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Attorneys for Plaintiff Richard Wood and the Class

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER
CASES

RICHARD A. WOOD, an individual, on
behalf of himself and all others similarly
situated,

Plaintiff,

v.

LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40; et
al.

Defendants.

Judicial Council Coordination
Proceeding No. 4408

Lead Case No. BC 325201

Case No.: BC 391869

**APPENDIX RE: SMALL PUMPER
CLASS' MOTIONS FOR
ATTORNEYS' FEES**

[Volume 2 of 4]

1 Plaintiff Richard Wood, on behalf of himself and those similarly situated,
2 submits the following Appendix of relevant filings regarding the current motions
3 for attorneys' fees.

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DATED: February 25, 2022 McLACHLAN LAW, APC
LAW OFFICE OF DANIEL M. O’LEARY

By: //s// Michael D. McLachlan
Michael D. McLachlan
Attorneys for Plaintiff

Exhibit F

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**LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40; et
al.**

Defendants.

Judicial Council Coordination
Proceeding No. 4408
(Honorable Jack Komar)

Lead Case No. BC 325201

Case No.: BC 391869

**DECLARATION OF DANIEL M.
O'LEARY IN SUPPORT OF
MOTION FOR AWARD OF
ATTORNEYS' FEES, COSTS AND
INCENTIVE AWARD**

Location: Dept. TBA
Santa Clara Superior Court
191 N. First Street
San Jose, California
Date: March 21, 2016
Time: 1:30 p.m.

I, Daniel O’Leary, declare:

2. I am co-counsel of record of record for Plaintiff Richard Wood and the Class, and am duly licensed to practice law in California. I graduated from University of California, San Diego with a degree in mathematics, and from U.C.L.A. School of Law in 1994. I have been a Plaintiff's contingent attorney for over twenty years, specializing in complex litigation.

4. As of January 22, 2016, my firms' costs of suit in this matter total \$6,421.28, with an outstanding balance of \$4,339.73. Attached hereto as **Exhibit 2** is a copy of my cost bill.

5. From the beginning of my involvement with the case until November 2014, I worked out of the same office suite as Michael McLachlan. I have reviewed his Declaration in Support of Motion for Award of Attorneys' Fees and Incentive Award and his fee bill. The total hours in our combined bills substantially understates the actual effort and time involved in the representation of the Class. With a few exceptions, we did not both bill for the same task and we did not bill at all for what were probably hundreds of conversations and email exchanges about the case, the filings, legal authority, work of the court-appointed expert work, the Class's settlement goals and prospects, our respective communications with class members, and the like.

1 6. Like Mr. McLachlan, I have worked on this case for over eight years
2 with no compensation or cost reimbursement except that received through the
3 2013 settlement with several public water suppliers. Nevertheless, we have
4 represented the Class zealously and achieved a result that will allow small
5 domestic pumpers in the area of adjudication to continue to pump water without
6 the threat of prescriptive claims or, generally, assessments. Moreover, the Class
7 has protections against future reductions. Notably, no class members objected to
8 the settlement.

9 7. As explained in Mr. McLachlan's declaration, in 2013, we reached a
10 settlement with several defendants, for which we received a partial fee award at a
11 rate of \$550 per hour for attorney time and \$110 per hour of paralegal time. The
12 Court approved this, specifically finding it to be a reasonable rate. That rate,
13 however, was discounted to reflect the facts that (1) the reduced rate was a
14 condition of the settlement with these defendants, (2) a higher rate would likely
15 have prevented the settlement from occurring, and (3) the settling defendants
16 were proportionally responsible for only a relatively small amount of the fees,
17 relative to their pumping volumes. The \$550 rate was a below-market rate in
18 2013 and is still below market, setting aside the gigantic delay in payment, the
19 risk of an adverse recovery and the out-of-pocket advancement of expenses.

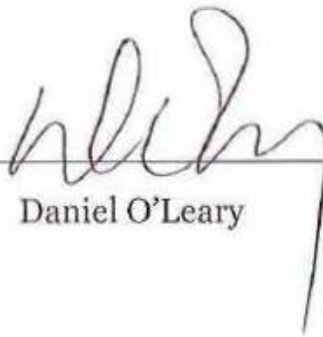
20 8. I am confident that no attorney would have undertaken this
21 representation knowing in advance that fees and costs would not be paid for over
22 eight years (of course, any fee award may be appealed, but that is a different risk
23 and involves different considerations than not having a fee award at all for almost
24 a decade of work). Even though I have spent far less of the past eight years
25 working on this case than Mr. McLachlan, I would have turned down this case
26 had I known how much time would pass before the final resolution.

27 9. To echo Mr. McLachlan, in addition to the resources we have
28 committed to this representation, there is a wide array of relevant facts that

1 justify the full amount of fees we have requested here. Generally, they are: the
2 case's long duration (eight years), the risks of loss and uncertainty, the high
3 quality and great efficiency of the work, the excellent outcome for the class
4 members, the inability to take on other business, as well as the financial toll this
5 case has taken on my office. They all weigh in favor of a 2.5 multiplier.

6 I declare under penalty of perjury under the laws of the State of California
7 that the foregoing is true and correct. Executed this 27th day of January 2016, at
8 Los Angeles, California.

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Daniel O'Leary

Exhibit 1

STATEMENT

Law Office of Daniel M. O'Leary
2300 Westwood Boulevard, Suite 105
Los Angeles, CA 90064
310-481-2020/F:481-0049

DATE: JANUARY 26, 2016
STATEMENT # [100]

BILL
TO

COMMENTS

DATE	DESCRIPTION	HOURS	AMOUNT
06/26/08	Review Technical Committee Report, prepare for Fri. meeting	2.5	
06/27/08	Meeting at Kalfayan's office w/ Jeff Dunn and Joe Scalmini, travel to San Diego	10.5	
07/06/08	Review of Joint CMC Statement, revision of Phase II trial issues	0.7	
07/10/08	Review oppositions/responses to class certification motion	0.6	
07/24/08	Prepare for class certification hearing, review of transcript for July 21, 2008 hearing	0.4	
07/31/08	Review CMC	0.5	
08/01/08	Review CMO	0.5	
08/05/08	Review class certification motion, oppositions to class certification motion	1.5	
08/06/08	Draft ex parte for continuance of trial/adoption of Wood's CMO	2.5	
08/08/08	Review proposed CMOs, trial briefs, statements of facts, etc., in advance of August 11, 2008 hearing	7.5	
08/11/08	Meet with Richard Wood, prepare for (08/10) and attend hearing, August 11, 2008; review news articles from AV Press	5.5	
09/25/08	Attend Richard Rhone deposition in Ontario	6.0	
09/30/08	Review Lambe report, attend John Lambe deposition	4.0	
10/02/08	T/c with Richard Wood, review of trial briefs for Phase II trial, review of motions in limine for Phase II trial	2.9	
10/03/08	Preparation for Phase II trial	3.5	
10/06/08	Attend Phase II trial, review deposition transcripts	8.0	
10/07/08	Attend Phase II trial, review deposition transcripts	6.5	

10/08/08	Attend Phase II trial	4.0	
10/09/08	Attend Phase II trial	4.0	
10/14/08	T/c David Litt, Hewitt & Truszkowski (Roe 496)	0.3	
11/03/08	Attend Phase II trial	4.0	
11/11/08	Attend meeting with landowner counsel in Valencia, research in rem issues	5.5	
11/17/08	Review draft CMC	0.6	
11/18/08	Research re McCarran Amendment, review of memo on “will serve” letters	3.0	
11/19/08	Further research on McCarran Amendment; Draft CMC section on McCarran Amendment	1.4	
11/26/2008	Draft discovery to water purveyors	1.7	
12/30/08	Research re jury trial/drafting of brief for inclusion in CMC statement; preparation of CMC Statement for 01/09/09	5.5	
12/31/08	Read CMC statements from various parties with emphasis on jury trial arguments	0.8	
01/09/09	Hearing. on Jury Trial Motions/CMC for Phase III trial	3.0	
	Mtg. with Dunn/Garner/Moore/ Pffaefel	0.0	
01/13/09	Research re in rem vs. in personam jurisdiction, effect on class, issues of multiple parcel ownership	0.8	
02/05/09	TC (x3) Kim Updegraff	0.7	
02/06/09	Review legal cases re consolidation	0.9	
02/09/09	Review Tim Thompson declaration	0.2	
02/11/09	Review/comment on letter draft, McLachlan to Dunn	0.2	
02/18/09	Discussion/drafting email re settlement position	0.3	
02/21/09	Review opposition to motion for expert	0.8	
02/24/09	Drafting/editing reply brief re: expert	1.2	
03/19/09	Review material for 04/07 meeting, including Farm Bureau water committee powerpoint	0.4	
03/20/09	Discussion re: class settlement issues	0.3	
03/26/09	Work with McLachlan on draft letter on settlement position for Dunn	1.5	
04/08/09	Review of Dunn’s response to settlement demand, discussion with McLachlan	0.7	
04/30/09	Draft and finalize response to motion to decertify Wood class	2.9	
05/06/09	Correspondence with counsel re: small pumper class list; class notice issues; review M. Moore email re: allocation of court expert fees	1.7	
05/08/09	Draft motion to allocate expert fees; correspondence re: small pumper questionnaire	2.0	

05/19/09	Prepare and circulate stipulation regarding names of mutual water company shareholders	0.8	
05/21/09	Revise stipulation per comments	0.2	
05/22/09	Review oppositions to motion to allocate expert costs	0.5	
05/30/09	Review landowner's motion to dismiss first amended cross-complaint	0.3	
06/04/09	Draft, revise motion to disqualify, discussion with McLachlan re same; review correspondence from Lemieux & O'Neill	1.8	
06/09/09	Proof and finalize disqualification motion	1.3	
06/22/09	Correspondence from Lemieux & O'Neill re: conflict; motion to disqualify (0.5); correspondence re: comprehensiveness, McCarran Amendment issues (0.2)	0.7	
07/06/09	Review mock-up of class website	0.8	
08/07/09	Draft and send letter to Dunn/Garner	0.4	
08/17/09	Travel to San Jose and return	9.5	
08/19/09	Draft mediation brief for Justice Robie	5.5	
08/20/09	Continue drafting mediation brief	6.0	
08/21/09	Finalize mediation brief	1.5	
08/26/09	Review Willis class mediation brief	0.1	
09/02/09	Travel to Sacramento for mediation with Justice Robie, return	15.0	
09/08/09	Review settlement framework received from M. Moore	0.6	
09/09/09	Emails between M. McLachlan and E. Garner re: prescription issues	0.3	
09/29/09	Review correspondence from Daniel Roberts re class notice	0.2	
10/09/09	Review e-mails re settlement agreement/principals' meetings	3.2	
	MISSING HEARINGS (PHONE AND IN PERSON)	0.0	
10/14/09	Review confidential email from M. Moore	0.1	
10/16/09	Correspondence with Kalfayan/Zlotnick re class issues	0.4	
10/21/09	Emails/meeting with M. McLachlan re: Markman email; class role in physical solution phase	0.8	
10/28/09	Email from M. Moore outlining terms of proposed settlement	0.3	
11/05/09	Review stipulation of settlement of Willis class	0.3	
11/12/09	Review of proposed Wood class opt-in letter	0.1	
12/29/09	Review of drafts of settlement agreement with PWS	4.0	
01/03/10	Further review/comment on settlement agreement	1.4	
01/05/10	Further review/comment on settlement agreement	0.3	
01/06/10	Research/meeting re: consolidation, effects of consolidation on class	1.4	

02/01/10	Further review/comment on settlement agreement	0.8	
02/03/10	Revise, proof brief on motion to consolidate	0.5	
02/05/10	Further review/comment on settlement agreement	0.2	
02/19/10	Review order of consolidation signed by Court	0.4	
02/22/10	Further review/comment on settlement agreement	0.3	
02/24/10	Review revised scope of work from Thompson/Entrix	0.2	
03/02/10	Draft CMC Statement for 03/22/10 CMC, including issues of expert witness work, class due process	1.4	
03/08/10	Attend CMC hearing, motions on disqualification, expert fees	3.5	
03/10/10	Begin drafting of writ petition on consolidation order	6.0	
03/12/10	Continue drafting of writ petition on consolidation order; review of procedural history of consolidation order and class notice	9.0	
03/15/10	Continue drafting writ petition, begin preparing tables and exhibits	12.0	
03/16/10	Continue drafting writ petition; conference call with Laura Fowler	9.0	
03/18/10	Review and revise writ petition	5.5	
03/19/10	Review and revise writ petition; correspondence with Laura Fowler	5.0	
03/22/10	Finalize writ petition, tables, exhibits for filing and service	3.5	
03/23/10	Emails with Tom Bunn	0.2	
03/25/10	Emails with PWS counsel re: Entrix bills and court order on bills	0.8	
03/26/10	TC Laura Fowler	1.3	
03/30/10	Correct proof of service of writ petition, file	0.2	
04/05/10	Review e-mails re: settlement meetings; documents received from Laura Fowler	1.3	
04/08/10	Research re: petition for review summary denial of writ petition	0.5	
04/09/10	Review e-mails re: settlement meetings; documents received from Laura Fowler	0.2	
04/21/10	Review e-mails re: settlement meetings; documents received from Laura Fowler	0.7	
04/22/10	Correspondence from Jim Waldo, meeting re same	3.5	
04/27/10	Review documents provided by William West; more documents provided by Laura Fowler	0.5	
05/07/10	Correspondence with Jim Waldo	0.1	
05/20/10	Meeting re: PWS settlement proposal; review of proposal, memo	1.3	
05/24/10	Correspondence from William West	0.1	

06/03/10	Review of letter posted by Jeff Dunn	0.1	
06/04/10	Discussion/correspondence re: Dunn letter	0.6	
06/07/10	Review of proposed response to Dunn letter	0.2	
06/08/10	Meeting regarding Robie mediation, potential responses	0.7	
06/30/10	Review of William West correspondence, update on settlement process	1.0	
07/01/10	Correspondence re: Waldo process and settlement accord; t/c with class rep	1.4	
07/06/10	Correspondence re: Waldo process and class issues	0.8	
07/12/10	Review of final version of accord; various technical documents	2.6	
07/16/10	Correspondence regarding expert depo fees and costs; review of Willis class stipulation of settlement	0.4	
07/29/10	Correspondence re: Waldo process	0.2	
08/03/10	Review of revised Wood class settlement agreement; correspondence from Laura Fowler	0.6	
08/10/10	Correspondence re: proposed settlement	0.3	
08/13/10	Conversation with McLachlan regarding Palmdale and Lancaster	0.3	
08/16/10	Review documents from William West	0.2	
08/18/10	Review documents from Laura Fowler	0.5	
08/27/10	Research/drafting regarding assessment-free exemptions for class pumping	1.5	
09/16/10	Review of Willis class motion for settlement	0.9	
10/14/10	Correspondence regarding court reporter proposal	0.3	
10/28/10	Review of documents sent by Laura Fowler	1.0	
11/17/10	Review of physical solution outline	0.4	
11/19/10	Review of letter from William West; correspondence with Willis counsel regarding single judgment issues; class settlement issues	1.3	
12/03/10	Review of motions in limine for Phase III	0.9	
12/16/10	Review/comment on new drafts of proposed settlement	0.5	
12/28/10	Phase III trial prep, motions in limine, expert deposition review	10.0	
12/29/10	Phase III trial prep	4.5	
01/04/11	Attend Phase III trial, day one	5.5	
01/05/11	Attend Phase III trial, day two	9.5	
01/10/11	Scalaminini deposition, day 1	4.5	
01/11/11	Scalaminini deposition, day 2	4.5	
01/12/11	Scalaminini deposition, day 3	4.5	

01/13/11	Scalaminini deposition, day 4	4.5	
01/17/11	Scalaminini deposition, day 5	4.5	
01/18/11	Scalaminini deposition, day 5	4.5	
01/19/11	Scalaminini deposition, day 6, meet with MDM re cross-exam	4.5	
01/20/11	Scalaminini deposition, day 7	4.5	
01/31/11	Phase III trial	7.5	
02/01/11	Phase III trial	7.5	
02/23/11	Review/comment on proposed stipulation of settlement	1.4	
02/25/11	Correspondence with D. Zlotnick on Willis fee motion	0.4	
03/02/11	Review correspondence from Warren Wellen re: settlement progress	0.3	
03/07/11	Review correspondence re: settlement agreement; confer with MDM re settlement agreement	0.6	
03/08/11	Review correspondence re: settlement agreement	0.3	
03/09/11	Review fee motion/oppositions re: Willis class settlement	2.2	
03/17/11	Conversation with M. McLachlan re memo received from Bill Brunick	0.1	
03/29/11	Correspondence regarding settlement agreement, proposed judgment	0.6	
03/30/11	Conversation with M. McLachlan re: D40's position on settlement, renewal of expert motion	0.3	
04/08/11	Review documents/powerpoint slides received from Steven Dassler; review redline draft of proposed settlement agreement	1.4	
04/11/11	Meet with MDM re preliminary approval motion, comment on BBK draft	1.1	
04/25/11	Review/revise letter to Judge Komar	0.2	
04/26/11	Review proposed judgment forwarded by W. Wellen	0.3	
05/02/11	Review draft of motion for preliminary approval, review E. Garner declaration; summary notice; various exhibits	1.8	
05/06/11	Review order on Willis class fee application and tentative decision from Phase 3 trial	0.2	
05/12/11	Review opposition documents to motion for preliminary approval, summarize	1.4	
06/16/11	Meet with MDM re preliminary approval motion, discuss options re court expert, class decert	0.6	
06/20/11	Review proposed statement of decision Phase III trial, objections to same; Review revised class settlement agreement, further review of objections to statement of decision	2.6	
07/07/11	Draft motion for order authorizing expert work	3.1	

07/08/11	Further drafting of motion for expert work	1.0	
07/14/11	Review further revised draft settlement agreement	0.4	
07/25/11	Review/revise letter to Justice Robie	0.3	
08/05/11	Review/revise letter to Justice Robie	0.5	
08/29/11	Review mediation submissions, meeting with McLachlan, e-mails with Richard Wood; research re: class decertification	4.5	
08/31/11	Attend mediation in Sacramento	10.0	
09/02/11	Review of pumping submissions forwarded by T. Bunn	0.6	
09/07/11	Emails re: single family residential water use, review of D40 data and Scalmini testimony from Phase III deposition	1.1	
09/13/11	Review of AV United billing enclosure	0.1	
09/15/11	Review of Palmdale Water District data on single family residential use, correspondence with McLachlan and Wood	0.4	
01/13/12	Proof and finalize motion for expert authorization	0.7	
02/02/12	Review letter and attachments from B. Brunick	0.3	
02/17/12	Read order from court of appeal on Willis class fee appeal	0.2	
02/27/12	Review of water allocation spreadsheets	0.5	
04/03/12	Review of allocation resulting from Justice Robie mediation	0.5	
04/13/12	Review proposed stipulated judgment	1.2	
04/27/12	Review proposed physical solution document from R. Zimmer; comments from various parties to same	0.8	
05/02/12	Telephonic status conference	1.4	
08/09/12	TC Brian Martin, attorney for Sorrento West Properties	0.4	
08/16/12	Emails with McLachlan re: class claims against overlying landowners	0.3	
09/18/12	Review of email from Justice Robie, conversation with McLachlan	0.2	
10/08/12	Review of CMC statement of federal government	0.3	
10/10/12	Review master document from drafting committee	1.1	
10/23/12	Review/comment on letter from McLachlan to Fife	0.1	
11/16/12	Review of settlement points forwarded by Tom Bunn	0.2	
12/10/12	TCW counsel for Cal-Golf	0.3	
12/11/12	Prepare for and attend trial setting conference (courtcall)	4.2	
12/14/12	Attend trial conference (telephonic, BB& K); review correspondence with T. Thompson	1.1	
01/10/13	Review/comment on Entrix work, Tim Thompson question	0.5	
01/15/13	Review proposed CMO for Phase 4 trial, comment	0.4	
01/30/13	Review Declaration in lieu of deposition, numerous	2.6	
02/21/13	Review orders for Phase 4 trial	0.3	

03/22/13	Review of LAC WW D40's motion for sanctions	0.3	
03/26/13	Meet with McLachlan re settlement matrix	0.4	
05/06/13	Communications with R. Wood	1.2	
05/17/13	Finalize class complaint vs. private landowners; review orders for Phase 4 trial	2.2	
05/21/13	Further review of landowner's complaint	0.2	
05/23/13	Review CMO for Phase 4	0.1	
05/28/13	TCW Ritter Ranch representative	0.2	
05/31/13	Correspondence from S. Blum, draft proposed response	0.2	
06/04/13	Further correspondence from S. Blum and response	0.2	
06/06/13	Prepare and file Petition for Add-On, prepare proposed order	2.1	
06/12/13	Review of LAC WW D40's proposed statement of decision, suggest edits on Wood class treatment	0.7	
07/02/13	Review of collection of oppositions to add-on petition	1.0	
07/12/13	Telephonic CMC	1.0	
07/29/13	Attend CMC, argue add-on petition and expert fee motion	3.5	
09/05/13	Review minute order from 07/29/13 hearing	0.2	
10/02/13	Review proposed settlement agreements; review proposed CMOs for next phase trial	1.2	
10/04/2013	Review emails, redline of Wood settlement agreement	0.9	
10/07/2013	Review and proof class notice	0.7	
10/09/2013	Conversation with MDM re: Wellen email; draft response to Wellen email	0.8	
10/10/2013	Emails to and from client	0.4	
10/23/2013	Review CMO for Phase V and VI trial	0.3	
11/26/2013	Correspondence with Timothy Thompson	0.3	
12/03/2013	Review reply re: motion for final approval of class settlement; emails to and from client	2.7	
12/23/2013	Review D40's oppositions to (1) motion for approval of attorney's fees and costs, (2) motion for good faith determination, and (3) motion for relief from future fees and costs; prepare memo	2.6	
12/30/2013	Revise/edit reply brief re: motion for approval	0.6	
01/07/2014	Draft/review order awarding fees and costs	0.4	
01/14/2014	Finalize proposed order awarding fees and costs	0.3	
01/17/2014	Review proposal for physical solution	1.2	
01/18/2014	Review proposal for physical solution	0.4	
01/25/2014	Correspondence re: Williams deposition, production of documents relating to modeling	0.7	

01/27/2014	Discussion with MDM re: ex parte application to continue return flow trial	0.3	
02/10/2014	Emails with client	0.1	
02/18/2014	Emails with client (0.4); review exhibit lists and exhibits (0.7)	1.1	
02/27/2014	Review trial briefs	0.6	
03/10/2014	Review of drafts of proposed physical solution	1.4	
03/18/2014	Review expert billings, emails	0.3	
03/19/2014	Review correspondence/proposals re: settlement negotiations	0.8	
03/24/2014	Review motion for judgment on the pleadings	0.4	
03/26/2014	Review motions in limine	0.5	
03/28/2014	Conversation with MDM re: class list, review of ex parte	0.2	
03/29/2014	Review old research and pleadings on jury issues	1.2	
04/02/2014	Review letter from J. Dunn (0.1); review exhibits lists (0.3) and request for judicial notice (0.2)	0.6	
04/03/2014	Review D40's ex parte application (0.2); review trial briefs and responses (0.5)	0.7	
04/07/2014	Correspondence with client	0.2	
04/14/2015	Draft/review settlement timeline	0.4	
04/22/2014	Correspondence with D. Evertz re: Rosamond CSD fee payments	0.2	
06/10/2014	Meet with M. McLachlan re: settlement proposal to LACWWD 40 (0.4); file review and transmittal to McLachlan (0.3)	0.7	
07/24/2014	TC from potential class member (Reesedale Mutual)	0.4	
08/14/2014	Conversation with M. McLachlan re: settlement	0.5	
09/26/2014	Attend telephonic status hearing	1.3	
10/05/2014	Communications with R. Wood re: AVEK workshops	0.4	
10/07/2014	Attend telephonic status hearing	0.6	
10/11/2014	Review draft CMO	0.2	
10/14/2014	Emails with Heather James (Tapia)	0.1	
11/03/2014	Review draft of stipulated judgment (0.4); email correspondence with R. Wood/M. McLachlan (0.2)	0.6	
12/08/2014	Communication with M. McLachlan re: settlement options, class issues	0.5	
12/09/2014	Review Judgment and Exhibits (1.3); research re class issues (0.6)	1.9	
12/31/2014	Review and edit Small Pumper Class Stipulation of Settlement	1.2	
01/09/2015	Review revised Stipulation of Settlement	0.3	

06/29/2015	Draft motion for final approval (2.3)	2.3	
06/30/2015	Draft motion for final approval and declarations (1.1); draft proposed order (0.3)	1.4	
07/10/2015	Review Willis motion to withdraw (0.5); legal research re: Willis motion (0.7)	1.2	
07/17/2015	Research on overlapping classes, class conflicts (4.5)	4.5	
07/23/2015	Draft motion for 128.7 motion for sanctions	1.4	
07/24/2015	Review opposition to Willis motion to enforce settlement	0.6	
07/27/2015	Draft motion to amend Willis judgment (1.4); search docket for history of Willis class definition (0.8)	2.2	
08/02/2015	Review Willis motions in limine nos. 1 and 2 (0.3); research re: evidentiary use of survey and statistical evidence (1.9); read T. Thompson depo transcript (0.5)	2.7	
08/03/2015	Attend hearing on Wood motion for final approval, motions in limine; Thompson outline	7.5	
08/04/2015	Attend hearing on Willis motion to enforce settlement (3.0); email to R. Kalfayan (0.1); finalize motion to amend Willis judgment (0.7)	3.8	
08/20/2015	Review motion/opposition/reply on motion to withdraw (0.7); TCW M. McLachlan re: motion to withdraw (0.4)	1.1	
08/21/2015	TCW McLachlan re: motion to withdraw (0.3); emails with counsel re same (0.3)	0.6	
08/25/2015	Telephonically attend hearing on motion to withdraw (1.8)	1.8	
9/01/2015	Review proposed order denying motion to withdraw (0.2)	0.2	
09/02/2015	Finalize motion to amend/correct Willis judgment (0.9)	0.9	
09/15/2015	Review writ petition filed by Willis class counsel (2.2)	2.2	
09/21/2015	Attend CMC telephonic (0.6)	0.6	
09/28/2015	Attend Phase VI trial; meet with B. Brunick, R. Zimmer, M. McLachlan	4.5	
09/29/2015	Argue motion to amend Willis judgment (0.8)	0.8	
10/15/2015	Attend Phase VI trial (8.0)	8.0	
11/03/2015	TCW M McLachlan re: closing argument, class issues (0.5)	0.5	
11/04/2015	Attend closing arguments in San Jose	12.0	
11/10/2015	TCW counsel re: judgment issues (0.1)	0.1	
11/23/2015	Review proposed Statement of Decision (0.7)	0.7	
12/22/2015	Review objections to proposed statement of decision	1.2	
12/23/2015	Attend CMC, hearing on objections to statement of decision	3.2	
12/28/2015	Review of judgment and minute order (0.3)	0.3	
01/06/2016	Research re: judgment and fee motions (0.4); communication with McLachlan re: same (0.2)	0.6	

01/14/2016	Correspondence with client (0.2); review of correspondence re: water master advisory committee (0.3)	0.5	
01/15/2016	Review motion to set aside default judgment (Ritter); review of cases (0.8); conversation with McLachlan, review of depo notice for M. Ritter (0.2)	1.0	
01/18/2016	Correspondence with client (0.3); review of stipulation (0.1)	0.4	
01/21/2016	Draft declaration for fee motion (2.5); review/proof letter from McLachlan to Fife (0.2)	2.7	
01/24/2016	Review of Kalfayan fee motion and supporting docs (1.3); correspondence with McLachlan (0.3); finalize declaration (0.3)	1.9	
01/25/2016	Review Phelan filing (0.2) prepare for M. Ritter depo (0.6)	0.8	
01/26/2016	Prepare for M. Ritter depo. (1.5); correspondence re: depo (0.3)	1.8	
		511.1	

Exhibit 2

0461

JA 159089

10:47 AM

01/18/16

Accrual Basis

Law Office of Daniel M. O'Leary

Account QuickReport

All Transactions

Type	Date	Name	Amount	Balance
Client Costs				
Antelope Valley				
Bill	10/07/2008	Hahn & Bowersock, Inc.	939.13	939.13
Bill	10/21/2008	Paulson Reporting & Litigatio...	732.49	1,671.62
General Journal	11/30/2008		81.43	1,753.05
General Journal	12/31/2008		84.96	1,838.01
General Journal	01/31/2009		144.08	1,982.09
Credit Card Charge	05/26/2009	Court Call	65.00	2,047.09
Credit Card Charge	05/26/2009	Glotrans E-Filing	15.70	2,062.79
General Journal	05/31/2009		0.92	2,063.71
Bill	06/15/2009	DDS Legal Support Systems...	196.40	2,260.11
Credit Card Charge	07/02/2009	Glotrans E-Filing	15.70	2,275.81
Credit Card Charge	08/12/2009	Southwest Airlines	297.20	2,573.01
Credit Card Charge	08/17/2009	PNF-Los Angeles	23.93	2,596.94
Credit Card Charge	09/02/2009	Southwest Airlines	1.30	2,598.24
Credit Card Charge	09/02/2009	Morton's	66.48	2,664.72
General Journal	09/06/2009		54.23	2,718.95
General Journal	09/28/2009		42.00	2,760.95
General Journal	03/08/2010		18.00	2,778.95
General Journal	07/08/2010	Westlaw	31.60	2,810.55
General Journal	01/04/2011		18.00	2,828.55
General Journal	01/04/2011		18.00	2,846.55
General Journal	01/31/2011		18.00	2,864.55
Credit Card Charge	01/31/2011	Omni Hotels	38.47	2,903.02
General Journal	02/01/2011		18.00	2,921.02
General Journal	07/20/2011	Cash Expense	40.00	2,961.02
Credit Card Charge	07/27/2011	Southwest Airlines	112.00	3,073.02
Credit Card Charge	08/24/2011	Southwest Airlines	180.70	3,253.72
Credit Card Charge	08/24/2011	American Airlines	158.70	3,412.42
Credit Card Charge	08/31/2011	Southwest Airlines	10.00	3,422.42
Credit Card Charge	08/31/2011	PNF-Los Angeles	23.93	3,446.35
Credit Card Charge	08/31/2011	Pyramid Ale House	38.91	3,485.26
Credit Card Charge	04/27/2012	Court Call	78.00	3,563.26
General Journal	07/09/2012	Cash Expense	18.00	3,581.26
Credit Card Charge	12/07/2012	Court Call	108.00	3,689.26
Credit Card Charge	05/23/2013	Glotrans E-Filing	21.00	3,710.26
Credit Card Charge	05/23/2013	Glotrans E-Filing	21.00	3,731.26
Bill	05/31/2013	DDS Legal Support Systems...	1,663.40	5,394.66
General Journal	07/29/2013	Classicparking.com	18.00	5,412.66
Credit Card Charge	10/10/2013	Court Call	116.00	5,528.66
General Journal	10/22/2013	Cash Expense	10.00	5,538.66
Deposit	01/21/2014	Law Office of Mike McLachlan	-1,481.46	4,057.20
Deposit	04/10/2014	Law Office of Mike McLachlan	-90.39	3,966.81
Deposit	05/16/2014	Law Office of Mike McLachlan	-376.00	3,590.81
Bill	05/31/2014	DDS Legal Support Systems...	19.95	3,610.76
Deposit	07/11/2014	Law Office of Mike McLachlan	-133.70	3,477.06
Credit Card Charge	09/16/2014	Court Call	86.00	3,563.06
General Journal	08/03/2015	Classicparking.com	36.00	3,599.06
Credit Card Charge	08/19/2015	Court Call	86.00	3,685.06
General Journal	09/28/2015	Classicparking.com	18.00	3,703.06
Credit Card Charge	09/28/2015	Kendall's Brasserie	25.00	3,728.06
General Journal	09/28/2015	Classicparking.com	18.00	3,746.06
General Journal	09/29/2015	Classicparking.com	18.00	3,764.06
General Journal	10/01/2015	Classicparking.com	18.00	3,782.06
General Journal	10/15/2015	Classicparking.com	18.00	3,800.06
Credit Card Charge	10/30/2015	Southwest Airlines	451.96	4,252.02
General Journal	11/04/2015	Yellow Cab	20.00	4,272.02
General Journal	11/04/2015	Yellow Cab	25.00	4,297.02
Credit Card Charge	11/04/2015	Park N Fly	24.71	4,321.73
General Journal	12/23/2015	Classicparking.com	18.00	4,339.73
Total Antelope Valley			4,339.73	4,339.73
Total Client Costs			4,339.73	4,339.73
TOTAL			4,339.73	4,339.73

THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
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EMAIL: Info@Glotrans.com

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA

Coordination Proceeding Special Title (Rule
1550(b)) ANTELOPE VALLEY GROUNDWATER CASES
(JCCP 4408) Included Actions: Los Angeles
County Waterworks District No. 40

Plaintiff,
vs.

Antelope Valley Groundwater Cases (JCCP 4408)

Lead Case No.1-05-CV-049053

Hon. Jack Komar

Diamond Farming Co. Superior Court of California County of Los Angeles, Case No. BC 325 201 Los Angeles County Waterworks District No. 40 v. Diamond Farming Co. Superior Court of California, County of Kern, Case No. S-1500-CV-254-348 Wm. Bolthouse Farms, Inc. v. City of Lancaster Diamond Farming Co. v. City of Lancaster Diamond Farming Co. v. Palmdale Water Dist. Superior Court of California, County of Riverside, consolidated actions, Case Nos. RIC 353 840, RIC 344 436, RIC 344 668

Defendant.

PROOF OF SERVICE
Electronic Proof of Service

AND RELATED ACTIONS

I am employed in the County of Alameda, State of California.

I am over the age of 18 and not a party to the within action; my business address is 2915 McClure Street, Oakland, CA 94609.

The documents described on page 2 of this Electronic Proof of Service were submitted via the worldwide web on Wed. January 27, 2016 at 4:52 PM PST and served by electronic mail notification.

I have reviewed the Court's Order Concerning Electronic Filing and Service of Pleading Documents and am readily familiar with the contents of said Order. Under the terms of said Order, I certify the above-described document's electronic service in the following manner:

The document was electronically filed on the Court's website, <http://www.scefiling.org>, on Wed. January 27, 2016 at 4:52 PM PST

Upon approval of the document by the Court, an electronic mail message was transmitted to all parties on the electronic service list maintained for this case. The message identified the document and provided instructions for accessing the document on the worldwide web.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and

correct. Executed on January 27, 2016 at Oakland, California.

