recover fees for *Tameny* or gender discrimination claims. (Welke Decl. ¶32.) Defendants argue that the total amount to be awarded to plaintiff should be \$557,482.80.

In reply plaintiff refutes the various arguments made by the defendants.

- Homampour points out that he work much if at all on the wage and hour issues. He also points out to the manner in which defendants staffed the case leading credence to the manner in which plaintiff attorneys billed for the work performed.

The court finds that although the amount sought is large, the rates of counsel and the amount of time spent on the various matters in this case are reasonable. The court, however, declines to apply a multiplier. Accordingly, the motion is GRANTED in the amount sought; \$1,441,607.25.

JUDGMENT

1 ARASH HOMAMPOUR, SBN 165407
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2 ARMINE SAFARIAN, SBN 270437
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3 **THE HOMAMPOUR LAW FIRM, PLC**
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6 **LAW OFFICES OF KELLY A. KNIGHT**
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9 Attorneys for Plaintiff MITSUYO KUWAHARA

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

12 MITSUYO KUWAHARA, an individual,

13 Plaintiff,

14 v.

15 ASAHI GAKUEN, a corporation; SUEKO
16 KAWATA, an individual; and DOES 1 through
10, inclusive,

17 Defendants.

CASE NO. BC454896

(Assigned for all purposes to Hon. Richard E.
Rico, Dep't 17)

**[PROPOSED] JUDGMENT ON SPECIAL
VERDICT**

Action filed: February 10, 2011
Trial date: January 14, 2014

19 The special verdict having been returned by the jury and having been duly entered on
20 February 13, 2014, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff
21 MITSUYO KUWAHARA recover from Defendants ASAHI GAKUEN and SUEKO KAWATA the
22 sum of \$1,431,765.60, plus costs and attorneys fees in the amount of \$ _____
23 and prejudgment interest under Code of Civil Procedure § 998 and Civil Code § 3291 in the amount
24 of \$ _____. The judgment is to bear interest at the rate of ten percent
25 (10%) per annum from February 13, 2014, until paid.

26 
27 _____
28 Hon. Richard E. Rico, Judge Presiding

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

FEB 25 2014

Sherri R. Carter, Executive Officer/Clerk
By Anthony Ortiz, Deputy

THE HOMAMPOUR LAW FIRM
A PROFESSIONAL LAW CORPORATION
15303 VENTURA BOULEVARD - SUITE 1000
SHERMAN OAKS, CALIFORNIA 91403
PHONE (323) 658-8077 • FAX (323) 658-8477

PROOF OF SERVICE

I am over the age of 18 and not a party to the within action. I am employed in the County of Los Angeles, State of California. My business address is 15303 Ventura Blvd., Suite 1000, Sherman Oaks, CA 91403.

On September 5, 2014, I served the following document(s) described as **[PROPOSED] ORDER 1) GRANTING PLAINTIFF'S MOTION FOR STATUTORY ATTORNEY'S FEES; 2) GRANTING PLAINTIFF'S MOTION FOR PRE-JUDGMENT INTEREST; AND 3) GRANTING, IN PART, AND DENYING, IN PART, DEFENDANTS' MOTION TO TAX COSTS** on the interested parties in said action, by placing the original to the propounding party/ a true copy thereof to all other parties enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY CERTIFIED MAIL: I deposited envelopes containing the above-described documents with the United States Postal Service for delivery to the above addresses with postage thereon fully prepaid by certified mail with proof of delivery requested.

BY OVERNIGHT DELIVERY: I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses on September 5, 2014. I placed the envelope or package for collection and overnight delivery at an office or a regular utilized drop box of the overnight delivery carrier.

BY PERSONAL SERVICE: I personally delivered the document to the person at the addresses listed on September 5, 2014. Delivery was made to the attorney or at the attorney's office by leaving the documents, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office, between the hours of nine in the morning and five in the evening.

BY FAX TRANSMISSION: I faxed the documents to the person at the fax number listed on September 5, 2014. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

BY ELECTRONIC SERVICE (EMAIL): I caused said document(s) to be transmitted electronically to attorney noted at the electronic notification address noted. The transmission of the document was reported as complete and without error.

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

Executed on September 5, 2014 at Sherman Oaks, California.


CAROLINA ALMENAR

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SERVICE LIST
Kuwahara v. Gakuen, et al.
LASC Case No. BC 454896
(as of September 5, 2014)

Kelly A. Knight, Esq.
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⊙

Co-Counsel for Plaintiff

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☑

Attorneys for Defendant Asahi Gakuen and Sueko Kawata

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jwagner@gordonrees.com

☑

Attorneys for Defendant Asahi Gakuen and Sueko Kawata

Exhibit 8

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

SPORTS AUTHORITY HOLDINGS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 16-10527 (MFW)

(Jointly Administered)

Obj. Deadline: May 4, 2016 at 4:00 p.m. (ET)

**SUMMARY OF FIRST MONTHLY APPLICATION OF GIBSON, DUNN &
CRUTCHER LLP AS CO-COUNSEL TO THE DEBTORS-AND-DEBTORS IN
POSSESSION FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF
EXPENSES INCURRED FOR THE INTERIM PERIOD FROM MARCH 2, 2016
THROUGH AND INCLUDING MARCH 31, 2016**

Name of Applicant:	Gibson, Dunn & Crutcher LLP
Authorized to Provide Professional Services to:	Debtors and Debtors-in-Possession
Date of Retention:	March 2, 2016 (order entered March 24, 2016 <i>nunc pro tunc</i> to March 2, 2015)
Period for which compensation and reimbursement is sought:	March 2, 2016 through and including March 31, 2016
Amount of Interim Compensation sought as actual, reasonable and necessary:	\$1,803,468.93 ²
Amount of Interim Expense Reimbursement sought as actual, reasonable and necessary:	\$24,684.55

This is an: interim final application

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Sports Authority Holdings, Inc. (9008); Slap Shot Holdings, Corp. (8209); The Sports Authority, Inc. (2802); TSA Stores, Inc. (1120); TSA Gift Card, Inc. (1918); TSA Ponce, Inc. (4817); and TSA Caribe, Inc. (5664). The headquarters for the above-captioned Debtors is located at 1050 West Hampden Avenue, Englewood, Colorado 80110.

² The fees set forth herein reflect a voluntary reduction by Gibson Dunn in the amount of \$110,681.07.

This application includes 17.7 hours and \$13,894.00 in fees incurred in connection with the preparation of Fee Applications.

Prior applications:

None.

INTERIM COMPENSATION BY INDIVIDUAL

Name of Professional Person	Position of the Applicant, Number of Years in that Position, Prior Relevant Experience, Year of Obtaining License to Practice, Area of Expertise	Hourly Billing Rate (including changes)	Total Billed Hours	Total Compensation
Karlan, Mitchell	Partner since 1989. Joined firm as an associate in 1984. Member of the D.C. bar since 2005; NY bar since 1980. Primary practice area: General Commercial Litigation	\$ 1295	47.6	\$ 61,642.00
Klyman, Robert	Elected partner at Latham & Watkins in 1996. Joined firm as a partner in 2014. Member of CA Bar since 1989. Primary practice area: Business Restructuring and Reorganization	1215	242.4	294,516.00
Arnold, Dennis	Partner. Joined the Firm in 1988. Member of CA bar since 1976. Primary practice area: Uniform Commercial Code, Real Estate, Banking, Creditors' Rights, Remedies.	1110	36.5	40,515.00
Battaglia, David	Partner since 1996. Joined firm as an associate in 1987. Member of CA bar since 1987; D.C. since 1990. Admitted 1987. Primary practice area: General Commercial Litigation	1110	69.6	77,256.00

Name of Professional Person	Position of the Applicant, Number of Years in that Position, Prior Relevant Experience, Year of Obtaining License to Practice, Area of Expertise	Hourly Billing Rate (including changes)	Total Billed Hours	Total Compensation
Bellah Maguire, Jennifer	Partner since 1991. Joined firm as an associate in 1983. Member of the CA bar since 1983. Primary practice area: Mergers and Acquisitions, Investment Funds Management.	1110	40.8	45,288.00
Blume, Robert	Partner since 2005. Joined firm as an associate in 2000. Member of the D.C. bar since 2001; CO bar since 2006. Primary practice area: White Collar Defense and Investigation	1090	3.0	3,270.00
Williams, Matthew	Joined the firm as partner in 2008. Member of NY bar since 1999. Primary practice area: Business Restructuring and Reorganization	1060	212.7	225,462.00
Montgomery, Cromwell	Partner since 2007. Joined firm as an associate in 2001. Member of CA bar since 1997. Primary practice area: Global Finance	1055	1.2	1,266.00
Di Vincenzo, Adam	Partner since 2013. Joined firm as an associate in 2002. Member of D.C. Bar since 2003 and NY Bar since 2002. Primary practice area: Antitrust and Compensation	950	3.5	3,325.00
Domzalski, Shawn	Associate. Joined firm as an associate in 2006. Member of CA bar since 2006.	855	10.9	9,319.50
Keats, Andrew Rosenthal	Associate. Joined firm as an associate in 2007. Member of CA bar since 2007; NY bar since 2013..	855	73.8	63,099.00

Name of Professional Person	Position of the Applicant, Number of Years in that Position, Prior Relevant Experience, Year of Obtaining License to Practice, Area of Expertise	Hourly Billing Rate (including changes)	Total Billed Hours	Total Compensation
Martorana, Keith	Of Counsel. Joined firm as an associate in 2008. Member of the NY and NJ bars since 2008.	855	247.9	211,954.50
Barshop, Melissa Leigh	Associate. Joined the firm in 2006. Member of the CA bar since 2006.	795	10.9	8,665.50
Bedell, Tiaunia Nyeba	Associate. Joined firm as an associate in 2007. Member of CA bar since 2007.	795	64.2	51,039.00
Graves, Jeremy Lee	Associate. Joined firm as an associate in 2008. Member of CO Bar since 2012; TX Bar since 2007. ³	795	205.5	163,372.50
Kenny, Phil	Associate. Joined firm in 2006. Member of CA bar since 2007.	795	7.7	6,121.50
Benvenisty, Jessica	Associate. Joined the firm in 2013. Member of the NY bar since 2013.	775	5.7	4,417.50
Jacobs, Sabina	Associate. Joined firm as an associate in 2014. Member of CA Bar since 2010; NY Bar since 2012.	750	310.0	232,500.00
Weinrich, Kurt Joseph	Staff Attorney. Joined firm as a litigation staff attorney in 2007; Member of NY bar since 2009; NV Bar since 1996.	730	20.1	14,673.00
Marcantonio, Donata	Associate. Joined firm as an associate in 2014. Member of NY bar since 2014.	720	50.9	36,648.00
Smalley, Jazmine	Associate. Joined firm as an associate in 2013. Member of NY bar since 2014.	720	43.2	31,104.00
Hathaway-Zepeda, Taylor	Associate. Joined firm as an associate in 2012. Member of CA bar since 2013; NY bar since 2015.	675	45.4	30,645.00

³ Not actively licensed to practice in Texas.