Dated: January 27, 2016

For WWW.SCEFILING.ORG

Andy Jamieson

THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
ELECTRONIC FILING SYSTEM - WWW.SCEFILING.ORG

Electronic Proof of Service
Page 2

Document(s) submitted by Michael McLachlan of Law Offices of Michael D. McLachlan APC on Wed. January 27, 2016 at 4:52 PM PST

1. Decl in Support: DECLARATION OF DANIEL M. O'LEARY IN SUPPORT OF MOTION FOR AWARD OF ATTORNEYS' FEES, COSTS AND INCENTIVE AWARD

Exhibit G

Michael D. McLachlan (State Bar No. 181705)
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dan@danolearylaw.com

Attorneys for Plaintiff Richard Wood and the Class

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER
CASES

RICHARD A. WOOD, an individual, on
behalf of himself and all others similarly
situated,

Plaintiff,

v.

LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40; et
al.

Defendants.

Judicial Council Coordination
Proceeding No. 4408
(Honorable Jack Komar)

Lead Case No. BC 325201

Case No.: BC 391869

**DECLARATION OF RICHARD M.
PEARL IN SUPPORT OF MOTION
FOR AWARD OF ATTORNEYS'
FEES**

Location: Dept. TBA
Santa Clara Superior Court
191 N. First Street
San Jose, California

Date: March 21, 2016
Time: 1:30 p.m.

1 I, RICHARD M. PEARL, hereby declare the following:

2 1. I am a member in good standing of the California State Bar. I am in
3 private practice as the principal of my own law firm, the Law Offices of Richard
4 M. Pearl, in Berkeley, California. I specialize in issues related to court-awarded
5 attorneys' fees, including the representation of parties in fee litigation and
6 appeals, serving as an expert witness, and serving as a mediator and arbitrator in
7 disputes concerning attorneys' fees and related issues. In this case, I have been
8 asked by Plaintiff's counsel, Michael McLachlan and Daniel O'Leary, to render
9 my opinion on the reasonableness of the attorneys' fees their firms are requesting
10 in this matter. I make this Declaration in Support of Plaintiff's Motion for Award
11 of Attorneys' Fees.

12 2. Briefly summarized, my background is as follows: I am a 1969
13 graduate of Boalt Hall (now Berkeley) School of Law, University of California,
14 Berkeley, California. I took the California Bar Examination in August 1969 and
15 passed it in November of that year, but because I was working as an attorney in
16 Atlanta, Georgia for the Legal Aid Society of Atlanta (LASA), I was not admitted
17 to the California Bar until January 1970. I worked for LASA until the summer of
18 1971, when I then went to work in California's Central Valley for California Rural
19 Legal Assistance, Inc. (CRLA), a statewide legal services program. From 1977 to
20 1982, I was CRLA's Director of Litigation, supervising more than fifty attorneys.
21 In 1982, I went into private practice, first in a small law firm, then as a sole
22 practitioner. Martindale Hubbell rates my law firm "AV." I also have been
23 selected as a Northern California "Super Lawyer" in Appellate Law for 2005,
24 2006, 2007, 2008, 2010, 2011, 2012, 2013, 2014, and 2015. A copy of my
25 Resume is attached hereto as **Exhibit A**.

26 3. Since 1982, my practice has been a general civil litigation and
27 appellate practice, with an emphasis on cases and appeals involving court-
28 awarded attorneys' fees. I have lectured and written extensively on court-

1 awarded attorneys' fees. I have been a member of the California State Bar's
2 Attorneys' Fees Task Force and have testified before the State Bar Board of
3 Governors and the California Legislature on attorneys' fee issues. I am the author
4 of California Attorney Fee Awards (3d ed Cal. CEB 2010) and its 2011, 2012,
5 2013, 2014, and 2015 Supplements. I also was the author of California Attorney
6 Fee Awards, 2d Ed. (Calif. Cont. Ed. of Bar 1994), and its 1995, 1996, 1997, 1998,
7 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, and 2008 Supplements.
8 This treatise has been cited by the California appellate courts on more than 35
9 occasions. *See, e.g., Graham v. DaimlerChrysler Corp.*(2004) 34 Cal.4th 553,
10 576, 584; *Lolley v. Campbell* (2002) 28 Cal.4th 367, 373; *Chacon v. Litke* (2010)
11 181 Cal.App.4th 1234, 1259; *Syers Properties III, Inc. v. Rankin* (2014) 226
12 Cal.App.4th 691, 698, 700. I also authored the 1984, 1985, 1987, 1988, 1990,
13 1991, 1992, and 1993 Supplements to its predecessor, CEB's California Attorney's
14 Fees Award Practice. In addition, I authored a federal manual on attorneys' fees
15 entitled Attorneys' Fees: A Legal Services Practice Manual, published by the
16 Legal Services Corporation. I also co-authored the chapter on "Attorney Fees" in
17 Volume 2 of CEB's Wrongful Employment Termination Practice, 2d Ed. (1997).

18 4. More than 90% of my practice is devoted to issues involving court-
19 awarded attorney's fees. I have been counsel in over 190 attorneys' fee
20 applications in state and federal courts, primarily representing other attorneys. I
21 also have briefed and argued more than 40 appeals, at least 30 of which have
22 involved attorneys' fees issues. In the past several years, I have successfully
23 handled four cases in the California Supreme Court involving court-awarded
24 attorneys' fees: 1) *Delaney v. Baker* (1999) 20 Cal.4th 23, which held that
25 heightened remedies, including attorneys' fees, are available in suits against
26 nursing homes under California's Elder Abuse Act; 2) *Ketchum v. Moses* (2001)
27 24 Cal.4th 1122, which held, *inter alia*, that contingent risk multipliers remain
28 available under California attorney fee law, despite the United States Supreme

1 Court's contrary ruling on federal law (note that in *Ketchum*, I was primary
2 appellate counsel in the Court of Appeal and "second chair" in the Supreme
3 Court); 3) *Flannery v. Prentice* (2001) 26 Cal.4th 572, which held that in the
4 absence of an agreement to the contrary, statutory attorneys' fees belong to the
5 attorney whose services they are based upon; and 4) *Graham v. DaimlerChrysler*
6 *Corp.* (2004) 34 Cal.4th 553, which I handled, along with trial counsel, in both
7 the Court of Appeal and Supreme Court. I also successfully represented the
8 plaintiffs in a previous attorneys' fee decision in the California Supreme Court,
9 *Maria P. v. Riles* (1987) 43 Cal.3d 1281. I also represented and argued on behalf
10 of *amicus curiae* in *Conservatorship of McQueen* (2014) 59 Cal.4th 602, and,
11 along with Richard Rothschild, filed an *amicus curiae* brief in *Vasquez v. State of*
12 *California* (2009) 45 Cal.4th 243. I also have handled numerous other appeals,
13 including: *Davis v. City & County of San Francisco* (9th Cir. 1992) 976 F.2d
14 1536; *Mangold v. CPUC* (9th Cir. 1995) 67 F.3d 1470; *Velez v. Wynne* (9th Cir.
15 2007) 2007 U.S.App.LEXIS 2194; *Camacho v. Bridgeport Financial, Inc.* (9th
16 Cir. 2008) 523 F.3d 973; *Center for Biological Diversity v. County of San*
17 *Bernardino* (2010) 185 Cal.App.4th 866; and *Environmental Protection*
18 *Information Center v. California Dept. of Forestry & Fire Protection et al* (2010)
19 190 Cal.App.4th 217. For an expanded list of my appellate decisions, see **Exhibit**
20 **A.**

21 5. I also have been retained by various governmental entities, including
22 the California Attorney General's office, at my then current rates to consult with
23 them regarding their affirmative attorney fee claims.

24 6. I am frequently called upon to opine about the reasonableness of
25 attorneys' fees, and my declarations on that issue have been cited favorably by
26 numerous federal and state courts. These include the following California
27 appellate courts: *Kerkeles v. City of San Jose* (2015) 243 Cal.App.4th 88; *Habitat*
28 *and Watershed Caretakers v. City of Santa Cruz* (2015) 2015 Cal.App.Unpub.

1 LEXIS 7156; *In re Tobacco Cases I* (2013) 216 Cal.App.4th 570; *Heritage Pacific*
2 *Financial LLC v. Monroy* (2013) 215 Cal.App.4th 972, 1009; *Children's Hospital*
3 *& Medical Center v. Bonta* (2002) 97 Cal.App.4th 740 (challenge to government
4 decision); *Wilkinson v. South City Ford* (2010) 2010 Cal.App.Unpub. LEXIS
5 8680. My declaration also has been cited favorably by the following federal
6 courts: *Prison Legal News v. Schwarzenegger* (9th Cir. 2010) 608 F.3d 446, 455,
7 in which the expert declaration referred to in that opinion is mine); *Antoninetti v.*
8 *Chipotle Mexican Grill, Inc.* (9th Cir. 2012) Order filed Dec. 26, 2012; *Gutierrez v.*
9 *Wells Fargo Bank* (N.D. Cal. 2015) 2015 U.S.Dist.LEXIS 67298; *Holman et al v.*
10 *Experian Information Solutions, Inc.* (N.D. Cal. 2014) 2014 U.S.Dist.LEXIS
11 173698; *In re TFT-LCD (Flat Panel) Antitrust Litigation* (N.D.Cal. 2013) No. M
12 07-1827 SI, MDL, No. 1827, Report and Recommendation of Special Master re
13 Motions for Attorneys' Fees etc., filed Nov. 9, 2012, adopted in relevant part,
14 2013 U.S.Dist.LEXIS 49885; *Rosenfeld v. United States Dept. of Justice* (N.D.
15 Cal. 2012) 904 F.Supp.2d 988; *Stonebrae v. Toll Bros.* (N.D. Cal. 2011) 2011
16 U.S.Dist.LEXIS 39832, at *9 (thorough discussion), *aff'd* (9th Cir. 2013) 2013
17 U.S.App.LEXIS 6369; *Hajro v. United States Citizenship & Immigration Service*
18 (N.D.Cal 2012) 900 F.Supp.2d 1034, 1054; *Armstrong v. Brown* (N.D. Cal. 2011)
19 2011 U.S.Dist.LEXIS 87428; *Californians for Disability Rights, Inc. v. California*
20 *Dept. of Transportation* (N.D. Cal. 2010) 2010 U.S.Dist.LEXIS 141030; *Prison*
21 *Legal News v. Schwarzenegger* (N.D. Cal. 2008) 561 F.Supp.2d 1095 (an earlier
22 motion); *Oberfelder v. City of Petaluma* (N.D. Cal. 2002) 2002 U.S.Dist. LEXIS
23 8635 (an individual police misconduct action), *aff'd* (9th Cir. 2003) 2003
24 U.S.App.LEXIS 11371; *Bancroft v. Trizechahn Corp.*, C.D. Cal. No. CV 02-2373
25 SVW (FMOx), Order Granting Reasonable Attorneys' Fees etc., filed Aug. 14,
26 2006; *Willoughby v. DT Credit Corp.*, C.D. Cal. No. CV 05-05907 MMM (Cwx),
27 Order Awarding Reasonable Attorneys' Fees After Remand, filed July 17, 2006;
28 *A.D. v. California Highway Patrol* (N.D.Cal. 2009) 2009 U.S.Dist.LEXIS 110743

(police misconduct action), *rev's'd on other grounds* (9th Cir. 2013) 636 F.3d 955; *National Federation of the Blind v. Target Corp.* (N.D.Cal. 2009) 2009 U.S.Dist.LEXIS 67139; *Church of Scientology v. Wollersheim* (1996) 42 Cal.App.4th 628 (anti-SLAPP case).

7. Through my writing and practice, I have become familiar with the attorneys' fees charged by attorneys in California and elsewhere. I have obtained this familiarity in several ways: (1) by handling attorneys' fee litigation; (2) by discussing fees with other attorneys; (3) by obtaining declarations regarding prevailing market rates in cases in which I represent attorneys seeking fees; and (4) by reviewing attorneys' fee applications and awards in other cases, as well as surveys and articles on attorney's fees in the legal newspapers and treatises.

8. In this case, I have consulted with counsel for Plaintiff regarding their fee application for their work in this matter culminating in their victory before the Los Angeles County Superior Court. I have become familiar with the nature of this case, its results, and counsel's work, as well as counsel's respective backgrounds and experience. Moreover, I previously worked with Mr. McLachlan on the fee motion in another difficult and complex case, *Anderson v. County of Ventura*, C.D. Cal. No. CV 13-03517 SJO (VBKx), and found the quality of his work, his analytical skills, and the relief he achieved for his clients all to be first-rate (*i.e.*, in the upper-strata of trial attorneys). I also have been made aware of the lodestar requested by Plaintiff's attorneys' in this case. To form my opinion, I also have read counsel's draft declarations for this motion, which include a description of the history of this litigation; I also have read the Court's final Statement of Decision, the Judgment and Physical Solution, the Motion for Final Approval of the Small Pumper Class Settlement, and the Order Granting Motion for Approval of Award of Attorney Fees and Costs. I also have fully reviewed the settlement website, www.avgroundwater.com.

9. Specifically, I am aware that Plaintiff's counsel request a lodestar rate of \$3,348,160, based on hourly rates of \$720 for the 4533.8 hours claimed by Plaintiff's two attorney and \$110-125 per hour for the 679.5 paralegal hours claimed, as shown in the following chart:

TIMEKEEPER	TOTAL HOURS	HOURLY RATE	TOTAL
Michael D. McLachlan	4,184.9	\$720	\$3,013,128
Daniel M. O'Leary	353.9	\$720	\$254,808
Paralegals	314.2	\$110	\$34,562
Paralegals	365.3	\$125	\$45,662
TOTAL			\$3,348,160

I also am aware that Plaintiff's attorneys are requesting a 2.5 lodestar enhancement, based on the non-lodestar factors that go into determining a reasonable attorney's fee. In my opinion, for the reasons discussed below, the attorneys' fees that Plaintiff's attorneys request is quite reasonable for such long, hard-fought, important litigation.

COUNSEL'S HOURLY RATES ARE REASONABLE

10. Under California law, Plaintiff's attorneys are entitled to their requested rates if those rates are "within the range of reasonable rates charged by and judicially awarded comparable attorneys for comparable work." *Children's Hosp. & Med. Ctr. v. Bonta [CHMC]* (2002) 97 Cal.App.4th 740, 783. Based on the information regarding hourly rates that I have gathered, some of which is summarized below, my opinion is that the hourly rates requested by Plaintiff's attorneys are well within the range of non-contingent market rates charged for reasonably similar services by Los Angeles Area attorneys of reasonably similar qualifications and experience. The following data support my opinion:

Rates found reasonable in other cases.

11. The following hourly rates have been found reasonable by various local courts for reasonably comparable services:

(1) *Perfect 10, Inc. v. Giganews, Inc.* (C.D. Cal. 2015) 2015 U.S. Dist. LEXIS 54063, filed March 24, 2015, a copyright infringement action, in which the court found the following hourly rates reasonable:

<u>Years of Experience</u>	<u>2015 Rates</u>
29	\$825-930
18	750
17	705-750
12	610-640
11	660-690
10	670
9	660-690
8	470-525
7	640
5	375-560
4	350-410
3	505
2	450
1	360-370
Paralegals	240-345
Discovery Support	245-290
Staff	

(2) *Anderson v. County of Ventura*, C.D. Cal. No. CV 13-03517 SJO (VBKx), Fee Order filed March 5, 2015, a multi-plaintiff Fair Labor Standards Act case, in which the court found the following hourly rates reasonable:

<u>Years of Experience</u>	<u>Rates</u>
19	\$690
15	590
12	590
2	330
Paralegals	140-190

(3) *Rodriguez v. County of Los Angeles*, C.D. Cal. No. 2:10-cv-06342-CBM-AJW, Order Granting Plaintiffs' Motion for Attorneys' Fees, filed December 29, 2014, a civil rights action on behalf of five county jail prisoners, in which the court found the following hourly rates reasonable, plus a 2.0 lodestar multiplier for merits work performed on the plaintiffs' California cause of action:

<u>Years of Experience</u>	<u>Rate</u>
45	\$975
28	700-775
26	775
10	600
6	500
Senior Paralegal	295
Other Paralegals	175-235
Law Clerk	250

(4) *Doe v. United Healthcare Insurance Co., et al.*, C.D. Cal. No. SACV 13-0864 DOC(JPRx), Order Granting Attorney's Fees and Costs, filed October 15, 2014, a multi-Plaintiff consumer action, in which the court found the following hourly rates reasonable:

Whatley Kallas

<u>Years of Experience</u>	<u>Rate</u>
36	\$950
27	900
32	800
33	750
21	700
10	600
4	400
2	375
Paralegal	225

Consumer Watchdog

35	\$925
19	650
4	425

(5) *Carpio v. California Department of Social Services, Los Angeles County Superior Court*, No. BS 135127, Order Granting Plaintiff's Motion for Attorney's Fees, filed July 24, 2014, a government benefits writ of mandate, in which the court found the following hourly rates reasonable:

<u>Years</u>	<u>Rate</u>
39	\$750
35	730
13	500
8	460

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<u>Years</u>	<u>Rate</u>
6	440

(6) *Laffitte v. Robert Half International Inc.*, Los Angeles Superior Court No. BC321317, review granted February 25, 2015 (vacated opinion at 231 Cal.App.4th 860),¹ a wage and hour class action, in which the trial court approved, over a class member’s objection, a 33% common fund fee award, cross-checked against a lodestar based on the following hourly rates (prior to application of a 2.13 multiplier):

<u>Years Since Bar Admission</u>	<u>Rate</u>
25-27	\$750
14-16	600
12	500

(7) *Hao v. United States of America*, C.D. Cal. No. CV 01-01758 CBM (Ex), Order Granting Motion for Attorneys’ Fees, filed January 26, 2015, a damages action against the United States requesting fees under the Equal Access to Justice Act (28 U.S.C. §2412(b)) for the government’s “bad faith”, in which the court found the following hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
28	\$725
23	660
15	575
3	375
Paralegal	125

¹ To the best of my knowledge, the issue before the Supreme Court in *Laffitte* is whether under California law, percentage-based fees may be awarded from a common fund. It does not involve the hourly rates found reasonable as part of the trial court’s lodestar cross-check.

(8) *Pierce v. County of Orange* (C.D. Cal. 2012) 905 F.Supp.2d 1017, a civil rights class action brought by pre-trial detainees, in which the court approved a lodestar based on the following 2011 rates:

<u>Years of Experience</u>	<u>Rate</u>
42	\$850
32	825
23	625
18	625
Law Clerks	250
Paralegals	250

Rate Information from Surveys

12. I also base my opinion on several credible surveys of legal rates, including the following:
- On January 5, 2015, the National Law Journal published an article about its most recent rate survey entitled “Billing Rates Rise, Discounts Abound.” A true and correct copy of that article is attached hereto as **Exhibit B**. It contains the rates charged by numerous Los Angeles area law firms handling comparably complex litigation. Plaintiff’s attorneys’ rates are well in line with those rates.
 - On January 13, 2014, the National Law Journal published an article about its most recent rate survey. That article included a chart listing the billing rates of the 50 firms that charge the highest average hourly rates for partners. A true and correct copy of that article is attached hereto as **Exhibit C**. Of the 50 firms listed, several have offices in the Los Angeles Area and many others have significant litigation experience in this area. And, although the rates that Plaintiff’s counsel are requesting here are *lower* than many of

1 the rates charged by the listed firms, the NLJ chart does show the
2 *range* of rates charged for similar services, which is the applicable
3 standard. *See CHMC*, 97 Cal.App.4th at 783.

- 4 • The 2013 Real Rate Report Snapshot published by Ty Metrix/Legal
5 Analytics summarizes the “real rates” for partners and associates in
6 various cities. A copy of the relevant pages is attached hereto as
7 **Exhibit D**. It shows that for the Los Angeles Area attorneys
8 surveyed (972 partners, 1,239 associates), the Third Quartile partner
9 rate in 2012 was **\$816.89** per hour and the associate rate was
10 **\$531.63** per hour. Given the excellent quality of the work performed
11 and results obtained here, in my opinion rates higher than the Third
12 Quartile are the most appropriate measure. Moreover, since 2012,
13 most Los Angeles Area firms have raised their rates by at least 5-
14 10%.
- 15 • In an article entitled “On Sale: The \$1,150-Per Hour Lawyer,”
16 written by Jennifer Smith and published in the Wall Street Journal
17 on April 9, 2013, the author describes the rapidly growing number of
18 lawyers billing at **\$1,150** or more revealed in public filings and
19 major surveys. A true and correct copy of that article is attached
20 hereto as **Exhibit E**. The article also notes that in the first quarter
21 of 2013, the 50 top-grossing law firms billed their partners at an
22 *average* rate between \$879 and \$882 per hour.

23 **Hourly Rates Charged by Other Law Firms**

24 13. Plaintiff’s counsels’ rates also are supported by the standard hourly
25 non-contingent rates for comparable civil litigation stated in court filings,
26 depositions, surveys, or other reliable sources by numerous California law firms
27
28

that have offices in or regularly practice in the Los Angeles area.² These rates include, in alphabetical order:

Alexander, Krakow & Glick

2014 Rates:	Years of Experience	Rate
	36	\$750
	27	750
	13	625
	Law Clerks	200

Arnold Porter

LLP

2015 Rates:	Years of Experience	Rate
	40	\$1,085
	20	920
	6	710
	4	640

2014 Rates:	Years of Experience	Rate
	49	\$995
	39	1,035
	19	875
	5	645
	3	570

2013 Rates:	Level	Rate
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² Although some of these firms are based in Northern California, the fact is that hourly rates charged in the Los Angeles area are generally higher than Northern California rates. Accordingly, if rates are reasonable by Northern California standards, they also are reasonable as Los Angeles area rates.

1	Average Partner	\$815
2	Highest Partner	950
3	Lowest Partner	670
4	Average Associate	500
5	Highest Associate	610
6	Lowest Associate	345

Bingham McCutchen

9	2013 Rates:	Average Partner	\$795
10		Highest Partner	1,080
11		Lowest Partner	220
12		Average Associate	450
13		Highest Associate	605
14		Lowest Associate	185

16	2011 Rates:	Years of Experience	Rate
17		30	\$780

19	2010 Rates:	Years of Experience	Rate
20		13	\$655
21		4	480
22		2	400

Cohelan Khoury & Singer

25	2012 Rates:	Years of Experience	Rate
26		38	\$750
27		28	750

Cohelan Khoury & Singer

11 400

Paralegal 170

Cooley LLP

Years of Experience	2012	2013	2014
31	\$975	\$1,035	\$1,095
17	670	710	770
9	550	645	685
7	500	585	685
6		530	620
3		355	445
Paralegal		260	325
Paralegal	245	260	275
			290

Covington Burling

2015 Rates	Years of Experience	Rate
	30	\$805
	2	410

2014 Rates	Years of Experience	Rate
	35	\$825
	29	780
	15	695
	6	530
	3	425

Covington Burling

1 350

Level

Average Partner \$780

Highest Partner 890

Lowest Partner 605

Average Associate 415

Highest Associate 565

Lowest Associate 320

2013 Rates:	Years of Experience	Rate
	28	\$750
	16	670
	14	670
	7	510
	5	490
	2	375
	Litigation Support	110-355

2012 Rates:	Years of Experience	Rate
	27	\$730
	15	632-650
	13	650

2011 Rates:	Years of Experience	Rate
	26	\$710
	14	640
	12	600

Covington Burling

9	565
7	550
5	425
3	390
1	320

Fenwick & West

2014 Rates	Years of Experience	Rate
	45	\$750
	35	750
	23	725
	19	695
	5	400
	3	350
	Paralegal	125
2013 Rates	18	\$755
	11	595
	2	425
2012 Rates	40	\$865
	17	755
	10	595

Gibson Dunn & Crutcher LLP

2015 Rates:	Years of Experience	Rate
	37	\$1,125
	23	955

Gibson Dunn & Crutcher LLP

	3	575
2014 Rates:	Years of Experience	Rate
	36	\$1,080
	22	910
	9 (Of Counsel)	740
	6	690
	2	485
2013 Rates	Years of Experience	Rate
	35	\$1,040
	5	625
	Paralegal	345

Greenberg, Traurig, LLP

2010 Rates:	Years of Experience	Rate
	22	\$850

Greines, Martin, Stein & Richland

2012 Rates:	Years of Experience	Rate
	41	\$850
	29	850
	23	650
	18	500
	Law Clerks	100

**Hadsell, Stormer, Richardson &
Renick**

**Hadsell, Stormer, Richardson &
Renick**

2015 Rates:	Years of Experience	Rate
	42	\$1,050
	20	750
	26	700
	16	650
	13	600
	5	425
	4	375
	Law Clerks	225
	Paralegals	175-250

2012 Rates:	Years of Experience	Rate
	38	\$825
	33	775
	22-23	625
	17	600
	12	525
	10	425
	4	275
	3	250

Hausfeld LLP

2014 Rates:	Years of Experience	Rate
	45	\$985
	37	935-895
	15	610-510

Hausfeld LLP

14	600
7	490
3	370
Paralegals	300-320
Law Clerks	325

Irell & Manella

2013 Rates:	Average Partner	\$890
	Highest Partner	975
	Lowest Partner	800
	Average Associate	535
	Highest Associate	750
	Lowest Associate	395

Jones Day

2013 Rates:	Average Partner	\$745
	Highest Partner	975
	Lowest Partner	445
	Average Associate	435
	Highest Associate	775
	Lowest Associate	205

Kaye, McLane, Bednarski & Litt

2014 Rates	Years of Experience	Rate
	45	\$975
	28	700-775

Kaye, McLane, Bednarski & Litt

26	775
10	600
6	500
Senior Paralegal	295
Other Paralegals	175-235
Law Clerk	250

Kiesel, Boucher, Larson LLP

2012 Rates:	Years of Experience	Rate
	Partners	
	27-28	\$890
	Associates	625-325

Kingsley & Kingsley

2010 Rates:	Years of Experience	Rate
	14	\$655
	8	475-515
	7	475
	6	485
	5	375
	3	350
	2	300

Kirkland & Ellis

2013 Rates:	Average Partner	\$825
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Kirkland & Ellis

Highest Partner	995
Lowest Partner	590
Average Associate	540
Highest Associate	715
Lowest Associate	235

Knapp, Petersen & Clarke

2012 Rates:	Years of Experience	Rate
	36	\$753
	9	554
	6	383

Latham & Watkins

2013 Rates:	Average Partner	\$990
	Highest Partner	1,100
	Lowest Partner	895
	Average Associate	605
	Highest Associate	725
	Lowest Associate	465

**Lieff Cabraser Heimann & Bernstein,
LLP**

2015 Rates:	Years of Bar Admission	Rate
	1972	\$975
	1989	850
	2001	625

**Lieff Cabraser Heimann & Bernstein,
LLP**

	2006	435
	2009	435
2014 Rates:	Years of Bar Admission	Rate
	1998	\$825
	2001	600
	2006	435
	2009	415
	2013	325
	Paralegal/Clerk	305
2013 Rates:		
	1975	\$925
	1998	800
	2001	525
	2003	490
	2006	415
	2009	395
	2013	320
	Paralegal/Clerk	285

Litt, Estuar, & Kitson, LLP

2012 Rates:	Years of Experience	Rate
	42	\$825
	18	625
	17	625
	5	425

Litt, Estuar, & Kitson, LLP

3	375
Senior Paralegals	125-235
Law Clerks	225
2011 Rates:	Years of Experience Rate
42	\$825
18	625
17	625
5	425
3	375
Senior Paralegals	125-235
Law Clerks	225

Manatt, Phelps & Phillips

2013 Rates:	Average Partner	\$740
	Highest Partner	795
	Lowest Partner	640
2010 Rates:	Partners	525-850
	Associates	200-525

McKenna Long & Aldridge LLP

2015 Rates:	Years of Experience	Rate
31		\$775
10		650
	Senior Paralegal	350
	Paralegal	225
2014 Rates:	Years of Experience	Rate

McKenna Long & Aldridge LLP

30	\$775
9	650
5	420
Litigation Support Mgr.	350
Paralegals	225

Morrison Foerster LLP

2013 Rates:	Average Partner	\$865
	Highest Partner	1,195
	Lowest Partner	595
	Average Associate	525
	Highest Associate	725
	Lowest Associate	230
	Years of Experience	Rate

2011 Rates:

22	\$775
11	625
10	620
1	335

2009 Rates:	Years of Experience	Rate
	24	\$750

O'Melveny & Myers

2013 Rates:	Level	Rate
	Average Partner	\$715

O'Melveny & Myers

Highest Partner 950

Lowest Partner 615

2012 Rates: Years of Experience Rate

12 \$695

4 495

Orrick Herrington & Sutcliffe

2014 Rates: Level Rate

Average Partner \$845

Highest Partner 1,095

Lowest Partner 715

Average Associate 560

Highest Associate 710

Lowest Associate 375

Paul Hastings LLP

2014 Rates: Level Rate

Average Partner \$815

Highest Partner 900

Lowest Partner 750

Average Associate 540

Highest Associate 755

Lowest Associate 350

Pillsbury Winthrop Shaw Pittman LLP

2013 Rates: Level Rate

Pillsbury Winthrop Shaw Pittman LLP

Average Partner	\$865
Highest Partner	1,070
Lowest Partner	615
Average Associate	520
Highest Associate	860
Lowest Associate	375

2010 Rates:	Level	Rate
	30 years	\$705-775
	Other Partners	595-965
	Associates	320-650
	Paralegals/Support Staff	85-380

Quinn Emanuel Urquhart & Sullivan

2013 Rates:	Average Partner	\$915
	Highest Partner	1,075
	Lowest Partner	810
	Average Associate	410
	Highest Associate	675
	Lowest Associate	320

Reed Smith LLP

2014 Rates:	Years of Experience	Rate
	37	\$830
	18	695
	15	585
	6	485

Reed Smith LLP

	5	435
2013 Rates:	Years of Experience	Rate
	Partner	
	36	\$830
	30	805
	17	610-615
	14	570
	Associates	
	8	450-535
	6	495

**Schonbrun, DeSimone, Seplow, Harris
& Hoffman**

2014 Rates:	Years of Experience	Rate
	29	\$750
	24	700
2012 Rates:	Years of Experience	Rate
	27	\$695
	22	630

Skadden, Arps, Slate, Meagher & Flom

2013 Rates:	Average Partner	\$1,035
	Highest Partner	1,150
	Lowest Partner	845
	Average Associate	620
	Highest Associate	845

Skadden, Arps, Slate, Meagher & Flom

Lowest Associate	340
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Law Office of Carol Sobel

2015 Rate:	Years of Experience:	Rate:
	37	\$875

Wilson Sonsini Goodrich & Rosati PC

2010 Rates:	Level	Rate
	28 years	\$875
	Other Partners	650-975
	Associates	290-610
	Paralegals/Litigation	120-300
	Support	

Zelle Hofmann Voelbel & Mason, LLP

2012 Rates:	Level	Rate
	Partners	Up to \$950
	Associates	Up to \$540
	Paralegals	Up to \$290
	Law Clerks	Up to \$250

14. The hourly rates set forth above are those charged where full payment is expected promptly upon the rendition of the billing and without consideration of factors other than hours and rates. If any substantial part of the payment were to be contingent or deferred for any substantial period of time, for example, the fee arrangement would be adjusted accordingly to compensate the attorneys for those factors.

1 15. In my experience, fee awards are almost always determined based on
2 current rates, *i.e.*, the attorney's rate at the time a motion for fees is made, rather
3 than the historical rate at the time the work was performed. This is a common
4 and accepted practice to compensate attorneys for the delay in being paid.

5 **COUNSEL'S HOURS ARE REASONABLE**

6 16. I also have reviewed Plaintiff's counsel's detailed timesheets, which
7 consist of approximately 243 pages, and numerous other documents, as set out in
8 paragraph 8 *supra*. While I do not purport to have done a full review of the file, I
9 do have extensive experience with complex cases involving land and water use
10 and raising similar challenges: I have handled the fee applications and/or appeals
11 in numerous such actions (see, e.g., *Planning and Conservation League v.*
12 *California Dept. of Water Resources*, (2000) 83 Cal. App. 4th 892 (on remand);
13 *Environmental Protection Info. Ctr. v. Pacific Lumber Co.* (N.D. Cal. 2002) 229
14 F.Supp.2d 993, *aff'd* (9th Cir. 2004) 103 Fed.Appx. 627 (*EPIC I*); *Environmental*
15 *Protection Info. Ctr. v Department of Forestry & Fire Protection* (2010) 190
16 Cal.App.4th 217 (*EPIC II*); *Center for Biological Diversity v. County of San*
17 *Bernardino (Nursery Prods., LLC)* (2010) 185 Cal.App.4th 866, 891) and have
18 testified by declaration on the reasonableness of attorneys' fees in countless other
19 environmental matters (see, e.g., *Living Rivers Council v. State Water Resources*
20 *Control Board*, Alameda Superior Court No. RG 10543923, Fee Order filed
21 March 23, 2013, *aff'd by unpublished opinion*, 2014 Cal.App.Unpub. LEXIS
22 7321). As a result, I am familiar with the number of hours generally required by
23 such actions. In my opinion, the fact that Plaintiff's request is based on
24 contemporaneous time records, set out in .1 intervals, *prima facie* shows that the
25 time claimed is reasonable. See *Horsford v. Bd. of Trustees* (2005) 132
26 Cal.App.4th 359, 396. Additionally, although for a matter of this size, duration,
27 and complexity, having several billers is normal and appropriate, the potential for
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1 unreasonable duplication of effort here has been minimized by the extremely low
2 number of billers.

3 17. Further, I am aware that Mr. McLachlan and Mr. O'Leary have
4 exercised billing judgment by writing down or writing off over 300 hours and
5 nearly \$220,000 of legal services (at lodestar rates) for items performed in the
6 handling of the case. The reasonableness of counsel's time also is shown by the
7 fact that the attorney billers on the matter, Mr. McLachlan and Mr. O'Leary,
8 averaged slightly less than 60 hours per month combined on this case; in my
9 view, this is a modest amount, given the number and complexity of legal and
10 factual issues in this case. Accordingly, the time spent by Plaintiff's counsel
11 appears to be appropriate to the novel and complex issues presented, to the
12 stakes involved, to the high quality of the work product produced, to the vigorous
13 defense presented, and to the results obtained.

14 18. For each of these reasons, in my opinion, at the requested lodestar
15 hourly rates listed in paragraph 9 above, the number of hours spent by Plaintiff's
16 counsel would have been billable to a fee-paying client and represent a
17 reasonable number of hours for litigating this matter.

18 **A 2.5 MULTIPLIER IS REASONABLE**

19 19. I am familiar with the legal standards governing the recovery of
20 enhanced lodestars, commonly known as "multipliers," in cases in which
21 reasonable attorneys' fees are awarded under Code of Civil Procedure section
22 1021.5 and similar statutes. In my opinion, a 2.5 multiplier is appropriate in this
23 case given: 1) the extremely high financial risk taken by Plaintiff's small law
24 firms; 2) the exceptional novelty, complexity, and duration of the action and the
25 concomitant skills required to win it; 3) the preclusion of other employment for
26 Plaintiff's counsel; 4) the excellent results achieved, both directly and indirectly,
27 in an extremely efficient manner; 5) the public benefits conferred; and 6) the
28 multipliers applied in comparable cases.