Name of Professional Person	Position of the Applicant, Number of Years in that Position, Prior Relevant Experience, Year of Obtaining License to Practice, Area of Expertise	Hourly Billing Rate (including changes)	Total Billed Hours	Total Compensation
Solow, Ryan	Associate. Joined firm as an associate in 2015. Member of CA bar since 2015; IL bar since 2011.	675	2.8	1,890.00
Speak, Emily	Associate. Joined firm as an associate in 2013. Member of CA bar since 2013.	600	70.4	42,240.00
McClelland, Cary*	Associate. Joined firm as an associate in 2015. *Completed NY bar exam in July 2015; certification is still pending.	585	46.9	27,436.50
Roniger, Luke *	Associate. Joined firm as an associate in 2015. *Completed NY bar exam in July 2015; certification is still pending.	585	20.6	12,051.00
Silvano, Stephanie	Associate. Joined firm as an associate in 2015. Member of NJ and NY bars since January 2016.	585	20.5	11,992.50
Epner, Justin	Associate. Joined firm as an associate in 2015. Member of CA Bar since 2014.	535	18.8	10,058.00
Grema, Yamini	Associate. Joined firm as an associate in 2014. Member of the CO Bar since 2014.	535	12.3	6,580.50
Wilhelm, Andrew	Associate. Joined the Firm in 2015. Member of the CA bar since 2015.	535	44.7	23,914.50
Chao, Eugene	Associate. Joined firm as an associate in 2015. Member of CA bar since 2015.	480	31.7	15,216.00
Cho, Erin	Associate. Joined firm as an associate in 2015. Member of CA Bar since 2015.	480	206.8	99,264.00

Name of Professional Person	Position of the Applicant, Number of Years in that Position, Prior Relevant Experience, Year of Obtaining License to Practice, Area of Expertise	Hourly Billing Rate (including changes)	Total Billed Hours	Total Compensation
Jones, Shannon	Associate. Joined firm as an associate in 2015. Member of CA Bar since 2015.	480	2.2	1,056.00
Lim, Eun-Sung	Associate. Joined firm as an associate in 2015. Member of CA Bar since 2015.	480	6.1	2,928.00
Kann, Stephanie	Senior Paralegal	435	2.5	1,087.50
Amponsah, Duke	Paralegal	410	3.1	1,271.00
Neal, Stephen	E-Discovery Specialist	405	3.8	1,539.00
Roymisher, Leonid	E-Discovery Specialist	405	27.5	11,137.50
Santos, F. Pamela	Paralegal	390	57.3	22,347
Green, Corey	eDiscovery Specialist	380	15.9	6,042.00
Sub Total:			2,347.4	\$1,914,150.00
Blended Rate:				\$727.25
NON-WORKING TRAVEL TIME REDUCTION (50%)				(\$16,637.25)
ADDITIONAL VOLUNTARY DISCOUNT				(\$94,043.82)
Grand Total:			2,347.4	\$1,803,468.93

INTERIM COMPENSATION BY PROJECT CATEGORY

Project Category	Total Hours	Total Fees
Asset Analysis & Recovery	1.3	\$ 780.00
Asset Sales	336.0	287,140.00
Assumption & Rejection of Leases & Contracts	92.8	76,008.50
Business Operations	118.9	93,241.50
Case Administration	166.6	140,598.00
Claims Administration & Objections	3.9	2,717.50
Communications & Meetings with Creditors	35.6	34,486.50
Consignments	798.6	607,055.50
Corporate Governance, Board	9.8	10,463.50
Employee Benefits & Pensions	4.5	4,039.50
Employment & Fee Application (GDC)	17.7	13,894.00
Employment & Fee Application (Others)	22.3	16,766.00
Financing, Cash Collateral & Cash Management	528.3	438,395.50
Hearings	59.5	47,733.50
Insurance	3.4	2,703.00
Non-Working Travel	33.8	33,274.50
Plan & Disclosure Statement	93.3	90,986.50
Relief from Stay & Adequate Protection	2.6	2,139.00
Reporting	14.6	9,332.00
Tax	3.9	2,395.50
TOTAL	2347.4	\$1,914,150.00⁴

⁴ The fees set forth herein *does not* reflect a voluntary reduction by Gibson Dunn in the amount of \$110,681.07.

INTERIM EXPENSE SUMMARY

Expenses Category	Total Expenses
CERTIFIED COPIES	\$ 1,853.45
DOCUMENT RETRIEVAL SERVICE	109.00
EDISCOVERY DATABASE HOSTING FEES	182.84
IN HOUSE DUPLICATION	3,016.51
MEALS	731.18
MESSENGER AND COURIER EXPENSE	80.50
ON-LINE RESEARCH (LEXIS)	7,284.00
ON-LINE RESEARCH (WESTLAW)	6,265.77
ON-LINE RESEARCH NEXIS - MAIN	1,442.00
SEARCHES-(UCC & OTHERS)	1,781.50
SPECIALIZED RESEARCH	6.72
TELEPHONE CHARGES	278.43
TRAVEL - AIR & RAIL	941.58
TRAVEL - TAXI & OTHER MODES/MILES	711.07
TOTAL	\$24,684.55

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

SPORTS AUTHORITY HOLDINGS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 16-10527 (MFW)

(Jointly Administered)

Obj. Deadline: May 4, 2016 at 4:00 p.m. (ET)

**FIRST MONTHLY APPLICATION OF GIBSON, DUNN & CRUTCHER LLP AS
CO-COUNSEL TO THE DEBTORS AND DEBTORS IN POSSESSION FOR
ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES
INCURRED FOR THE INTERIM PERIOD FROM MARCH 2, 2016 THROUGH AND
INCLUDING MARCH 31, 2016**

Pursuant to sections 330 and 331 of title 11 of the United States Code (the “Bankruptcy Code”), and Rule 2016 of the Federal Rules of Bankruptcy Procedure, and in accordance with that certain *Order Authorizing Employment and Retention of Gibson, Dunn & Crutcher LLP as General Bankruptcy and Restructuring Co-Counsel for The Debtors and Debtors in Possession Nunc Pro Tunc to the Petition Date* [Docket No. 808] (the “Retention Order”) and that certain *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals* [Docket No. 806] (the “Interim Compensation Order”), the law firm of Gibson, Dunn & Crutcher LLP (“Gibson Dunn”) hereby applies (the “Application”) to the United States Bankruptcy Court for the District of Delaware (the “Court”) for reasonable compensation for professional legal services rendered as co-counsel to Sports Authority Holdings, Inc. and its above-captioned affiliated debtors and debtors in possession (each, a “Debtor,” and collectively, the “Debtors”), in the amount of \$1,803,468.93, together

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Sports Authority Holdings, Inc. (9008); Slap Shot Holdings, Corp. (8209); The Sports Authority, Inc. (2802); TSA Stores, Inc. (1120); TSA Gift Card, Inc. (1918); TSA Ponce, Inc. (4817); and TSA Caribe, Inc. (5664). The headquarters for the above-captioned Debtors is located at 1050 West Hampden Avenue, Englewood, Colorado 80110.

with reimbursement for actual and necessary expenses incurred in the amount of \$24,684.55 for the interim period March 2, 2016 through and including March 31, 2016 (the “Interim Fee Period”). In support of this Application, Gibson Dunn respectfully represents as follows:

BACKGROUND

1. On March 2, 2016 (the “Petition Date”), each of the Debtors filed a voluntary petition with the Court under chapter 11 of the Bankruptcy Code.

2. Pursuant to the Retention Order, Gibson Dunn was retained to represent the Debtors as bankruptcy co-counsel in connection with these chapter 11 cases, *nunc pro tunc* to the Petition Date. In addition, prior to March 2, 2016, Gibson Dunn served as general bankruptcy counsel as described in paragraph 8 of the *Debtors’ Application for an Order Approving Employment and Retention of Gibson, Dunn & Crutcher LLP as General Bankruptcy and Restructuring Co-Counsel for The Debtors and Debtors in Possession Nunc Pro Tunc to the Petition Date* [Docket No. 233] (the “Employment Application”). The Retention Order authorizes Gibson Dunn to be compensated on an hourly basis and to be reimbursed for actual and necessary out-of-pocket expenses.

3. All services for which compensation is requested herein by Gibson Dunn were performed for or on behalf of the Debtors.

(a) SUMMARY OF SERVICES RENDERED

4. Attached hereto as Exhibit A is a detailed statement of fees incurred during the Interim Fee Period, showing the amount of \$1,914,150.00 due for fees. Those fees do not reflect the voluntary deductions proposed by Gibson Dunn in the amount of \$110,681.07 (comprised of a five percent reduction of fees in the amount of 94,043.82 plus the discount associated with non-working travel time in the amount of \$16,637.25).

5. The services rendered by Gibson Dunn during the Interim Fee Period are grouped into the categories set forth in Exhibit A. The attorneys and paralegals who rendered services relating to each category are identified, along with the number of hours for each individual and the total compensation sought for each category, in the attachments hereto.

(b) **DISBURSEMENTS**

6. Exhibit B attached hereto is a detailed statement of expenses paid by Gibson Dunn during the Interim Fee Period, showing the amount of \$24,684.55 for reimbursement of expenses. This out-of-pocket disbursement sum is broken down into categories of charges, including, among other things, telephone and telecopier toll and other charges, mail and express mail charges, special or hand delivery charges, document processing, photocopying charges, charges for mailing supplies (including, without limitation, envelopes and labels) provided by Gibson Dunn to outside copying services for use in mass mailings, travel expenses, expenses for “working meals,” computerized research, transcription costs, as well as non-ordinary overhead expenses such as secretarial and other overtime. A complete review by category of the expenses incurred for the Interim Fee Period may be found in the attachments hereto as Exhibit B.