1 **20. Contingent Risk.** In my experience, contingent risk is the most
2 important and influential factor in determining a lodestar multiplier. It is simply
3 basic economics that when a law firm takes a difficult case on a contingent fee
4 basis, it should get a significantly higher fee than a firm that is guaranteed
5 payment (and paid along the way), win or lose. It is well-established that lawyers
6 who assume a significant financial risk on behalf of their clients rightfully expect
7 that their compensation will be significantly greater than it would be if no risk or
8 delay was involved, *i.e.*, under the traditional arrangement where the client is
9 obligated to pay for costs and fees incurred on a monthly basis. In my
10 experience, attorneys are willing to enter into such contingency fee arrangements
11 only if they can expect to receive significantly higher effective hourly rates in
12 successful cases, particularly in cases that are expected to be hard fought and
13 where the result is uncertain. That is how the legal marketplace works, and
14 market value fees are the standard that fee-shifting statutes are intended to
15 provide: as the courts have recognized, such arrangements do not result in any
16 “windfall” or undue “bonus” for the attorney; rather, they are “*earned*
17 *compensation*,” reflecting the need for fee awards to mirror the legal services
18 market by compensating attorneys for the risk of non-payment, which in many
19 cases involves thousands of hours of time spent and dollars advanced. See
20 *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1138. Court-awarded fees that reflect
21 that risk of loss simply make such representation competitive in the legal
22 marketplace. 24 Cal.4th at 1132-1133. Indeed, that view was affirmed again by
23 the California Supreme Court in *Graham v. DaimlerChrysler Corp.* (2004) 34
24 Cal.4th 553, 579, as well as by the Second District of the Court of Appeal in such
25 cases as *Building a Better Redondo Beach, Inc. v City of Redondo Beach* (2012)
26 203 Cal.App.4th 852, 874, and *Taylor v. Nabors Drilling USA, LP* (2014) 222
27 Cal.App.4th 1228, 1251. For these reasons, a significant lodestar enhancement for
28

1 contingent risk is necessary in this case to reflect the true and full market value of
2 Plaintiff's attorneys' work.

3 21. A contingent risk enhancement is particularly appropriate in cases
4 such as this one, which has required more than **4,538 hours** of uncompensated
5 work,³ incurred over a period of more than eight years. That risk was
6 exacerbated by the facts that it involved uncharted areas of the law and a large
7 factual record, and had so many parties with potentially conflicting interests that
8 settlement was a long shot. As Mr. McLachlan explains, he also faced the
9 seemingly insurmountable problem of requiring vital but expensive expert
10 testimony, without funding to obtain those experts of the prospect of a court-
11 awarded reimbursement of those expenses. Indeed, the riskiness was evident
12 from the difficulty Mr. Zlotnick, who represented the Willis Class, had in finding
13 any attorney willing to represent the group of small pumpers on a contingent fee
14 basis. The risk and undesirable nature of this litigation is also reflected in the
15 McLachlan Declaration at paragraphs 43-50. The odds of winning such a case
16 against well-funded defendants, with such novel and complex issues, and with
17 the huge stakes involved, are daunting.

18 22. Based on the information provided by Plaintiff's counsel, Plaintiff's
19 prospects for success when they decided to litigate this case were a very open
20 question, at best. And, while Mr. McLachlan and Mr. O'Leary did receive some
21 compensation from this Court's Fee Order on the 2013 settlement, that covered
22 only 1,276 hours of their work, at reduced rates and with no multiplier – the
23 remaining 4,538 hours have remained totally unpaid and at risk of never being
24 compensated if the case was lost. ⁴Counsel's only realistic means of recovering

26 ³ The 4,538 hours do not include the 1,276 hours paid in conjunction with
27 the 2013 fee award for six years of previously uncompensated work.

28 ⁴ Risk multipliers are perfectly appropriate in cases where some fees are
partially paid. See *Building a Better Redondo Beach, Inc. v City of Redondo*

1 full marketplace compensation for the excellent services provided was by winning
2 a merits victory or a settlement that provided significant relief to the class
3 members they represented and then prevailing in this motion for recovery of
4 attorney's fees under section 1021.5. Those risks were obviously quite substantial,
5 far greater than the typical case, and in the legal marketplace and here, should be
6 reflected in the fee award. Such an award will meet one of the principal purposes
7 of section 1021.5: to provide fully compensatory fees in successful cases in order
8 to encourage competent counsel to take on difficult but important cases like this
9 one.

10 **23. The exceptional novelty and complexity of the action and**
11 **the concomitant skills required to win it.** The exceptional novelty and
12 difficult of this action, and the concomitant skill required to win it – skill that
13 goes beyond counsel's modest hourly rates – are fully set forth in Mr.
14 McLachlan's declaration, and I concur in their assessment. This was no routine
15 or "cookie-cutter" action: it was high-stakes, hard-fought litigation involving the
16 very fundamental right to water and their clients' concomitant ability to remain
17 in their homes and communities, fought against a formidable set of opponents
18 and raising numerous novel issues of water law. In the legal marketplace, the fee
19 charged by counsel in exceptionally complex cases often exceeds the normal
20 "lodestar"-type fee that would be charged to a fee-paying client in a less complex
21
22

23 *Beach* (2012) 203 Cal.App.4th 852, 874 (affirming risk multiplier, even though
24 25% of lodestar was non-contingent). I also know from representing the
25 Plaintiff's attorneys in *EPIC II*, *supra*, 190 Cal.App.4th 217, and from reviewing
26 the trial court fee award in *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th
27 1157, that the fees in both cases were only partially contingent; yet, the trial court
28 in *EPIC II* applied a 2.0 multiplier (though later remanded on other grounds),
and in *Amaral*, the trial court applied a 1.65 multiplier, which was expressly
affirmed on appeal (163 Cal.App.4th at 1216). In reality, counsel's risk here was
greater than in those cases because they did not even have the benefit of a

1 and novel case requiring less skill. As such, these factors also support the
2 lodestar enhancement sought.

3 **24. The preclusion of other employment for Plaintiff's counsel.**

4 Cases that are as heavily fought as this one over a considerable period of time can
5 take a heavy toll on a small law firm's "book of business" because other cases,
6 some of which may be quite lucrative, simply have to be turned away. In such
7 cases, clients can be and are charged a higher fee if this turns out to be true. It is
8 my understanding that this has happened to Plaintiff's counsel here, costing him
9 several very lucrative cases. See McLachlan Decl. ¶¶ 51-54. As such, it also
10 justifies the lodestar enhancement sought.

11 **25. The excellent results achieved, both directly and indirectly.**

12 Again, the excellent results achieved here, both in terms of the settlement finally
13 achieved and approved by the Court, and the collateral benefits that the litigation
14 provided to the entire community, are fully described in Mr. McLachlan's
15 declaration (¶¶ 7-10). In the legal marketplace, clients often pay an additional fee
16 in cases that achieve such remarkable success.

17 **26. The public benefits conferred.** This Court has previously

18 recognized the immense public value Plaintiff's lawsuit, along with others, has
19 conferred on the public: "By virtue of [the Willis and Woods class actions], the
20 Court is able to adjudicate the claims of virtually all groundwater users in the
21 Antelope Valley which adheres to the benefit of every resident and property
22 owner in the adjudication area...Even without the federal government
23 involvement, without the filing of a class action, it would have been impossible to
24 adjudicate the rights of all persons owning property and water rights within the
25 valley... The inability of the judicial system to conduct such adjudication in any
26

27 guaranteed or prepaid fee of *any* kind, only an interim, discounted payment for
28 the part of their work that qualified for fees in its own right.

1 other way is beyond argument. The benefit to all class members is clear and the
2 benefit to all others living or owning property in the Antelope Valley is
3 enormous...” Order After Hearing On Motion By Plaintiff Rebecca Lee Willis And
4 The Class For Attorneys' Fees, Reimbursement Of Expenses And Class
5 Representative Incentive Award, filed May 4, 2011. Here, Plaintiff's counsel have
6 enforced these purposes, to the benefit of everyone in the Antelope Valley
7 community.

8 **27. Multipliers applied in comparable cases.** Multipliers applied
9 in comparable cases also support the enhancement requested. See *Vizcaino v.*
10 *Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1050 (looking to multipliers
11 awarded in comparable cases as evidence of reasonableness); *Wershba v. Apple*
12 *Computer, Inc.* (2001) 91 Cal.App.4th 224, 255 (noting that “[m]ultipliers can
13 range from 2 to 4 or even higher”).

14 **28.** Lodestar multipliers are an integral part of fee awards in highly-
15 contested, complex, and risky litigation like this case, and the multipliers
16 awarded in other cases also support my opinion. For example, in *Chau et al v.*
17 *CVS RX Services, Inc.*, Los Angeles County Superior Court No. BC349224,
18 Order Granting Final Approval of Class Action Settlement, Reasonable
19 Attorneys' Fees and Costs and Service Payments to the Class Representatives,
20 filed September 24, 2008, a wage and hour class action, a 3.8 multiplier was
21 applied based primarily on contingent risk and the “excellent results [] obtained
22 [] with relative efficiency”). **Exhibit F**, p. 5:7. In *Thompson v. Santa Clara*
23 *County Open Space Authority*, Santa Clara County Superior Court No. 1-02-CV-
24 804474, Order re Final Approval of Class Action Settlement and For Attorneys'
25 Fees and Litigation Expenses, filed September 21, 2009, a challenge to an
26 invalid tax statute, the trial court determined that the plaintiff's lodestar, which
27 mainly consisted of appellate work, was \$2,598,122.50, to which it applied a
28 2.85 multiplier. **Exhibits G & H** (p. 4:9-20; p. 5:23). In *Jordan v. Dept. of*

1 *Motor Vehicles*, JAMS Ref. No. 1100040574, Arbitration Award and Decision,
2 dated April 14, 2004 (arbitrating fees incurred in Sacramento Superior Court
3 Nos. 95AS05228, 01CS0006, 01CS0007), a lodestar of \$716,000 was found
4 reasonable for defending the trial court's judgment on appeal, and a 2.5
5 multiplier was applied to that lodestar. In *Hope v. State of California*,
6 *Department of Youth Authority*, the Los Angeles County Superior Court No. BC
7 258985, the court awarded appellate fees, at 2006 rates of up to \$750 per hour
8 that included a 2.0 multiplier. **Exhibit I** (Order re: Award of Appellate
9 Attorney Fees Pursuant to Government Code § 12965, filed April 21, 2006), p.
10 2:12. In *City of Oakland v. Oakland Raiders* (1988) 203 Cal.App.3d 78, a non-
11 contingent case, a 2.43 multiplier was applied to the entire case, including
12 appellate work. All of these prior awards support the lodestar enhancement
13 sought here. Other cases include:

- 14 • *Coalition for Los Angeles County Planning v. Board of*
15 *Supervisors* (1977) 76 Cal.App.3d 241 (2.1 multiplier for land use
16 challenge);
- 17 • *Uphold Our Heritage v. Town of Woodside*, San Mateo Superior
18 Court No. 444270, *aff'd by unpublished decision*, 2008
19 Cal.App.Unpub. LEXIS 8875 (2.0 multiplier). **Exhibit J**, p. 4.
- 20 • *EPIC v. California Dept. of Fire & Forestry (EPIC II)*, Humboldt
21 County Superior Court Nos. CV990445 and CV990452 (2.0
22 multiplier, reversed and remanded for reconsideration in light of
23 appellate decision on merits (see 190 Cal.App.4th 217). **Exhibit**
24 **K**, p. 14.
- 25 • *Sierra Club v. County of San Diego*, San Diego County Superior
26 Court No. 37-2012-00101054-CU-TT-CTL, Fee Order filed August
27 7, 2015 (2.0 multiplier in CEQA case). **Exhibit L**, p. 5.

- *Craft v. County of San Bernardino* (C.D. Cal. 2008) 624 F.Supp.2d 1113, 1125 (5.2 multiplier reasonable for common fund fee award in jail conditions class action).

These awards also support my opinion that the lodestar enhancement requested here is reasonable.

If called as a witness, I could and would competently testify from my personal knowledge to the facts stated herein. I declare under penalty of perjury that the foregoing is true and correct. Executed this 27th day of January, 2016 in Berkeley, California.



RICHARD M. PEARL

EXHIBIT A

RESUME OF RICHARD M. PEARL

RICHARD M. PEARL
LAW OFFICES OF RICHARD M. PEARL
1816 Fifth Street
Berkeley, CA 94710
(510) 649-0810
(510) 548-3143 (facsimile)
rpearl@interx.net (e-mail)

EDUCATION

University of California, Berkeley, B.A., Economics (June 1966)
Boalt Hall School of Law, Berkeley, J.D. (June 1969)

BAR MEMBERSHIP

Member, State Bar of California (admitted January 1970)
Member, State Bar of Georgia (admitted June 1970) (inactive)
Admitted to practice before all California State Courts; the United States Supreme Court; the United States Court of Appeals for the District of Columbia and Ninth Circuits; the United States District Courts for the Northern, Central, Eastern, and Southern Districts of California, for the District of Arizona, and for the Northern District of Georgia; and the Georgia Civil and Superior Courts and Court of Appeals.

EMPLOYMENT

LAW OFFICES OF RICHARD M. PEARL (April 1987 to Present): Civil litigation practice (AV rating), with emphasis on court-awarded attorney's fees, class actions, and appellate practice. Selected Northern California "Super Lawyer" in Appellate Law for 2005, 2006, 2007, 2008, 2010, 2011, 2012, 2013, and 2014.

QUALIFIED APPELLATE MEDIATOR, APPELLATE MEDIATION PROGRAM, Court of Appeal, First Appellate District (October 2000 to 2013) (program terminated).

ADJUNCT PROFESSOR, HASTINGS COLLEGE OF THE LAW (January 1988 to Present): Teach Public Interest Law Practice, a 2-unit course that focuses on the history, strategies, and issues involved in the practice of public interest law.

PEARL, McNEILL & GILLESPIE, Partner (May 1982 to March 1987): General civil litigation practice, as described above.

CALIFORNIA RURAL LEGAL ASSISTANCE, INC. (July 1971 to September 1983) (part-time May 1982 to September 1983):

Director of Litigation (July 1977 to July 1982)

Responsibilities: Oversaw and supervised litigation of more than 50 attorneys in CRLA's 15 field offices; administered and supervised staff of 4-6 Regional Counsel; promulgated litigation policies and procedures for program; participated in complex civil litigation.

Regional Counsel (July 1982 to September 1983 part-time)

Responsibilities: Served as co-counsel to CRLA field attorneys on complex projects; provided technical assistance and training to CRLA field offices; oversaw CRLA attorney's fee cases; served as counsel on major litigation.

Directing Attorney, Cooperative Legal Services Center (February 1974 to July 1977) (Staff Attorney February 1974 to October 1975)

Responsibilities: Served as co-counsel on major litigation with legal services attorneys in small legal services offices throughout California; supervised and administered staff of four senior legal services attorneys and support staff.

Directing Attorney, CRLA McFarland Office (July 1971 to February 1974) (Staff Attorney July 1971 to February 1972)

Responsibilities: Provided legal representation to low income persons and groups in Kern, King, and Tulare Counties; supervised all litigation and administered staff of ten.

HASTINGS COLLEGE OF THE LAW, Instructor, Legal Writing and Research Program (August 1974 to June 1978)

Responsibilities: Instructed 20 to 25 first year students in legal writing and research.

CALIFORNIA AGRICULTURAL LABOR RELATIONS BOARD, Staff Attorney, General Counsel's Office (November 1975 to January 1976, while on leave from CRLA)

Responsibilities: Prosecuted unfair labor practice charges before Administrative Law Judges and the A.L.R.B. and represented the A.L.R.B. in state court proceedings.

ATLANTA LEGAL AID SOCIETY, Staff Attorney (October 1969 to June 1971)

Responsibilities: Represented low-income persons and groups as part of 36-lawyer legal services program located in Atlanta, Georgia.

PUBLICATIONS

Pearl, *California Attorney Fee Awards, Third Edition* (Cal. Cont. Ed. Bar 2010) and February 2011, 2012, 2013, 2014, and 2015 Supplements

Pearl, *California Attorney Fee Awards, Second Edition* (Cal. Cont. Ed. Bar 1994), and 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, and 2008 Supplements

Graham v. DaimlerChrysler Corp. and Tipton-Whittingham v. City of Los Angeles, Civil Litigation Reporter (Cal. Cont. Ed. Bar Feb. 2005)

Current Issues in Attorneys' Fee Litigation, California Labor and Employment Law Quarterly (September 2002 and November 2002)

Flannery v. Prentice: Shifting Attitudes Toward Fee Agreements and Fee-Shifting Statutes, Civil Litigation Reporter (Cal. Cont. Ed. Bar Nov. 2001)

A Practical Introduction to Attorney's Fees, Environmental Law News (Summer 1995)

Wrongful Employment Termination Practice, Second Edition (Cal. Cont. Ed. Bar 1997) (co-authored chapter on "Attorney Fees")

California Attorney's Fees Award Practice (Cal. Cont. Ed. Bar 1982) (edited), and 1984 through 1993 Supplements

Program materials on attorney fees, prepared as panelist for CEB program on Attorneys' Fees: Practical and Ethical Considerations in Determining, Billing, and Collecting (October 1992)

Program materials on Attorney's Fees in Administrative Proceedings: California Continuing Education of the Bar, prepared as panelist for CEB program on Effective Representation Before California Administrative Agencies (October 1986)

Program materials on Attorney's Fees in Administrative Proceedings: California Continuing Education of the Bar, prepared as panelist for CEB program on Attorneys' Fees: Practical and Ethical Considerations (March 1984)

Settlers Beware/The Dangers of Negotiating Statutory Fee Cases (September 1985) Los Angeles Lawyer

Program Materials on Remedies Training (Class Actions), sponsored by Legal Services Section, California State Bar, San Francisco (May 1983)

RICHARD M. PEARL

Page 4

Attorneys' Fees: A Legal Services Practice Manual (Legal Services Corporation 1981)

PUBLIC SERVICE

Member, Attorneys' Fee Task Force, California State Bar

Chairperson, Board of Directors, California Rural Legal Assistance Foundation

REPRESENTATIVE CASES

Alcoser v. Thomas

(2011) 2011 Cal.App.Unpub.LEXIS 1180

Boren v. California Department of Employment

(1976) 59 Cal.App.3d 250

Cabrera v. Martin

(9th Cir. 1992) 973 F.2d 735

Camacho v. Bridgeport Financial, Inc.

(9th Cir. 2008) 523 F.3d 973

Campos v. E.D.D.

(1982) 132 Cal.App.3d 961

Center for Biological Diversity v. County of San Bernardino

(2010) 185 Cal.App.4th 866

Committee to Defend Reproductive Rights v. A Free Pregnancy Center

(1991) 229 Cal.App.3d 633

David C. v. Leavitt

(D. Utah 1995) 900 F.Supp. 1547

Delaney v. Baker

(1999) 10 Cal.4th 23

Dixon v. City of Oakland

(2014) 2014 U.S.Dist.LEXIS 169688

Employment Development Dept. v. Superior Court (Boren)

(1981) 30 Cal.3d 256

Representative Cases (cont.)

Environmental Protection Information Center, Inc. v. Pacific Lumber Co.
(N.D. Cal. 2002) 229 F. Supp.2d 993, *aff=d* (9th Cir. 2004) 103 Fed. Appx. 627

Flannery v Prentice
(2001) 26 Cal. 4th 572

Graham v. DaimlerChrysler Corp.
(2004) 34 Cal. 4th 553

Horsford v. Board of Trustees of Univ. of Calif.
(2005) 132 Cal.App.4th 359

Ketchum v. Moses
(2001) 24 Cal.4th 1122

Kievan v. Dahlberg Electronics
(1978) 78 Cal.App.3d 951, *cert. denied* (1979)
440 U.S. 951

Lealao v. Beneficial California, Inc.
(2000) 82 Cal.App.4th 19

Lewis v. California Unemployment Insurance Appeals Board
(1976) 56 Cal.App.3d 729

Local 3-98 etc. v. Donovan
(N.D. Cal. 1984) 580 F.Supp. 714,
Aff'd (9th Cir. 1986) 792 F.2d 762

Mangold v. California Public Utilities Commission
(9th Cir. 1995) 67 F.3d 1470

Maria P. v. Riles
(1987) 43 Cal.3d 1281

Martinez v Dunlop
(N.D. Cal. 1976) 411 F.Supp. 5,
aff'd (9th Cir. 1977) 573 F.2d 555

McQueen, Conservatorship of
(2014) 59 Cal.4th 602 (argued for *amici curiae*)

Representative Cases (cont.)

McSomebodies v. Burlingame Elementary School Dist.
(9th Cir. 1990) 897 F.2d 974

McSomebodies v. San Mateo City School Dist.
(9th Cir. 1990) 897 F.2d 975

Molina v. Lexmark International
(2013) 2013 Cal.App. Unpub. LEXIS 6684

Moore v. Bank of America
(9th Cir. 2007) 2007 U.S. App. LEXIS 19597

Moore v. Bank of America
(S.D. Cal. 2008) 2008 U.S. Dist. LEXIS 904

Mora v. Chem-Tronics, Inc.
(S.D. Cal. 1999) 1999 U.S. Dist. LEXIS 10752,
5 Wage & Hour Cas. 2d (BNA) 1122

Nadaf-Rahrov v. Nieman Marcus Group
(2014) 2014 Cal.App. Unpub. LEXIS 6975

Pena v. Superior Court of Kern County
(1975) 50 Cal.App.3d 694

Ponce v. Tulare County Housing Authority
(E.D. Cal 1975) 389 F.Supp. 635

Ramirez v. Runyon
(N.D. Cal. 1999) 1999 U.S. Dist. LEXIS 20544

Rubio v. Superior Court
(1979) 24 Cal.3d 93 (amicus)

Sokolow v. County of San Mateo
(1989) 213 Cal. App. 3d. 231

S.P. Growers v. Rodriguez
(1976) 17 Cal.3d 719 (amicus)

Representative Cases (cont.)

Swan v. Tesconi

(2015) 2015 Cal.App. Unpub. LEXIS 3891

Tongol v. Usery

(9th Cir. 1979) 601 F.2d 1091,

on remand (N.D. Cal. 1983) 575 F.Supp. 409,

revs'd (9th Cir. 1985) 762 F.2d 727

Tripp v. Swoap

(1976) 17 Cal.3d 671 (*amicus*)

United States (Davis) v. City and County of San Francisco

(N.D. Cal. 1990) 748 F.Supp. 1416, *aff'd in part*

and revs'd in part sub nom Davis v. City and County

of San Francisco (9th Cir. 1992) 976 F.2d 1536,

modified on rehearing (9th Cir. 1993) 984 F.2d 345

United States v. City of San Diego

(S.D.Cal. 1998) 18 F.Supp.2d 1090

Vasquez v. State of California

(2008) 45 Cal.4th 243 (*amicus*)

Velez v. Wynne


(9th Cir. 2007) 2007 U.S. App. LEXIS 2194

REFERENCES

Furnished upon request.

September 2015

EXHIBIT B

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Billing Rates Rise, Discounts Abound

A 10 percent increase is offset by price cuts.

Katelyn Polantz, The National Law Journal

January 5, 2015

The price of a billable hour has risen by more than 10 percent in four years, as large corporate law firms focused on their most expensive work and saved clients' money elsewhere.

"The question is: Is anybody paying that?" Maurice Watson, chairman at Husch Blackwell, said, looking back at hourly rates charged last year for lawyers. Husch's average rate for partners is about \$449 per hour, the firm told The National Law Journal in response to our 2014 billing survey. But \$407 is closer to what the firm collects for its work.

The former number represents the "rack rate," Watson said, while the lower price factors in discounts given to clients on the billable hour and in alternative billing arrangements.

Husch's fees are indicative of the pricier billable hour and complementary cost cuts that law firms find for clients. The Kansas City, Mo.-founded firm was among the firms that have reported their rates to The National Law Journal since 2010. Almost all of the highest- and lowest-charging partners among the firms increased rates since 2010.

Partners' hourly prices at the 40 firms that reported their numbers in 2014 now hover around \$500 an hour on average. The highest-billing partner among the survey came from Kaye Scholer, with a \$1,250 rate. The lowest-billing partner, from Frost Brown Todd, made \$220, the firms told the NLJ.

See chart: [Billing Rates at the Nation's Priciest Law Firms](#)

The NLJ billing data also includes rates collected from public records — mostly bankruptcy filings — for 128 additional firms during the past three years.

Although the rates charged have gone up in recent years, the amounts that clients pay have not kept pace with inflation, legal industry leaders say.

"I think the story of billing rates is no longer as full or clear as it once was," Watson said.

Lawyers often give discounts on their stated rates, or firms arrange alternative fee plans with clients, including caps on fees, retainers or other flat rates for legal work. Still, firms lean on hourly pricing more than any other model. Generally, 15 percent to 20 percent of work comes from alternative fee structures, according to Steve Nelson of the McCormick Group Inc., a legal consulting firm in Northern Virginia.

Dinsmore & Shohl, a Cincinnati-based firm, has changed the way it sets rates instead of ditching the billable model.

"The billable hour is still very important. There's probably 100 reasons for that," firm chairman George Vincent said.

Dinsmore opened an office in Washington in 2011, so billing rates for lawyers in the nation's capital notched higher than at the rest of the firm. At the same time, associates faced a shift away from rates that rise in lockstep to individualized pricing, Vincent said. Dinsmore also has added nonpartner-track associates to cut some fees. The firm's lawyers charged between \$590 and \$175 in 2010, but they ranged between \$850 and \$160 in 2014.

The spread shows a rate expansion that mimics the decisions made by other firms — increases for top earners while squeezing value where they can.

Associates, on average, charged \$306 an hour at 28 firms in the NLJ study in 2014, an increase of 12 percent from those firms' average rate four years previously. The most expensive associates' rates pushed up at about the same pace, while a number of firms increased their lowest-paid associates' rates by only \$15 or less an hour.

The deleveraging of lawyers in the industry may account for this. Many clients now refuse to pay for legal work performed by first-year associates, Nelson said. Associates instead train during their first year, or work on pro bono or the equivalent of clerk and paralegal tasks. Outsourcing some work to cheaper consultants and firms plays into the pricing models more every year.

Many large firms are shedding lower-end practices, which fueled partners' lateral moves in 2014, Nelson added. Large firms now often mandate that partners meet or exceed certain rates. Some practices become priced out, so the lawyers move to less strict or lower-tiered firms to keep their clients. Practices that work on large corporate mergers or high-stakes litigation saw less lateral movement because of rate pressure. Gibson, Dunn & Crutcher, with an \$1,800 hourly rate for Theodore Olson, an outlier, had the highest rate the NLJ could find in public records.

The billing rate story was different in bankruptcy matters. Those numbers showed that the practice area, which runs countercyclical to the U.S. economy, suffered as companies recovered from the economic recession. Partners and associates working with clients in bankruptcy often must report their hourly rates in court.

Those partners averaged \$452 per hour in 2014, compared with an average rate of \$480 in 2012. The NLJ found fewer partners mentioned in new bankruptcy filings in 2014 compared with the previous years. On average over three years, bankruptcy partners charged about \$475 an hour, according to records from more than 2,300 firm shareholders.

In 2012, when rates were higher, elite New York firms told courts their partners earned \$1,000 an hour or more on the work. This \$1,000-an-hour club included three partners from Paul, Weiss, Rifkind, Wharton & Garrison and two partners from Weil, Gotshal & Manges.

It also included a team of nine Sullivan & Cromwell partners who charged \$1,150 an hour each to represent Eastman Kodak Co. in its bankruptcy.

In 2014, the rates for bankruptcy work topped out at about \$900 an hour, according to the data. Two partners from Pachulski Stang Ziehl & Jones, a Los Angeles corporate restructuring boutique, charged \$875 and \$895 each for their work on the bankruptcy of staffing company Ablest Inc.

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Year	Firm Name	Location	Average FTE Attorneys	Partner Billing Rate High	Partner Billing Rate Low	Partner Billing Rate Avg	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Avg	Counsel Avg	Counsel Low	Counsel High	Nat'l Billing Source	Notes
2014	Adams and Reese	New Orleans, LA	318	\$700.00	\$305.00	\$420.00	\$315.00	\$220.00	\$270.00	\$600.00	\$425.00	\$575.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Akamien	Miami, FL	523	\$890.00	\$380.00	\$535.00	\$465.00	\$205.00	\$305.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Akin Gump Strauss Hauer & Feld	Washington, DC	809	\$1220.00	\$615.00	\$785.00	\$600.00	\$385.00	\$525.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Allen Matkins Leck Gumbel Mattingly & Natis	Los Angeles, CA	181	\$680.00	\$225.00	\$615.00							National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Alston & Bird	Atlanta, GA	789	\$875.00	\$455.00	\$675.00	\$575.00	\$280.00	\$425.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Andrews Kurth	Houston, TX	537	\$1090.00	\$745.00	\$890.00	\$1090.00	\$265.00	\$670.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Archer & Greiner	Haddonfield, NJ	194	\$400.00	\$330.00	\$450.00	\$255.00	\$200.00	\$245.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Arrest Fox	Washington, DC	330	\$850.00	\$500.00	\$550.00	\$625.00	\$275.00	\$390.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014	Arnall Golden Gregory	Atlanta, GA	140	\$520.00	\$430.00	\$550.00							National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

2014 Arnold & Porter	Washington, DC	720	\$950.00	\$670.00	\$915.00	\$610.00	\$345.00	\$500.00				
2014 Arnstein & Lehr	Chicago, IL	144	\$385.00	\$350.00	\$465.00	\$350.00	\$175.00	\$250.00				
2014 Baker & Hostetler	Cleveland, OH	798	\$670.00	\$275.00	\$440.00	\$360.00	\$210.00	\$272.00				
2014 Baker & McKenzie	Chicago, IL	4087	\$1130.00	\$280.00	\$755.00	\$625.00	\$100.00	\$395.00				
2014 Baker, Donelson, Boorman, Caldwell & Berkowitz	Memphis, TN	568	\$485.00	\$340.00	\$400.00	\$455.00	\$245.00	\$235.00				
2014 Ballard Spahr	Philadelphia, PA	483	\$650.00	\$395.00	\$475.00	\$490.00	\$230.00	\$310.00				
2014 Barnes & Thornburg	Indianapolis, IN	522	\$600.00	\$330.00	\$460.00	\$370.00	\$280.00	\$320.00				
2014 Banasch, Friedlander, Coplan & Aronoff	Cleveland, OH	150	\$635.00	\$360.00	\$455.00	\$415.00	\$165.00	\$280.00				
2014 Best Best & Krieger	Riverside, CA	176	\$655.00	\$340.00	\$415.00	\$415.00	\$235.00	\$280.00	\$430.00	\$140.00	\$585.00	
2014 Bingham McCutchen	Boston, MA	795	\$1080.00	\$270.00	\$785.00	\$605.00	\$180.00	\$450.00				

National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

2014 Blank Rome	Philadelphia, PA	447	\$943.00	\$446.00	\$640.00	\$565.00	\$175.00	\$350.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Bond, Schoeneck & King	Syracuse, NY	198	\$529.00	\$240.00	\$255.00	\$210.00	\$160.00	\$225.00	\$360.00	\$275.00	\$465.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Bowles Rice	Charleston, WV	140	\$285.00	\$185.00	\$230.00	\$180.00	\$115.00	\$135.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Bracewell & Giuliani	Houston, TX	441	\$1125.00	\$575.00	\$750.00	\$700.00	\$275.00	\$440.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Bradley Arant Boult Cummings	Birmingham, AL	413	\$605.00	\$325.00	\$430.00	\$340.00	\$200.00	\$260.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Broad and Cassel	Orlando, FL	150	\$465.00	\$295.00	\$160.00							National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Brown Rudnick	Boston, MA	187	\$1045.00	\$655.00	\$350.00							National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Brownstein Hyatt Farber Schreck	Denver, CO	214	\$700.00	\$310.00	\$390.00	\$345.00	\$265.00	\$300.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Bryan Cave	St. Louis, MO	985	\$900.00	\$410.00	\$520.00	\$595.00	\$220.00	\$405.00	\$635.00	\$355.00	\$665.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Buchalter Nimmer	Los Angeles, CA	138	\$665.00	\$475.00	\$505.00	\$375.00	\$350.00	\$365.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

2014 Burr & Forman	Birmingham, AL	261	\$526.00	\$303.00	\$371.00	\$275.00	\$200.00	\$241.00
2014 Butler Snow	Jacksonland, MS	280	\$333.00	\$235.00	\$302.00			
2014 Cadwalader, Wickersham & Taft	New York, NY	437	\$1050.00	\$800.00	\$930.00	\$750.00	\$555.00	\$605.00
2014 Carlton Fields	Tampa, FL	272	\$840.00	\$455.00	\$600.00			
2014 Cole, Schatz, Nelsel, Forman & Leonard	Hackensack, NJ	118	\$730.00	\$590.00	\$553.00	\$310.00	\$275.00	\$302.00
2014 Connell Foley	Roseland, NJ	129	\$575.00	\$275.00	\$425.00	\$325.00	\$200.00	\$265.00
2014 Cooley	Palo Alto, CA	673	\$090.00	\$660.00	\$820.00	\$640.00	\$335.00	\$575.00
2014 Covington & Burling	Washington, DC	750	\$890.00	\$605.00	\$780.00	\$565.00	\$320.00	\$415.00
2014 Copen O'Connor	Philadelphia, PA	495	\$1135.00	\$275.00	\$570.00	\$540.00	\$180.00	\$355.00
2014 Curtis, Mallat-Provost, Colt & Mosle	New York, NY	323	\$960.00	\$730.00	\$600.00	\$785.00	\$345.00	\$480.00

National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014 Davis Graham & Stubbs	Denver, CO	145	\$835.00	\$175.00	\$435.00	\$300.00	\$255.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Davis Polk & Wardwell	New York, NY	910	\$685.00	\$950.00	\$975.00	\$875.00	\$575.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Debevoise & Plimpton	New York, NY	555	\$1075.00	\$355.00	\$1055.00	\$780.00	\$450.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Dechert	New York, NY	845	\$1095.00	\$470.00	\$890.00	\$735.00	\$530.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Dillons	New York, NY	2503	\$1050.00	\$345.00	\$700.00	\$685.00	\$425.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Dickinson Shapiro	Washington, DC	264	\$1250.00	\$590.00	\$750.00	\$595.00	\$475.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Dinsmore & Shovel	Cincinnati, OH	415	\$950.00	\$250.00	\$411.00	\$305.00	\$235.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 DLA Piper	New York, NY	3952	\$1025.00	\$450.00	\$755.00	\$710.00	\$575.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Dorsey & Whitney	Minneapolis, MN	501	\$985.00	\$340.00	\$425.00	\$310.00	\$315.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Duane Morris	Philadelphia, PA	613	\$950.00	\$415.00	\$559.00	\$695.00	\$375.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

2014 Edwards Williams Palmer Boren, M/A	540	\$765.00	\$270.00	\$535.00	\$415.00	\$246.00	\$325.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Faegre Baker Daniels	673	\$860.00	\$368.00	\$455.00	\$315.00	\$110.00	\$267.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Foley & Lardner	941	\$850.00	\$405.00	\$650.00	\$470.00	\$210.00	\$335.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Foley Hoag	221	\$775.00	\$590.00	\$670.00	\$305.00	\$290.00	\$325.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Fox Rothschild	531	\$750.00	\$205.00	\$550.00	\$500.00	\$245.00	\$310.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Fried, Frank, Harris, Shriver & Jacobson	450	\$1100.00	\$820.00	\$1000.00	\$750.00	\$375.00	\$485.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Frost Brown Todd	414	\$600.00	\$220.00	\$387.00	\$375.00	\$150.00	\$234.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Gardner Wynne Sewall	218	\$775.00	\$420.00	\$635.00	\$330.00	\$290.00	\$305.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Gibbons	201	\$605.00	\$440.00	\$580.00	\$475.00	\$202.00	\$360.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Gibson, Dunn & Crutcher	1154	\$1800.00	\$765.00	\$980.00	\$930.00	\$175.00	\$500.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

2014 Bordo-Ries Scully Manuskhani	San Diego, CA	476	\$475.00	\$375.00	\$420.00	\$325.00	\$285.00	\$300.00	National Law Journal December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Greenberg Traurig	New York, NY	1850	\$955.00	\$535.00	\$102.00	\$570.00	\$325.00	\$470.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Harris Beach	Rochester, NY	189	\$400.00	\$298.00	\$148.00	\$285.00	\$175.00	\$230.00	\$402.00 National Law Journal December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Hunter Seacrest & Emery	Rochester, NY	132	\$465.00	\$300.00	\$207.00	\$290.00	\$195.00	\$250.00	National Law Journal December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Haynes and Boone	Dallas, TX	423	\$1020.00	\$450.00	\$677.00	\$540.00	\$475.00	\$500.00	National Law Journal December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Hogan Lovells	Washington, DC	2313	\$1200.00	\$705.00	\$835.00				National Law Journal December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Holland & Hart	Denver, CO	421	\$725.00	\$205.00	\$462.00	\$425.00	\$175.00	\$225.00	National Law Journal December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Mollard & Knight	Washington, DC	958	\$1085.00	\$355.00	\$525.00	\$540.00	\$310.00	\$600.00	National Law Journal December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Montgomerie Miller Schwartz and Cohen	Detroit, MI	201	\$500.00	\$290.00	\$200.00	\$270.00	\$105.00	\$320.00	National Law Journal December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Hughes Hubbard & Reed	New York, NY	351	\$895.00	\$725.00	\$690.00	\$675.00	\$360.00	\$550.00	National Law Journal December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

2014 Husch Blackwell	St. Louis, MO	559	\$765.00	\$250.00	\$440.00	\$440.00	\$180.00	\$275.00	\$416.00	\$240.00	\$625.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Ico Miller	Indianapolis, IN	291	\$430.00	\$335.00	\$450.00	\$326.00	\$216.00	\$270.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Irell & Manella	Los Angeles, CA	160	\$975.00	\$600.00	\$450.00	\$750.00	\$385.00	\$535.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Jackson Kelly	Charleston, WV	173	\$535.00	\$270.00	\$745.00	\$315.00	\$210.00	\$243.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Jackson Lewis	Los Angeles, CA	724	\$440.00	\$310.00	\$380.00	\$140.00	\$276.00	\$290.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Jackson Walker	Texas, TX	333	\$675.00	\$575.00	\$522.00	\$365.00	\$255.00	\$335.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Jeffrey Mangels, Butler & Mitchell	Los Angeles, CA	125	\$875.00	\$580.00	\$850.00							National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Jenner & Block	Chicago, IL	434	\$825.00	\$585.00	\$745.00	\$550.00	\$350.00	\$455.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Jones Day	New York, NY	2464	\$875.00	\$445.00	\$745.00	\$775.00	\$205.00	\$435.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Jones Walker	New Orleans, LA	383	\$425.00	\$275.00	\$365.00	\$240.00	\$200.00	\$225.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

2014 Kasowitz, Benson, Torres & Friedman	New York, NY	372	\$1198.00	\$600.00	\$835.00	\$625.00	\$200.00	\$340.00
2014 Katten Muchin Rosenman	Chicago, IL	612	\$745.00	\$500.00	\$615.00	\$595.00	\$340.00	\$455.00
2014 Kaye Scholer	New York, NY	392	\$1250.00	\$725.00	\$860.00	\$785.00	\$370.00	\$597.00
2014 Kelley Drye & Warren	New York, NY	253	\$915.00	\$435.00	\$640.00	\$600.00	\$305.00	\$430.00
2014 Kilpatrick Townsend & Stockton	Atlanta, GA	561	\$775.00	\$400.00	\$550.00	\$475.00	\$315.00	\$385.00
2014 King & Spalding	Atlanta, GA	674	\$955.00	\$545.00	\$775.00	\$735.00	\$125.00	\$460.00
2014 Kirkland & Ellis	Chicago, IL	1564	\$905.00	\$590.00	\$825.00	\$715.00	\$235.00	\$540.00
2014 Knobbe Martens Olson & Bear	Irvine, CA	250	\$510.00	\$450.00	\$575.00	\$455.00	\$205.00	\$380.00
2014 Kramer Levin Naftalis & Frankel	New York, NY	313	\$1100.00	\$745.00	\$921.00	\$815.00	\$515.00	\$675.00
2014 Lane Powell	Seattle, WA	170	\$675.00	\$375.00	\$515.00	\$425.00	\$280.00	\$321.00

National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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2014 Latham & Watkins	New York, NY	2052	\$1,110.00	\$395.00	\$390.00	\$725.00	\$465.00	\$605.00	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report National Law Journal, December 2014
2014 Lathrop & Gage	Kansas City, MO	283	\$700.00	\$285.00	\$420.00	\$370.00	\$195.00	\$450.00	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report National Law Journal, December 2014
2014 Lewis Roca Rothgaber	Phoenix, AZ	228	\$685.00	\$380.00	\$507.00	\$125.00	\$131.00	\$407.00	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report National Law Journal, December 2014
2014 Lindquist & Vennum	Minneapolis, MN	178	\$600.00	\$480.00	\$520.00	\$470.00	\$275.00	\$365.00	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report National Law Journal, December 2014
2014 Littler Mendelson	San Francisco, CA	1002	\$815.00	\$380.00	\$550.00	\$420.00	\$245.00	\$260.00	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report National Law Journal, December 2014
2014 Lowenstein Sandler	Roseland, NJ	261	\$690.00	\$600.00	\$765.00	\$650.00	\$300.00	\$450.00	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report National Law Journal, December 2014
2014 Manatt Phelps & Phillips	Los Angeles, CA	329	\$795.00	\$640.00	\$740.00				Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report National Law Journal, December 2014
2014 McCarter & English	Newark, NJ	371	\$625.00	\$450.00	\$530.00	\$370.00	\$220.00	\$300.00	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report National Law Journal, December 2014
2014 McDermott Will & Emery	Chicago, IL	1021	\$835.00	\$625.00	\$710.00				Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report National Law Journal, December 2014
2014 McElroy, Deutsch, Mulvaney & Carpenter	Monticello, NJ	274	\$500.00	\$325.00	\$445.00	\$335.00	\$220.00	\$295.00	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report National Law Journal, December 2014

2014 McGuireWoods	Richmond, VA	291	\$725.00	\$450.00	\$595.00	\$525.00	\$265.00	\$360.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 McKenna Long & Aldridge	Atlanta, GA	519	\$850.00	\$480.00	\$530.00	\$425.00	\$375.00	\$395.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Michael, Best & Friedrich	Milwaukee, WI	189	\$690.00	\$235.00	\$445.00	\$425.00	\$200.00	\$283.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Miles & Stockbridge	Baltimore, MD	276	\$740.00	\$340.00	\$478.00	\$425.00	\$230.00	\$790.00	\$419.00	\$225.00	\$695.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Moore & Van Allen	Charlotte, NC	274	\$870.00	\$315.00	\$490.00	\$450.00	\$190.00	\$280.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Morgan, Lewis & Bockius	Philadelphia, PA	1363	\$765.00	\$430.00	\$620.00	\$685.00	\$270.00	\$390.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Morris, Manning & Martin	Atlanta, GA	146	\$675.00	\$400.00	\$490.00							National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Morrison & Foerster	San Francisco, CA	1020	\$1195.00	\$585.00	\$865.00	\$725.00	\$230.00	\$525.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Nelson Mullins	Columbia, SC	466	\$800.00	\$250.00	\$444.00	\$395.00	\$215.00	\$271.00	\$376.00	\$152.00	\$600.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Nixon Peabody	Boston, MA	584	\$650.00	\$285.00	\$520.00	\$650.00	\$180.00	\$300.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

2014 Norris McLaughlin & Marcus	Bridgewater, NJ	128	\$505.00	\$485.00	\$495.00	\$365.00	\$185.00	\$275.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Norton Rose Fulbright	Houston, TX	3537	\$900.00	\$825.00	\$775.00	\$515.00	\$300.00	\$400.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Nossaman	Los Angeles, CA	148	\$800.00	\$370.00	\$579.00	\$490.00	\$255.00	\$340.00	\$495.00	\$440.00	\$550.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Nutter McClennen & Fish	Boston, MA	146	\$715.00	\$470.00	\$575.00	\$460.00	\$295.00	\$375.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Ogletree Deakins	Atlanta, GA	608	\$850.00	\$250.00	\$360.00	\$595.00	\$200.00	\$260.00	\$315.00	\$230.00	\$555.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 O'Melveny & Myers	Los Angeles, CA	721	\$850.00	\$515.00	\$715.00							National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Orrick Herrington & Sutcliffe	New York, NY	954	\$1095.00	\$715.00	\$845.00	\$575.00	\$710.00	\$560.00	\$735.00	\$695.00	\$950.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Parker Poe Adams & Bernstein	Charlotte, NC	185	\$500.00	\$425.00	\$450.00							National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Paul Hastings	New York, NY	839	\$900.00	\$750.00	\$815.00	\$755.00	\$335.00	\$540.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Paul, Weiss, Rifkind, Wharton & Garrison	New York, NY	854	\$1120.00	\$760.00	\$1040.00	\$735.00	\$595.00	\$675.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

2014 Pepper Hamilton	Philadelphia, PA	510	\$900.00	\$466.00	\$645.00	\$525.00	\$280.00	\$390.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Perkins Cole	Seattle, WA	651	\$1,020.00	\$330.00	\$615.00	\$510.00	\$215.00	\$426.00	\$635.00	\$280.00	\$800.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Pillsbury Winthrop Shaw Pittman	Washington, DC	591	\$1,070.00	\$615.00	\$865.00	\$360.00	\$375.00	\$520.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Polsinelli	Kansas City, MO	819	\$775.00	\$325.00	\$435.00	\$350.00	\$235.00	\$279.00	\$376.00	\$300.00	\$450.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Proskauer Rose	New York, NY	712	\$950.00	\$725.00	\$880.00	\$675.00	\$295.00	\$465.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Quarles & Brady	Milwaukee, WI	422	\$625.00	\$425.00	\$519.00	\$500.00	\$210.00	\$335.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Quinn Emanuel Urquhart & Sullivan	New York, NY	673	\$1,075.00	\$810.00	\$915.00	\$575.00	\$320.00	\$410.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Reed Smith	Pittsburgh, PA	1555	\$690.00	\$605.00	\$737.00	\$630.00	\$295.00	\$470.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Richards, Layton & Finger	Wilmington, DE	124	\$800.00	\$600.00	\$678.00	\$465.00	\$350.00	\$414.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Riker Danzig Scherer Hyland & Fierman	Monticello, NJ	146	\$495.00	\$430.00	\$455.00	\$295.00	\$210.00	\$250.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

2014 Robinson & Cole	Hamford, CT	201	\$100,000	\$295.00	\$500.00	\$445.00	\$215.00	\$300.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Rutan & Tuckner	Costa Mesa, CA	147	\$875.00	\$245.00	\$490.00	\$500.00	\$230.00	\$320.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Saul Ewing	Philadelphia, PA	249	\$875.00	\$375.00	\$445.00	\$590.00	\$225.00	\$344.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Schiff Hardin	Chicago, IL	317				\$415.00	\$250.00	\$353.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Sadigwick	San Francisco, CA	342	\$615.00	\$305.00	\$425.00	\$475.00	\$350.00	\$325.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Seward & Kissel	New York, NY	143	\$850.00	\$525.00	\$735.00	\$600.00	\$290.00	\$400.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Seyfarth Shaw	Chicago, IL	779	\$850.00	\$375.00	\$575.00	\$505.00	\$225.00	\$385.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Sheppard Mullin Richter & Hampton	Los Angeles, CA	549	\$875.00	\$490.00	\$665.00	\$532.00	\$275.00	\$415.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Shumaker Loop & Kendrick Toledo, OH		224	\$395.00	\$305.00	\$415.00	\$330.00	\$160.00	\$255.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Shuttles & Bowen	Miami, FL	230	\$680.00	\$250.00	\$430.00	\$345.00	\$195.00	\$265.00	National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

2014 Skadden, Arps, Slate, Meagher & Flom	New York, NY	1664	\$1150.00	\$845.00	\$1035.00	\$345.00	\$340.00	\$620.00			National Law Journal December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Snell & Wainner	Phoenix, AZ	411	\$845.00	\$325.00	\$325.00	\$470.00	\$180.00	\$280.00			National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Spilman Thomas & Battle	Charleston, WV	131						\$280.00	\$215.00	\$320.00	National Law Journal December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Squire Patton Boggs			\$950.00	\$350.00	\$655.00	\$530.00	\$250.00	\$350.00			National Law Journal, December 2014	Location data not available due to merger in 2014. Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Stenslie, Kessler, Goldstein & Fox	Washington, DC	122	\$795.00	\$450.00	\$577.50	\$470.00	\$255.00	\$545.00	\$453.57	\$470.00	National Law Journal December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Stevens & Lee	Reading, PA	134	\$500.00	\$525.00	\$525.00						National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Street Rives	Portland, OR	305	\$800.00	\$700.00	\$492.00	\$455.00	\$205.00	\$287.00	\$512.00	\$280.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Strasburger & Price	Dallas, TX	217	\$590.00	\$290.00	\$435.00	\$365.00	\$210.00	\$270.00	\$475.00	\$300.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report
2014 Strock & Strock & Lavan	New York, NY	285	\$1125.00	\$675.00	\$950.00	\$840.00	\$380.00	\$649.00	\$519.00	\$145.00	National Law Journal December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

2014 Test Stettinius & Hollister	Cincinnati, OH	307	\$535.00	\$285.00	\$415.00	\$475.00	\$200.00	\$285.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report.
2014 Thompson & Knight	Dallas, TX	290	\$740.00	\$425.00	\$535.00	\$610.00	\$240.00	\$370.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report.
2014 Thompson Coburn	St. Louis, MO	317	\$510.00	\$330.00	\$460.00	\$550.00	\$220.00	\$270.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report.
2014 Troutman Sanders	Atlanta, GA	567	\$875.00	\$400.00	\$620.00	\$570.00	\$245.00	\$340.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report.
2014 Ulmer & Berne	Cleveland, OH	178	\$415.00	\$315.00	\$380.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report.
2014 Vaccaro	Grand Rapids, MI	133	\$465.00	\$230.00	\$390.00				National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report.
2014 Venable	Washington, DC	633	\$1075.00	\$470.00	\$680.00	\$575.00	\$295.00	\$430.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report.
2014 Vinson & Elkins	Houston, TX	850	\$770.00	\$475.00	\$600.00	\$665.00	\$275.00	\$390.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report.
2014 Waller Lansden Dortch & Davis	Nashville, TN	78	\$800.00	\$350.00	\$450.00	\$335.00	\$190.00	\$245.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report.
2014 Weil, Gotshal & Manges	New York, NY	1157	\$1075.00	\$625.00	\$930.00	\$790.00	\$300.00	\$600.00	National Law Journal, December 2014	Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report.

2014 White & Case	New York, NY	1885	\$1050.00	\$700.00	\$875.00	\$1050.00	\$220.00	\$525.00
2014 Wiley Rein	Washington, DC	277	\$850.00	\$550.00	\$665.00	\$535.00	\$320.00	\$445.00
2014 Williams Mullen	Richmond, VA	253	\$410.00	\$380.00	\$385.00	\$350.00	\$280.00	\$255.00
2014 Wildlife Farm & Gallagher	New York, NY	525	\$1080.00	\$790.00	\$550.00	\$780.00	\$353.00	\$560.00
2014 Wilmer Cutler Pickering Hale and Dorr	Washington, DC	588	\$1250.00	\$735.00	\$905.00	\$695.00	\$75.00	\$280.00
2014 Winston & Strawn	Chicago, IL	822	\$995.00	\$650.00	\$800.00	\$580.00	\$425.00	\$522.00
2014 Wolff & Samson	West Orange, NJ	125	\$450.00	\$375.00	\$400.00	\$450.00	\$225.00	\$340.00
2014 Workle Carlyle Sandridge & Rice	Winston-Salem, NC	492	\$540.00	\$470.00	\$554.00			
2014 Wyatt Tarrant & Combs	Louisville, KY	202	\$520.00	\$280.00	\$418.00			

National Law Journal, December 2014 Full-time equivalent (FTE) attorneys at the firm and the city of the firm's largest U.S. office as listed in the 2014 NLJ 350 report

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EXHIBIT C

\$1,000 Per Hour Isn't Rare Anymore; Nominal billing levels rise, but discounts ease blow.

The National Law Journal

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**THE NATIONAL
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Byline: KAREN SLOAN

Body

As recently as five years ago, law partners charging \$1,000 an hour were outliers. Today, four-figure hourly rates for in-demand partners at the most prestigious firms don't raise eyebrows and a few top earners are closing in on \$2,000 an hour.

These rate increases come despite hand-wringing over price pressures from clients amid a tough economy. But overriding standard billing rates also obscure the growing practice of discounts, falling collection rates, and slow march toward alternative fee arrangements.

Nearly 20 percent of the firms included in The National Law Journal's annual survey of large law firm billing rates this year had at least one partner charging more than \$1,000 an hour. Gibson, Dunn & Crutcher partner Theodore Olson had the highest rate recorded in our survey, billing \$1,800 per hour while representing mobile satellite service provider LightSquared Inc. in Chapter 11 proceedings.

Of course, few law firm partners claim Olson's star power. His rate in that case is nearly the twice the \$980 per hour average charged by Gibson Dunn partners and three times the average \$604 hourly rate among partners at NLI 350 firms. Gibson Dunn chairman and managing partner Ken Doran said Olson's rate is "substantially" above that of other partners at the firm, and that the firm's standard rates are in line with its peers.

"While the majority of Ted Olson's work is done under alternative billing arrangements, his hourly rate reflects his stature in the legal community, the high demand for his services and the unique value that he offers to clients given his extraordinary experience as a former solicitor general of the United States who has argued more than 60 cases before the U.S. Supreme Court and has counseled several presidents," Doran said.

In reviewing billing data this year, we took a new approach, asking each firm on the NLI 350—our survey of the nation's 350 largest firms by attorney headcount—to provide their highest, lowest and average billing rates for associates and partners. We supplemented those data through public records. All together, this year's survey includes information for 159 of the country's largest law firms and reflects billing rates as of October.

The figures show that, even in a down economy, hiring a large law firm remains a pricey prospect. The median among the highest partner billing rates reported at each firm is \$775 an hour, while the median low partner rate is \$405. For associates, the median high stands at \$510 and the low at \$235. The average associate rate is \$370.

Multiple industry studies show that law firm billing rates continued to climb during 2013 despite efforts by corporate counsel to rein them in. TyMetrix's 2013 Real Rate Report Snapshot found that the average law firm billing rate increased by 4.8 percent compared with 2012. Similarly, the Center for the Study of the Legal Profession at the Georgetown University Law Center and Thomson Reuters Peer Monitor found that law firms increased their rates by an average 3.5 percent during 2013.

Richard Pearl

\$1,000 Per Hour Isn't Rare Anymore; Nominal billing levels rise, but discounts ease blow.

Of course, rates charged by firms on paper don't necessarily reflect what clients actually pay. Billing realization rates—which reflect the percentage of work billed at firms' standard rates—have fallen from 89 percent in 2010 to nearly 87 percent in 2013 on average, according to the Georgetown study. When accounting for billed hours actually collected by firms, the realization rate falls to 83.5 percent.

"What this means, of course, is that—on average—law firms are collecting only 83.5 cents for every \$1.00 of standard time they record," the Georgetown report reads. "To understand the full impact, one need only consider that at the end of 2007, the collected realization rate was at the 92 percent level."

In other words, law firms set rates with the understanding that they aren't likely to collect the full amount, said Mark Medico, who oversees the Peer Monitor Index. That index gauges the strength of the legal market according to economic indicators including demand for legal services, productivity, rates and expenses. "Firms start out with the idea of, 'I want to achieve a certain rate, but it's likely that my client will ask for discounts whether or not I increase my rate,'" Medico said.

Indeed, firms bill nearly all hourly work at discounts ranging from 5 percent to 20 percent off standard rates, said Peter Zeughauser, a consultant with the Zeughauser Group. Discounts can run as high as 50 percent for matters billed under a hybrid system, wherein a law firm can earn a premium for keeping costs under a set level or for obtaining a certain outcome, he added. "Most firms have gone to a two-tier system, with what is essentially an aspirational rate that they occasionally get and a lower rate that they actually budget for," he said.

Most of the discounting happens at the front end, when firms and clients negotiate rates, Medico said. But additional discounting happens at the billing and collections stages. Handling alternative fee arrangements and discounts has become so complex that more than half of the law firms on the Am Law 100-NLJ affiliate The American Lawyer's ranking of firms by gross revenue have created new positions for pricing directors, Zeughauser said.

THE ROLE OF GEOGRAPHY

Unsurprisingly, rates vary by location. Firms with their largest office in New York had the highest average partner and associate billing rates, at \$882 and \$520, respectively. Similarly, TyMcGirt has reported that more than 25 percent of partners at large New York firms charge \$1,000 per hour or more for contracts and commercial work.

Washington was the next priciest city on our survey, with partners charging an average \$748 and associates \$429. Partners charge an average \$691 in Chicago and associates \$427. In Los Angeles, partners charge an average \$653 while the average associate rate is \$401.

Pricing also depends heavily on practice area, Zeughauser and Medico said. But-the-company patent litigation and white-collar litigation largely remain at premium prices, while practices including labor and employment have come under huge pressure to reduce prices.

"If there was a way for law firms to hold rates, they would do it. They recognize how sensitive clients are to price increases," Zeughauser said. But declining profit margins—due in part to higher technology costs and the expensive lateral hiring market—mean that firms simply lack the option to keep rates flat, he said.

BILLING SURVEY METHODOLOGY

The National Law Journal's survey of billing rates of the largest U.S. law firms provides the high, low and average rates for partners and associates.

The NLJ asked respondents to its annual survey of the nation's largest law firms (the NLJ 350) to provide a range of hourly billing rates for partners and associates as of October 2013.

For firms that did not supply data to us, in many cases we were able to supplement billing-rate data derived from public records.

In total, we have rates for 159 of the nation's 350 largest firms.

Richard Pearl

\$1,000 Per Hour Isn't Rare Anymore: Nominal billing levels rise, but discounts ease blow.

Rates data include averages, highs and low rates for partners and associates. Information also includes the average full-time equivalent (FTE) attorneys at the firm and the city of the firm's principal or largest office.

We used these data to calculate averages for the nation as a whole and for selected cities.

Billing Rates at the Country's Priciest Law Firms

Here are the 50 firms that charge the highest average hourly rates for partners.

Billing Rates at the Country's Priciest Law Firms

FIRM NAME		LARGEST U.S. OFFICE* FULL-TIME EQUIVALENT ATTORNEYS	PARTNER ASSOCIATE		HOURLY HOURLY			
			RATES	RATES	RATES	RATES		
			AVERAGE	HIGH	LOW	AVERAGE	HIGH	LOW
* Full-time equivalent attorney numbers and the largest U.S. office are from the NLF 350 published in April 2013. For complete numbers, please see NLF.com .								
** Firm did not exist in this form for the entire year.								
Debevoise & Plimpton	New York	615	\$1,055	\$1,075	\$955	\$490	\$760	\$120
Paul, Weiss, Rifkind, Wharton & Garrison	New York	803	\$1,040	\$1,120	\$760	\$600	\$760	\$250
Skadden, Arps, Slate, Meagher & Flom	New York	1,735	\$1,035	\$1,150	\$845	\$620	\$845	\$340
Feind, Frank, Harris, Shriver & Jacobson	New York	426	\$1,300	\$1,100	\$930	\$595	\$760	\$375
Latham & Watkins	New York	2,033	\$990	\$1,110	\$895	\$605	\$725	\$465
Gibson, Dunn & Crutcher	New York	1,086	\$980	\$1,800	\$765	\$590	\$930	\$175
Davis Polk & Wardwell	New York	787	\$975	\$985	\$850	\$615	\$975	\$130
Witkin Parr & Gallagher	New York	540	\$950	\$1,090	\$790	\$580	\$790	\$390
Cadwalader, Wickersham & Taft	New York	435	\$930	\$1,050	\$800	\$605	\$750	\$395
Well, Gotshal & Manges	New York	1,201	\$930	\$1,025	\$625	\$600	\$790	\$300
Quinn Emanuel Urquhart & Sullivan	New York	697	\$915	\$1,075	\$810	\$410	\$675	\$320
Wilmer Cutler Pickering Hale and Derr	Washington	961	\$905	\$1,250	\$725	\$290	\$695	\$75
Dechert	New York	803	\$900	\$1,095	\$670	\$530	\$735	\$395
Andrews Kurth	Houston	348	\$890	\$1,090	\$745	\$528	\$785	\$265
Rugles Hubbard & Reed	New York	544	\$890	\$995	\$725	\$555	\$675	\$365
Leidl & Mancella	Los Angeles	164	\$890	\$975	\$800	\$535	\$750	\$395
Proskauer Rose	New York	746	\$880	\$950	\$725	\$465	\$675	\$295
White & Case	New York	1,900	\$875	\$1,050	\$700	\$525	\$1,050	\$220

Richard Pearl

\$1,000 Per Hour Isn't Rare Anymore; Nominal billing levels rise, but discounts ease blow.

FIRM NAME		LARGEST U.S. OFFICE*	AVERAGE FULL-TIME EQUIVALENT ATTORNEYS*	PARTNER ASSOCIATE HOURLY HOURLY RATES RATES		AVERAGE HIGH LOW AVERAGE HIGH LOW			
Morrison & Pomeroy	San Francisco	1,010		\$865	\$1,195	\$395	\$125	\$225	\$230
Pillsbury Winthrop Shaw Pittman	Washington	609		\$865	\$1,070	\$615	\$520	\$850	\$375
Kaye Scholer	New York	414		\$860	\$1,080	\$715	\$310	\$680	\$320
Kramer Levin	New York	320		\$845	\$1,025	\$740	\$390	\$750	\$400
Nathans & Frankel	Washington	2,280		\$835	\$1,000	\$705	-	-	-
Hogan Lovells	New York	365		\$835	\$1,195	\$600	\$340	\$625	\$200
Kasowitz, Benson, Torres & Friedman	Chicago	1,517		\$825	\$995	\$590	\$340	\$715	\$235
Kirkland & Ellis	Palo Alto	632		\$820	\$990	\$660	\$325	\$690	\$160
Cooley	Washington	748		\$815	\$950	\$670	\$300	\$610	\$345
Arnold & Porter	New York	899		\$815	\$900	\$750	\$540	\$755	\$335
Paul Hastings	New York	322		\$800	\$860	\$730	\$480	\$785	\$345
Cornis, Mallet-Prevost, Colt & Mosle	Chicago	842		\$800	\$995	\$630	\$520	\$590	\$425
Winston & Strawn	Boston	900		\$795	\$1,080	\$220	\$450	\$605	\$185
Bingham McCutchen	Washington	806		\$785	\$1,230	\$615	\$525	\$660	\$365
Akin Gump Strauss Hauer & Feld	Washington	738		\$780	\$890	\$605	\$415	\$565	\$320
Covington & Burling	Atlanta	838		\$775	\$995	\$545	\$460	\$735	\$125
King & Spalding	N/A**	N/A**		\$775	\$900	\$525	\$400	\$515	\$300
Norton Rose	New York	4,096		\$765	\$1,025	\$450	\$310	\$750	\$250
Fulbright DLA Piper	Houston	432		\$760	\$1,125	\$575	\$440	\$700	\$275
Bracewell & Gilchrist	Chicago	4,004		\$755	\$1,130	\$260	\$395	\$925	\$100
Baker & McKenzie	Washington	608		\$750	\$1,250	\$590	\$475	\$585	\$310
Dickstein Shapiro	Chicago	432		\$745	\$925	\$560	\$465	\$550	\$380
Jones & Block	New York	2,363		\$745	\$975	\$445	\$435	\$775	\$205
Jones Day	Los Angeles	325		\$740	\$795	\$640	-	-	-
Mann, Phelps & Phillips	Los Angeles	152		\$735	\$850	\$625	\$400	\$600	\$290
Seward & Kissel	Los Angeles	738		\$715	\$950	\$615	-	-	-
O'Malley & Myers	Chicago	1,024		\$710	\$835	\$525	-	-	-
McDermott Will & Emery	Pittsburgh	1,468		\$710	\$945	\$545	\$420	\$530	\$295
Reed Smith	N/A**	N/A**		\$700	\$1,090	\$345	\$425	\$685	\$210
Denton	Los Angeles	126		\$690	\$875	\$500	-	-	-
Jettie Mangels	Los Angeles	521		\$685	\$875	\$480	\$415	\$535	\$275
Buller & Mitchell									
Sheppard, Mullin,									

Richard Pearl

\$1,000 Per Hour Isn't Rare Anymore; Nominal billing levels rise, but discounts ease blow.

FIRM NAME	LARGEST U.S. OFFICE	AVERAGE FULL-TIME EQUIVALENT ATTORNEYS	PARTNER/ASSOCIATE HOURLY RATES			
			AVERAGE	HIGH	LOW	AVERAGE
Richter & Hampton	Los Angeles					
Alston & Bird	Atlanta	805	\$675	\$875	\$495	\$425

THE FOUR-FIGURE CLUB

These 10 firms posted the highest partner billing rates.