7. Costs incurred for overtime and computer assisted research are not included in Gibson Dunn’s normal hourly billing rates and, therefore, are itemized and included in Gibson Dunn’s disbursements. Pursuant to Rule 2016-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), Gibson Dunn represents that its rate for duplication is \$0.10 per page, its rate for outgoing telecopier transmissions is \$1.00 per page (excluding related long distance transmission

charges), there is no charge for incoming telecopier transmissions, and there is no surcharge for computerized research.

(c) **VALUATION OF SERVICES**

8. Attorneys and paraprofessionals of Gibson Dunn have expended a total of 2,362.40 hours in connection with this matter during the Interim Fee Period.²

9. The amount of time spent by each of these persons providing services to the Debtors for the Interim Fee Period is fully set forth in the detail attached hereto as Exhibit A. These are Gibson Dunn's normal hourly rates of compensation for work of this character. The reasonable value of the services rendered by Gibson Dunn for the Interim Fee Period as counsel for the Debtors in these cases is \$1,803,468.93 (which is the net amount after application of the voluntary reduction and discount described above).

10. Gibson Dunn believes that the time entries included in Exhibit A attached hereto and the expense breakdown set forth in Exhibit B attached hereto are in compliance with the requirements of Local Rule 2016-2.

11. In accordance with the factors enumerated in section 330 of the Bankruptcy Code, the amount requested is fair and reasonable given (a) the complexity of these chapter 11 cases, (b) the time expended, (c) the nature and extent of the services rendered, (d) the value of such services, and (e) the costs of comparable services other than in a case under chapter 11 of the Bankruptcy Code.

12. This Application covers the interim fee period from March 2, 2016 through and including March 31, 2016. Gibson Dunn has continued, and will continue, to

² It is possible that certain fees and expenses that fall within the Interim Fee Period were not timely submitted or recorded in Gibson Dunn's billing system. In that event, such fees and expenses will be captured in subsequent fee applications.

perform additional necessary services for the Debtors subsequent to the Interim Fee Period, for which Gibson Dunn will file subsequent monthly fee applications.

BUDGET AND STAFFING PLAN

13. In accordance with the Retention Order and the Interim Compensation Order, attached hereto as Exhibit C is the budget and staffing plan for Gibson Dunn approved by the Debtors for the Interim Fee Period.

CONCLUSION

WHEREFORE, Gibson Dunn requests that allowance be made to it in the sum of \$1,803,468.93 as compensation for necessary professional services rendered to the Debtors for the Interim Fee Period, and the sum of \$24,684.55 for reimbursement of actual necessary costs and expenses incurred during that period, and requests such other and further relief as the Court may deem just and proper.

Dated: April 19, 2016
Wilmington, Delaware

/s/ Robert A. Klyman

Robert A. Klyman (CA No. 142723)
Matthew J. Williams (NY No. 3019106)
Jeremy L. Graves (CO No. 45522)
Sabina Jacobs (CA No. 274829)
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
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Telephone: (213) 229-7000
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rklyman@gibsondunn.com
mjwilliams@gibsondunn.com
jgraves@gibsondunn.com
sjacobs@gibsondunn.com

Co-Counsel to the Debtors and Debtors-in-Possession

A notary public or other office completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

VERIFICATION


STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES) ss:

Robert A. Klyman, after being duly sworn according to law, hereby deposes and says:

1. I am a Partner in the applicant firm, Gibson, Dunn & Crutcher LLP (“Gibson Dunn”), and have been admitted to appear before this Court.

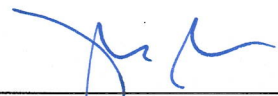
2. I have personally performed many of the legal services rendered by Gibson Dunn to Sports Authority Holdings, Inc. and its affiliated debtors and debtors in possession in connection with their chapter 11 cases, and am familiar with all other work performed on behalf of the lawyers and paraprofessionals at Gibson Dunn.

3. The facts set forth in the foregoing Application are true and correct to the best of my knowledge, information and belief.



Robert A. Klyman

SWORN TO AND SUBSCRIBED before me this 18th day of April, 2016 and proved to me on the basis of satisfactory evidence to be the person who appeared before me.



Pamela Santos, Notary Public
My Commission Expires: September 1, 2018

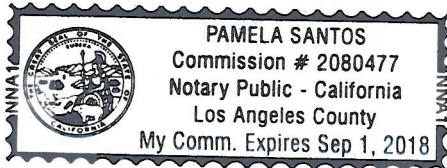


Exhibit 9

**FIRST MONTHLY APPLICATION OF MILBANK, TWEED,
HADLEY & M^CCLOY LLP AS COUNSEL TO
OUTER HARBOR TERMINAL, LLC
(FEBRUARY 1, 2016– FEBRUARY 29, 2016)**

Name	Position; Experience	Hourly Rate	Total Hours	Total Compensation
Gregory Bray	Financial Restructuring Partner at Milbank for 15 years; admitted in 1984.	\$1,350	77.30	\$104,355.00
Thomas Kreller	Financial Restructuring Partner at Milbank for 15 years; admitted in 1992.	\$1,350	31.00	\$41,850.00
Haig Maghakian	Financial Restructuring Associate at Milbank for 14 years; admitted in 2002.	\$915 \$457.5*	154.00 27.10	\$140,910.00 \$12,398.25
Greta Ulvad	Financial Restructuring Associate at Milbank for 5 years; admitted in 2011.	\$835	102.30	\$85,420.50
Stephen Silverman	Financial Restructuring Partner at Milbank for 1 year; admitted in 2015.	\$535	32.20	\$17,227.00
Charmaine Thomas	Legal Assistant	\$260	11.70	\$3,042.00
Jacqueline Brewster	Legal Assistant	\$245	7.80	\$1,911.00
Total		\$918.16 (blended rate)²	443.40 hours	\$407,113.75

² The blended rate excluding paraprofessionals is \$948.72 per hour.

* Per rule 2016-2(d)(viii) of the Local Rules of the Bankruptcy Court for the District of Delaware, Milbank bills travel time at 50% of normal rates.

**SUMMARY OF SERVICES RENDERED DURING
MILBANK, TWEED, HADLEY & M^CCLOY LLP'S
FIRST MONTHLY PERIOD AS COUNSEL TO
OUTER HARBOR TERMINAL, LLC
(FEBRUARY 1, 2015 – FEBRUARY 29, 2015)**

PROJECT CATEGORY	HOURS	FEES
Asset Dispositions	27.30	\$23,941.50
Assumption and Rejection of Leases and Contracts	2.80	\$2,562.00
Business Operations	7.10	\$6,496.50
Case Administration	103.10	\$93,917.50
Claims Administration and Objections	1.60	\$1,424.00
DIP Financing	60.50	\$68,631.50
Employee Benefits and Pensions	34.10	\$34,430.50
Employment Application (Milbank)	37.30	\$24,204.00
Employment Application (Other)	4.10	\$3,428.50
Fee Application (Other)	.80	\$692.00
Hearings (Preparation and Attendance)	34.00	\$36,330.00
Landlord Issues	82.40	\$78,807.00
Litigation: Contested Matters and Adversary Proceedings	5.60	\$4,561.00
Meetings and Communications with Creditors	1.70	\$1,555.50
Meetings and Communications with Equity Holders	.20	\$183.00
Non-Working Travel	27.10	\$12,398.25
Plan and Disclosure Statement	2.20	\$2,013.00
Relief from Stay and Adequate Protection	3.30	\$2,947.50
Reporting	5.60	\$5,124.00
Tax	2.60	\$3,466.50
Total	443.40	\$407,113.75

**SUMMARY OF SERVICES RENDERED DURING
MILBANK, TWEED, HADLEY & M^CCLOY LLP'S
FIRST MONTHLY PERIOD AS COUNSEL TO
OUTER HARBOR TERMINAL, LLC
(FEBRUARY 1, 2016 – FEBRUARY 29, 2016)**

<u>DISBURSEMENTS</u>	<u>AMOUNT</u>
Cab Fares/Local Travel	\$455.47
Computer Database Research	\$1,935.20
Lodging	\$986.80
Meals	\$197.93
Messenger	\$295.92
Photocopies/Printing	\$639.85
Telephone	\$128.54
Travel	\$4,365.70
TOTAL DISBURSEMENTS	<u>\$9,005.41</u>

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

))	
In re:))	Chapter 11
))	
OUTER HARBOR TERMINAL, LLC, ¹))	Case No. 16-10283 (LSS)
))	
Debtor.))	Obj. Deadline: April 18, 2016 at 4:00 p.m. (ET)
))	
))	

**FIRST MONTHLY FEE APPLICATION OF
MILBANK, TWEED, HADLEY & M^cCLOY LLP
FOR INTERIM APPROVAL AND ALLOWANCE OF
COMPENSATION FOR SERVICES RENDERED AND FOR
REIMBURSEMENT OF EXPENSES INCURRED AS COUNSEL TO
DEBTOR AND DEBTOR IN POSSESSION DURING PERIOD
FROM FEBRUARY 1, 2016 THROUGH AND INCLUDING FEBRUARY 29, 2016**

Milbank, Tweed, Hadley & M^cCloy LLP (“Milbank”), attorneys to the above-captioned debtor and debtor in possession (the “Debtor”) in the above-captioned chapter 11 case (the “Chapter 11 Case”), hereby submits this monthly application (the “Application”), pursuant to sections 328, 330, and 331 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the “Bankruptcy Code”), rule 2016 of the Federal Rules of Bankruptcy Procedure (as amended, the “Bankruptcy Rules”), rule 2016-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (as amended, the “Local Rules”), and this Court’s Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals [Docket No. 123] (the “Interim Compensation Order”), for allowance of compensation and reimbursement of expenses for the period from February 1, 2016 through and including February 29, 2016 (the “First Monthly Period”). By this

¹ The last four digits of the Debtor’s federal tax identification number are 2070. The Debtor’s principal place of business is located at 1599 Maritime Street, Oakland, CA 94607.

Application, Milbank seeks (i) interim allowance with respect to the sum of \$407,113.75,² representing one hundred percent (100%) compensation for actual, reasonable, and necessary professional services rendered during the First Monthly Period, and the sum of \$9,005.41, representing one hundred percent (100%) reimbursement of its actual, reasonable, and necessary expenses incurred during the First Monthly Period, and (ii) payment according to the procedures set forth in the Interim Compensation Order (i.e., payment of eighty percent (80%) of its requested fees in the amount of \$325,691.00) and reimbursement of one hundred percent (100%) of its expenses incurred in the amount of \$9,005.41, for a total payment of \$334,696.41. In support of this Application, Milbank respectfully represents as follows:

Background

1. On February 1, 2016 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor continues to operate its business as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No party has requested the appointment of a trustee or examiner and no committee has been appointed or designated in this chapter 11 case.

2. On February 29, 2016, this Court entered the Order Authorizing Retention and Employment of Milbank, Tweed, Hadley & M^cCloy LLP as Attorneys for the Debtor *Nunc Pro Tunc* to Petition Date [Docket No. 119], approving the Debtor's retention of Milbank as its attorneys in this Chapter 11 Case, effective as of February 1, 2016.

Billing History

3. This Application is Milbank's first monthly application for approval and allowance of compensation and reimbursement of expenses. No prior application has been made

² The total amount of compensation sought in connection with the First Monthly Period reflects a voluntary reduction of 5% of the total fees incurred, in the amount of \$22,122.50.

to this or any other court for the relief requested herein, nor has payment been received by Milbank for legal services provided to and on behalf of the Debtor, or for out-of-pocket expenses incurred in connection therewith, in respect of the First Monthly Period. Milbank has not entered into any agreement, express or implied, with any other party for the purpose of fixing or sharing fees or other compensation to be paid for professional services rendered in these cases. No promises have been received by Milbank or any member thereof as to compensation in connection with this Chapter 11 Case. All services for which compensation is sought herein were rendered by Milbank to the Debtor solely in connection with this Chapter 11 Case and not on behalf of any other persons.

Fee Application

4. By this Application, Milbank seeks (i) interim allowance with respect to the sum of \$407,113.75, representing one hundred percent (100%) compensation for actual, reasonable, and necessary professional services rendered on behalf of the Debtor during the First Monthly Period, and the sum of \$9,005.41, representing one hundred percent (100%) reimbursement of its actual, reasonable, and necessary expenses incurred during the First Monthly Period in connection with rendering such services, and (ii) payment according to the procedures set forth in the Interim Compensation Order (i.e., payment of eighty percent (80%) of its requested fees in the amount of \$325,691.00) and reimbursement of one hundred percent (100%) of its expenses incurred in the amount of \$9,005.41, for a total payment of \$334,696.41. The fees sought in this Application reflect an aggregate of 443.40 hours of attorney and paraprofessional time spent and recorded in performing services for the Debtor during the First Monthly Period, at a blended average hourly rate of \$918.16 for both attorneys and paraprofessionals. The blended hourly rate for attorneys only is \$948.72.

5. Milbank maintains written records of the time expended in the rendition of the professional services required by the Debtor. These records are maintained in the ordinary course of Milbank's practice.

6. For the convenience of the Court and parties in interest, attached hereto as part of the cover sheet is a billing summary for the First Monthly Period, setting forth the name of each attorney and paraprofessional for whose work on these cases compensation is sought, each attorney's year of bar admission, the aggregate time expended by each such attorney or paraprofessional, the hourly billing rate for each such attorney or paraprofessional at Milbank's current billing rates, and an indication of the individual amounts requested as part of the total amount of compensation requested. Additionally, set forth in the billing summary is further information indicating whether each attorney is a partner, counsel, or associate, how many years each attorney has held such position, and each attorney's primary area of concentration. The compensation requested by Milbank is based on the customary compensation charged by comparably skilled practitioners in cases other than cases under the Bankruptcy Code.

7. Set forth in Exhibit A are time entries recorded in tenths of an hour and by project category with a detailed description of services performed by each attorney and paraprofessional on behalf of the Debtor.

8. Milbank also maintains contemporaneous records of all actual and necessary expenses incurred in connection with performing professional services. A summary of the expenses incurred during the First Monthly Period is set forth on the cover sheet. The summary lists the amounts and categories of expenses for which reimbursement is sought, and a breakdown of expenses by project category. Set forth in Exhibit B hereto is a breakdown of the expenses, including the date the expense was incurred, the charge, and the person incurring the

expense. The summary lists the amounts and categories of expenses for which reimbursement is sought and a breakdown of expenses by project category. Milbank has incurred actual and necessary out-of-pocket expenses during the First Monthly Period in the amount of \$9,005.41.

Actual and Necessary Expenses

9. In connection with the reimbursement of expenses, Milbank's policy is to charge its clients in all areas of practice for expenses, other than fixed and routine overhead expenses, incurred in connection with representing its clients. The expenses charged to Milbank's clients include, among other things, telephone toll and other charges, regular mail and express mail charges, special or hand delivery charges, photocopying charges, out-of-town travel expenses, local transportation expenses, expenses for working meals, computerized research charges, and transcription costs.

10. Milbank charges the Debtor for these expenses at rates consistent with those charged to Milbank's other bankruptcy clients, which rates are equal to or less than the rates charged by Milbank to its non-bankruptcy clients. Milbank seeks reimbursement from the Debtor at the following rates for the following expenses: (i) ten cents (\$0.10) per page for photocopying; (ii) ten cents (\$0.10) per page for black and white printing; and (iii) twenty-five cents (\$0.25) per page for color printing.

11. In accordance with section 330 of the Bankruptcy Code, Milbank seeks reimbursement only for the actual cost of such expenses to Milbank.³

12. In providing or obtaining from third parties services that are reimbursable by clients, Milbank does not include in such reimbursable amount any costs of investment,

³ The cost of expenses Milbank is seeking reflects any discounted rates based on volume or other discounts which Milbank anticipates receiving from certain outside vendors; however, Milbank does not perform a retrospective reconciliation of any "year-end" adjustments (positive or negative) to the actual discounted cost of such expenses.

equipment, or capital outlay.

13. Milbank regularly charges its non-bankruptcy clients for ordinary business hourly fees and expenses for secretarial, library, word processing, and other staff services because such items are not included in the firm's overhead for the purpose of setting billing rates. Milbank is not, however, seeking reimbursement of hourly fees of its secretarial services in this Application.

Summary of Services Rendered

14. To provide an orderly and meaningful summary of the services rendered by Milbank on behalf of the Debtor, Milbank established separate project billing categories for these cases. Milbank's professionals billed time to the following categories during the First Monthly Period:

- Asset Analysis and Recovery
- Asset Dispositions
- Assumption and Rejection of Leases and Contracts
- Avoidance Action Analysis
- Business Operations
- Case Administration
- Claims Administration and Objections
- Corporate Governance Matters
- DIP Financing
- Employee Benefits and Pensions
- Employment Application (Milbank)
- Employment Application (Other)
- Fee Applications (Milbank)
- Fee Applications (Other)
- Hearings (Preparation and Attendance)
- Landlord Issues
- Litigation: Contested Matters and Adversary Proceedings (not otherwise within a specific project category)
- Meetings and Communications with Creditors
- Meetings and Communications with Equity Holders
- Non-Working Travel⁴
- Plan and Disclosure Statement

⁴ As set forth herein, Milbank will only seek compensation of 50% of the travel time incurred during any monthly compensation period.

- Regulatory Matters
- Relief from Stay and Adequate Protection
- Reporting
- Tax
- Valuation

15. The following summary of services rendered is intended only to highlight matters in certain of the above-listed categories where Milbank has expended a considerable number of hours on behalf of the Debtor during the First Monthly Period, and it is not meant to be a detailed description of all of the work performed. This Application does not detail each and every correspondence, meeting, discussion, court appearance, or all research conducted by Milbank during the First Monthly Period.

16. General Overview of Services Rendered. During the First Monthly Period, Milbank rendered a variety of services to the Debtor (which services are described in detail in Exhibit A attached hereto), including, among other things, tasks related to the administration of the Debtor's bankruptcy cases, research and analysis, preparation of numerous pleadings and other documents, negotiations, and other legal services as were required by and deemed to be in the best interests of the Debtor and its estate. In connection therewith, Milbank conducted numerous meetings and telephone conferences with the Debtor, its other advisors, and other parties in interest, and at all times kept the Debtor apprised of events in this Chapter 11 Case.

17. Asset Disposition. This category includes all matters relating to the disposal of property, including the use, sale, or lease of the Debtor's property. During the First Monthly Period, Milbank performed numerous tasks relating to the sale of the Debtor's assets, including, without limitation, reviewing and advising on an auction contract with Ritchie Bros. Auctioneers (America) Inc. for the auction and sale of the Debtor's equipment and miscellaneous property, reviewing and revising procedures for the Debtor's assumption and assignment of

unexpired leases of personal property and executory contracts, and drafting a motion and proposed order to approve the foregoing.

18. Assumption and Rejection of Leases and Contracts. This category includes all matters relating to the Debtor's potential assumption, assignment, and/or rejection of its executory contracts and unexpired leases. During the First Monthly Period, Milbank worked closely with the Debtor to determine which of the Debtor's executory contracts and unexpired leases would be assumed and assigned to third parties or rejected in connection with the Debtor's orderly wind down of its operations. In addition, Milbank attorneys drafted a motion and proposed order to approve certain procedures for the Debtor to reject its burdensome and/or unnecessary contracts and leases.

19. Business Operations. This category includes all matters relating to business operations, including vendor, cash management, and certain non-employee labor issues.

20. Case Administration. This category includes all matters relating to general case administration and coordination. Additionally, this project category serves as a general code for services performed that do not fit under any other project billing category. During the First Monthly Period, among other things, Milbank attorneys (i) advised the Debtor in connection with the chapter 11 process and its duties and responsibilities as a debtor in possession, (ii) participated in numerous teleconferences with the Debtor's management concerning the administration of this Chapter 11 Case, and (iii) assisted the Debtor's management in interpreting and complying with the provisions of the Bankruptcy Code, Bankruptcy Rules, and any other applicable statutes or guidelines, as well as with the consideration of and compliance with certain deadlines imposed by this Court or applicable authority. Milbank attorneys performed various other case administration tasks as well, including case calendaring, internal team meetings

regarding case status and works in progress, and otherwise assisting the Debtor in fulfilling its duties as a debtor in possession.

21. Claims Administration and Objections. This category includes all matters related to claims administration matters and bar date matters, including drafting a motion and order to establish a general claims bar date.

22. DIP Financing. This category includes matters related to the Debtor's debtor in possession financing, including the preparation of related pleadings. During the First Monthly Period, Milbank attorneys performed numerous tasks relating to the proposed debtor in possession financing, including, among other things, negotiating and working with the Debtor, the Debtor's postpetition lenders and their respective counsel, the Port of Oakland (the "Port") and its counsel, and the U.S. Trustee, through numerous meetings, telephonic conferences, and correspondence to resolve various issues and objections and to finalize the terms of the debtor in possession financing and related budget.