Gibson, Dunn & Crutcher	\$1,800
Dickstein Shapiro	\$1,250
Wilmer Cutler Pickering Hale and Dorr	\$1,250
Akin Gump Strauss Hauer & Fied	\$1,220
Kasowitz, Benson, Torres & Friedman	\$1,195
Morrison & Poterba	\$1,195
Stradden, Arpa, Slate, Mencher & Flom	\$1,150
Baker & McKenzie	\$1,130
Bracewell & Giuliani	\$1,125
Paul, Weiss, Kinfied, Wharton & Garrison	\$1,120

THE FOUR-FIGURE CLUB

Contact Karen Sloan at ksloan@aim.com

Classification

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SATELLITE TECHNOLOGY (67%); SUPREME COURTS (63%)

Company: GIBSON DUNN & CRUTCHER LLP (93%); LIGHTSQUARED INC (83%)

Industry: NAICS341110 OFFICES OF LAWYERS (93%); SIC8110 LEGAL SERVICES (93%); NAICS517410 SATELLITE TELECOMMUNICATIONS (83%); NAICS334220 RADIO & TELEVISION BROADCASTING & WIRELESS COMMUNICATIONS EQUIPMENT MANUFACTURING (83%)

Geographic: UNITED STATES (92%)

Load-Date: January 13, 2014

Richard Pearl

EXHIBIT D



CEB

WHAT THE BEST COMPANIES DO

by Tyndrix

Legal Analytics

Section I: High-Level Data Cuts (Continued)

City	Role	n	2012 Real Rate			2011 Real Rate		
			First Quartile	Median	Third Quartile	2012 Mean	2011 Mean	2010 Mean
Lexington, KY	Partner	29	\$275.00	\$300.00	\$370.50	\$371.30	\$328.05	\$328.58
	Associate	10	\$100.00	\$210.00	\$240.00	\$207.41	\$207.58	\$204.30
Little Rock, AR	Partner	28	\$225.00	\$250.00	\$305.00	\$265.23	\$251.73	\$242.89
	Associate	15	\$125.00	\$155.00	\$200.00	\$168.85	\$164.36	\$162.16
Los Angeles, CA	Partner	972	\$125.00	\$606.50	\$816.89	\$620.34	\$617.16	\$594.43
	Associate	1,339	\$241.59	\$395.00	\$531.63	\$412.57	\$407.13	\$399.47
Louisville, KY	Partner	55	\$290.00	\$345.00	\$385.85	\$338.66	\$322.98	\$319.83
	Associate	31	\$185.00	\$270.00	\$220.00	\$208.35	\$202.53	\$185.03
Madison, WI	Partner	15	\$390.00	\$410.00	\$490.00	\$441.82	\$382.87	\$383.77
	Associate	11	\$235.00	\$214.00	\$314.00	\$272.13	\$233.13	\$221.25
Manchester, NH	Partner	15	\$225.00	\$321.67	\$370.00	\$321.20	\$314.26	\$311.79
	Associate	11	\$177.47	\$160.00	\$240.00	\$178.86	\$220.59	\$247.01
Memphis, TN	Partner	41	\$250.00	\$302.07	\$350.00	\$298.18	\$296.06	\$296.62
	Associate	30	\$177.50	\$203.81	\$240.00	\$203.32	\$197.63	\$190.44
Miami, FL	Partner	296	\$264.66	\$381.82	\$500.00	\$365.20	\$389.78	\$390.74
	Associate	238	\$150.00	\$230.00	\$295.00	\$233.20	\$240.79	\$214.25
Milwaukee, WI	Partner	125	\$295.00	\$370.00	\$475.00	\$388.74	\$393.48	\$405.15
	Associate	80	\$210.00	\$211.00	\$264.00	\$252.51	\$245.54	\$237.80
Minneapolis, MN	Partner	260	\$300.00	\$380.00	\$490.82	\$401.01	\$404.33	\$371.13
	Associate	230	\$245.00	\$250.00	\$285.00	\$267.35	\$252.14	\$216.89
Montgomery, AL	Partner	12	\$245.00	\$265.00	\$315.00	\$276.67	\$270.00	\$254.00
	Associate	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Montreal, QC	Partner	107	\$352.56	\$431.18	\$549.21	\$459.57	\$424.98	\$402.24
	Associate	136	\$205.85	\$264.00	\$312.28	\$263.80	\$246.61	\$238.22
Nashville, TN	Partner	109	\$305.00	\$350.00	\$414.00	\$356.03	\$332.87	\$338.18
	Associate	89	\$191.80	\$216.16	\$270.00	\$218.54	\$202.00	\$201.72
New Haven, CT	Partner	19	\$275.00	\$340.30	\$390.00	\$335.91	\$364.79	\$348.02
	Associate	12	\$150.74	\$273.55	\$380.00	\$302.97	\$285.75	\$266.86
New Orleans, LA	Partner	116	\$225.91	\$285.67	\$340.63	\$281.62	\$275.45	\$275.24
	Associate	75	\$160.00	\$209.56	\$225.75	\$211.06	\$194.17	\$185.80
New York, NY	Partner	2,709	\$456.88	\$795.00	\$963.63	\$755.66	\$737.17	\$715.08
	Associate	1,045	\$186.96	\$486.00	\$666.61	\$401.22	\$465.86	\$443.19
Oklahoma City, OK	Partner	29	\$235.00	\$275.00	\$310.00	\$282.49	\$272.80	\$251.22
	Associate	23	\$150.00	\$180.00	\$200.00	\$182.79	\$183.45	\$174.90
Omaha, NE	Partner	43	\$264.75	\$320.00	\$339.99	\$301.48	\$272.54	\$272.03
	Associate	28	\$177.50	\$188.21	\$225.00	\$194.70	\$160.07	\$167.80
Orlando, FL	Partner	78	\$261.21	\$386.10	\$465.00	\$371.86	\$387.08	\$375.25
	Associate	68	\$165.00	\$225.00	\$232.85	\$216.91	\$235.53	\$227.14

Section I: High-Level Data Cuts (Continued)

City	Role	n	First Quartile	Median	Third Quartile	2012 Mean	2011 Mean	2010 Mean
Ottawa, ON	Partner	84	\$389.58	\$478.69	\$586.53	\$482.57	\$484.10	\$463.23
	Associate	126	\$198.00	\$257.84	\$322.77	\$204.79	\$252.57	\$221.74
Peoria, IL	Partner	8	\$218.16	\$250.00	\$250.00	\$234.51	\$237.50	\$226.36
	Associate	7	\$140.00	\$152.21	\$158.08	\$151.9	\$170.02	N/A
Philadelphia, PA	Partner	620	\$400.00	\$518.81	\$637.50	\$516.56	\$507.47	\$479.72
	Associate	847	\$250.00	\$300.00	\$379.65	\$257.99	\$303.51	\$204.15
Phoenix, AZ	Partner	110	\$293.00	\$355.73	\$416.07	\$356.24	\$355.46	\$333.23
	Associate	116	\$200.00	\$230.00	\$270.00	\$244.79	\$231.57	\$234.73
Pittsburgh, PA	Partner	115	\$320.36	\$475.00	\$532.65	\$450.88	\$427.03	\$429.49
	Associate	137	\$172.00	\$275.00	\$326.00	\$287.88	\$291.02	\$270.68
Portland, ME	Partner	23	\$180.00	\$190.00	\$300.00	\$237.98	\$236.27	\$245.81
	Associate	9	\$130.00	\$150.00	\$170.00	\$170.56	\$159.15	\$177.72
Portland, OR	Partner	134	\$320.00	\$364.06	\$415.08	\$368.49	\$353.65	\$339.51
	Associate	110	\$200.00	\$244.47	\$278.10	\$215.06	\$233.74	\$270.57
Poughkeepsie, NY	Partner	7	\$200.00	\$225.00	\$250.00	\$229.29	\$234.29	\$253.16
	Associate	7	\$165.00	\$170.00	\$190.00	\$176.43	\$170.10	N/A
Providence, RI	Partner	23	\$184.39	\$303.01	\$463.50	\$335.50	\$370.51	\$334.51
	Associate	15	\$165.00	\$225.00	\$300.00	\$222.8-	\$225.68	\$215.04
Raleigh, NC	Partner	76	\$299.51	\$330.00	\$408.91	\$372.96	\$324.49	\$318.51
	Associate	57	\$185.00	\$230.00	\$280.78	\$213.36	\$217.03	\$123.74
Reno, NV	Partner	26	\$232.51	\$360.00	\$420.00	\$350.98	\$349.26	\$327.22
	Associate	12	\$184.98	\$217.00	\$262.01	\$211.25	\$208.16	\$166.28
Richmond, VA	Partner	119	\$350.00	\$472.50	\$585.00	\$472.34	\$459.87	\$423.81
	Associate	114	\$210.00	\$273.93	\$339.87	\$205.77	\$291.75	\$262.64
Rochester, NY	Partner	32	\$259.92	\$287.50	\$370.00	\$317.79	\$322.18	\$327.42
	Associate	33	\$185.00	\$215.00	\$250.00	\$212.28	\$221.54	\$209.35
Sacramento, CA	Partner	35	\$285.00	\$375.00	\$485.00	\$413.34	\$410.19	\$354.77
	Associate	43	\$230.00	\$275.00	\$350.00	\$300.14	\$307.89	\$257.30
Salt Lake City, UT	Partner	88	\$270.00	\$316.92	\$375.00	\$319.65	\$326.54	\$330.82
	Associate	85	\$175.00	\$222.00	\$285.00	\$286.78	\$246.34	\$235.02
San Antonio, TX	Partner	13	\$250.00	\$300.00	\$382.50	\$347.48	\$333.28	\$293.09
	Associate	14	\$210.00	\$250.00	\$285.00	\$243.17	\$265.18	\$230.62
San Diego, CA	Partner	91	\$400.00	\$425.00	\$600.00	\$443.69	\$434.89	\$425.78
	Associate	123	\$175.00	\$240.00	\$330.00	\$278.50	\$262.08	\$290.28
San Francisco, CA	Partner	735	\$500.00	\$668.46	\$800.00	\$651.33	\$630.65	\$600.43
	Associate	723	\$310.50	\$418.89	\$525.00	\$424.55	\$400.97	\$388.96
San Jose, CA	Partner	156	\$453.00	\$655.45	\$805.49	\$634.88	\$631.36	\$650.51
	Associate	710	\$328.57	\$415.00	\$523.07	\$479.44	\$410.13	\$393.55
San Juan, PR	Partner	57	\$180.14	\$225.00	\$275.00	\$226.85	\$233.69	\$234.11
	Associate	14	\$134.94	\$142.02	\$164.34	\$149.64	\$146.97	\$139.06

EXHIBIT E

U.S. EDITION Tuesday, April 9, 2013 At 4:42 PM EDT

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On Sale: The \$1,150-Per-Hour Lawyer

Lawyer Fees Keep Growing, But Don't Believe Them. Clients Are Demanding, and Getting, Discounts

Article Video Stock Quotes Comments (30)

More in Law

By JENNIFER BENTH

Top partners at leading U.S. law firms are charging more than ever before, yet those hourly rates aren't all they appear to be.



Top partners at leading U.S. law firms are charging more than ever — routinely \$1,150 or more an hour — but offer discounts and write-offs for cost-cutting clients, according to a new analysis by Proton City Analytics.

Having blown past the once-shaping price tag of \$1,000 an hour, some sought-after deal, tax and litigator lawyers are commanding hourly fees of \$1,150 or more, according to an analysis of billing rates compiled from public filings.

But, as law firms boost their standard rates, many are softening the blow with widespread discounts and write-offs, meaning fewer clients are paying full freight. As a result, law firms on

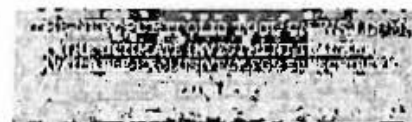
average are actually collecting fewer cents on the dollar, compared with their standard, or "rack," rates, than they have in years.

Think of hourly fees "as the equivalent of a sticker on the car at a dealership," said legal consultant Ward Bower, a principal at Altman Weil Inc. "It's the beginning of a negotiation....Law firms think they are setting the rates, but clients are the ones determining what they're going to pay."



the firm's database, which is that law in the first quarter of 2013, up from 168 a year earlier.

Star lawyers still can fetch a premium, and some of them won't budge on price. The number of partners billing \$1,150-plus an hour has more than doubled since this time last year, according to Vero Partners, a consulting firm that maintains a database of legal rates pulled from court filings and other publicly disclosed information. More than 520 lawyers in



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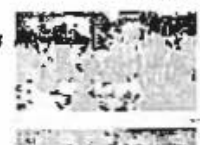


More in Law

China's Baby-Milk Issues Have Answer

Popular Now

1 Where Job Growth Is Coming



That plied circle includes tax experts such as Christopher Roman of King & Spalding LLP and Todd Meynes of Kirkland & Ellis LLP, intellectual-property partner Nader A. Mousavi of Sullivan & Cromwell LLP, and deal lawyers such as Kenneth M. Schneider of Paul, Weiss, Rifkind, Wharton & Garrison LLP.

These lawyers and their firms either declined to comment or didn't reply to requests for comment.

When corporate legal departments need a trusted hand to fend off a hostile takeover or win a critical court battle, few general counsels will nitpick over whether a key lawyer is charging \$800 an hour or \$1,150 an hour. But for legal matters where their future hangs on the line, companies are pushing for—and winning—significant price breaks.

"We almost always negotiate rates down from the rack rates," said Randal S. Mich, general counsel for phone giant Verizon Communications Inc. (VZ+0.39%). The result, he said, is a "not-insignificant discount."

For the bread-and-butter work that many big law firms rely on, haggling has become the norm. Many clients grew accustomed to pushing back on price during the recession and continue to demand discounts.

Some companies insist on budgets for their legal work. If a firm billing by the hour exceeds a set cap, lawyers may have to write off some of that time.

Other clients refuse to work with firms who don't discount, lopping anywhere from 10% to 30% off their standard rates. Some may grant rate increases to individual partners or associates they deem worthy. Another tactic: locking in prices with tailored multiyear agreements with formulas governing whether clients grant or refuse a requested rate increase.

In practical terms, that means the gap between law firms' sticker prices and the amount of money they actually bill and collect from their clients is wider than it has been in years.

According to data collected by Thomson Reuters Peer Monitor, big law firms raised their average standard rate by about 9.3% over the past three years. But they weren't able to keep up on the collection side, where the increase over the same period was just 6%. Firms that used to collect on average about 82 cents for every dollar of standard time their lawyers worked in 2007, before the economic downturn, now are getting less than 85 cents. "That's a historic low," said James Jones, a senior fellow at the Center for the Study of the Legal Profession at Georgetown Law.

To be sure, things have certainly picked up some since the recession, when some clients flat-out refused to pay rate increases.

In the first quarter of 2013, the 50 top-grossing U.S. law firms boosted their partner rates by as much as 6.7%, billing on average between \$879 and \$882 an hour, according to Value Partners. Rates for junior lawyers, whose labors have long been a profit engine for major law firms, jumped even more.

While some clients resisted using associate lawyers during the downturn, refusing to pay hundreds of dollars an hour for inexperienced first- or second-year attorneys, the largest U.S. law firms have managed to bend the needle back up again. This year, for the first time, the average rate for associates with one to four years of experience rose to \$508 an hour, according to Value.

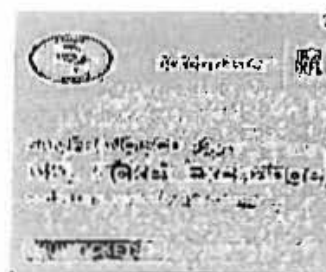
The increases continue the upward trend of 2012, when legal fees in general rose 4.8% and associate billing rates rose by 7.4%, according to a coming report by Tykett Legal Analytics, a unit of Wolters Kluwer (WOL+0.35%) and CEB, a research and advisory-services company. Those numbers are based on legal-spending data from more than 17,000 law firms.

2 Steps to Better Root Health

3 Opinion: The Power of US

4 Shooting Suspect Had Record of Gun Use

5 Jetpacks Are Coming—From New Zealand

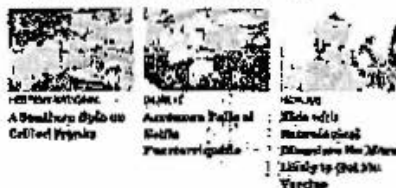


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More than a dozen leaders at major law firms declined to discuss rate increases on the record, though some said privately that the increase in associate rates could be caused in part by step increases as junior lawyers gain in seniority.

Jon Sims, an antitrust partner at Jones Day and former member of the firm's partnership committee, said clients don't mind paying for associates, as long as they feel they are getting their money's worth.

Sophisticated clients, he said, tend to focus on the overall price tag for legal work, not on individual rates. "They are more concerned about how many people are working on the project and the total cost of the project," Mr. Sims said. "Clients want value no matter who is on the job."

While a handful of elite lawyers have successfully staked out the high end—the deal teams at Wechsler, Lipton, Rosen & Katz, for example—legal experts say that client pressure to control legal spending means most law firms must be considerably more flexible on price.

"There will always be some 'let the company' problem where a client will not quibble about rates," said Mr. Jones, the Georgetown fellow. "Unfortunately, from the law firm's standpoint, that represents a small percentage of the work."

Write to Jennifer Smith at jennifer.smith@wsj.com

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Exhibit F

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Attorneys for Plaintiffs

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

DAT CHAU and DALE HILDEBRAND,
individually, and on behalf of all others similarly
situated, and GABE S. TONG, individually;

Plaintiffs,

v.

CVS RX SERVICES, INC.; and
DOES 1 through 50, inclusive;

Defendants.

Case No.: BC349224

**ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT, REASONABLE
ATTORNEYS' FEES AND COSTS AND
SERVICE PAYMENTS TO THE CLASS
REPRESENTATIVES**

Date: September 19, 2008

Time: 1:30 P.M.

Place: Dept. 307

The Honorable William F. Highberger

[COMPLEX CASE; CLASS ACTION]

[PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT, REASONABLE ATTORNEYS' FEES
AND COSTS AND SERVICE PAYMENTS TO THE CLASS REPRESENTATIVES
CHAU ET AL., V. CVS RX SERVICES, INC., ET AL., CASE NO. BC349224

0549

1 **ORDER**

2 This Court, having considered the Motion of Plaintiffs Dat Chau and Dale Hildebrand
3 ("Plaintiffs") for Final Approval of Class Action Settlement and the papers submitted in support
4 of the Motion, and having heard oral argument of the parties, and in recognition of the Court's
5 duty to make a determination as to the reasonableness of any proposed class action settlement,
6 and to conduct a hearing as to good faith, fairness, adequacy, and reasonableness of any proposed
7 settlement, HEREBY ORDERS as follows:

8 **I. Background**

9 On March 17, 2006, Gabe Tong, on behalf of himself and all others similarly situated, filed
10 this class action alleging various violations of the California Labor Code, including denial of meal
11 and rest periods, failure to pay wages for all hours worked, failure to pay overtime wages, failure
12 to provide itemized wage statements, waiting-time penalties, and violations of California Business
13 & Professions Code §§ 17200, *et seq.* Specifically, Plaintiffs allege that these violations are the
14 result of Defendant's failure to adequately staff its retail pharmacies. Plaintiffs allege that
15 Defendant maintains a policy that its pharmacies must remain open continuously and that at least
16 one pharmacist be on duty at all times, however, it only schedules one pharmacist per shift. As a
17 result, Pharmacists are unable to take the meal and rest periods to which they are legally entitled,
18 and are denied proper compensation for all hours worked. Defendant denies these allegations.

19 On January 22, 2008, this Court granted Plaintiffs Motion for Leave to Amend Complaint,
20 permitting Plaintiffs to add Dat Chau and Dale Hildebrand as Representative Plaintiffs.

21 Over a nine-month period, the parties engaged in discovery and three separate mediation
22 sessions. Notwithstanding their adversarial positions in this matter, Plaintiffs and CVS RX
23 Services, Inc. ("CVS" or "Defendant") have negotiated a settlement of this litigation. The terms
24 of the proposed settlement ("Settlement") are set forth in the proposed Stipulation and Settlement
25 Agreement of Class Action Claims ("Settlement Agreement").

26 //

27 //

28

1 **II. Definition of Settlement Class**

2 The parties have entered into the Settlement Agreement solely for the purposes of
3 compromising and settling their disputes in this matter. As part of the Settlement Agreement,
4 CVS has agreed not to oppose, for settlement purposes only, final certification of the following
5 settlement class:

6 All individuals who are currently employed, or formerly have been
7 employed, as Pharmacists at a CVS store in California, or at a stand-alone
8 Sav-On drugstore acquired by CVS, at any time between March 17, 2002
 and the Date of Preliminary Approval of Class Settlement

9 All members of the class allege the same claims and there are no subclasses.

10 **III. Final Approval of the Terms of the Settlement Agreement**

11 Except as otherwise specified herein, the Court for purposes of this Order adopts all defined
12 terms set forth in the Settlement Agreement, attached as Exhibit A to the March 10, 2008 order
13 granting preliminary approval.

14 The Court has reviewed the terms of the Settlement Agreement, and the parties' description
15 of the Settlement in the Motion papers. Based on that review, the Court concludes that the
16 Settlement is fair, reasonable, and adequate. Specifically, the proposed method of allocation is
17 equitable and will accurately reflect the meal and rest periods denied and the unpaid wages earned
18 by individual Class Members.

19 The Court has also read the declarations of Guy B. Wallace in support of final approval.
20 Based on review of these declarations, the Court concludes that the settlement was negotiated at
21 arm's length, in good faith, and was not collusive. The Court further finds that Class Counsel
22 were fully informed about the strengths and weaknesses of the Plaintiffs' case when they entered
23 into the Settlement Agreement.

24 Accordingly, the Court concludes that the settlement is fair, adequate, and reasonable in all
25 respects and confirms as final its approval of the terms of the Settlement Agreement.

26 **IV. Appointment of Class Representatives and Class Counsel**

27 The Court confirms as final the appointment of Dat Chau and Dale Hildebrand as class
28 representatives. The Court confirms as final the appointment of the law firm of Schneider

Wallace Cottrell Brayton Konecky LLP ("Schneider Wallace") as Class Counsel.

V. Final Approval of the Form and Manner of Class Notice and Claim Form

The Class Notice and Claim Form distributed to Class Members, pursuant to this Court's Order, constituted the best notice practical under the circumstances, was accomplished in all material respects, and fully met the requirements of procedural due process and California Rule of Court 3.766.

VI. Response of the Class

Virtually all of the 1,946 class members were eventually contacted (1,941 of 1,946). There are no longer any objectors and only seven opt-outs. About half the class submitted timely claims (938) and an additional 20 untimely claims are now in hand, which the Court allows. All late claims received by September 19, 2008, are approved if otherwise complete. Uncompleted forms should not be paid unless they are made substantially complete by October 5, 2008, upon notice to the claimant given by September 25, 2008 (date of first class mailing to claimant).

This is a common fund such that all claimants with completed forms will absorb the full settlement amount available after court-approved administrative, legal and incentive expenses have been first deducted. **The basic settlement in terms of payments to the class members is thus reasonable and approved. Class counsel and class representatives are approved. The notice and claim form is approved.**

a. Ms. Craya Caron

On June 12, 2008, settlement class member Craya Caron filed an objection to the proposed class action settlement. On August 29, 2008, Ms. Caron filed a Request for Leave to Withdraw Objection to the Proposed Final Settlement Agreement Re: Chau, et al. v. CVS RX Service Inc. Counsel for Plaintiffs and Defendant both represent to the Court that no consideration has been paid to former Objector Craya Caron beyond her participation in the claims process as a regular class member who has not opted out. **Ms. Caron's request to withdraw her objection is granted.**

//

1 **VII. Method of Allocation**

2 The Court finds that the plan of allocation is rationally related to the relative strengths and
3 weaknesses of the respective claims asserted. The mechanisms and procedures set forth in the
4 Settlement Agreement by which payments are to be calculated and made to class members filing
5 timely claims are fair, reasonable, and adequate and shall be made according to those allocations
6 and pursuant to the procedures set forth in the Settlement Agreement.

7 **VIII. Distribution from the Settlement Fund**

8 **a. Payments of Attorneys' Fees and Costs**

9 Plaintiff class counsel has now made a showing in support of a lodestar analysis of the
10 value of their services. The lodestar amount sought is \$1,243,980 with a request for an additional
11 \$75,000 for necessary future work to complete the settlement, in all its particulars, a total of
12 \$1,318,980. The senior lawyers seek \$600/hour (Mr. Schneider, Mr. Wallace and Mr. Falvey),
13 and other lawyers who helped seek \$550-350/hour depending on experience. The senior lawyers
14 appear to have been the largest time billers, which is acceptable as that tends to further efficient
15 litigation. These rates are consistent with the applicable legal market (insofar as hourly billing
16 services are provided by attorneys as opposed to "pure" contingency fee arrangements). If one
17 references the "common fund" alternative analysis, the requested fee of \$5,000,000 of the total
18 anticipated recovery of \$19,750,000 is 25.3% of the recovery, which is consistent with federal and
19 state court fee approvals in similar class actions, and lower than the commonly applicable
20 contingency fee agreements in the Southern California legal community.

21 While the Court has had to point out to senior plaintiff class counsel their repeated,
22 careless errors in their recent motion practice, the Court recognizes that on balance the services
23 provided by senior class counsel and their colleagues have been of great value in obtaining cash in
24 hand for a large plaintiff class in a field of law where the prospects of success continue to be very
25 uncertain. Cf. Brinker Restaurant v. Superior Court (2008) 165 Cal.App.4th 25, pet rev. pending.
26 The Court will therefore exercise its discretion to reduce the lodestar amount by only one percent
27 from \$1,318,980 down to \$1,305,790 to reflect the imperfections in the services provided by
28

1 plaintiff class counsel as against their desire for a full lodestar amount without adjustment for
2 inefficiencies, do-overs and carelessness.

3 The results obtained are such that a multiplier is fully warranted; the real question is how
4 much. The excellent results were obtained here with relative efficiency, and the Court is
5 experienced enough to know that a contested lawsuit is never the model of smooth efficiency
6 even when one side is trying to reduce cost and time invested. The Court believes that the
7 requested multiplier of 3.8 (which defendant agreed not to oppose, in terms of maximum potential
8 attorneys fees paid and which no class member is now objecting to) is justified on the unique facts
9 of this case when all considerations are evaluated. In particular, given the uncertainty of the law,
10 there is a contingency risk which is not reflected in the hourly rates approved above which rates
11 are now typical of rates paid without regard to actual success. The resulting fee award which
12 the Court will approve (apart from separately analyzed out-of-pocket costs) is \$4,962,002
13 (\$1,305,790 x 3.8).

14 Disbursements of \$75,720.60 are approved. Any future out-of-pocket expenses are to be
15 borne by class counsel in recognition of the larger than normal lodestar multiplier awarded to
16 them in the calculation of the attorney fee award.

17 **b. Payment to the California Labor and Workforce Development Agency**

18 The Court approves the payment of one percent of the settlement as Private Attorney
19 General Act penalties split between the class (25 percent = \$32,021.32) and the California Labor
20 and Workforce Development Agency (75 percent = \$96,063.97).

21 **c. Appointment of Claims Administrator**

22 The Court confirms the appointment of RG/2 Claims Administration, LLC as the settlement
23 Claims Administrator. The claims administration request for \$49,873.97 appears to be justified as
24 below the anticipated cost and reasonable for the necessary services provided and is thus
25 approved.

26 //

27 //

1 **d. Reserve Fund and Cy Pres**

2 The Court approves the withholding of \$250,000 from the total settlement fund to pay the
3 20 late claims received by the Claims Administrator. These claims amount to \$237,748.49, which
4 leaves a remainder of \$12,251.51. In lieu of any *cy pres* from the residual fund, the Court directs
5 that the claimants should be the beneficiaries of a pro rata distribution of any unanticipated
6 residual funds beyond those originally expected to be available to pay class member claims.

7 **e. Representative Plaintiffs' Service and Release Payments**

8 The supplemental showings by named plaintiffs Dat Chau and Dale Hildebrand in support
9 of their request for judicial approval of the agreed incentive payment of \$20,000 each are
10 persuasive, both as to the time invested and the inherent risks borne by bringing this successful
11 class action, and **this is approved.**

12 **IX. Entry of Final Judgment**

13 The Second Amended Complaint filed in this action and all claims contained therein are
14 dismissed in their entirety with prejudice as to all Class Members other than those who have filed
15 timely requests for exclusion (Minah Bang, Thomas Doung, Mary Hong, Echo Jablonski, Jim
16 Salamon, Silvana West, and Jamie Won).

17 By operation of the entry of this Order and the Final Judgment, all Released Claims are
18 fully, finally, and forever released, relinquished and discharged, pursuant to the terms of the
19 Settlement Agreement, as to all Class Members other than those listed above. The Court has
20 reviewed the release in the Settlement Agreement, which is incorporated in the Claim Form, and
21 the individual releases as to Plaintiffs Chau and Hildebrand, and finds that these releases are fair,
22 reasonable, and enforceable under California law and all other applicable law.

23 //

24 //

25 //

26 //

27 //

28

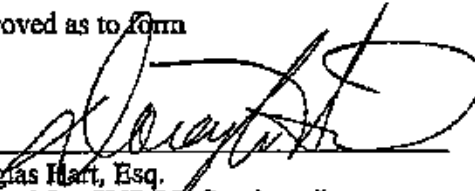
FAXED**X. Jurisdiction**

This Court retains jurisdiction over the subject matter of this litigation and all matters relating thereto, and over the Plaintiffs and Defendant, for purposes of enforcing the settlement agreement.

IT IS SO ORDERED.Dated: September 24, 2008

HON. WILLIAM F. HIGHBERGER
Judge of the Superior Court for Los Angeles County

Approved as to form



Douglas Hart, Esq.
Counsel for CVS RX Services, Inc.

1 **PROOF OF SERVICE**

2 **Chau, et al v. CVS, Case No. BC 349224**

3 I am employed in the County of San Francisco; I am over the age of eighteen years and
4 not a party to the within entitled action; my business address is 180 Montgomery Street, Suite
5 2000, San Francisco, CA 94104.

6 On September 23, 2008, I served the following document described as:

7 **[PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION**
8 **SETTLEMENT, REASONABLE ATTORNEYS' FEES AND COSTS AND SERVICE**
9 **PAYMENTS TO THE CLASS REPRESENTATIVES**

10 **BY U.S. MAIL:** I served the said document on the interested parties by placing true
11 copies thereof enclosed in sealed envelope, and deposited in the mail with the
12 postage thereon fully prepaid addressed as follows:

13 Douglas Hart
14 Sheppard, Mullin, Richter & Hampton LLP
15 333 South Hope Street, 48th Floor
16 Los Angeles, CA 90071-1448

17 Gabriel Tong
18 1201 South 2nd Avenue
19 Arcadia, CA 91006

20 Craya C. Caron
21 1200 Pacific Coast Hwy #421
22 Huntington Beach, CA 92648

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

28 I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct and that this Declaration is executed on September 23, 2008, at
San Francisco, California.


29 
30 _____
31 Cathy Vittoria

Exhibit G

0558

JA 159202

Sep 21, 2009 11:31 AM

David H. Yamasaki
Chief Executive Officer/Clerk
Superior Court of CA, County of Santa Clara
Case #1-02-CV-804474 Filing #G-18192
By R. Walker, Deputy

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

MARY THOMPSON, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

SANTA CLARA COUNTY OPEN SPACE
AUTHORITY, DOES 1-50, inclusive,

Defendants.

SILICON VALLEY TAXPAYERS ASSN.,
INC., HOWARD JARVIS TAXPAYERS
ASSN., ERIC and VIVIAN BRACHER,
THEODORE FELTON, MARY THOMPSON,
B.F. HENSCHKE, RICHARD ORLANDO,
individuals,

Plaintiffs,

vs.

SANTA CLARA COUNTY OPEN SPACE
AUTHORITY, DOES 1-50, inclusive,

Defendants.

Case No.: 1-02-CV-804474

[Consolidated with
1-03-CV-000705 and
1-07-CV-094261]

**ORDER RE FINAL APPROVAL OF
CLASS ACTION SETTLEMENT
AND FOR ATTORNEYS' FEES
AND LITIGATION EXPENSES**

Hearing Date: July 31, 2009
Time: 9:00 AM
Dept.: 17C (Complex Civil)

Judge: Hon. Jack Komar

1 The hearing on Plaintiffs' Motion for Final Approval of the Taxpayer and Class Action
2 Settlement and for Attorneys' Fees and Litigation Expenses came on regularly for hearing on
3 July 31, 2009 at 9:00 a.m. in Department 17C (Complex Civil Litigation), the Honorable Jack
4 Komar presiding. The appearances are as stated in the record. The Court, having read and
5 considered the supporting and opposing papers, and having heard and considered the arguments
6 of counsel, and good cause appearing therefore, makes the following order:

7
8 **ORDER**

9 The court grants the requests for judicial notice in their entirety. The relevance is to
10 demonstrate the history of this rather extensive litigation.

11
12 The court has reviewed the settlement agreement, considered the objections to the
13 settlement, and concludes that the settlement is fair and reasonable and should be approved in
14 the main.

15
16 The principal issue in this consolidated litigation, after the California Supreme Court
17 decision finding that the assessments in District Two violated the provisions of Proposition 218,
18 was the right of taxpayers who paid the assessment to receive a refund for the six year period
19 during which assessments were paid. As the parties negotiated to resolve that issue, the
20 questions involving assessments in District One became part of the negotiations. The settlement
21 in this matter resolves both issues for all class members, eliminating future litigation for the
22 Open Space Authority and the class members over those issues.

23
24 The court has received objections from approximately 30 class members to this
25 settlement. The objections, for the most part, express dissatisfaction with the fact that the
26 lawsuit was filed at all and would prefer that the Open Space Authority not have to repay
27 assessments and that it continue to make future assessments. Many of the objections also object
28

1 to the amount of attorneys' fees. The court will view one objector's suggestion that the
2 attorneys be *jailed* as frivolous and an example of free speech hyperbole.

3
4 The court does find the settlement and compromise of the issues in the case to be fair
5 and reasonable under the circumstances of the case and therefore approves the settlement.
6 Those objectors, and any others, who desire that the Open Space Authority retain their
7 assessments have the option of not requesting reimbursement. The objections of those who
8 object to the outcome of the litigation are overruled. The California Supreme Court decision is
9 the law of the case.

10
11 As an integral part of the settlement, the court certifies the class as all those who paid
12 the Open Space Authority's assessments during the class period. The court finds that the class is
13 ascertainable, the claims are typical among class members, common issues of fact and law
14 predominate, and there is a community of interest among the class members. There is value to a
15 class action. The court further finds that the class representative is adequate and competent and
16 has no interest antagonistic to the class members and that class counsel is adequate and
17 competent to represent the class and has competently and effectively done so.

18
19 As to the question of reasonable attorneys' fees and costs, the court finds that the
20 attorneys for the plaintiffs are entitled to reasonable fees and costs. This litigation was
21 significant and rather monumental. The consequences of the outcome extend well beyond Santa
22 Clara County. The decision of the Supreme Court is a binding interpretation of Proposition 218,
23 settling a much debated legal issue. Whether one favors the outcome of the litigation or not (and
24 it is certain that some members of the class would have desired that the suit not be filed), the
25 final decision did create certainty in the law of special assessments. There is a very clear public
26 benefit to having a binding interpretation of the law and it will doubtless save the citizens of this
27 state from significant future litigation and other costs far into the future apart from the benefit
28 that accrues to the class members.

1
2 The agreement of the defendant to pay attorneys' fees was negotiated by the parties as
3 part of the overall settlement of the lawsuit. The amount to be paid does not come out of the
4 settlement to be paid to the class members, all of whom will be reimbursed the full amount of the
5 assessments paid, albeit without interest since that was the negotiated settlement. Accordingly,
6 this is neither a common fund case nor a benefit to the class case, so far as the determination of
7 what fees should be paid to counsel.

8
9 Were it otherwise, the court would begin the inquiry by examining the lodestar
10 computation method in evaluating what is a reasonable attorneys' fees in this case. Counsel has
11 submitted billing records and the court has reviewed them. The Tanke firm shows a total lodestar
12 computation based upon its hourly rate structure of \$2,446,347.50. The Bittle and Copal firm
13 shows billings of \$151,775. The hourly rate of \$650 is at the very high end of acceptable billing
14 rates. However, based upon the extensive experience and quality of work of counsel, the court
15 finds the lodestar computation to be reasonable. Further, based upon the outcome, the contingent
16 nature of the litigation, and the benefit to the class and the public, the court finds that a multiplier
17 is warranted. Because the fees do not in any way diminish the reimbursement to the class
18 members, and are paid by the defendant as part of the negotiation of the settlement, the court will
19 not engage in a discussion regarding the size of the multiplier. Counsel shall receive fees as
20 prayed for.

21
22 The attorneys are entitled to actual costs expended, in accordance with the agreement,
23 up to a maximum of \$75,000.

24
25 The court authorizes counsel to pay an incentive award to class representative Mary
26 Thompson of \$5000. The court denies the request to pay an incentive award to the Silicon
27 Valley Taxpayers Association. The law does not permit payment to a party to the lawsuit who is
28

1 not a class representative. The Association's lawsuit, consolidated with the class action, was on
2 behalf of the Association only and it was not a class representative.

3
4 Counsel for plaintiffs shall prepare a judgment in conformity with this order. Among
5 other matters to be placed in the judgment, the judgment must name the parties who have opted
6 out of this litigation and should specify that all sums not paid to satisfy claims or to pay the
7 attorneys' fees and costs or incentive payments remain the funds of the Santa Clara County
8 Open Space Authority. Plaintiffs' request for special findings is denied.

9
10 SO ORDERED.

11
12 Dated: September 18, 2009

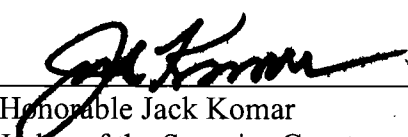
13 
14 Honorable Jack Komar
15 Judge of the Superior Court
16
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28

Exhibit H

0564

JA 159208

Oct 7, 2009 3:07 PM

David H. Yamasaki
Chief Executive Officer/Clerk
Superior Court of CA, County of Santa Clara
Case #1-02-CV-804474 Filing #G-18452
By R. Walker, Deputy

Tony J. Tanke, SBN 74054
LAW OFFICES OF TONY J. TANKE
2050 Lyndell Terrace, Suite 240
Davis, California 95616
Telephone: (530) 758-4530
Facsimile: (530) 758-4540
appeals@tankelaw.com

Attorney for Plaintiffs

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA**

**MARY THOMPSON, individually and
on behalf of all others similarly situated,**

Plaintiffs,

v.

**SANTA CLARA COUNTY OPEN
SPACE AUTHORITY, DOES 1-50
INCLUSIVE,**

Defendants.

**SILICON VALLEY TAXPAYERS
ASSN., INC., HOWARD JARVIS
TAXPAYERS ASSN., ERIC and
VIVIAN BRACHER, THEODORE
FELTON, MARY THOMPSON, B.F.
HENSCHKE, RICHARD ORLANDO,
individuals,**

Plaintiffs,

v.

**SANTA CLARA COUNTY OPEN
SPACE AUTHORITY, DOES 1-50
INCLUSIVE,**

Defendants.