23. Employee Benefits and Pensions. This category includes all matters related to employee wages, benefits, and other employee relations matters. During the First Monthly Period, Milbank attended to several employment-related issues, including in connection with creating the Debtor's incentive program for substantially all of its employees, drafting a motion and order to approve such program, and numerous conferences with the Debtor regarding its structuring and implementation.

24. Employment Application (Milbank). This category includes all work performed in connection with preparing a retention application for Milbank to serve as the Debtor's counsel during this Chapter 11 Case. Specifically, during the First Monthly Period, Milbank prepared and filed the Debtor's Application for Entry of Order Authorizing Retention and Employment of

Milbank, Tweed, Hadley & McCloy LLP as Attorneys for the Debtor *Nunc Pro Tunc* to Petition Date [Docket No. 58].

25. Employment Application (Other). This category includes all work performed in connection with the retention of the Debtor's other professionals. For example, Milbank assisted the Debtor on matters relating to the retention of its claims and noticing agent, Prime Clerk, and its ordinary course professionals.

26. Fee Applications (Other). This category includes all work performed in connection with the applications of the Debtor's professionals for compensation for fees and expenses incurred in connection with the Chapter 11 Case. During the First Monthly Period, Milbank drafted and filed a motion seeking approval of procedures for interim compensation of the Debtor's professionals.

27. Hearings (Preparation and Attendance). This category includes all matters relating to preparation for and attendance at court hearings. During the First Monthly Period, Milbank attorneys prepared for, and attended, the "First Day Hearing" on February 3, 2016, as well as a telephonic hearing regarding the Debtor's postpetition financing on February 9, 2016. In addition, Milbank prepared for the "Second Day Hearing" including meeting with the Debtor's representatives to discuss matters and issues in connection with the same. In preparation for such hearings, Milbank attorneys conducted due diligence, prepped potential witnesses, and prepared hearing outlines and other materials.

28. Landlord Issues. This category includes matters in connection with the Debtor's negotiations with its landlord, the Port, in connection with the wind down of the Debtor's operations and the terms of the surrender of the leased premises to the Port. Among other things, during the First Monthly Period, Milbank reviewed and researched issues in connection with the

Port's motion to compel, drafted a settlement agreement with the Port to document a global settlement of the parties' outstanding issues, negotiated with the Port and its counsel regarding the terms of such agreement, and drafted a motion and proposed order to approve the Debtor's entry into such agreement.

29. Litigation: Contested Matters and Adversary Proceedings. This category includes matters related to potential litigation and adversary proceedings involving the Debtor. During the First Monthly Period, Milbank researched issues in connection with litigation pending in front of the National Labor Relations Board.

30. Meetings and Communications with Creditors. This category includes all matters related to responding to creditor inquiries and involving various notices supplied to creditors. Among other things, during the First Monthly Period, Milbank assisted the Debtor in preparing for, and attended, the 341 meeting of creditors held on March 9, 2016.

31. Non-Working Travel. This category includes all travel time, not otherwise chargeable. During the First Monthly Period, Milbank attorneys traveled to and from Delaware for various hearings and meetings. Pursuant to rule 2016-2(d)(viii) of the Local Rules of the Bankruptcy Court for the District of Delaware, Milbank bills travel time at 50% of normal rates.

32. Plan and Disclosure Statement. This category includes all matters related to review, formulation, negotiation, preparation, and promulgation of plans (and term sheets related thereto), disclosure statements, related corporate documentation, and research related thereto. During the First Monthly Period, Milbank reviewed and discussed with the Debtor issues in connection with the structuring of a chapter 11 plan and the plan process.

33. Relief From Stay and Adequate Protection. This category includes all matters related to issues involving the automatic stay, and all other types of actions where adequate

protection is at issue. During the First Monthly Period, Milbank reviewed a motion filed by Terex Corporation and Terex Financial Services (collectively "Terex") that requested adequate protection and negotiated a stipulation with Terex to resolve the issues set forth in Terex's motion.

34. Reporting. This category includes all matters related to the Debtor's efforts to comply with its various reporting obligations. During the First Monthly Period, Milbank attorneys worked with the Debtor to prepare its Schedules of Assets and Liabilities and Statements of Financial Affairs. Also during the First Monthly Period, Milbank prepared for and attended the Debtor's initial interview with the U.S. Trustee.

35. Tax. This category includes all matters related to various tax issues concerning the Debtor. During the First Monthly Period, Milbank review various tax issues and their implications for the Debtor and this Chapter 11 Case.

Valuation of Services

36. Attorneys and paraprofessionals of Milbank have expended a total of 443.40 hours in connection with this matter during the First Monthly Period.

37. The nature of the work performed by these persons is fully set forth in Exhibit A attached hereto. These are Milbank's normal hourly rates for work of this character. The reasonable value of services rendered by Milbank to the Debtor during the First Monthly Period is \$407,113.75, which reflects a voluntary discount of 5% of the total fees incurred, in the amount of \$22,122.50.

38. Section 331 of the Bankruptcy Code provides for interim compensation of professionals and incorporates the substantive standards of section 330 of the Bankruptcy Code to govern the Court's award of such compensation. See 11 U.S.C. §§ 330 and 331. Section 330

of the Bankruptcy Code provides that a court may award a professional employed under section 327 of the Bankruptcy Code “reasonable compensation for actual, necessary services rendered . . . and reimbursement for actual, necessary expenses.” 11 U.S.C. § 330(a)(1). Section 330 of the Bankruptcy Code also sets forth the criteria for the award of such compensation and reimbursement:

In determining the amount of reasonable compensation to be awarded . . . the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including –

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
- (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and expertise in the bankruptcy field; and
- (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

11 U.S.C. § 330(a)(3).

39. The professional services performed by Milbank were necessary and appropriate to the administration of this Chapter 11 Case. In addition, the services were in the best interests of the Debtor and its estate and were provided without unnecessary duplication of effort or expense incurred by professionals and paraprofessionals employed by Debtor’s co-counsel, Richards, Layton & Finger, P.A. The professional services rendered by Milbank during the First

Monthly Period have required a high degree of professional competence and expertise so that the numerous issues requiring the Debtor's evaluation and action could be addressed with skill and dispatch. Milbank respectfully submits that it has rendered these services to the Debtor efficiently, effectively, economically, and without duplication of services performed by any other professional in these cases. In addition, the work involved, and thus the time expended, was carefully assigned in light of the experience and expertise required for a particular task. Milbank further submits the requested compensation is reasonable in light of the nature, extent, and value of such services to the Debtor and all other parties in interest.

40. To the best of Milbank's knowledge, this Application complies with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, any guidelines promulgated by the U.S. Trustee, the Local Rules, and the orders of this Court.

Reservation Of Rights

41. To the extent time charges for services rendered or disbursements incurred relating to the First Monthly Period were not processed prior to the preparation of this Application, or Milbank has for any other reason not sought compensation or reimbursement of expenses herein with respect to any services rendered or expenses incurred during the First Monthly Period, Milbank reserves the right to request compensation for such services and reimbursement of such expenses in a future application.

Certification

42. In accordance with Local Rule 2016-2(f), the undersigned has reviewed the requirements of Local Rule 2016-2 and certifies to the best of his information, knowledge, and belief that this Application complies with Local Rule 2016-2.

No Prior Request

43. No previous request for the relief sought herein has been made to this or any other court.

Notice

44. A copy of this Application will be served in accordance with the Interim Compensation Order. Milbank submits that, in light of the relief requested, no other or further notice need be provided.

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WHEREFORE, Milbank respectfully requests (i) interim allowance with respect to the sum of \$407,113.75, representing one hundred percent (100%) compensation for professional services rendered during the First Monthly Period, and the sum of \$9005.41, representing one hundred percent (100%) reimbursement of its actual, reasonable, and necessary expenses incurred during the First Monthly Period, and (ii) payment according to the procedures set forth in the Interim Compensation Order (i.e., payment of eighty percent (80%) of its requested fees in the amount of \$325,691.00) and reimbursement of one hundred percent (100%) of its expenses incurred in the amount of \$9,005.41, for a total payment of \$334,696.41.

Dated: March 29, 2016

MILBANK, TWEED, HADLEY & M^cCLOY LLP

/s/ Gregory A. Bray

Gregory A. Bray (admitted *pro hac vice*)
Thomas R. Kreller (admitted *pro hac vice*)
Haig M. Maghakian (admitted *pro hac vice*)
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-and-

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Counsel to Debtor and Debtor in Possession

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
)	Chapter 11
OUTER HARBOR TERMINAL, LLC, ¹)	
)	Case No. 16-10283 (LSS)
)	
Debtor.)	
)	

VERIFICATION

1. I am a partner in the Financial Restructuring Group of the firm Milbank, Tweed, Hadley & McCloy LLP, counsel to the Debtor in this Chapter 11 Case. I am admitted to the bar in the State of California, the State of New York, the District of Columbia, and the United States District Courts for the Central District of California and the Southern District of New York, and *pro hac vice* in this court for this Chapter 11 Case.

2. I am familiar with the work performed on behalf of the Debtor by Milbank.

3. I have reviewed the foregoing Application, and the facts set forth therein are true and correct to the best of my knowledge, information, and belief. Moreover, I have reviewed Local Rule 2016-2, and submit that the Application complies with such rule.

Respectfully submitted,

/s/ Gregory A. Bray _____

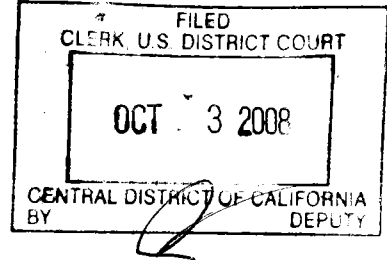
Name: Gregory A. Bray

Title: Partner, Milbank, Tweed, Hadley & McCloy LLP

¹ The last four digits of the Debtor’s federal tax identification number are 2070. The Debtor’s principal place of business is located at 1599 Maritime Street, Oakland, CA 94607.

Exhibit 10

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LYNNE WANG, YU FANG INES KAI, AND HUI JUNG PAO, ON BEHALF OF THEMSELVES AND ALL OTHERS SIMILARLY SITUATED, Plaintiffs,))))))))	No. CV04-1498 CBM (JWJx) CLASS ACTION ORDER RE PLAINTIFFS' MOTION FOR AWARD OF ATTORNEYS' FEES
v. CHINESE DAILY NEWS, INC., et al.))	
Defendant.)	

The matter before the Court is Plaintiffs' Motion for Attorneys' Fees. This Court entered Judgment in favor of Plaintiffs on all issues except for injunctive relief on February 27, 2008. Plaintiffs now seek attorneys' fees in the instant motion.

JURISDICTION

This Court has jurisdiction pursuant to 28 U.S.C. § 1331.

FACTUAL AND PROCEDURAL HISTORY

1 Plaintiffs filed this suit on March 5, 2004, alleging multiple labor violations
2 by Chinese Daily News, Inc. (“Defendant”) pursuant to the Fair Labor Standards
3 Act (“FLSA”), the California Business and Professions Code § 17200 et seq., and
4 the California Labor Code. The action was tried to a jury commencing on
5 November 28, 2006 and was submitted to the jury on January 5, 2007. On
6 January 10, 2007 the jury returned a verdict in favor of Plaintiffs on all causes of
7 action. A bench trial commenced on July 31, 2007, addressing Plaintiffs’ claims
8 under California Business & Professions Code § 17200, penalties under the
9 California Labor Code and pre-judgment interest. On February 28, 2008, the
10 Court issued its findings of fact and conclusions of law and entered Judgment in
11 favor of plaintiffs for damages, restitution, penalties and pre-judgment interest.
12 The Court denied Plaintiffs request for injunctive relief.

13 **DISCUSSION**

14 **I. EVIDENTIARY OBJECTIONS**

15 Defendant objects to the declarations of Della Bahan, Randy Renick,
16 Virginia Keeny, Robert Newman and Brad Seligman submitted in support of
17 Plaintiffs Motion for Attorneys’ Fees. When Plaintiffs originally submitted their
18 Motion for Attorneys Fees, they attached only summaries of fees billed. Plaintiffs
19 requested the Court to review the actual billing records in camera. The Court
20 denied this request and Plaintiffs supplemented their motion with the actual billing
21 records. In the meantime, Defendant filed objections to the various declarations
22 cited by Plaintiffs in their original motion. Defendant’s objections focus on best
23 evidence and foundational objections based on Plaintiffs’ only referencing their
24 fee summaries. Now that the Court and Defendant have the actual statements, the
25 Court overrules Defendant’s objections to the declarations of Della Bahan, Randy
26 Renick and Virginia Keeny as moot. The Court considered the actual billing
27 records in analyzing Plaintiffs’ Motion for Attorneys’ Fees.
28

1 Defendant also objects to the declarations of Brad Seligman and Robert D.
2 Newman. Plaintiffs offer these declarations of attorneys in the community as
3 evidence to support Plaintiffs' attorney billing rates. Defendant objects on the
4 grounds that portions of said declarations lack personal knowledge, lack
5 foundation, call for speculation and draw legal conclusions. The Court overrules
6 Defendant's one objection to Mr. Newman's declaration and overrules all
7 objections to Mr. Seligman's declaration except for Defendant's objection to para.
8 11, line 9-10, which the Court sustains.

9 **II. DOES THE CALIFORNIA FEE AWARD ANALYSIS APPLY TO PLAINTIFFS' STATE**
10 **AND FEDERAL CLAIMS**

11 The jurisdictional basis for this case is federal question. It involved claims
12 based on California state labor laws and the federal Fair Labor Standards Act.
13 Plaintiffs request this Court to apply a California fee award analysis to Plaintiffs
14 state and federal claims. (Pl. Mot. at 3.) Defendant argues that because this case
15 involves a federal question, and is not a diversity action, "no *Erie* considerations
16 govern here." (Def. Surreply at 2.) Therefore, Defendant argues that attorneys'
17 fees should be awarded according to a federal fee award analysis.

18 Plaintiffs cite *Mangold v. Cal. Pub. Utils. Com'n.*, 67 F.3d 1470 (9th Cir.
19 1995), in support of its argument. In *Mangold*, the Ninth Circuit addresses the
20 issue of whether state or federal law controls the method of calculating attorneys'
21 fees awarded to a plaintiff who had prevailed on discrimination claims brought
22 under both Title VII and the California Fair Employment and Housing Act. The
23 plaintiffs in *Mangold*, as in the instant case, succeeded on both federal and state
24 statutory claims. Applying state law, the lower court in *Mangold* awarded fees,
25 enhanced by a multiplier of 2.0. The defendant argued that federal law should
26 apply based on *City of Burlington v. Dague*, where the United States Supreme
27 Court held that contingency-fee multipliers are unavailable under federal fee-
28 shifting statutes. *Mangold*, 67 F.3d at 1478. The defendant also asserted that

1 under an *Erie* analysis, the right to a fee is a matter of state substantive law, but
2 the method of calculating that fee is procedural and therefore subject to federal
3 law. The court in *Mangold* stated that “[e]xisting Ninth Circuit precedent has
4 applied state law in determining not only the right to fees, but also the method of
5 calculating the fees.” *Id.* Moreover, the Ninth Circuit clarified that while the *Erie*
6 analysis applies in a diversity action, it also “applies equally in the context of
7 pendant jurisdiction.” *Id.* (internal citations omitted). The court further noted that
8 other circuits have applied state law in calculating the fee, and one case even used
9 a multiplier under state law because *Dague* precluded it under federal law. *Id.*

10 Having reviewed the arguments herein, this Court applies the California
11 state standard for awarding attorneys’ fees in the instant case.

12 **III. WHETHER THE PROPOSED ATTORNEYS’ FEES ARE REASONABLE**

13 The starting point of every fee award must be a calculation of the attorney’s
14 services in terms of the time he has expended on the case. *Serrano v. Priest*, 20
15 Cal. 3d 25, 49 n.23 (Cal. 1977) (hereafter “*Serrano III*”). As the California
16 Supreme Court explained, “*Serrano III* requires the trial court to first determine a
17 ‘touchstone’ or ‘lodestar’ figure based on a ‘careful compilation of the time spent
18 and the reasonable hourly compensation for each attorney.’” *Press v. Lucky*
19 *Stores, Inc.*, 34 Cal. 3d 311, 322 (Cal. 1983).

20 **A. REASONABLENESS OF RATES**

21 California courts rely upon federal cases in stating that “a reasonable hourly
22 rate is the product of a multiplicity of factors...the level of skill necessary, time
23 limitations, the amount to be obtained in the limitation, the attorney’s reputation,
24 and the undesirability of the case.” *Margolin v. Regional Planning Com.*, 134 Cal.
25 App. 3d 999, 1004 (1982) (internal citation omitted).

26 The standard for determining a reasonable hourly rate is the market rate in
27 the community where the case is litigated. *Carson v. Billings Police Dept.*, 470
28

1 F.3d 889, 891 (9th Cir. 2006). There are many ways to support the reasonable
 2 value of services rendered by an attorney. One way is to determine what fees
 3 were sought and deemed reasonable by courts in other cases. Another method is
 4 to review rates charged by “comparable law firms for the work of similarly
 5 situated partners, associates and lay experts.” *Margolin v. Regional Planning*
 6 *Com.*, 134 Cal. App. 3d 999, 1006 (1982). The Court may also rely on expert
 7 testimony. *Children’s Hosp. and Medical Center v. Bonta*, 97 Cal. App. 4th 740,
 8 783 (2002).

9 Plaintiffs provide their lodestar determination of hours worked and
 10 reasonable hours rate as follows:

Law Firm/Attorney	Hours (Rate)	Lodestar
Hadsell & Stormer, Inc. (associated in 2006)	1,625.90	\$707,210.00
Dan Stormer	35.20 (\$800)	\$28,160.00
Virginia Keeny	417.30 (\$575)	\$239,947.50
Cornelia Dai	892.40 (\$425)	\$379,270.00
Sanjukta Paul	60.90 (\$350)	\$21,315.00
Callie White	120.20 (\$175)	\$21,035.00
Ella Wagener	38.80 (\$175)	\$6,790.00
Brooke Glass-O’Shea	49.20 (\$175)	\$8,610.00
Rachel Bloomekatz	11.90 (\$175)	\$2,082.50
Bahan & Associates	2,329.10	\$677,481.50
Della Bahan	452.9 (\$545)	\$246,830.50
Peter Bibring	908.30 (\$240)	\$217,992.00
Jennifer Reisch	652.30 (\$230)	\$150,029.00
Maria Stroud	295.60 (\$175)	\$51,730.00
Law Offices of R. Renick (associated in 2006)	1,865.20	\$882,822.50
Randy Renick	1,243.50 (\$550)	\$683,925
Kathleen Langan	137.40 (\$500)	\$68,700.00
Josh Piovita-Scott	76.90 (\$375)	\$28,837.50
Matthew Sirolly	25.70 (\$325)	\$8,352.50
Ben Stormer	260.20 (\$225)	\$58,545.00
Stephen Muzio	81.30 (\$325)	\$26,422.50
Maria Stroud	40.20 (\$200)	\$8,040.00

1	TOTAL LODESTAR	5,820.20	\$2,267,514.00¹
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2 Mr. Renick, Ms. Keeny and Ms. Bahan served as Plaintiffs' senior attorneys
3 during this action. As evidence of reasonableness of their fees, Plaintiffs provided
4 the Court with declarations of attorneys in the community. (*See Newman,*
5 *Seligman and Traber Decl.*) The declarations state that the hourly rates for the
6 above noted attorneys were reasonable given their experience and background.
7 (*See Seligman and Traber Decl.*) Mr. Renick's 2007 hourly rate of \$500 was
8 approved in a number of cases, in Los Angeles Superior Court, San Francisco
9 Superior Court and San Diego Superior Court. (Renick Decl. at ¶ 40.) Plaintiffs
10 supplement its motion with declarations from Mr. Stormer, and exhibits attached
11 thereto, and Barrett S. Litt. The Court finds the declarations support the
12 reasonableness of Mr. Stormer's billing rate given his background and experience
13 in the community. Based on the foregoing, the Court finds that the rates for Mr.
14 Stormer, Ms. Keeny, Mr. Renick and Ms. Bahan are reasonable based their
15 experience and background and are consistent with prevailing market rates in the
16 community.

17 Mr. Renick supports the hourly rate of the associates and staff at the law
18 offices of Randy Renick based on the National Law Journal 2007 survey of rates.
19 He provides the Court with some hourly rates charged by law firms based on the
20 associate class; the survey is based on the nation's largest law firms and the
21 portion submitted to the Court as Exhibit 2 is only a "sampling." The survey
22 provides the Court with a list of rates for several law firms in Southern California.
23 Messrs. Matthew Sirolly and Stephen Muzio bill out at \$325/hour. Both are third
24 year associates at Mr. Renick's firm. The Southern California law firms range
25 from \$240-\$375 per hour for a third year associate. Mr. Renick's rates are highly
26 competitive with those of a large Los Angeles firm; however, based on evidence

27 _____
28 ¹ Plaintiff seeks a Multiplier of 2.0 for their lodestar, which would bring the total amount to \$4,535,028.00. *See infra.* Section D for discussion.