**CASE NO. 1-02-CV804474
(Consolidated with 1-03-CV000705 &
1-07-CV-094261)**

FINAL JUDGMENT BY COURT

1 This consolidated taxpayer and class action came before the court on July 31, 2009
2 on plaintiffs' motions for final approval of a class action settlement and an award of
3 attorney's fees and litigation expenses as provided in the settlement.

4 Tony J. Tanke of the Law Offices of Tony J. Tanke appeared for plaintiffs Silicon
5 Valley Taxpayers Association, Inc. (SVTA), Howard Jarvis Taxpayers Association
6 (HJTA), Eric Bracher, Vivian Bracher, Theodore Felton, Mary Thompson, B.F.
7 Henschke, and Richard Orlando. James R. Parrinello and Christopher Skinnell of
8 Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP and William Parkin of Wittwer
9 & Parkin LLP appeared for defendant Santa Clara County Open Space Authority (OSA).
10 Objectors filed written objections as shown by the record.

11 On June 12, 2009, the court granted plaintiffs' motion for preliminary approval of
12 class action settlement, provisionally certified a class, appointed the Garden City Group
13 as the Claims Administrator, directed notice to the class, and set a briefing schedule for a
14 final approval and fairness hearing on July 31, 2009. On June 30, 2009, the court
15 approved the final version of the class notice. The Claims Administrator has filed proof
16 of mailing of the Settlement Hearing Notice and Refund Claim to class members whose
17 addresses could be ascertained. The court finds that due notice has been given to the
18 class.

19 After considering the objections to the settlement and to the fee-and-expense
20 award and the evidence and arguments presented by the parties and the objectors, both
21 oral and written, the court issued on September 21, 2009 its Order re: Final Approval of
22 Class Action Settlement and for Attorneys' Fees and Litigation Expenses. That order is
23 incorporated by reference herein. Good cause appearing, the court hereby directs final
24 judgment to be entered as follows:

25 1. As an integral part of the settlement, the court certifies the following class:
26 "Any person who paid the District Two Assessment between tax years 2002-03 to
27 2007-08, who does not exclude himself or herself from the class." The court finds that
28 the class is ascertainable, the claims are typical among Class Members, common issues of

fact and law predominate, and there is a community of interest among Class Members. There is value to a class action. The court further finds that the class representative is adequate and competent and has no interest antagonistic to the Class Members and that class counsel is adequate and competent to represent the class and has competently and effectively done so.

2. Based on written requests for exclusion submitted to the Claims Administrator, the court finds that each of the following persons has voluntarily opted out of the class, is not bound by the terms of the Settlement Agreement or this final judgment, and retains whatever rights, duties, or obligations are otherwise provided by law, if any:

Raymond and Marlys Aldana
4474 Tomrick Ave.
San Jose, CA 95124

Janet Arsenault
1312 Meadowlark Ave.
San Jose, CA 95128

Mahmoud Ascarie
Parvaneh Pourakbar
1000 Empey way
San Jose, CA 95128

Murielle Baillin
2423 Jubilee Lane
San Jose, CA 95131

James & Claudine Baxter
2655 Warburton Ave.
Santa Clara, CA 95051

Warren E. Bent
1890 Creek Drive
San Jose, CA 95125-1842

Jack & Helen Bohan
1116 Waterton Lane
San Jose, CA 95131-2779

Jack L. Bohan
Aren Newkirk
5555 Felter Road
San Jose, CA 95132-3432

Sidney D. Capillas
Anna Maria M. Capillas
1835 Platinum Ct
San Jose, CA 95116

Elsie M. Cataldo
P.O. Box 36071
San Jose, CA 95158

Rollin C. Chew
And Nancy L. Gilbert Trustee
7828 Creekline Dr
Cupertino, CA 95014

Kelvin & Nancy Chung
716 Cimity Court
San Jose, CA 95138

Antoinette Colla
290 E. Mission St.
San Jose, CA 95112-5010

Eleanor L. Cullen
880 Villa Teresa Way
San Jose, CA 95123

Jeanne Davies
1172 Lynbrook Way
San Jose, CA 95129

Gordon and Leeanne Denise Tam
5844 Alcazar Drive
San Jose, CA 95123

1 Randolph L. Douglas
2 W. Joan Tatem Douglas
3 860 Tybalt Drive
San Jose, CA 95127-3646

Ramona-Alday Espinoza
P.O. Box 273
Alviso, CA 95002

4 Leona and Manuel Fernandez
5 1201 W. Campbell Ave.
Campbell, CA 95008

Jose & Maria Flores
10244 Ash Creek Lane
Fort Worth, TX 76177

6 Loren & Terri Gessell
7 279 Bayview Ave.
San Jose, CA 95127-2202

Scott D. Henderson
1070 Vista Del Mar
San Jose, CA 95132

8 Mark & Linda Hinkle
9 17545 Chesbro Lake Drive
Morgan Hill, CA 95037

Robert M. Hintz
2029 Emory Street
San Jose, CA 95128

10 Ruth & Wesley Kyles
11 P.O. Box 864
Morgan Hill, CA 95038

Beatrice F. Perez
327 Washington St
San Jose, CA 95112

12 George & Jenny Rhoten
13 70 Valleyhaven Way
San Jose, CA 95111

Anthony & Judith Rizzuto
5672 Park Crest Drive
San Jose, CA 95118

14 Ricardo and Celia Salinas
15 2746 Swan Lane
Los Banos, CA 93635-9451

The Estate of Henry Sato
c/o Jonathan Sato Trustee
681 Charmain Drive
Campbell, CA 95008-1823

16 Andrew E. and Bonnie J. Voorhies
17 609 La Maison Dr
San Jose, CA 9512

Daniel Cramer Washabaugh
2779 Aldworth Dr
San Jose, CA 95148

18 Virginia White
19 6238 Valroy Drive
San Jose, CA 95123

20 No other timely requests for exclusion were received.

21 3. Except as expressly provided below, plaintiffs' motion for final approval of
22 the Settlement Agreement, attached hereto as Exhibit A and incorporated herein by
23 reference, is granted. The objections to the settlement are overruled. In the exercise of its
24 discretion, the court finds that the settlement terms are fair and reasonable to the class and
25 hereby enters final judgment embodying those terms, including, inter alia, the following
26 major items:

27 (a) Taxpayer refunds, attorney's fees, litigation expenses, class representative
28 incentive fees, mediation expenses, and class administration expenses will be paid from a

1 fund created and maintained by OSA containing OSA's collections of the District Two
2 Assessment and described in the October 16, 2008 report of OSA's accountant attached
3 as Exhibit B to the Settlement Agreement ("the fund"). All sums not paid to satisfy
4 refund claims or to pay any other amounts provided for in the Settlement Agreement and
5 approved by the court shall remain the funds of OSA, to be used in its discretion for OSA
6 purposes.

7 (b) All Class Members who submit valid and timely claims will receive a full
8 refund of their District Two Assessment payments. The fee-and-expense payment will not
9 decrease the amount of any Class Member's refund unless the total amount of all refund
10 claims uses up the funds available for claims after all authorized expenses have been paid.
11 In that situation, each taxpayer will receive a prorated portion of his or her claim. OSA
12 has waived any defense to these claims by Class Members based upon the statute of
13 limitations or failure to comply with administrative claim requirements.

14 (c) Those Class Members who filed administrative refund claims prior to the
15 execution of the Settlement Agreement by all parties will receive interest at the rate of
16 three percent (3%) from the date the claim was filed to the date of the entry of the Final
17 Order and Judgment, except insofar as the fund proves inadequate to satisfy all refund
18 claims in addition to the attorney's fee and litigation expense award, class administration
19 costs, and the distribution to OSA of the retained interest, in which case each refund
20 claim shall be prorated accordingly.

21 (d) All named plaintiffs in these combined actions and all Class Members who
22 do not exclude themselves from the class settlement have waived any rights they may
23 have to sue the Open Space Authority for both the District Two Assessment and another
24 ongoing Open Space Authority assessment known as the District One Assessment. The
25 District One Assessment was approved by voters and first imposed in 1994, before
26 Proposition 218 (a constitutional provision that changed the law governing real estate
27 assessments) became effective. It imposes a \$12 per year assessment on single-family
28 homes and higher amounts for other properties. The California Courts decided that the

District One Assessment was valid and could be legally collected in a lawsuit brought by taxpayers entitled *Coleman v. Santa Clara County Open Space Authority*, Sixth District, Appeal Case No. H014730, filed October 20, 1997. Review of that decision was denied by the California Supreme Court and the United States Supreme Court. It has been renewed annually by the Open Space Authority and paid by taxpayers since 1994.

(e) All named plaintiffs in these combined actions and all Class Members who do not exclude themselves from the class settlement, have also agreed to a waiver in the Open Space Authority's favor of rights under Civil Code section 1542, which provides:

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

4. In evaluating the attorney's fees provided for in the Settlement Agreement, the court has reviewed and considered the legal factors governing fee awards (including those governing lodestar and fee enhancement) and the legal discussion and evidence submitted on fees in the extensive original, responsive, objecting, reply, and supplemental papers. The court has noted that fees are to be paid by defendant OSA over and above the refunds paid to each Class Member who files a refund claim. Based on the record, the relevant fee factors, and the applicable law as well as the reasons discussed at the July 31, 2009 hearing and in the Order re: Final Approval of Class Action Settlement and For Attorneys' Fees and Litigation Expenses, the court finds the fee amount stipulated by OSA to be reasonable and payable to plaintiffs' counsel.

5. Plaintiffs' motion for an award of attorney's fees in the amount of \$7.4 million and litigation expenses not to exceed \$75,000 is granted as prayed. The objections to the fee-and-expense award are overruled. The \$7.4 million fee award shall be paid to class counsel Tony J. Tanke, and further allocated and paid by him as follows:

- \$35,000 to attorney Jack Bohan for his services;
- \$450,000 to the Howard Jarvis Taxpayer Foundation for the services of

1 attorney Timothy Bittle;

2 • \$5,000 to class representative plaintiff Mary Thompson for incentive fees;
3 and

4 • The balance to Mr. Tanke for his services.

5 6. The expense award is to be paid to Mr. Tanke, and further allocated and
6 paid by him as follows: \$16,500 to the Silicon Valley Taxpayer Association and the
7 remainder to Mr. Tanke.

8 7. All attorney's fees and expense payments shall be made from the fund.

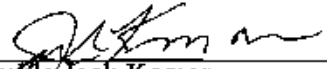
9 8. The court denies plaintiffs' request to pay an incentive award to plaintiff
10 SVTA. The law does not permit payment to a party to the lawsuit who is not a class
11 representative. SVTA's lawsuit, consolidated with the class action, was on behalf of
12 SVTA only. SVTA was not a class representative.

13 9. In accordance with the Court of Appeal's direction of September 24, 2008,
14 on remand from the Supreme Court in *Silicon Valley Taxpayers Association, Inc. v. Santa*
15 *Clara County Open Space Authority* (2008) 44 Cal.4th 431, 450, 458, OSA's District
16 Two Assessment is declared unconstitutional and invalid for the reasons discussed in the
17 Supreme Court's opinion.

18 10. Except as expressly specified above, the court hereby orders final judgment
19 implementing the terms of the Settlement Agreement attached hereto as Exhibit A.

20 11. The court reserves jurisdiction to interpret, enforce, or resolve disputes
21 concerning the Settlement Agreement or the final judgment.

22 DATED: **OCT - 7 2009**

23 
24 Honorable Jack Komar
25 Judge of the Superior Court

26 Approved As to Form:

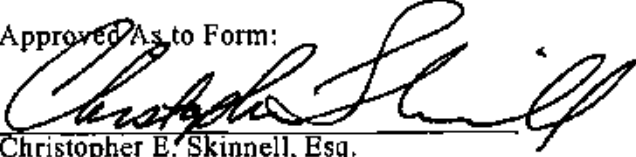
27 
28 Christopher E. Skinnell, Esq.
Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP
Attorneys for Defendant Santa Clara County Open Space Authority

Exhibit I

Victor L. George, State Bar No. 110504
Wayne C. Smith, State Bar No. 122535
LAW OFFICES OF VICTOR L. GEORGE
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Telephone: (310) 856-5410
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PINE & PINE
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E-mail: Npine@ssmlaw.com

Attorneys for Plaintiff,
BRUCE HOPE

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

BRUCE HOPE,

Plaintiff,

v.

STATE OF CALIFORNIA,
DEPARTMENT OF YOUTH
AUTHORITY, a public entity, and DOES 1
through 100, Inclusive

Defendants

CASE NO.: BC 258985
[Assigned to the Hon. Judith Chirlin
Department 89]

[PROPOSED] ORDER RE: AWARD OF
APPELLATE ATTORNEY FEES
PURSUANT TO GOVERNMENT CODE §
12965

Date: March 13, 2006
Time: 8:30 a.m.
Dept.: 89

The hearing on Plaintiff's motion for appellate attorney fees pursuant to Government Code
§ 12965, came on for hearing in Department 89 of this Court on March 13, 2006, at 8:30 a.m.

Appearing on behalf of Plaintiff was the Law office of Victor L. George by Victor L. George,
Esq., Wayne C. Smith, Esq., and the Law Office of Pine & Pine by Norman Pine, Esq. Appearing
on behalf of Defendant was the California Attorney General's Office by Michelle Logan-Stern, Esq.

ORDER RE: AWARD OF APPELLATE FEES PURSUANT TO GOVERNMENT CODE § 12965

ORIGINAL

1 Upon consideration of all moving papers and the argument of counsel:

2 IT IS HEREBY ORDERED THAT:

3 1) The amount of \$329,392 shall be awarded to Pine & Pine. This amount is calculated
4 based on the lodestar of \$164,696.00 (319.65 hours reasonably incurred by Pine & Pine at a
5 reasonable hourly rate of \$525.00 for Norman Pine, Esq., and \$475.00 for Beverly Pine, Esq.)
6 multiplied by what the Court determined was the appropriate multiplier of 2.0 given the
7 circumstances of this case; and,

8 2) A separate and additional amount of \$ 194,340.50 shall be awarded to The Law Offices
9 of Victor L. George. This amount is calculated based on a lodestar of \$98,939.00(134.25 hours
10 reasonably incurred by The Law Offices of Victor L. George at a reasonable hourly rate of \$750.00
11 for Victor L. George, Esq., \$475.00 for Wayne C. Smith, Esq., and \$250.00 for Motaz M. Gerges,
12 Esq.) multiplied by what the Court determined was the appropriate multiplier of 2.0 given the
13 circumstances of this case.

14 The amounts awarded (\$329,292 to Pine & Pine and \$194,340.50 to the Law Offices of
15 Victor L. George) shall be added to the judgment in this case.

16 As of March 13, 2003 prior to the award of appellate attorney fees, the judgment
17 (\$1,917,104.00 entered on July 22, 2003, the October 3, 2003 award of \$400,984.37 for attorneys
18 fees through trial, the December 11, 2003 supplemental award of \$73,179.68 for attorneys fees
19 incurred in connection with Defendant's post-trial motions, and the award of \$11,811 in costs), plus
20 7% interest totaled \$2,853, 994.55.

21 Following the award of appellate attorneys fees (\$329,292 to Pine & Pine and \$194,340.50
22 to the Law Offices of Victor L. George), the judgment totals \$3,377,627, and shall continue to
23 accrue 7% simple interest (\$569.10 per day) from March 13, 2006 until satisfied.

24 *The state is to receive credit for the amounts already paid
on the judgment.*

25 Dated: *April* March 21, 2006

By: *Judith C. Chirlin*
HON. JUDITH CHIRLIN
JUDGE OF SUPERIOR COURT

Exhibit J

0575

JA 159219

ENDORSED FILED
SAN MATEO COUNTY

JAN 08 2008

Clerk of the Superior Court
By TERRI MARAGOULAS
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

UPHOLD OUR HERITAGE,

Civil No. 444270

Petitioner,

Assigned CEQA Judge

Hon. Marie S. Weiner, Dept. 2

vs.

Pursuant to Public Resources Code

Section 21167.1(b)

TOWN OF WOODSIDE,

**ORDER ON AWARD OF
ATTORNEYS' FEES AND COSTS
TO PREVAILING PETITIONER**

Respondent.

STEVEN JOBS and Does 1 to 10,

Real Parties in Interest.

_____/

THE COURT FINDS AS FOLLOWS:

The Petition for Writ of Mandate was filed January 14, 2005. A Writ of Mandate was granted based upon the Petition, and Judgment entered accordingly in favor of Petitioner. The matter was then appealed by Respondent and Real Party in Interest, resulting in the issuance of a published opinion of the Court of Appeal, upholding the trial court's decision, which opinion is now final. Uphold Our Heritage v. Town of Woodside

(2007) 147 Cal.App.4th 587. Accordingly, Petitioner Uphold Our Heritage is the prevailing party.

This CEQA action seeking to stop the demolition of the Jackling House, a historic house which is a “historically significant resource” resulted in enforcement of an important right affecting the public interest.

The matter also raised issues of law, specifically regarding (i) the issue of “economic infeasibility” under CEQA, as to which there is limited case law in California, and its application where (as here) there is a lack of comparative data; and (ii) the issue of legal infeasibility, as to which issue the Court of Appeal distinguished existing cases and found that the refusal of an applicant to proceed with alternatives is not a “legal infeasibility” under CEQA. Thus this case has added to the jurisprudence of California on legal issues of public interest, i.e., CEQA. (See Public Resources Code Sections 21000, 21001 and 21002.)

The Court finds that a significant benefit has been conferred on the general public, and finds that this lawsuit was not for the purpose or and did not seek a monetary recovery (and thus no recovery from which fees could be paid out), and finds that the necessity and financial burden of private enforcement are such as to make an award appropriate.

Petition and its Counsel, Chatten-Brown & Carstens, filed a motion for award of attorneys’ fees and costs pursuant to C.C.P. Section 1021.5. Time records were provided to the Court. Counsel for Petitioner indicated that Petitioner contractually agreed to payment of \$40,000 in attorneys’ fees, with the remainder of attorney services rendered on a contingent basis. Counsel for Petitioner did not have a standard hourly rate that they

charge for services to clients who retain them, although they have recently established hourly rates of \$550 for Chatten-Brown and \$370 for Carstens.

Those performing services for Petition at the Chatten-Brown & Carstens firm were:

- Jan Chatten-Brown, a California attorney since January 1972, is recognized as an experienced attorney specializing in environmental law;
- Douglas Carstens, licensed since December 1997, specializes in environmental law and is a partner in the firm since July 2005;
- Amy Minter, admitted to practice in California in December 2002, and predominantly performed services on this case during 2006 and 2007;
- Scott Dewey, was admitted to practice in California in December 2003, and worked on the appeal in this matter during 2006.
- Unidentified paralegals and law clerks, who performed minimal time on the case.

Hours billed are as follows:

<u>Billing Person</u>	<u>Hours at Trial Level</u>	<u>Appeal and Post-Appeal Hours</u>
Jan Chatten-Brown	9.2	50.0
Doug Carstens	115.3	266.0
Amy Minter	0.4	64.5
Scott Dewey	-0-	62.0
Paralegals/Law Clerks	9.0	5.4

IT IS HEREBY ORDERED AS FOLLOWS:

The motion for award of attorneys' fees to Petitioner Uphold Our Heritage is GRANTED. Plaintiff Uphold Our Heritage is award reasonable attorneys' fees of \$403,548.00 against Respondent Town of Woodside and Real Party in Interest Steven Jobs, jointly and severally. The Court calculated the lodestar at a rate of \$500.00 for Chatten-Brown, \$400.00 for Carstens, \$300.00 for Minter, \$300.00 for Dewey, and \$110.00 for paralegal and law clerk services. The Court then subtracted \$40,000 as the non-contingent fees paid, and calculated a multiplier of two on the contingent fee services. Then added the \$40,000 non-contingent fee plus the multiplier lodestar.


The motion for award of costs is GRANTED IN PART AND DENIED IN PART. Code of Civil Procedure Section 1021.5 provides for an award of attorneys' fees and is silent regarding any award of costs and expenses. The Court has found no authority providing for other than statutory costs, and no case law has been provided by counsel for Petitioner to support the granting of other than statutory costs. Overhead costs are part of the cost of doing business and are generally reflected in the hourly rates set by the market. Accordingly statutory costs, identified in the declaration of counsel for Petitioner, in the amount of \$388.13 are awarded in favor of Petitioner Uphold Our Heritage against Respondent Town of Woodside and Real Party in Interest Steven Jobs, jointly and severally.

Pursuant to stipulation of the parties, interest on fees awarded for trial court services (as distinguished from appellate services) by Petitioner's counsel is GRANTED, calculated from entry of judgment on February 17, 2006 to date. As the award is joint and several, interest will be assessed at the rate of 7% per annum, in the amount of \$6,954.00

in interest in favor of Petitioner Uphold Our Heritage against Respondent Town of Woodside and Real Party in Interest Steven Jobs, jointly and severally.

If desired, Petitioner shall prepare, circulate, and submit a form of Amended Judgment consistent with the prior Judgment and this Order granting fees and costs. Otherwise this Order shall stand as the final adjudication of the Court on the award of fees and costs.

DATED: January 8, 2008



HON. MARIE S. WEINER
JUDGE OF THE SUPERIOR COURT

ENDORSED FILED
SAN MATEO COUNTY

JAN 08 2008

AFFIDAVIT OF MAILING

CASE NUMBER: CIV 444270

Clerk of the Superior Court
By TERRI MARAGOULAS
DEPUTY CLERK

UPHOLD OUR HERITAGE vs TOWN OF WOODSIDE, STEVEN JOBS and Does
1 to 10

**ORDER ON AWARD OF ATTORNEYS' FEES AND COSTS TO PREVAILING
PETITIONER**

I declare, under penalty of perjury, that on the following date I deposited in the United State Post Office Mail Box at Redwood City, California a true copy of the foregoing document, enclosed in an envelope, with the proper and necessary postage prepaid thereon, and addressed to the following:

JAN CHATTEN-BROWN
DOUGLAS CARSTENS
2601 Ocean Park Blvd., Suite 205
Santa Monica, CA 94050

JEAN B.SAVAREE
Town Attorney for Woodside
PO Box 1065
939 Laurel Street, Suite d
San Carlos, CA 94070

HOWARD ELLMAN
CHRISTINE GRIFFITH
601 California Street, 19th Floor
San Francisco, CA 94108

Executed on: January 8, 2008
at Redwood City, California

JOHN FITTON
CLERK OF THE SUPERIOR COURT

By: Terri Maragoulas
Deputy Clerk

Exhibit K

0582

JA 159226

FILED

SEP 24 2004

SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT**SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT**

ENVIRONMENTAL PROTECTION
INFORMATION CENTER, a non-profit
California Corporation; SIERRA CLUB,
A non-profit California Corporation,

Petitioners,

vs.

CALIFORNIA DEPARTMENT OF FORESTRY
AND FIRE PROTECTION; CALIFORNIA
DEPARTMENT OF FISH AND GAME, et al.,

Respondents.

PACIFIC LUMBER COMPANY; SCOTIA PACIFIC
COMPANY, LLC; and SALMON CREEK CORP.

Real Parties in Interest

NO: CV990445

ORDER AWARDING
ATTORNEY FEES
(Code of Civ. Proc. § 1021.5)Order

Pursuant to the provisions of Code of Civil Procedure section 1021.5,

IT IS ORDERED THAT:

1. Respondents and real parties in interest shall pay to petitioners the sum of
\$4,279,915.74; and,
2. Said sum shall be disbursed by petitioners for the funding of those entitlements to
compensation which are reflected in Appendix A hereto, in the proportions reflected
therein; and.

1 3. The obligation imposed upon respondents and real parties in interest hereby is one
2 imposed upon each respondent and each real party in interest, jointly and severally.

3 Discussion

4 Introduction

5 Code of Civil Procedure section 1021.5 authorizes a court to award attorneys' fees to a
6 successful party against one or more opposing parties in any action which has resulted in the
7 enforcement of an important right affecting the public interest if (a) a significant benefit, whether
8 pecuniary or non-pecuniary, has been conferred on the general public or a large class of persons, (b)
9 the necessity and financial burden of private enforcement, or of enforcement by one public entity
10 against another public entity, are such as to make the award appropriate, and (c) such fees should not
11 in the interest of justice be paid out of the recovery, if any.

12 Petitioners Are Successful Parties

13 The petition prosecuted by petitioners sought a judgment directing the vacation of five
14 administrative determinations made by respondents affecting interests of the real parties in interest.
15 The judgment entered directs the vacation of those determinations. The petitioners were, therefore,
16 the successful parties and the respondents and real parties were parties opposing them.

17 Important Right Affecting the Public Interest

18 In exercising the discretion conferred by Code of Civil Procedure section 1021.5, the court
19 must realistically assess the litigation and determine, from a practical perspective, whether the action
20 served to vindicate an important right so as to justify an attorney fee award under a private attorney
21 general theory. (*Woodland Hills Residents Assn., Inc. v. City Council* (1979) 23 Cal.3d 917, 938.)

22 Among the administrative determinations ordered annulled is Sustained Yield Plan No. 96-
23 002 (hereinafter "SYP") which would implement the cutting of timber for which a timber harvesting
24 plan, approved by the California Department of Forestry and Fire Protection ("CDF"), would be
25 required.

26 The Z'berg-Nejedly Forest Practice Act of 1973 (Pub. Res. C. §§ 4511 - 4517) contains
27 declarations that a) the forest resources and timberlands of the state are among the most valuable of
28 the natural resources of the state and that there is a great concern throughout the state relating to their

1 utilization, restoration and protection; b) the forest resources and timberlands of the state furnish
2 high-quality timber, recreational opportunities, and aesthetic enjoyment while providing watershed
3 protection and maintaining fisheries and wildlife; and, c) it is the policy of the state to encourage
4 prudent and responsible forest resource management calculated to serve the public's need for timber
5 and other forest products, while giving consideration to the public's need for watershed protection,
6 fisheries and wildlife, and recreational opportunities alike in this and future generations. (Pub. Res.
7 C. § 4512, sub. (a), (b) and (c).)

8 The Act further declares a public policy of assuring maximum sustained production of high-
9 quality timber products (Pub. Res. C. §§ 4512, sub. (c), 4513, sub. (b)) and Forest Practice Rules
10 have been adopted in implementation of that policy. Rule 913.11 provides - in part (sub. b.) - that an
11 approved sustained yield plan "achieves" Maximum Sustained Production of High Quality Timber
12 Products.

13 By virtue of the legislative declaration of policy, the public interest is invested with a right to
14 require that timber not be cut except upon a demonstration that maximum sustained production of
15 high quality timber will be achieved. A fundamental right is involved with respect to the interests of
16 the people of California in the forest resources and timberlands of the state under the Act. (*Gallegos*
17 *v. State Board of Forestry* (1978) 76 Cal.App.3d 945-950.)

18 The annulment of an unlawfully approved sustained yield plan has resulted in the
19 enforcement of this important right.

20 Another administrative determination ordered annulled is Incidental Take Permit No 2081-
21 1998-63-1 approved by California Department of Fish and Game (DFG), pursuant to Fish and Game
22 Code section 2081, purporting to authorize the "take" (for definition, see Fish and Game C. § 86) of
23 endangered, threatened or candidate species (for definitions of those species, see Fish and Game
24 Code §§ 2062, 2067, 2068.) That statute is a part of the California Endangered Species Act (Fish
25 and Game Code § 2050, et seq.) which contains extensive findings and declarations of public policy
26 focused on the importance of the conservation, protection, restoration and enhancement of
27 endangered and threatened species and their habitat. (Fish and Game C. §§ 2051- 2056.) Fish and
28 Game Code section 2080 makes it unlawful to take endangered or threatened species but section

1 2081 authorizes DFG to issue incidental take permits by complying with the conditions of that
2 statute.

3 The judgment orders the annulment of Incidental Take Permit No. 2081-1998-63-1 upon a
4 finding that it was issued without compliance with those conditions.

5 Upon a consideration of the extensive declarations of public policy embodied in the
6 California Endangered Species Act, the conclusion is reached that the public interest is invested with
7 a right to require that endangered, threatened and candidate species not be taken except upon a
8 validly approved incidental take permit.

9 The annulment of an unlawfully approved incidental take permit has resulted in the
10 enforcement of this important right.

11 Moreover, the incidental take permit purports to prohibit DFG from recommending or
12 requiring that real parties provide any new, additional or different conservation or mitigation
13 measures for take and this provision has been found to violate the public trust doctrine, a finding
14 which is one of the bases for the annulment of the incidental take permit.

15 Statutory provisions relating to the preservation, conservation and maintenance of wildlife
16 resources are replete with legislative declarations of policy evincing a strong public interest in
17 achieving those goals (e.g., see Fish and Game C. §§ 1600, 1700, 1726, 1801, 2051, 2052) and the
18 public trust doctrine has been recognized as being broad enough - in some form - to justify the
19 conclusion that the state has a duty to attempt to achieve those goals. (see *Golden Feather*
20 *Community Assn. v. Thermalito Irrigation Dist.* (1989) 209 Cal.App.3d 1276, 1285; *California*
21 *Trout, Inc. v. State Water Resources Control Bd.* (1989) 207 Cal.App.3d 585, 630 - 631; *People v.*
22 *Truckee Lumber Co.* (1897) 116 Cal. 397, 399 - 401.)

23 The annulment of an incidental take permit which contains a provision purporting to abdicate
24 that duty is seen as representing the enforcement of the right of the public to require that the state
25 execute - rather than abdicate - its duty to attempt the preservation, conservation and maintenance of
26 wildlife resources.

27 Another administrative determination ordered annulled is the approval by DFG of Streambed
28 Alteration Agreement Notification No. 99-0075 pursuant to Fish and Game Code section 1603. That

1 statute is part of a statutory construct (Fish & Game C. §§ 1600 - 1616) which is supported by a
2 legislative finding and declaration that the protection and conservation of fish and wildlife resources
3 of this state are of utmost public interest. (Fish & Game C. § 1600.) In furtherance of that interest,
4 Fish and Game Code section 1602 prohibits any entity from substantially altering the bed, channel or
5 bank of any river, stream or lake unless there is compliance with certain requirements expressed in
6 that statute and section 1603 authorizes DFG to enter an agreement with the entity specifying the
7 conditions upon which the entity may lawfully make the proposed streambed alteration.

8 The judgment orders the annulment of Streambed Alteration Agreement Notification No. 99-
9 0075 upon a finding that it was approved without compliance with the law.

10 Upon a consideration of the legislative finding and declaration supporting the prohibition of
11 streambed alterations except those conducted pursuant to an agreement with DFG approved by it in
12 accordance with a process mandated by the law, it is concluded that the public interest is invested
13 with a right to require that streambeds not be substantially altered except pursuant to a validly
14 approved streambed alteration agreement.

15 The annulment of an unlawfully approved streambed alteration agreement has resulted in the
16 enforcement of this important right.

17 Other administrative determinations ordered annulled are those of CDF and DFG approving
18 findings and certifications for a final environment impact report for the SYP, incidental take permit
19 and streambed alteration agreement. This action was taken because of a finding that those
20 determinations were made without compliance with the California Environmental Quality Act.
21 ("CEQA", Pub. Res. C. § 21000, et seq.)

22 CEQA specifically identifies the policies which motivated the Legislature to enact it. (Pub.
23 Res. C. §§ 21000, 21001, 21002, 21003.) This extensive and broad statement of public policy
24 includes the following explicit policy objectives:

- 25 1. to maintain a quality environment for the people of California;
- 26 2. to provide an environment that is healthful and pleasing to the senses;
- 27 3. to understand the relationship between a high quality environment and the general
28 welfare of the people of California;

- 1 4. to identify critical thresholds for the health and safety of the people of California;
- 2 5. to demonstrate that every citizen has a responsibility to contribute to the preservation
- 3 of the environment;
- 4 6. to encourage systematic and concerted efforts between the private and public sectors
- 5 for the interrelationship of policies and practices for management of natural resources
- 6 and waste disposal;
- 7 7. to require all agencies that regulate activities to give major consideration to
- 8 preventing environmental damage while providing a decent home and satisfying
- 9 living environment for every Californian;
- 10 8. to take all action necessary to protect, rehabilitate, and enhance the environmental
- 11 quality of California;
- 12 9. to provide the people of the state with clean air and water, enjoyment of aesthetic,
- 13 natural, scenic, and historic environmental qualities, and freedom from excessive
- 14 noise;
- 15 10. to prevent the elimination of fish and wildlife species due to man's activities, ensure
- 16 that fish and wildlife populations do not drop below self-perpetuating levels, and
- 17 preserve for future generations representations of all plant and animal communities
- 18 and examples of the major periods of California history;
- 19 11. to ensure that the long-term protection of the environment, consistent with the
- 20 provisions of a decent home and suitable living environment for every Californian,
- 21 shall be the guiding criterion in public decisions;
- 22 12. to create and maintain conditions under which man and nature can exist in productive
- 23 harmony to fulfill the social and economic requirements of present and future
- 24 generations;
- 25 13. to require governmental agencies at all levels to develop standards and procedures
- 26 necessary to protect environmental quality;
- 27 14. to require governmental agencies at all levels to consider qualitative factors as well as
- 28 economic and technical factors and long-term benefits and costs, in addition to

1 short-term benefits and costs and to consider alternatives to proposed actions
2 affecting the environment.
3 (Pub. Res. C. §§ 21000, 21001.)

4 By virtue of this legislative declaration of policy, the public interest is invested with a right to
5 require that the environmental values sought to be protected thereby not be derogated except in
6 compliance with CEQA. The annulment of administrative determinations which facilitate activity
7 offending the policy objectives of CEQA, without compliance with the requirements of that act,
8 represents the enforcement of this important right.

9 The fundamental objective of the private attorney general doctrine of attorney fees, of which
10 Code of Civil Procedure section 1021.5 is the codification, is to encourage suits effectuating a strong
11 public policy by awarding substantial attorney's fees to those who successfully bring such suits and
12 thereby bring about benefits to a broad class of citizens (*Woodland Hills Residents Assn., Inc. v. City*
13 *Council, supra*, 23 Cal.3d 917, 933) and thereby to encourage vindication of strong public policies
14 by private lawsuit. (*Rich v. City of Benicia* (1979) 98 Cal.App.3d 428, 433.) In determining the
15 importance of a particular vindicated right, courts should generally realistically assess the
16 significance of that right in terms of its relationship to the achievement of fundamental legislative
17 goals. (*Woodland Hills Residents Assn., Inc. v. City Council, supra*, 936; *Folsom v. Butte County*
18 *Assn. of Governments* (1982) 32 Cal.3d 668, 684.) Unquestionably, environmental concerns in
19 general and the statutory policy in favor of use of environmental impact reports in particular involve
20 preeminently important public rights. (*Rich v. City of Benicia, supra*, at p. 435; *Friends of "B" Street*
21 *v. City of Hayward* (1980) 106 Cal.App.3d 988, 993; *San Bernardino Valley Audubon Society, Inc.*
22 *v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 754; *Starbird v. County of San Benito*
23 (1981) 122 Cal.App.3d 657, 665.)