1 that some third year associates bill out at substantially less, the Court reduces the
2 rates for the above two associates to \$300/hour, or the mid-point of the above
3 noted range, given their experience and background. Accordingly, the lodestar
4 shall be reduced by \$2675. Mr. Ben Stormer and Ms. Stroud are law clerk and
5 paralegal respectively at Mr. Renick's firm. Both are experienced. The median
6 amount charged for a paralegal in the Los Angeles area is \$195 per hour based on
7 the International Paralegal Management Association's Annual Compensation
8 Survey for Paralegals/Legal Assistances and Managers, 2007 Edition.

9 Accordingly, the Court finds the rates of \$225/hour and \$220/hour for Mr.
10 Stormer and Ms. Stroud, respectively, are reasonable. The Court also finds that
11 Mr. Piovia-Scott's rate of \$375 is reasonable for his experience and background.
12 Lastly, Ms. Langan is a contract attorney for Mr. Renick's firm. She is an
13 experienced attorney and has been practicing since 1989. Her rate of \$500/hour,
14 however, is high based on her experience and work history for a comparable
15 attorney in the community. Accordingly, the Court reduces Ms. Langan's rate to
16 \$475/hour.

17 Ms. Keeny supports the hourly rate of the Hadsell & Stormer associates
18 Cornelia Dai and Sanjukta Paul in her declaration. Based on their experience and
19 background, the Court finds that the rates listed, \$425 and \$350 respectively, are
20 reasonable. Hadsell & Stormer also notes that they had four law clerks billing at
21 \$175/hour. Based on the law clerks' backgrounds and the median rates for
22 paralegals in the area (\$195/hour), the rate of \$175/hour is reasonable for a law
23 student.

24 Ms. Bahan supports the hourly rate of associates Peter Bibring and Jennifer
25 Reisch in her declaration and supplemental declaration. Based on their experience
26 and background, the Court finds that the rates listed, \$240 and \$230 respectively,
27 are reasonable.

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1 **B. REASONABLENESS OF HOURS**

2 **1. VAGUE TIME ENTRIES**

3 Defendant argues that some of Plaintiffs' time entries are too vague to
4 support an award. Defendant states that the Court must be provided with
5 sufficient detail of the dates, hours and nature of the work performed, *citing See In*
6 *re Washington Pub. Power Supply Sys. Secur. Litig.*, 19 F.3d 1291, 1305-06 (9th
7 Cir. 1994) (citing *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983) stating "[w]here
8 the documentation of hours is inadequate, the district court may reduce the award
9 accordingly.") Defendant lists examples of vague tasks that are listed by
10 Plaintiffs. Defendant adds that some of the tasks are often repeated. Plaintiffs
11 argue that the time entries are sufficient to support an award of fees and moreover
12 that California case law permits fee awards in the absence of detailed time sheets.
13 *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 255 (Ct. App. 2001).

14 The "experienced trial judge is the best judge of the value of professional
15 services rendered in his court." *Sommers v. Erb*, 2 Cal. App. 4th 1644, 1651
16 (1992). Having reviewed the arguments and time records, the Court, in its
17 discretion, finds that Plaintiffs' time entries are reasonable and accordingly does
18 not discount Plaintiffs fee award based on vagueness.

19 **2. BLOCK BILLING**

20 "Block billing" is the time-keeping method by which each lawyer and legal
21 assistant enters the total daily time spent working on a case, rather than itemizing
22 time expended on specific tasks. *Welch v. Metropolitan Life Ins. Co.*, 480 F.3d
23 942, 945 n.2 (9th Cir. 2007). If billing statements lump together multiple tasks, it
24 is impossible for the Court to determine how much time was spent on particular
25 activities, or to evaluate whether the time spent on such tasks was reasonable. *See*
26 *id.* at 948. Furthermore, a 2003 study by the California State Bar's Committee on
27 Mandatory Fee Arbitration concluded that block billing "may increase time by
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1 10% to 30%.” *Id. citing* The State Bar of California Committee on Mandatory Fee
2 Arbitration, Arbitration Advisory 03-01 (2003). Accordingly, the Ninth Circuit
3 has approved fee reductions to account for increased hours attributable to block
4 billing. *Welch*, 480 F.3d at 948, *citing Hensley*, 461 U.S. at 437, (holding that
5 applicant should “maintain billing time records in a manner that will enable a
6 reviewing court to identify distinct claims”); *Fischer v. SJB-P.D. Inc.*, 214 F.3d
7 1115, 1121 (9th Cir.2000) (holding that a district court may reduce hours to offset
8 “poorly documented” billing).

9 Approximately 40% of Plaintiffs billing entries are block billed. The Court
10 finds that a 5% reduction should be applied to the lodestar amount to account for
11 increased time that may have resulted from block billing. Although the Court has
12 not calculated a precise percentage, less than half of all hours submitted by
13 Plaintiffs are block-billed. In order to ensure that reductions are not taken on
14 billing entries that contain single tasks, the 5% reduction will only be applied to
15 40% of the total lodestar amount. *See Welch*, 480 F.3d at 948 (holding any
16 reduction for block billing must fairly account for those hours actually billed in
17 block format).

18 3. DUPLICATE WORK

19 Defendant argues that much of Plaintiffs work was duplicated due to the
20 substitution of counsel a few months prior to trial — from Bahan & Associates to
21 Hadsell & Stormer and the Law Offices of Randy Renick. Therefore, Defendant
22 argues that the Court should discount time spent by attorneys getting up to speed
23 and familiarizing themselves with the claims in this lawsuit. Defendant also
24 argues that fees related to duplication of work such as multiple attorneys at
25 hearings or depositions should be discounted. While the Court is not persuaded by
26 Defendant’s arguments that the presence of more than one attorney at a hearing or
27 deposition merits reduction in fees, the Court does find that some work was
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1 unreasonably duplicative due to Plaintiffs' substitution of counsel. In response to
2 the Court's inquiry, Defendant provided the Court with a submission of additional
3 information, including a chart of billing entries reflecting duplicative work. *See*
4 Def. 8/26/08 Submission, Ex. A. Plaintiffs filed a response to Defendant's
5 submission. The chart lists entries that result in 172 hours of work, totaling
6 \$76,280; however, the Court finds that only some time should be reduced for
7 unreasonable duplication. Accordingly, the Court finds that 40% of the above
8 amount or \$30,512, is an appropriate reduction.

9 **4. RESEARCH**

10 Defendant objects to Plaintiffs' fee request for certain entries involving
11 research conducted by attorney Kathleen Langan, whose fee rate is \$500/hour.
12 Defendant argues that the particular research conducted by Ms. Langan would be
13 customarily done by a junior lawyer. Defendant notes that Ms. Langan billed
14 more than 137 hours to this case.

15 Plaintiff argues that Ms. Langan took a significant role in opposing
16 Defendant's five post-trial motions. Due to the extensive nature of each motion,
17 Plaintiffs argue that it engaged all available personnel to work on the briefs.
18 While much of the work performed by Ms. Langan was reasonable and necessary,
19 the Court finds that 48.6 hours were spent by Ms. Langan doing basic research or
20 tasks more appropriate for a junior attorney. Accordingly, the Court reduces 48.6
21 hours of Ms. Langan's total hours to \$350/hour. This rate is in between the rate of
22 a senior associate and a junior associate at Mr. Renick's firm.

23 **5. REVIEW OF FILES**

24 Defendant objects to Plaintiffs' fee request to the extent that "Plaintiffs'
25 billing records refer to excessive 'review of files.'" Defendant argues that
26 Plaintiffs' records detail over two hundred hours of "mere 'review' of files" and
27 that Plaintiffs entries are vague "such that it is impossible to determine what work
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1 was actually performed.” Plaintiffs state that these hours were “proper and reflect
2 hours required to litigate this action.” Plaintiffs explained that the paralegal
3 ‘review of files’ included reviewing, analyzing and maintaining documents for
4 written discovery, deposition, and motions; Plaintiffs however, did not address
5 why over two hundred hours were expended in the review. In response to the
6 Court’s inquiry, Defendant provided the Court with a submission of additional
7 information, including a chart of billing entries reflecting review of files. *See* Def.
8 8/26/08 Submission, Ex. B. Plaintiffs filed a response to Defendant’s submission.
9 The chart lists entries that result in 203.9 hours of work, totaling \$44,877.50.
10 Based on its knowledge of the case and its review of the papers, the Court finds
11 that Plaintiffs’ entries, listed by Defendants in Exhibit B, are excessive and
12 include insufficient descriptions in order for the Court to determine what work
13 was actually performed. Since a reasonable ‘review of files’ is necessary in the
14 course of protracted litigation, the Court finds a 65% reduction of the above
15 amount, or \$29,179.38, is appropriate.

16 **6. CLERICAL WORK**

17 Defendant objects to Plaintiffs’ fee request to the extent Plaintiffs’ billing
18 records demonstrate that Plaintiffs counsel charged attorney rates for clerical and
19 secretarial work. *Cf. Missouri v. Jenkins*, 491 U.S. 274, 288 (1989). In response
20 to the Court’s inquiry, Defendants provided the Court with a submission of
21 additional information, including a chart of billing entries reflecting time billed for
22 secretarial and clerical work. *See* Def. 8/26/08 Submission, Ex. E. Plaintiffs filed
23 a response to Defendant’s submission. The chart lists entries that result in 36.6
24 hours of work, totaling \$7,373.50. The Court finds the following entries involve
25 secretarial and clerical work that should be excluded from the lodestar calculation:
26 “arrange for translation on phone calls with clients; scheduling phone interviews
27 and interpretation service; waiting for Ines Kai’s husband; [and] travel to/from
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1 storage to retrieve CDN payroll registers.” *Id.* Accordingly, the Court reduces the
2 lodestar amount by \$1017.00.

3 **7. FEES ON UNRELATED OR UNSUCCESSFUL WORK**

4 Defendant argues that Plaintiffs should not recover fees on the two claims
5 on which they did not ultimately prevail: reporters’ rest breaks and injunctive
6 relief. However, Plaintiffs prevailed on 11 related claims. Since the claims for
7 which Plaintiffs prevailed are not entirely distinct with respect to preparation,
8 research, etc., Plaintiffs argue that the time spent is still compensable. *See*
9 *Thomas v. City of Tacoma*, 410 F.3d 644, 649 (9th Cir. 2005) (If a lawsuit consists
10 of related claims, a plaintiff who has won substantial relief should not have his
11 attorney’s fee reduced because the court did not adopt each contention raised. To
12 determine whether claims are related, the court should focus on whether the
13 claims on which Plaintiff did not prevail “involve a common core of facts or are
14 based on related legal theories.”) Defendant also argues that Plaintiffs pursued
15 numerous claims that Plaintiffs later dismissed on the eve of trial or during trial.

16 The Court finds that the facts surrounding Defendant’s payroll practices
17 support all of Plaintiffs’ claims. Plaintiffs have won “substantial relief” and
18 therefore should not have their fees reduced because the Court did not adopt “each
19 contention raised.” *See id.* Defendant argues that waiting time penalties under
20 Labor Code § 203 are penalties and therefore do not fall within the purview of
21 Labor Code § 218.5 and 1194, which pertain to non-payment of wages, overtime,
22 fringe benefits, health and welfare, and pension fund contributions. Defendant
23 states that neither of the above cited statutes awards fees for “penalties.”

24 **C. FEES FOR SECTION 203 WAITING TIME PENALTIES**

25 Defendant argues that waiting time penalties under California Labor Code §
26 203 are penalties and therefore do not fall within the purview of California Labor
27 Code § 218.5 and 1194, which pertain to non-payment of wages, overtime, fringe
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1 benefits, health and welfare, and pension fund contributions. Defendant states that
2 neither of the above cited statutes awards fees for “penalties.”

3 Plaintiffs argue that Section 203 provides up to 30 days of wages as a
4 penalty anytime an employer fails to pay wages owed at the time of termination.
5 Plaintiffs state that because a Section 203 violation necessarily involves the
6 payment of wages, it triggers the fee provision of Section 218.5. Alternately,
7 Plaintiffs argue that if Section 218.5 does not provide for an award of fees, fees
8 should still be awarded since the claim is based on the same set of facts as the
9 overtime and break claims; and, a plaintiff who prevails on claims that allow for
10 the recovery of attorney’s fees, along with claims which do not, is entitled to
11 recover all of the attorney’s fees incurred so long as the claims all arise from a
12 “common core of facts.” *See Hensley*, 461 U.S. at 433; *see also Bell v. Vista*
13 *Unified School District*, 82 Cal. App. 4th 672, 687 (Ct. App. 200) (“Such fees
14 need not be apportioned when incurred for representation on an issue common to
15 both causes of action in which fees are proper and those in which they are not.”)

16 There is little guidance on whether fees are recoverable under Section 218.5
17 for violation of Section 203; however the Court need not reach this issue in the
18 instant case. Plaintiffs’ Section 203 claim stems from issues common to causes of
19 action in which fees are proper and therefore there should be no fee
20 apportionment. Accordingly, the Court finds that fees related to Plaintiffs’
21 Section 203 should not be reduced.

22 **D. MULTIPLIER**

23 Plaintiffs cite *Mangold*, *see infra*. Section II, to support their argument that
24 a multiplier of 2.0 is appropriate. *Mangold*, 67 F.3d at 1478-79. In *Mangold*, the
25 district court awarded an upward multiplier of 2.0 in recognition of the contingent
26 risk assumed by plaintiffs’ attorneys. The Ninth Circuit affirmed the contingent
27 fee multiplier, holding that it was bound to apply California law in determining
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1 whether a multiplier was appropriate. *Id.*² As stated, the Court finds that
2 California law applies in the instant case. The factors to be considered based on
3 California law in determining the proper multiplier include: “(1) the novelty and
4 difficulty of the questions involved, (2) the skill displayed in presenting them, (3)
5 the extent to which the nature of the litigation precluded other employment by the
6 attorneys, (4) the contingent nature of the fee award.” *Ketchum v. Moses*, 24 Cal.
7 4th 1122, 1131 (2001).

8 While a court may apply a multiplier in the instant case, this Court still has
9 discretion to include a multiplier in its fee award. *See Ketchum*, 24 Cal. 4th at
10 1138. The Court finds that counsel represented Plaintiffs on a contingency basis
11 and prevailed after a protracted trial and subsequent court trial on damages. The
12 result obtained was exceptional in light of Defendant’s approach to the litigation.
13 *See e.g. Crommie v. PUC*, 840 F.Supp. 719 (N.D. Cal. 1994). Counsel was also
14 precluded from other employment due to the time and attention required by this
15 case. Having considered the relevant factors noted above, this Court finds a
16 multiplier of 1.5 appropriate.

17 E. COSTS

18 Plaintiffs filed the instant motion, including a request for \$120,699.15 in
19 costs, prior to the determination of the Bill of Costs by the Clerk of Court. In its
20 reply brief, Plaintiffs state that “it is Plaintiffs intention that the [sic] any award of
21 litigation expenses made by this Court exclude or supersede any costs previously
22 awarded by the Clerk of Court.” In its Bill of Costs, Plaintiffs sought recovery in
23 the amount of \$48,140.85 for costs related to deposition transcripts, photocopies,
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25 ² Plaintiffs cites *Andrea Savaglio et al. v. Wal-Mart Stores, Inc., et al*, 2006 WL 3626295 (Cal.Superior) (not
26 reported in Cal. Rptr. 3d) to support their argument that this Court should apply a multiplier of 2.0. The court in
27 *Savaglio* applied a 2.0 multiplier in a wage and hour case due to the skill of counsel, the preclusion of other
28 employment and the risk in undertaking such a case on a contingent basis. The court in *Graham v.*
DaimlerChrysler Corp., 34 Cal. 4th 553, 582 (Cal. 2004), held that the trial court may consider results obtained in
awarding a fee multiplier. The trial court based the enhancement, in *Graham*, on the contingency of the litigation,
the delay in payment and the quality of the result. In *Ketchum*, the court awarded a 2.0 multiplier for the
contingency risk and delay in payment. *Ketchum*, 24 Cal. 4th at 1137.

1 and interpreter services. On April 4, 2008, costs were taxed in the amount of
2 \$45,354.85. The Clerk disallowed “expediter costs for video depositions” and
3 therefore reduced Plaintiffs’ request by \$2,486. Plaintiffs may file a Motion to
4 Retax Costs with this Court for the additional amount; however said motion must
5 be filed within five days of the Clerk’s decision.

6 In addition to costs already recovered from the Clerk of Court, Plaintiffs
7 request includes costs not taxable under the local rules such as additional
8 photocopying, travel expenses, lodging, car rental and meals, messenger services,
9 postage/Fedex, “Lexis/Westlaw research” and “trial supplies.” To support
10 recovery of the additional costs, Plaintiffs cite California state cases permitting
11 recovery of similar costs, if found reasonable by the court. *See e.g. Bussey v.*
12 *Affleck*, 225 Cal. App. 3d 1162, 1163-64 (1990) *abrogated on other grounds by*
13 *Hsu v. Semiconductor Systems, Inc.*, 126 Cal.App.4th 1330 (2005). However,
14 Plaintiffs provide the Court with little to no specificity on the necessity or
15 reasonableness of these costs. Plaintiffs also cite *Keith v. Volpe*, 643 F. Supp. 37,
16 43 (C.D. Cal. 1985), to support its request. The court in *Keith* authorized
17 additional costs because the “documented expenses” were reasonably spent and
18 necessary, and because “declarations submitted by both parties establish that
19 current practice is to bill separately for these expenses.” While Plaintiffs cite
20 *Keith* as support, they provide no explanation as to why the additional costs were
21 reasonably spent and necessary. Moreover, in the instant case, parties submit no
22 evidence of a “practice” to bill separately for these expenses. The Court finds
23 these additional costs to be unsupported by evidence. Accordingly, the Court
24 denies Plaintiffs request for additional costs.

25 F. CONCLUSION

26 Based on the foregoing discussion, the Court finds that Plaintiffs’ requested
27 lodestar of \$2,267,514 shall be reduced by \$2,220 to adjust Ms. Langan’s hourly
28 rate, \$2,675 to adjust Messrs. Sirolly and Muzio’s hourly rate, \$7,290 to adjust

1 Ms. Langan's hourly rate for basic research, \$45,350.28 for fees related to block
2 billing, \$30,512 for fees related to duplicate work, \$29,179.38 for fees related to
3 excessive review of files, and \$1,017 for fees related to clerical work. Therefore
4 the above reductions result in a lodestar of \$2,149,270.40. Plaintiffs supplement
5 their fee request for hours incurred since the entry of Judgment on February 28,
6 2008. Plaintiffs expended 458.30 hours for this time period. Finding the
7 additional lodestar amount reasonable, the Court adds \$194,720 to the above noted
8 lodestar totaling \$2,343,990.40. The lodestar added to a 50% enhancement of the
9 lodestar for purposes of the multiplier equals a fees award of \$3,515,985.60.

10 **IV. REQUEST FOR JUDICIAL NOTICE**

11 Plaintiffs cite *Andrea Savaglio et al. v. Wal-Mart Stores, Inc., et al*, 2006
12 WL 3626295 (Cal.Superior) (not reported in Cal. Rptr. 3d) and requests the Court
13 take judicial notice that said case found a lodestar multiplier of 2.0 or higher to be
14 proper in a case similar to the present.

15 Federal Rule of Evidence 201 provides guidelines for when a court may
16 take judicial notice of adjudicative facts. According to the Rule, "[a] judicially
17 noticed fact must be one not subject to reasonable dispute in that it is either (1)
18 generally known within the territorial jurisdiction of the trial court or (2) capable
19 of accurate and ready determination by resort to sources whose accuracy cannot
20 reasonably be questioned." Fed. R. Evid. 201(b). The Rule requires the court to
21 take judicial notice of a fact "if requested by a party and supplied with the
22 necessary information." Fed. R. Evid. 201(c).

23 The Court finds that Rule 201 does not apply to this case and therefore
24 denies Defendant's request for judicial notice. However, the Court advises parties
25 that it has read and reviewed the above cited case.

26 **CONCLUSION**


27 For the forgoing reasons, the Court ORDERS an award of fees to Plaintiffs'
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counsel in the amount of \$3,515,985.60.

IT IS SO ORDERED.

DATED: October , 2008


By _____
CONSUELO B. MARSHALL
UNITED STATES DISTRICT JUDGE