24 Although it has been observed that the legislature did not intend to authorize an award of fees
25 under section 1021.5 in every lawsuit enforcing a constitutional or statutory right (*Flannery v. Calif.*
26 *Highway Patrol* (1998) 61 Cal.App.4th 629, 635), the observation was made in connection with a
27 case in which the primary effect of plaintiff's litigation was the vindication of her own personal
28 rights. (*Id.* at p. 637.)

1 In view of the extensive legislative declarations of policy vindicated by the judgment
2 annulling the administrative determinations which implicate these policies, the conclusion is reached
3 that the successful prosecution of this action has resulted in the enforcement of important rights
4 affecting the public interest.

5 Significant Benefit

6 A significant benefit to the citizenry as a whole is implicit when a lawsuit leads to
7 effectuation of a fundamental legislative policy (cf. *Folsom v. Butte County Assn. of Governments*,
8 *supra*, 32 Cal.3d. 668, 684) and cases involving enforcement of legislative policies are generally
9 considered to confer a significant benefit (Remy, Thomas, Moore and Manley, Guide to the
10 California Environmental Quality Act, 10th ed., p. 663.) Moreover, there is inherent in the cutting of
11 timber, taking of endangered, threatened and candidate species of wildlife, artificial alteration of
12 streambeds and prosecution of projects which alter environmental quality, a potential for the
13 degradation of environment, wildlife and their habitat and other natural resources. Assuring that
14 such potential be assessed and regulated in accordance with legislation enacted with strong public
15 policy bases is regarded as the achievement of a significant benefit for the general public.

16 Especially in the case of environmental litigation may the view be taken that significant
17 protection of the environment in any one part of the world inures to the benefit of the whole.
18 (*Coalition for Los Angeles County Planning in the Public Interest, et al. v. Board of Supervisors*
19 (1977) 76 Cal.App.3d 241, 249-250.) At the least, the relief granted in these proceedings
20 implements those policies which, in the opinion of the Legislature, will best further the interests of
21 all Californians in the environment. (*Id.*)

22 The "significant benefit" which will justify an attorney fee award under Code of Civil
23 Procedure section 1021.5 need not represent a "tangible" asset or a "concrete" gain but, in some
24 cases, may be recognized simply from the effectuation of a fundamental constitutional or statutory
25 policy. (*Woodland Hills Residents Assn., Inc. v. City Council, supra*, 23 Cal.3d. 917, 939.) The
26 significance of the benefit, as well as the size of the class of persons receiving benefit, must be
27 determined from a realistic assessment, in light of all the pertinent circumstances, of the gains which
28 have resulted in a particular case (*id.* at pp. 939-940.)

1 This proceeding has effectuated strong state policies to require a careful scrutiny of potential
2 results before permitting the execution of projects that may significantly affect the environment, and
3 may prove to be instructive to public officials charged with the responsibility for implementing those
4 policies. (cf. *Rich v. City of Benicia*, *supra*, 98 Cal.App.3d 428, 436.)

5 Upon these considerations, the conclusion is drawn that the prosecution of this proceeding
6 has resulted in the achievement of a significant benefit for the general public within the State of
7 California.

8 Necessity and Financial Burden of Private Enforcement

9 Private enforcement of the rights vindicated in this action was necessary because they were
10 not enforced by the public officials charged with enforcing them. (*Starbird v. County of San Benito*,
11 *supra*, 122 Cal.App.3d 657, 665.) Inasmuch as the present action proceeded against the only
12 governmental agencies that bear responsibilities for approval of the administrative determinations
13 under review herein, the necessity of private, as compared to public, enforcement becomes clear.
14 (*Woodland Hills Residents Assn., Inc. v. City Council*, *supra*, 23 Cal.3d 917, 941.)

15 With respect to the CEQA claims, the act itself plainly contemplates the kind of private
16 enforcement action petitioners undertook and it appears to contain no provisions for public
17 enforcement of it or its guidelines. (*Rich v. City of Benicia*, *supra*, 98 Cal.App.3d 428, 437.)

18 The basic legal standard for applying the financial burden criterion involves a realistic and
19 practical comparison of the litigant's personal interest with the cost of suit (*Families Unafraid to*
20 *Uphold Rural El Dorado County v. Board of Supervisors* (2000) 79 Cal.App.4th 505, 515) and the
21 financial burden test is met when the claimant's legal victory transcends his personal interest, that is,
22 when the necessity for pursuing the lawsuit placed a burden on the plaintiff out of proportion to his
23 individual stake in the matter. (*Woodland Hills Residents Assn. v. City Council*, *supra*, 23 Cal.3d
24 917, 944.)

25 The "financial burden" criterion does not implicate the financial status of the prevailing
26 party. (*American Federation of Labor v. Employment Development Dept.* (1979) 88 Cal.App.3d 811,
27 822.)

28 The financial burden of prosecuting these proceedings is manifest from the evidentiary

1 determination of an appropriate attorney's fee award. (*Margolin v. Regional Planning Com., supra*,
2 134 Cal.App.3d 999, 1004.) Consideration of the cost of providing services has no place in that
3 formula. (*Id.* at p. 1005.)

4 The summary attached hereto as Appendix A represents a careful computation of time
5 necessarily and reasonably spent on the case. It is derived from the time records kept by petitioners'
6 counsel and states net hour quantities derived from a studied application of "billing judgment"
7 exercised by counsel for the purpose of excluding any time that might be considered excessive,
8 redundant or otherwise unnecessary. The statement of hours shown on Appendix A is supported by
9 contemporaneous time records and is justified by those records and the declarations filed in support
10 of the motion.

11 The hours recognized on Appendix A include some time spent by petitioners' counsel prior
12 to the commencement of litigation on matters related to the administrative review process. They are
13 hours properly included because they represent activities that were useful and of a type ordinarily
14 necessary to the vindication of the public interest litigated herein. (*Best v. California Apprenticeship*
15 *Council* (1987) 193 Cal.App.3d 1448, 1459.)

16 Altogether, the amount of time expended on the case by petitioners' counsel, although large
17 in terms of the aggregate number of hours, was reasonable and necessary, in view of the number of
18 administrative determinations challenged, the number of issues raised, the vigorous opposition
19 tendered by their opponents and the considerable attenuation of the litigation process.

20 In determining the lodestar amount, there is applied the reasonable hourly rate prevailing in
21 the community for similar work (*Margolin v. Regional Planning Com., supra*, 134 Cal.App.3d 999,
22 1004) and, in doing so, it is permissible to use the prevailing market rate for comparable services in
23 the community where counsel is located, rather than the community wherein lies the venue of the
24 action. (cf. *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1096 - involving Civ. C. § 1717,
25 rather than Code of Civ. Proc. § 1021.5.) This appears to be particularly appropriate where there
26 were not attorneys with their offices in the locale of the venue of the action who were reasonably
27 available to take the case, whether from unwillingness or inability due to lack of experience,
28 expertise or specialization. (cf. *Gates v. Deukmejian* (9th Cir. 1992) 987 F.2d 1392, 1405; *Barjon v.*

1 *Dalton* (9th Cir. 1997) 132 F.3d 496, 501-502.) Such was the case in this action. This case required
2 experience and expertise in a wide variety of specialized areas: CEQA, CESA, the Forest Practices
3 Act, the Fish & Game Code, and administrative law. It also required counsel to commit thousands
4 of hours of their time, at below-cost rates, against one of the most powerful companies in the region.
5 No local law firm was or would have been willing to take this case and it is unlikely that any local
6 law firm had the required experience and expertise, and the familiarity with the administrative and
7 legislative history of all of the matters underlying the challenged administrative determinations,
8 which were essential to the successful prosecution of the proceeding.

9 In calculating the lodestar, there must be applied to the time spent on the case by counsel a
10 reasonable hourly compensation (*San Bernardino Valley Audubon Society, Inc. v. County of San*
11 *Bernardino, supra*, 155 Cal.App.3d 738, 755) which represents the reasonable hourly rate prevailing
12 in the community for similar work. (*Margolin v. Regional Planning Comm., supra*, 134 Cal.App.3d
13 999, 1004.) Having taken into account the considerable evidence submitted by declaration on behalf
14 of each of the parties, the finding is adopted that the hourly rates assigned to each counsel in
15 Appendix A is a reasonable hourly rate in the San Francisco Bay Area for the services performed by
16 each in this proceeding because the hourly rate assigned to each counsel falls within the range of
17 rates that would be charged for comparable services by counsel of comparable qualifications in the
18 Bay Area. An exception to the foregoing statement is made with respect to the services performed
19 by Mr. Needham; the hourly rate assigned to his services is found to be reasonable on the basis of his
20 customary charge to clients in Humboldt County, his experience and qualifications, and the
21 potentially adverse implications of his acceptance of an advocacy assignment in Humboldt County in
22 opposition to real parties.

23 The reasonable hourly rates assigned to the services of petitioners' counsel in Appendix A
24 are rates prevailing at the time the fee application was made. (cf. *Lanni v. New Jersey* (3d Cir. 2001)
25 259 F.3d 146, 149-150.)

26 The lodestar calculation properly includes out-of-pocket expenses, since those claimed
27 represent expenses ordinarily billed to a client and are not included in the overhead component of
28 counsels' hourly rate. (*Beasley v. Wells Fargo Bank* (1991) 235 Cal.App.3d 1407, 1420-1421.)

1 The lodestar figure adopted may be increased or decreased by use of a multiplier after the
2 court has considered a number of other factors: (1) the novelty and difficulty of the questions
3 involved, and the skill displayed in presenting them; (2) the extent to which the nature of the
4 litigation precluded other employment by the attorneys; (3) the contingent nature of the fee award,
5 both from the point of view of eventual victory on the merits and the point of view of establishing
6 eligibility for an award; (4) the fact that an award against the state would ultimately fall upon the
7 taxpayers; (5) the fact that the attorneys in question received public and charitable funding for the
8 purpose of bringing lawsuits of the character here involved; (6) the fact that the monies awarded
9 would inure not to the individual benefit of the attorneys involved but the organizations by which
10 they are employed. (*San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino*,
11 *supra*, 155 Cal.App.3d 378, 755, fn.2.)

12 The expectation of petitioners' counsel that they would be fully compensated for their
13 services in this case was essentially uncertain and contingent upon an award under section 1021.5.
14 Notwithstanding they received some modest payment on account from their clients, their expectation
15 of full compensation was predominately contingent. In dealing with such a contingency, the legal
16 marketplace requires that some compensation in excess of a plain market rate be provided.

17 The case was complex, demanding and difficult, not only because of the large volume of the
18 administrative record under review and the number of attorney hours that the case required for its
19 management, but also because of a paucity of case authority dealing with the principal issues, they
20 being largely novel issues. It presented a multitude of issues, all of which were handled by
21 petitioners' counsel with unique skill, on a level of expertise substantially exceeding that reflected by
22 the hourly rates assigned to their services in Appendix A. It was prosecuted in the face of vigorous,
23 relentless and daunting opposition on every turn.

24 Their involvement in this litigation substantially precluded Ms. Duggan and Mr. Gaffney
25 from accepting other employment.

26 The results obtained by petitioners' counsel were excellent and this is a factor which may be
27 taken into account in considering a lodestar enhancement. (*Lealao v. Beneficial Cal., Inc.* (2000) 82
28 Cal.App.4th 19, 45.)

1 Account has been taken of the fact that an award against the respondents will ultimately fall
2 upon the taxpayers, but this is a circumstance which does not appear to justify a mitigation or
3 avoidance of a multiplier. The burden on the public fisc of such an award is outweighed by the
4 significant public benefit achieved by the litigation.

5 All of the factors enunciated in *San Bernardino Valley Audubon Society* have been taken into
6 account - to the extent that information has been provided regarding their applicability - but the
7 decision to allow an enhancement has been controlled by those explicitly discussed above, as has
8 been the selection of the appropriate multiplicand.

9 Upon these considerations, a lodestar multiplier of 2.0 is adopted.

10 Objections to Evidence

11 Objections stated by the parties with respect to evidentiary offerings given in support of, or
12 opposition to, the motion are disposed of as follows.

13 Objections of real parties and respondents to the Rechushaffen and Wilson declarations are
14 overruled. Each statement to which an objection is addressed is regarded as the statement of a
15 reason supporting a permissible opinion offered by a competent expert on relevant issues: whether
16 the prosecution of this proceeding resulted in the enforcement of an important right affecting the
17 public interest and whether it conferred a significant benefit on the general public.

18 Objections of petitioners to the Gwire declaration are sustained. The entire document is so
19 pervasively argumentative that an attempt to regard it as an evidentiary showing and to winnow from
20 it permissible factual content becomes a challenging exercise which will not be undertaken because
21 of its volume (32 pages of text; 41 pages of exhibits). It is disregarded.

22 Objections of petitioners to the Bacik declaration are sustained for the reason that each
23 statement to which they are addressed is either speculative or irrelevant, focusing, as it does, on
24 "market rates" in the Mendocino-Humboldt legal community, rather than the Bay Area legal
25 community.

26 Objection of petitioners to the McAfee declaration is sustained. The declaration appears to
27 represent the expression of the declarant's opinion that the services summarized therein could not
28 reasonably be construed as being relevant, necessary, or useful to this litigation or the judgment, but

1 it fails to demonstrate the competence of the declarant to form such an opinion. It is disregarded.

2 Objections of petitioners to "Evidence in Support of PAICO's Opposition to EPIC and
3 USWA Motions for Attorneys' Fees and Costs" are overruled because the "exhibit" to which each
4 objection is addressed is regarded as offered in support of a contention that the prosecution of this
5 proceeding did not result in the enforcement of an important right affecting the public interest or
6 confer a significant benefit on the general public.

7

8 DATED: SEPTEMBER 24, 2004

John F. Golden
Judge

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Appendix A

Merits Phase

<u>Attorneys</u>	<u>Adjusted Hours</u>	<u>Graduation Year</u>	<u>Rate</u>	<u>Lodestar</u>
Sharon E. Duggan	2300.40	1982	\$400	\$ 920,160.00
Brian Gaffney	2031.40	1993	325	660,205.00
Timothy Needham	58.20	1980	350*	20,370.00
Tara Mueller	472.60	1992	310	146,506.00
Thomas Lippe	543.95	1982	385*	209,420.75
Leo O'Brien	18.43	1993	300*	5,529.00
<u>Paralegals</u>				
Sam Johnston	1280.09		75	\$ 96,006.75
(Needham's office)	6.50		75	487.50
Total Merits Lodestar				\$2,058,685.00
Lodestar enhancement (2.0)				\$2,058,685.00

Fees Phase

Richard M. Pearl	114.60	1969	475	\$ 54,435.00
Total Fees Lodestar				\$ 54,435.00

Litigation Expense (other than costs of suit claimed)

Law Offices of Sharon E. Duggan	\$ 40,803.44
Law Offices of Brian Gaffney	14,348.06
Timothy Needham	1,762.51
Tara Mueller	7,403.02
Law Offices of Thomas Lippe	43,782.31
Law Offices of Richard M. Pearl	11.40
Total Litigation Expenses	\$ 108,110.74
Total	\$4,279,915.74

* Rates are based on experience levels when left case.

STATE OF CALIFORNIA,
COUNTY OF HUMBOLDT

SS. AFFIDAVIT OF SERVICE BY MAIL

I, Wanda Santos, say:

That I am a citizen of the United States, over 18 years of age, a resident of the County of Humboldt, State of California, and not a party to the within action; that my business address is Humboldt County Courthouse, Eureka, California; that I served a true copy of the attached ORDER AWARDING ATTORNEY FEES (Code of Civ. Proc. § 1021.5) by placing said copies in envelopes addressed to the following parties at their following office (residence) addresses:

Sharon Duggan, 2070 Alston #300 Berkeley CA 94704 - Fax #(510) 647-1905

Richard M. Pearl, 1816 Fifth Street, Berkeley, CA 94710 - Fax (510) 548-5074

Frank Bacik/Carter Behnke Oglesby & Bacik/P.O. Box 720 Ukiah, CA 95482/Fax # 462-7839

Edgar Washburn, Steel Rives LLP, 111 Sutter Street, Suite 700 San Francisco, CA 94104/(415) 676-3000

William Jenkins, Deputy AG 455 Golden Gate Ave., Suite 11000 San Francisco, CA 94102-3664/Fax # (415) 703-5480

Jonathan Weissglass, Altshuler, Beron, Nubaurn, Berzon & Rubin, 177 Post Street, Suite 300 San Francisco, CA 94108 Fax # (415) 362-8064

John Davidson, Office of the Attorney General, 455 Golden Gate Ave., Suite 11000 San Francisco, CA 94102-3664 Fax # (415) 703-5480

Brian Gaffney, 370 Grand Avenue #5, Oakland, CA 94610 Fax # (510) 891-9380

Michael H. Zischke, Morrison & Foerster, 425 Market Street, San Francisco, CA 94105-2482 Fax# (415) 268-7522

Paul Whitehead, Five Gateway Center, Suite 807, Pittsburg, PA 15222/Fax # (412) 562-2429

** Parties were also faxed copies

Which said envelope were then sealed and postage fully prepaid thereon, and thereafter were on the 24th day of SEPTEMBER, 2004 deposited in the United States mail at the City of Eureka, California; that there is delivery service by United States mail at the places addressed, or regular communication by United States mail between the place of mailing and the said places so addressed.

I ~~certify~~ (or declare) under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed on the 24th day of SEPTEMBER, 2004, at the City of Eureka, County of Humboldt, State of California.

DWIGHT W. CLARK, Clerk of the Court

By

(Said)

Deputy Clerk

STATE OF CALIFORNIA,)
COUNTY OF HUMBOLDT) SS. AFFIDAVIT OF SERVICE BY MAIL

I, Sharon Duggan, say:

That I am a citizen of the United States, over 18 years of age, a resident of the County of Humboldt, State of California, and not a party to the within action; that my business address is Humboldt County Courthouse, Eureka, California; that I served a true copy of the attached ORDER AWARDING ATTORNEY FEES by placing said copies in envelopes addressed to the following parties at their following office (residence) addresses:

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I ~~certify~~ (or declare) under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed on the 24th day of SEPTEMBER, 2004, at the City of Eureka, County of Humboldt, State of California.

DWIGHT W. CLARK, Clerk of the Court

By Sharon Duggan
(Seal)

Deputy Clerk

FAX TRANSMISSION

SUPERIOR COURT OF CALIFORNIA

COUNTY OF HUMBOLDT

825 5TH STREET

EUREKA, CALIFORNIA, 95501

(707) 268-1203

FAX: (707) 445-7041

HARLA L. SANTOS

**To: Sharon Duggan
Fax # (510) 647-1905**

Subject: Order Awarding Attorney Fees

**Brian Gaffney
Fax # (510) 891-9380**

Re: EPIC & Steelworkers

**Frank Bacik
Fax # 462-7839**

Date: September 24, 2004

Pages: 31/with cover

**Edgar Washburn
Fax # (415) 676-3000**

**William Jenkins
Fax # (415) 703-5480**

**Jonathan Weissglass
Fax # (415) 362-8064**

**John Davidson
Fax # (415) 703-5480**

**Paul Whitehead
Fax # (412) 562-2429**

**Michael H. Zischke
Fax # (415) 268-7522**

**Richard Pearl
Fax # (510) 548-5074**

**From: Harla Santos
Judicial Secretary**

Exhibit L

0602

JA 159246

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF SAN DIEGO

HALL OF JUSTICE

TENTATIVE RULINGS - July 31, 2015

EVENT DATE: 08/07/2015

EVENT TIME: 01:30:00 PM

DEPT.: C-72

JUDICIAL OFFICER: Timothy Taylor

CASE NO.: 37-2012-00101054-CU-TT-CTL

CASE TITLE: SIERRA CLUB VS. COUNTY OF SAN DIEGO [E-FILE]

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Toxic Tort/Environmental

EVENT TYPE: Motion Hearing (Civil)

CAUSAL DOCUMENT/DATE FILED:

Tentative Ruling on Motion for Attorneys' Fees

Sierra Club v. County of San Diego, Case No. 2012-0101054

August 7, 2015, 1:30 p.m., Dept. 72

1. Overview and Procedural Posture.

This CEQA case was one of two taken up by this court in late 2012 and early 2013 in which the court was required to address the controversial topic of global climate change. The first was *Cleveland Nat'l. Forest Foundation v. SANDAG*, Case No. 2011-00101593; that case was the subject of a learned opinion of the 4th DCA, Div. 1 [D063288, 180 Cal. Rptr. 3d 548 (2014)], and has now been accepted for review by the California Supreme Court [No. S223603, 343 P. 2d 903 (2015)]. The Supreme Court has limited the issue in that case to "Must the environmental impact report for a regional transportation plan include an analysis of the plan's consistency with the greenhouse gas emission reduction goals reflected in Executive Order No. S-3-05 to comply with the California Environmental Quality Act?"

In the second, present case, Sierra Club contended that the County's June 20, 2012 "Climate Action Plan" (CAP), was insufficient and violated CEQA in several respects: it did not comply with mitigation measures spelled out in the County's 2011 Program EIR (PEIR), adopted in connection with the 2011 General Plan Update (GPU)(AR 0441 *ff*); it failed to satisfy the requirements for adopting thresholds of significance for greenhouse gas emissions (GHG); and it should have been set forth in a stand-alone environmental document rather than in an addendum to the PEIR. The County denied these claims, and asserted that the CEQA challenge was time-barred, the CAP complied with all legal requirements, the use of an addendum was appropriate, and that all relief is barred by the Sierra Club's failure to notify the AG as required by Pub. Res. Code section 21167.7.

On April 19, 2013, the court ruled in favor of the Sierra Club on the original petition. ROA 33. The County appealed. ROA 44. The parties thereafter stipulated to stay the case while it was on appeal. ROA 60. But before they did, the Sierra Club had filed a supplemental petition. ROA 54. The stipulated stay prevented consideration of that document. Subsequently, the parties filed a stipulation regarding the disposition of the supplemental petition, depending on the disposition of the appeal. ROA 64.

In October of 2014, the 4th DCA, Div. 1 issued its learned opinion affirming this court. 231 Cal. App. 4th 1152 (2014). On March 11, 2015, the Supreme Court denied review. A remittitur thereafter issued.

The parties were before the court on April 15, 2015. Petitioner asked that the stay be lifted, and that the case be restored to the civil active list. These requests were granted without objection. The Sierra Club also wanted the court to sign an order, while the County wanted the court to sign a different order. There were two problems: first, the court had not received petitioner's version of the proposed order, nor had a chance to review the County's proposed order; and second, the parties were before the court while it was in the middle of a lengthy trial with jurors arriving shortly. The court continued the matter to the regular law and motion calendar of May 1. ROA 73.

The court thereafter reviewed the parties' competing submissions. The central problem was that a dispute had arisen regarding the intent, import and meaning of the December 11, 2014 stipulation (ROA 64). The court, following several submissions and argument, resolved the dispute in May of 2015. ROA 91.

Presently, petitioners' counsel seek an award of attorneys' fees. ROA 95-104. The amended moving papers (ROA 116, 117) make clear that the county agrees petitioner is entitled to fees; the only question is how much. Petitioner seeks a lodestar of over \$661,000.00 with a multiplier of two, for a total of over \$1.3 million, plus fees necessary for the fee motion.

The County filed opposition. ROA 122-125. After presenting very focused argument, the County ends by making several specific "suggestions" for reducing the fee award: a combination of cutting hours, reducing rates, and denial of any multiplier. The County does not propose a bottom-line number. Petitioners filed reply. ROA 126-130. The moving attorneys concede some relatively minor duplication/mistakes on the timesheets, and agree to some minor hourly rate reductions for paralegal tasks. The court has reviewed all the briefing.

2. Applicable Standards.

California follows the "American rule," under which each party to a lawsuit ordinarily must pay his, her or its own attorney fees. *Douglas E. Barnhart, Inc. v. CMC Fabricators, Inc.* (2012) 211 Cal.App.4th 230, 237; *Trope v. Katz*, 11 Cal.4th 274, 278 (1995); *Gray v. Don Miller & Associates, Inc.*, 35 Cal.3d 498, 504 (1984). Code of Civil Procedure section 1021 codifies the rule, providing that the measure and mode of attorney compensation is left to the agreement of the parties "[e]xcept as attorney's fees are specifically provided for by statute."

As already noted, here there is no dispute over the entitlement to fees.

A trial court has broad discretion in determining a reasonable amount of attorney fees. *PLCM Group, Inc. v. Drexler*, 22 Cal.4th 1084, 1095 (2000). "[T]he fee setting inquiry in California ordinarily begins with the 'lodestar,' i.e., the number of hours reasonably expended multiplied by the reasonable hourly rate. . . . The lodestar figure may then be adjusted, based on consideration of factors specific to the case, in order to fix the fee at the fair market value for the legal services provided. [Citation.] Such an approach anchors the trial court's analysis to an objective determination of the value of the attorney's services, ensuring that the amount awarded is not arbitrary." *Id.*

As noted above, petitioner seeks a 2.0 bonus multiplier. Fee enhancements by means of multipliers or otherwise are well recognized in California. *E.g.*, *Serrano v. Priest*, 20 Cal. 3d 25 (1977) (*Serrano III*); *Beasley v. Wells Fargo Bank*, 235 Cal. App. 3d 1407 (1991); *City of Oakland v. Oakland Raiders*, 203 Cal. App. 3d 78 (1988); *Kern River Public Access Com. v. City of Bakersfield* 170 Cal. App. 3d 1205 (1985). Under California law, the trial court begins by fixing the "lodestar" or "touchstone" reflecting a compilation of the time spent and reasonable hourly compensation of each attorney or legal professional involved in the presentation of the case. The court then adjusts this figure in light of a number of factors that militate in favor of *augmentation or diminution*. *Serrano III*, 20 Cal. 3d at 48-49 (emphasis by this

court). The court must consider such factors as the nature and complexity of the case, the results obtained, the amount of work involved, the available resources, the nature of the issues and the burden of discovery, the skill required and the time consumed, the court's own knowledge and experience, the time spent, and rates charged in the community for similar work. See *Contractors Labor Pool, Inc. v. Westway Contractors*, 53 Cal. App. 4th 152, 168 (1997); see also *Ghirardo v. Antonioli*, 14 Cal. App. 4th 215, 219 (1993).

The purpose of a fee enhancement is not to reward attorneys for litigating certain kinds of cases, but to fix a reasonable fee in a particular action. Section 1021.5 authorizes an award of *reasonable* attorney fees, not an award of reasonable fees plus an enhancement. Nonetheless, the courts recognize that some form of fee enhancement may be appropriate and necessary to attract competent representation in cases meriting legal assistance. In *Press v. Lucky Stores, Inc.*, 34 Cal. 3d 311, 322 (1983), our Supreme Court implicitly found that it would be appropriate to enhance an award by means of a multiplier " 'to reflect the broad public impact of the results obtained and to compensate for the high quality of work performed and the contingencies involved in undertaking this litigation.' " This does not mean, however, that the trial courts should enhance the lodestar figure in every case of uncertain outcome or where the work performed was of high quality. The challenge for the trial courts is to make an award that provides fair compensation to the attorneys involved in the litigation at hand and encourages litigation of claims that in the public interest and merit litigation, without encouraging the unnecessary litigation of claims of little public value.

The classic situation justifying an upward adjustment of the lodestar figure was seen in the *Serrano* cases [*Serrano v. Priest*, 5 Cal. 3d 584 (1971)(*Serrano I*), *Serrano v. Priest*, 18 Cal. 3d 728 (1976)(*Serrano II*), and *Serrano III, supra*, 20 Cal. 3d 25]. The litigation there revolved around California's system for financing public schools. The plaintiffs succeeded in overturning the existing system, obtaining an order that it be replaced by a system designed to provide an equitable distribution of state funds between all public schools. The litigation resulted in no fund of money from which attorney fees might be paid, nor did it result in any monetary recovery by the plaintiffs. The plaintiffs were under no obligation to pay their attorneys for their efforts. It appears that the attorneys did, however, receive some funding from charities or public sources for the purposes of prosecuting cases of the character involved in that action--a factor the court found to be relevant in determining the size of an award of fees. (*Serrano III, supra*, 20 Cal. 3d at p. 49, fn. 24.) Finally, an award of fees was uncertain not only because of the complexity and difficulty of the legal issues involved, but because there was no clear statutory authority for shifting attorney fees to the defendant.

The court in *Weeks v. Baker & McKenzie*, 63 Cal. App. 4th 1128 (1998), contrasted that case with the situation in *Serrano III*: "the present case is in essence a personal injury action, brought by a single plaintiff to recover her own economic damages. Weeks and her attorneys had a fee agreement by which her attorneys were assured of a portion of any recovery. In addition, because of the availability of attorney fees under the FEHA, the attorneys had reason to assume that the amount of Weeks's recovery would not limit the amount of fees they ultimately received. Thus, the risk that Weeks's attorneys would not be compensated for their work was no greater than the risk of loss inherent in any contingency fee case; however, because of the availability of statutory fees the possibility of receiving full compensation for litigating the case was greater than that inherent in most contingency fee actions." 63 Cal. App. 4th at 1174.

"In general, where the trial court decides to depart from the lodestar attorney fee approach to select and apply a multiplier, it must make appropriate findings on the factors recognized by case law to explain this discretionary determination in such a manner as to make meaningful appellate review possible." *Ramos v. Countrywide Home Loans, Inc.* (2000) 82 Cal.App.4th 615, 629. Generally, however, a trial court is not required to provide a detailed explanation of how it arrived at a fee award. (See, e.g., *Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1294-1295; *Gorman v. Tassajara Development Corp.* (2009) 178 Cal.App.4th 44, 65-67.) California courts have explicitly departed from federal law requiring district courts to explain their fee awards with particularity. (See, e.g., *Gorman, supra*, at pp. 66-67; *Californians for Responsible Toxics Management v. Kizer* (1989) 211 Cal.App.3d 961, 970.)

Finally, plaintiffs seek "the additional fees not yet incurred in bringing this motion." The case law makes clear that prevailing plaintiffs are entitled to fees for pursuit of fee claims. *Graham v. Daimler Chrysler*, 34 Cal. 4th 553, 580 (2004); *Ketchum v. Moses*, 24 Cal. 4th 122, 133-34 (2001).

3. Discussion and Rulings.

The County first asserts the hours spent on the case by counsel are excessive. Oppo. at 1-3. With some fairly minor exceptions discussed below, the court disagrees. The administrative record in this case was very substantial: 4300+ pages. The briefing in three courts was extensive. The theories advanced by petitioners here, although seeking the application of established law, were novel: other than this court in the *Cleveland Nat'l Forest* case, few (if any) cases prior to this one had grappled with greenhouse gas emission reduction goals in relation to CEQA analysis. That the petitioners' efforts yielded a published opinion speaks for itself. See CRC 8.1105(c). The County battled petitioners with focus and intensity, all the way to the Supreme Court (and after), and cannot now be heard to argue that petitioners' counsel were required to put in a lot of time.

The County next objects to petitioners' counsel conferring with each other, claiming this is indicative of "duplication and inefficiency." Oppo. at 3-4. The court does not view this as a valid objection in the circumstances of this case. The successful representation of a client or group of clients is often enhanced by communications among attorneys. The County's apparent view, that lawyers working together on a case are not permitted to record their time when they bounce ideas off each other, is just not reflective of how the private practice of law works. The quaint notion that a single lawyer (or judge) knows all and can toil singlehandedly with a green eyeshade is incorrect, and has been for well over a century. Even the man many consider America's greatest lawyer, Abraham Lincoln, had a law partner, William Herndon, with whom he discussed his cases. See C. Sandburg, *Abraham Lincoln*, pp. 111-112 (1954); see generally D.H. Donald, *We Are Lincoln Men*, Simon & Schuster (2011). The aggregation and collaboration of the attorneys who successfully represented petitioners in this case are properly viewed as, in substance, a temporary law partnership. To advance the interests of the petitioners, it is unsurprising that the attorneys conferred with one another over arguments, evidence, precedents, strategy and tactics, and used each other as sounding boards. In this way, arguments and theories are tried out and tested, and then either discarded or honed or more fully developed. Simply put, there is nothing inherently wrong with attorneys conferring with one another and charging for it. This is what lawyers do. Judges do it, too: hence the conferences among appellate justices before cases are decided.

The County next contends (Oppo. at 4-5) that the hourly rates are unjustified. On this, the court agrees in part (as discussed more fully below).

The County then urges (Oppo. at 6-9) an outright denial of any multiplier, and does not suggest a fall-back position (*i.e.* a lower multiplier than the one sought). The court does not agree with the County's position on this point. To the contrary, the court believes this case is squarely in the "sweet spot" of situations in which a multiplier is called for. The following factors from *Serrano III* and other cases run in petitioners' favor: The petitioners succeeded in overturning a significant CAP and related approvals, obtaining an order that the CAP be re-done. The litigation resulted in no fund of money from which attorney fees might be paid, nor did it result in any monetary recovery by the petitioners. Petitioners succeeded at three levels of court review after repeated attempts to resolve the case. They have waited more than two years with no recompense. An award of fees was uncertain not only because of the complexity and difficulty of the legal issues involved, but also because it involved issues of first impression and the signal environmental issue of our time. In this regard, the court considered, as it is permitted to do under the case law [*Serrano v. Priest*, 20 Cal. 3d 25, 49 (1977)], that the burden of the fee award will ultimately fall upon the taxpayers. In this case, the same people who pay taxes are the people who may be disadvantaged in profound ways by the County's failure to conduct a proper analysis of the CAP. Thus, in the circumstances of this case, the court does not feel that this factor is entitled to great weight.

Finally, the County takes issue (Oppo. at 9-10) with some relatively minor cost issues. The court presumes the County will agree that these *de minimis* issues are more than subsumed in the reductions outlined below.

The court makes the following determinations:

A. The court deletes all time for attorney transitory billers: Carstens (\$11,500), and Gladden (\$4812), for a total of \$16,312.00. Transitory billers, particularly those with high hourly rates such as Carstens, are suggestive of inefficiency.

B. The court deletes all "administrative time," for a total of \$15,125.00. The court, having helped run a major law firm in its past life, believes that "administrative time" is or should be built into each biller's rate design.

C. The court deletes the multiplier on costs (top of Ex. B). There is no justification in logic or the case law for a multiplier on out of pocket expenses. No client would pay this markup, and there is no basis for asking the County to do so.

D. The court reduces the paralegals to the same hourly rate as the law clerk (\$100 vs. \$150): total reduction: \$1905.00

E. The court reduces the Josh Chatten-Brown and Dickenson hourly rate to \$300/hr. – this yields a total savings to the County of \$130,900.00. As already noted, the court agrees in part with the County's views on the rates. Neither Josh Chatten-Brown nor Ms. Dickenson have the experience or expertise of Jan Chatten-Brown or Mr. Briggs - the court had the opportunity to see both in action. Viewed as a whole, the case was top-heavy in terms of billing rates, and this reduction brings the staffing more in line with what the court would have expected in terms of partner/associate leverage and blended hourly rate. The court finds that the designed rates of Mr. Briggs and Ms. Chatten-Brown are reasonable for the needs of the case, rates charged for similar work in the community, the type of work done, and the significant results achieved. No reductions in their rates is deemed appropriate by this court. The court makes all of the determinations on rates having practiced law in San Diego for 20 years prior to 2005, and having had the duty, in the decade last past, to make decisions on fee awards in hundreds of cases in a variety of settings.

F. For purposes of the calculation of a lodestar, the court deletes the \$26,425.00 sought for preparation of the attorneys' fees application. See further discussion below.

These decisions yield a total reduction of \$190,667.00 from the claimed lodestar of \$661,485.00. All of this results in an adjusted lodestar of \$470,818.00, which, **when multiplied by the 2.0 multiplier**, equals \$941,636.00.

The court awards a total of \$20,000.00 for preparation, briefing and argument of the fee application. This amount is not subject to the multiplier, inasmuch as the County stipulated to the entitlement to fees, the motion was routine in comparison to the work on the petition, and the award of substantial fees was never really in doubt. The County's position (Oppo. at 9) that no fees are allowable really flies in the face of established law. *Graham v. Daimler Chrysler*, 34 Cal. 4th 553, 580 (2004); *Ketchum v. Moses*, 24 Cal. 4th 122, 133-34 (2001).

Therefore, the total attorneys' fee award is \$961,636.00. The costs set forth on the Memorandum of Costs on Judicial Council form MC-010 filed May 13, 2015 (ROA 97) are allowed in full, as there was no motion to tax costs filed and the costs are modest and reasonable. Counsel for petitioner must forthwith prepare and submit an amended judgment consistent with the foregoing.

4. CMC.

The case is also set for a continued CMC with regard to the amended petition and the return. ROA 114. The parties have filed competing CMC Statements. ROA 119-120. In its CMC statement, Sierra Club "requests that the Court give guidance to the County about what it considers to be a reasonable time period for complying with the Judgment and Supplemental Writ." This is not an appropriate request, on several levels. First, it is not appropriate to request affirmative, substantive relief in a CMC Statement. CMC statements are procedural tools designed to assist the court in case management. See CRC 3.725. Second, the court does not "give guidance;" it makes rulings and orders on properly presented motions, petitions and applications. Sierra Club's request for an advisory ruling is denied. If Sierra Club believes the County is willfully violating a previous judgment of this court, it is free to follow the proper procedures to seek a judgment of contempt. See CCP sections 1209 through 1222.

THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
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EMAIL: Info@Glotrans.com

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA

Coordination Proceeding Special Title (Rule
1550(b)) ANTELOPE VALLEY GROUNDWATER CASES
(JCCP 4408) Included Actions: Los Angeles
County Waterworks District No. 40

Plaintiff,
vs.

Antelope Valley Groundwater Cases (JCCP 4408)

Lead Case No.1-05-CV-049053

Hon. Jack Komar

Diamond Farming Co. Superior Court of California County of Los Angeles, Case No. BC 325 201 Los Angeles County Waterworks District No. 40 v. Diamond Farming Co. Superior Court of California, County of Kern, Case No. S-1500-CV-254-348 Wm. Bolthouse Farms, Inc. v. City of Lancaster Diamond Farming Co. v. City of Lancaster Diamond Farming Co. v. Palmdale Water Dist. Superior Court of California, County of Riverside, consolidated actions, Case Nos. RIC 353 840, RIC 344 436, RIC 344 668

Defendant.

PROOF OF SERVICE
Electronic Proof of Service

AND RELATED ACTIONS

I am employed in the County of Alameda, State of California.

I am over the age of 18 and not a party to the within action; my business address is 2915 McClure Street, Oakland, CA 94609.

The documents described on page 2 of this Electronic Proof of Service were submitted via the worldwide web on Wed. January 27, 2016 at 4:52 PM PST and served by electronic mail notification.

I have reviewed the Court's Order Concerning Electronic Filing and Service of Pleading Documents and am readily familiar with the contents of said Order. Under the terms of said Order, I certify the above-described document's electronic service in the following manner:

The document was electronically filed on the Court's website, <http://www.scefiling.org>, on Wed. January 27, 2016 at 4:52 PM PST

Upon approval of the document by the Court, an electronic mail message was transmitted to all parties on the electronic service list maintained for this case. The message identified the document and provided instructions for accessing the document on the worldwide web.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and

correct. Executed on January 27, 2016 at Oakland, California.

Dated: January 27, 2016

For WWW.SCEFILING.ORG

Andy Jamieson

THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
ELECTRONIC FILING SYSTEM - WWW.SCEFILING.ORG

Electronic Proof of Service
Page 2

Document(s) submitted by Michael McLachlan of Law Offices of Michael D. McLachlan APC on Wed. January 27, 2016 at 4:52 PM PST

1. Decl in Support: DECLARATION OF RICHARD M. PEARL IN SUPPORT OF MOTION FOR AWARD OF ATTORNEYS' FEES

Exhibit H

Michael D. McLachlan (State Bar No. 181705)
LAW OFFICES OF MICHAEL D. McLACHLAN, APC
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dan@danolearylaw.com

Attorneys for Plaintiff Richard Wood and the Class

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER
CASES

RICHARD A. WOOD, an individual, on
behalf of himself and all others similarly
situated,

Plaintiff,

v.

LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40; et
al.

Defendants.

Judicial Council Coordination
Proceeding No. 4408
(Honorable Jack Komar)

Lead Case No. BC 325201

Case No.: BC 391869

**DECLARATION OF RICHARD A.
WOOD IN SUPPORT OF MOTION
FOR AWARD OF ATTORNEYS'
FEES, COSTS AND INCENTIVE
AWARD**

Location: Dept. TBA
Santa Clara Superior Court
191 N. First Street
San Jose, California
Date: March 21, 2016
Time: 1:30 p.m.

1 **DECLARATION OF RICHARD A. WOOD**

2 I, Richard A. Wood, declare:

3 1. I make this declaration of my own personal knowledge, except where
4 stated on information and belief, and if called to testify in Court on these matters,
5 I could do so competently.

6 2. I am the Court-appointed class representative and the Plaintiff in
7 this action. I make this declaration in support of the joint motion for preliminary
8 approval of the settlement agreement.

9 **TIME SPENT**

10 3. Over the past seven years, I have spent approximately 2200 hours in
11 my role as Plaintiff and class representative. The following estimates are
12 conservative, and I have rounded down wherever necessary.

13 a. *Court Hearings.* I have attended Court on this matter on
14 more than 50 days, with an average door to door round trip travel time of
15 at least eight hours, for a total of 400 hours.

16 b. *Courtcall.* I have attended 78 telephonic appearances, which
17 vary widely in length, but on average have been at least 45 minutes in length. The
18 total here is 39.75 hours.

19 c. *Mediation with Justice Robie.* I spent 48 hours driving to
20 Sacramento four round trips for mediation sessions covering seven days. Those
21 mediation sessions covered 42 hours of my time. The total here is 90 hours.

22 d. *General Lawsuit Work Time.* I have spent an average of five
23 hours per week on a variety of case-related activities, including: reviewing case
24 filings on line; phone calls with my attorneys, small pumper class members, or
25 other parties; emailing with my attorneys and reviewing documents; attending at
26 least twenty mediation sessions, including those with Mr. Dendy, Mr. Waldo and
27 later mediation sessions; attending local town hall and other non-mediation
28

1 meetings about this lawsuit; preparing and providing relevant information for my
2 attorneys. This five hour per week estimate is likely a bit low, as there have been
3 many weeks where that number has been much higher, sometimes in excess of
4 twenty or more hours. Rounding down to just over six years, the total estimate of
5 my time on this lawsuit is at least 1820 hours.

6 **OUT OF POCKET EXPENSES**

7 4. My total out of pocket costs are approximately \$9,837. I have driven
8 7040 miles on this case. At 30 miles per gallon, and using a conservative price of
9 \$3.00 per gallon, I estimate my fuel costs at \$704.

10 5. The 78 CourtCall appearances have cost me \$6,359, plus another
11 \$1,025 in filing fees. During my four trips to Sacramento for the Robie meetings,
12 I incurred \$1,479 for hotel costs, plus actual fuel costs of \$270 (not included
13 above).

14 **INCENTIVE AWARD AND WATER USE**

15 6. I would prefer to receive as incentive payment the right to pump an
16 additional two acre-feet of groundwater for use on my property, free of
17 assessment, in lieu of the traditional monetary incentive payment if the Court
18 feels that is appropriate.

19 7. I have lived in the Antelope Valley since 1969, and have resided at
20 45763 North 90th Street East, Lancaster, California since 1972. On September 30,
21 1983, I took fee title to this ten-acre parcel and have owned continually since that
22 date. As long as I have resided on the property, it has contained the same single
23 family residence, which was built many years before I purchased it.

24 8. For the entire time this property has been a residence, it has been
25 serviced by a groundwater well. To my knowledge, there has never been
26 municipal water service to this property, and certainly none during my
27 ownership. My property is not part of any mutual water company.

1 9. During my residence on the property, my water usage has been
2 solely for domestic purposes. All of this water is pumped from a well I maintain
3 on my property, and all of it is used on the property.

4 10. I am an engineer by education and profession. I have both a
5 Bachelor of Science and Master of Science degree in engineering. I spent the first
6 29 years of my career as a test engineer at the Air Force Fight Test Center,
7 Edwards AFB, with extensive experience in test methods, test instrumentation,
8 and statistical data analysis. The last four years of my career, I was the Director
9 of Environmental Management at Edwards AFB with involvement, among many
10 other things, in the base's water supply and quality.

11 11. I have considerable experience with groundwater extraction and use,
12 particularly for residential purposes. I have closely tracked my water use over the
13 years using rough but fairly simple calculations for water production very similar
14 to the work done by Mr. Thompson in this case in assessing Small Pumper Class
15 production. Year to year, my production varies, on average from 3.5 to about 5.0
16 acre feet per year. In very dry years, I slightly exceed 5 afy, for reasons noted
17 below.

18 12. A large number of the Small Pumper Class member's properties are
19 located in the unincorporated areas of Los Angeles and Kern counties. As such
20 many are on large lots of 10-20 acres as a result of the Counties' zoning and
21 minimum lot size rules. This results in houses being spread apart by 1/8 mile,
22 1/4 mile, 1/2 mile, and more. In my case, my house is sitting alone in open
23 desert, with no adjacent neighbors for quite some distance. Attached as **Exhibit**
24 **11** are true and correct copies of three Google Maps images of my property and
25 the surrounding area, both aerial and at street level.

26 13. The Mojave Desert provides no tall vegetation to protect houses
27 from the prevailing 10 to 30 MPH (and sometimes as high as 40 MPH) winds
28 that blow almost daily in the Antelope Valley. Unlike the houses in the urban

1 areas that have other buildings and neighbors trees to collectively form a wind
2 break, many Small Pumper Class properties must provide their own protection
3 from the wind (and dust) that blow across the Valley on a daily basis. Attached as
4 **Exhibit 12**, are, in this order, true and correct copies of Google Maps images of a
5 typical Mutual Water Company area in the Antelope Valley and a typical urban
6 area in Lancaster.

7 14. Wind breaks keep the houses cooler in summer, warmer in winter
8 (saving utility costs), and provide shelter from the blowing dust. Attached as
9 **Exhibit 13** are true and correct copies of published materials from Iowa State
10 University and windbreaks.com that address the advantages of wind breaks.

11 15. A major water use at my property is to maintain the wind break
12 trees. There is relatively little water use in the winter as the trees are dormant.
13 The majority of the water use is in the summer. The vegetation is NOT watered
14 on a regular schedule. The trees are watered on an as-needed basis. The water
15 use varies depending on a variety of factors: (1) did the Antelope Valley receive a
16 good "El Nino" rain fall in the spring or not; (2) did the Valley receive substantial
17 rain fall as the result of thunder storms in August and September or not; and (3)
18 how, hot, dry and windy was the weather during summer months. The above
19 parameters affect evapotranspiration. In other words, the hotter, drier, or
20 windier the summer is, the more water the plants (primarily trees) give up to the
21 atmosphere.

22 16. In a very dry year the watering may begin in early March. In a wet
23 spring the watering may not begin until sometime in April. During the summer
24 months if it is relatively cool watering occurs about every third week. If it is
25 relatively hot watering occurs every second week. If several substantial thunder
26 storms occur in August and /or September watering may be delayed a week or
27 two.

1 17. To illustrate the variation in water use from year to year both
2 Southern California Edison and Mr. Timothy Thompson conducted estimates and
3 tests to determine annual water use. Mr. Thompson estimated 3.11 afy and 3.51
4 afy for 2011 and 2012 respectively. Southern California Edison estimated 4.3 afy
5 for the period of July 2014 through June 2015. It should be noted 2014 and 2015
6 were very dry years in the Antelope Valley along with the general draught
7 affecting all of California. Using SCE Meter Data from April 2007 through March
8 2008 and the measured flow rate from the Edison tests I used 6.3 AF for that 12
9 month period.

10 18. I have since become much more conscious of being more efficient in
11 my water use. However, water use will vary from year to year depending on
12 weather conditions.

13 19. Five acre-feet of water will NOT be used every year; but it could be
14 necessary in particularly hot, dry, windy years.

15 **THE SETTLEMENT TERMS**

16 20. I do not know exactly how many settlement meetings I have
17 attended, or how many hours of time I have spent discussing that with my
18 attorneys, but it is many hundreds of hours (likely more than 500 hours, at least).
19 An incredible amount of time and effort went into the Small Pumper Class
20 Settlement. While human nature always tends to have us want a better deal, I
21 feel that the terms of the settlement are as good as we could have hoped for in the
22 given circumstances. I believe my counsel fought very hard for all of the
23 important provisions the Small Pumpers needed, and nearly all of those are
24 reflected in the final judgment. It is absolutely critical that we have a stable,
25 long-term groundwater supply to maintain our way of living because there is no
26 other viable option for domestic water supply. I am confident that the judgment
27 protects the Class Members' interests very well, in perpetuity. For these reasons,
28 I am pleased with the outcome.

1 I declare under penalty of perjury under the laws of the State of California
2 that the foregoing is true and correct. Executed this 26th day of January 2016, at
3 Lancaster, California.

4 Richard A. Wood

5
6 Richard A. Wood
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Exhibit 11

Google Maps



Imagery ©2016 DigitalGlobe, U.S. Geological Survey, USDA Farm Service Agency, Map data ©2016 Google 500 ft

0620

JA 159280

Google Maps



Imagery ©2016 DigitalGlobe, U.S. Geological Survey, USDA Farm Service Agency, Map data ©2016 Google 100 ft

Google Maps 45540 90th St E



Lancaster, California
Street View - May 2012

Image capture: May 2012 © 2016 Google

0622

JA 159282

Exhibit 12

0623

JA 159283

Google Maps 1550 W Ave L 8



Imagery ©2016 DigitalGlobe, U.S. Geological Survey, USDA Farm Service Agency, Map data ©2016 Google 500 ft

An aerial satellite view of a residential area in Warrington, UK. The image shows a grid of streets including Warrington Road, Warrington Road, and Warrington Road. The area is densely populated with houses and green spaces. The Google logo is visible at the bottom center.

Imagery ©2016 DigitalGlobe, U.S. Geological Survey, USDA Farm Service Agency, Map data ©2016 Google 500 ft

<https://www.google.com/maps/place/1550+W+Ave+L+8,+Lancaster,+CA+93534/@34.6987081,-118.1518283,1395m/data=!3m1!1e3!4m2!3m1!1s0x80c2...> 1/22/2016

0625

JA 159285

Exhibit 13



Farmstead Windbreaks: Planning

Much of Iowa's land is relatively level to gently rolling with few trees to block the prevailing winter winds. Windbreaks—rows of trees and shrubs properly located—can slow, direct, and block these winter winds, resulting in many benefits to the landowner. A windbreak is a permanent part of the farm landscape, so think and plan carefully before planting trees or shrubs.

Benefits of windbreaks

A good farmstead windbreak adds thousands of dollars to property values and provides many benefits. Some benefits such as energy conservation and snow control are the result of wind speed reduction. Other benefits such as wildlife habitat and aesthetic value are the result of having trees and shrubs in the landscape.

Reduced wind speed

Windbreaks direct winds over or around protected areas. This reduction in wind speed results in many benefits. The amount of wind speed reduction and the area affected depend on the height, density, width, and shape of the windbreak. The continuity of the windbreak is important. Holes or gaps in the windbreak may result in increased wind speed and reduced protection.

Windbreak **height** (H) is the most important factor used to determine the distance downwind that is protected by a windbreak. Wind speed is reduced most nearest the windbreak; at distances of 25 to 30 times H wind speed is reduced less than 10 percent (table 1). In addition there is a small reduction in wind speed up to one to four times H on the upwind side of a windbreak (figure 1).

Table 1. Wind speed reductions on the downwind side of a moderately dense windbreak

Distance from windbreak

5H	10H	15H	20H	25H	30H
78%	66%	35%	14%	10%	4%

% reduction in wind speed

The taller the windbreak, the greater the zone of protection. The percent of reduction in wind speed is relatively constant and is mostly independent of wind velocity.

The **density** of a windbreak also affects the reduction of wind speed. Density is the ratio of the solid portion of a windbreak to the total area of the barrier. Very dense windbreaks reduce wind speed in the zero to 10H zone more than do less dense windbreaks. Moderately dense windbreaks reduce wind speed over a greater H number than very dense windbreaks. A windbreak density of 35 to 85 percent provides the greatest combination of benefits. For some specialty functions such as snow capture, a density of 30 to 40 percent may be ideal.

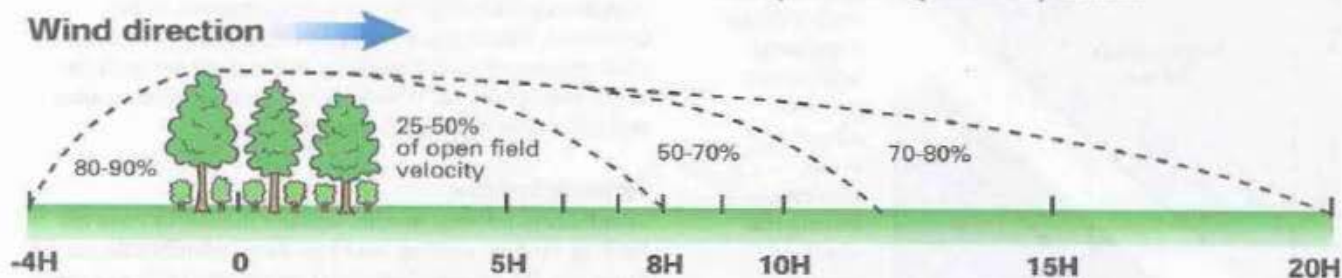


Figure 1. Zones of reduced wind velocity downwind of barrier as percentage of open field velocity. Vertical scale exaggerated.

IOWA STATE UNIVERSITY
University Extension

Ames, Iowa

Pm-1716 | August 1997

0627

JA 159287



Ryan and Lana Reed from Ottumwa, Iowa on their 2012 Pork Industry Environmental Stewards award. We helped with the design and provided the trees for this project. Ryan and Lana did all the planting and weed control. Read the story and see the video on our [Livestock Buildings](#) page.

Introduction

Growing up in the windswept plains of Iowa I saw the effects of wind and how a row or several rows of trees completely changed the environment that we lived in, especially in the winter, but also at other times of the year.

We have been growing and planting windbreaks in the Midwest for over 40 years and believe we have the knowledge to provide you with the best windbreak trees that will survive in your area.

Many times people will sell any kind of evergreen and call it a windbreak, but after a few years the tree does poorly or does not survive at all.

We are here to provide you with the knowledge that comes with over 40 years of work in this area, when you are ready to plant a windbreak, we are here to help you get it done and done right.

BENEFITS OF A WINDBREAK

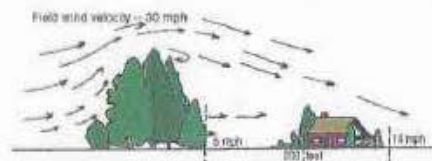
- 1. To protect the people and animals from cold winter winds by reducing wind velocities by-up-to 90%.
- 2. Prevent large amounts of snow from drifting by catching it inside and directly behind the windbreak and melting it slowly as it soaks into the ground and does not run off.
- 3. Reduces the costs of heating and cooling your home by 25% or more by reducing wind velocity.
- 4. Protect the home, business, or farm buildings from windstorms that can come at any time of the year.
- 5. Reduce traffic dust and other noises from nearby roads and fields.
- 6. Reduce the effects of hot drying summer winds, the trees act like air conditioners as they transpire and have a cooling effect on the immediate area.
- 7. Provides a better working and living condition with more productivity for persons inside the windbreak as a result of reduced winter winds.
- 8. Will attract game and songbirds and other wildlife all times of the year, especially in the winter.
- 9. Will help beautify the overall landscape around the area and make it a better place to work and play along with an increase in the total value of the windbreak protected area.
- 10. Protects growing plants and trees by lowering evaporation rates resulting in an increase in growth and plant quality.

Proper design of your windbreak must be carefully considered. Negative effects of poorly placed or improper trees can be eliminated by proper forethought. They must be able to withstand extreme cold, strong winds, poor soils and periods of drought. Not many trees are able to grow well under these conditions, so we encourage you to contact us, for our experience in this field is extensive and we do serve the entire United States.

WIND CHILL CHART

		Temperature (°F)																						
Wind (mph)	°F	40	35	30	25	20	15	10	5	0	-5	-10	-15	-20	-25	-30	-35	-40	-45	-50	-55	-60	-65	-70
		°F	°F	°F	°F	°F	°F	°F	°F	°F	°F	°F	°F	°F	°F	°F	°F	°F	°F	°F	°F	°F	°F	°F
5	36	31	25	19	13	7	1	-5	-11	-16	-21	-26	-31	-36	-41	-46	-51	-56	-61	-66	-71	-76	-81	-86
10	34	27	21	15	9	3	-3	-9	-15	-22	-28	-35	-41	-47	-53	-59	-65	-71	-77	-83	-89	-95	-101	-107
15	32	25	19	13	6	0	-7	-13	-20	-27	-34	-41	-48	-55	-62	-69	-76	-83	-90	-97	-104	-111	-118	-125
20	30	24	17	11	4	-2	-9	-16	-23	-30	-37	-44	-51	-58	-65	-72	-79	-86	-93	-100	-107	-114	-121	-128
25	28	23	16	9	3	-4	-11	-18	-25	-32	-39	-46	-53	-60	-67	-74	-81	-88	-95	-102	-109	-116	-123	-130
30	26	22	15	8	1	-5	-12	-19	-26	-33	-40	-47	-54	-61	-68	-75	-82	-89	-96	-103	-110	-117	-124	-131
35	24	21	14	7	0	-7	-14	-21	-28	-35	-42	-49	-56	-63	-70	-77	-84	-91	-98	-105	-112	-119	-126	-133
40	22	20	13	6	-1	-8	-15	-22	-29	-36	-43	-50	-57	-64	-71	-78	-85	-92	-99	-106	-113	-120	-127	-134
45	20	19	12	5	-2	-9	-16	-23	-30	-37	-44	-51	-58	-65	-72	-79	-86	-93	-100	-107	-114	-121	-128	-135
50	18	17	11	4	-3	-10	-17	-24	-31	-38	-45	-52	-59	-66	-73	-80	-87	-94	-101	-108	-115	-122	-129	-136
55	16	15	10	3	-4	-11	-18	-25	-32	-39	-46	-53	-60	-67	-74	-81	-88	-95	-102	-109	-116	-123	-130	-137
60	14	13	9	2	-5	-12	-19	-26	-33	-40	-47	-54	-61	-68	-75	-82	-89	-96	-103	-110	-117	-124	-131	-138

Wind chill temperature is defined as that temperature in calm air which provides the same chilling effect on a person as that for a particular combination of temperature and wind. The chart below allows you to estimate the wind chill temperature for a variety of temperature and wind speeds. For example, if the temperature is 10° F and wind speed 25 MPH do the following: 1) find 10° F on the top row, 2) read down to the row with 25 MPH, and 3) read the number in the intersection. In this example, the figure is -11° F.



As the old saying goes its not the cold, it's the wind that effects us the most. The reduction of wind velocity makes living for ourselves, our animals and anything else, inside this protected area a much more pleasant experience.

THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
ELECTRONIC FILING - WWW.SCEFILING.ORG

c/o Glotrans
2915 McClure Street
Oakland, CA94609
TEL: (510) 208-4775
FAX: (510) 465-7348
EMAIL: Info@Glotrans.com

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA

Coordination Proceeding Special Title (Rule
1550(b)) ANTELOPE VALLEY GROUNDWATER CASES
(JCCP 4408) Included Actions: Los Angeles
County Waterworks District No. 40

Plaintiff,
vs.

Antelope Valley Groundwater Cases (JCCP 4408)

Lead Case No.1-05-CV-049053

Hon. Jack Komar

Diamond Farming Co. Superior Court of California County of Los Angeles, Case No. BC 325 201 Los Angeles County Waterworks District No. 40 v. Diamond Farming Co. Superior Court of California, County of Kern, Case No. S-1500-CV-254-348 Wm. Bolthouse Farms, Inc. v. City of Lancaster Diamond Farming Co. v. City of Lancaster Diamond Farming Co. v. Palmdale Water Dist. Superior Court of California, County of Riverside, consolidated actions, Case Nos. RIC 353 840, RIC 344 436, RIC 344 668

Defendant.

PROOF OF SERVICE
Electronic Proof of Service

AND RELATED ACTIONS

I am employed in the County of Alameda, State of California.

I am over the age of 18 and not a party to the within action; my business address is 2915 McClure Street, Oakland, CA 94609.

The documents described on page 2 of this Electronic Proof of Service were submitted via the worldwide web on Wed. January 27, 2016 at 4:52 PM PST and served by electronic mail notification.

I have reviewed the Court's Order Concerning Electronic Filing and Service of Pleading Documents and am readily familiar with the contents of said Order. Under the terms of said Order, I certify the above-described document's electronic service in the following manner:

The document was electronically filed on the Court's website, <http://www.scefiling.org>, on Wed. January 27, 2016 at 4:52 PM PST

Upon approval of the document by the Court, an electronic mail message was transmitted to all parties on the electronic service list maintained for this case. The message identified the document and provided instructions for accessing the document on the worldwide web.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and

correct. Executed on January 27, 2016 at Oakland, California.

Dated: January 27, 2016

For WWW.SCEFILING.ORG

Andy Jamieson

THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
ELECTRONIC FILING SYSTEM - WWW.SCEFILING.ORG

Electronic Proof of Service
Page 2

Document(s) submitted by Michael McLachlan of Law Offices of Michael D. McLachlan APC on Wed. January 27, 2016 at 4:52 PM PST

1. Decl in Support: DECLARATION OF RICHARD A. WOOD IN SUPPORT OF MOTION FOR AWARD OF ATTORNEYS' FEES , COSTS AND INCENTIVE AWARD

Exhibit I

1 Michael D. McLachlan (State Bar No. 181705)
2 **LAW OFFICES OF MICHAEL D. McLACHLAN, APC**
3 44 Hermosa Avenue
4 Hermosa Beach, California 90254
5 Telephone: (310) 954-8270
6 Facsimile: (310) 954-8271
7 *mike@mclachlan-law.com*

8 Daniel M. O'Leary (State Bar No. 175128)
9 **LAW OFFICE OF DANIEL M. O'LEARY**
10 2300 Westwood Boulevard, Suite 105
11 Los Angeles, California 90064
12 Telephone: (310) 481-2020
13 Facsimile: (310) 481-0049
14 *dan@danolearylaw.com*

15 Attorneys for Plaintiff Richard Wood and the Class

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))

ANTELOPE VALLEY GROUNDWATER
CASES

RICHARD A. WOOD, an individual, on
behalf of himself and all others similarly
situated,

Plaintiff,

v.

LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40; et
al.

Defendants.

Judicial Council Coordination
Proceeding No. 4408

(Honorable Jack Komar)

Case No.: BC 391869

**DECLARATION OF DAVID B.
ZLOTNICK**

DECLARATION OF DAVID B. ZLOTNICK

1 **DECLARATION OF DAVID B. ZLOTNICK**

2
3 I, David B. Zlotnick, declare:

4 1. I make this declaration of my own personal knowledge, except where
5 stated on information and belief, and if called to testify in Court on these matters,
6 I could do so competently.

7 2. I was formally an attorney with the law firm of Krause, Kalfayan,
8 Benink & Slavens LLP, and was class counsel for Rebecca Willis and the Willis
9 Class.

10 3. Mr. Kalfayan and I filed the Willis Class Complaint on January 11,
11 2007, and filed a petition to coordinate that action with the Antelope Valley
12 Groundwater Cases on February 7, 2007. (Dkt. No. 444). That Petition was
13 granted by Order of April 13, 2007. (Dkt. No. 588).

14 4. The initial Willis Complaint was filed on behalf of all unrepresented
15 landowners in the Basin who owned parcels of one-acre in size or larger,
16 excluding any persons or entities affiliated with the public water supplier
17 defendants (Dkt. No. 445, Ex. A ("Complaint for Declaratory and Injunctive
18 Relief Seeking Adjudication of Water Rights"), ¶ 12.). Hence, the proposed Class
19 initially contained both dormant and pumping landowners.

20 5. Subsequent discussions with the Court and counsel led to the
21 determination by the Court and Willis Class counsel that potential conflicts
22 between the pumping and non-pumping landowners required separate
23 representation of those two groups of landowners. (Hearing Transcript of May
24 21, 2007, 29:16-26.)

25 6. On June 20, 2007, Ms. Willis filed her First Amended Complaint,
26 which limited the Class definition to persons or entities owning land within the
27 Basin, that "are not presently pumping water on their property and have not done
28 so within the past two (2) years." (Dkt. No. 675.) On September 11, 2007, the

2
DECLARATION OF DAVID B. ZLOTNICK

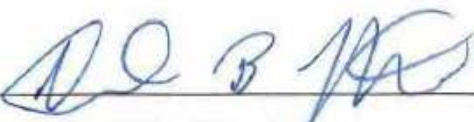
1 Court issued an Order certifying the Willis class as a Class of non-pumping
2 landowners. (Dkt. No. 841.)

3 7. In October of 2007, at the behest of the Court and other counsel, I
4 began searching for class counsel to represent the small pumpers. On October
5 31, 2007, I made initial contact with Michael McLachlan regarding the possibility
6 of representing the small pumper class. Mr. McLachlan and I had a series of
7 communications and meetings over the following three weeks, ending in Mr.
8 McLachlan's decision not to proceed with the case.

9 8. Over the next several months, I contacted approximately eight to ten
10 other class attorneys about potentially representing the small pumpers, but I
11 could not find anyone willing to take on the matter.

12 9. In late April of 2008, I had further contact with Mr. McLachlan, who
13 agreed to consider the representation further. In May of 2008, he agreed to
14 represent Mr. Wood and the small pumper class.

15
16 I declare under penalty of perjury under the laws of the State of California
17 that the foregoing is true and correct. Executed this 11th day of December 2015,
18 at San Diego, California.

19
20
21 
22 _____
23 David B. Zlotnick
24
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28

3
DECLARATION OF DAVID B. ZLOTNICK

THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
ELECTRONIC FILING - WWW.SCEFILING.ORG

c/o Glotrans
2915 McClure Street
Oakland, CA94609
TEL: (510) 208-4775
FAX: (510) 465-7348
EMAIL: Info@Glotrans.com

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA

Coordination Proceeding Special Title (Rule
1550(b)) ANTELOPE VALLEY GROUNDWATER CASES
(JCCP 4408) Included Actions: Los Angeles
County Waterworks District No. 40

Plaintiff,
vs.

Antelope Valley Groundwater Cases (JCCP 4408)

Lead Case No.1-05-CV-049053

Hon. Jack Komar

Diamond Farming Co. Superior Court of California County of Los Angeles, Case No. BC 325 201 Los Angeles County Waterworks District No. 40 v. Diamond Farming Co. Superior Court of California, County of Kern, Case No. S-1500-CV-254-348 Wm. Bolthouse Farms, Inc. v. City of Lancaster Diamond Farming Co. v. City of Lancaster Diamond Farming Co. v. Palmdale Water Dist. Superior Court of California, County of Riverside, consolidated actions, Case Nos. RIC 353 840, RIC 344 436, RIC 344 668

Defendant.

PROOF OF SERVICE
Electronic Proof of Service

AND RELATED ACTIONS

I am employed in the County of Alameda, State of California.

I am over the age of 18 and not a party to the within action; my business address is 2915 McClure Street, Oakland, CA 94609.

The documents described on page 2 of this Electronic Proof of Service were submitted via the worldwide web on Wed. January 27, 2016 at 4:52 PM PST and served by electronic mail notification.

I have reviewed the Court's Order Concerning Electronic Filing and Service of Pleading Documents and am readily familiar with the contents of said Order. Under the terms of said Order, I certify the above-described document's electronic service in the following manner:

The document was electronically filed on the Court's website, <http://www.scefiling.org>, on Wed. January 27, 2016 at 4:52 PM PST

Upon approval of the document by the Court, an electronic mail message was transmitted to all parties on the electronic service list maintained for this case. The message identified the document and provided instructions for accessing the document on the worldwide web.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and

correct. Executed on January 27, 2016 at Oakland, California.

Dated: January 27, 2016

For WWW.SCEFILING.ORG

Andy Jamieson

THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
ELECTRONIC FILING SYSTEM - WWW.SCEFILING.ORG

Electronic Proof of Service
Page 2

Document(s) submitted by Michael McLachlan of Law Offices of Michael D. McLachlan APC on Wed. January 27, 2016 at 4:52 PM PST

1. Decl in Support: DECLARATION OF DAVID B. ZLOTNICK

Exhibit J

Michael D. McLachlan (State Bar No. 181705)
LAW OFFICES OF MICHAEL D. McLACHLAN, APC
44 Hermosa Avenue
Hermosa Beach, California 90254
Telephone: (310) 954-8270
Facsimile: (310) 954-8271
mike@mclachlan-law.com

Daniel M. O'Leary (State Bar No. 175128)
LAW OFFICE OF DANIEL M. O'LEARY
2300 Westwood Boulevard, Suite 105
Los Angeles, California 90064
Telephone: (310) 481-2020
Facsimile: (310) 481-0049
dan@danolearylaw.com

Attorneys for Plaintiff Richard Wood and the Class

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordination Proceeding
Special Title (Rule 1550(b))

**ANTELOPE VALLEY GROUNDWATER
CASES**

**RICHARD A. WOOD, an individual, on
behalf of himself and all others similarly
situated,**

Plaintiff,

v.

**LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40; et
al.**

Defendants.

Judicial Council Coordination
Proceeding No. 4408
(Honorable Jack Komar)

Lead Case No. BC 325201

Case No.: BC 391869

**SUPPLEMENTAL DECLARATION
OF MICHAEL D. MCLACHLAN IN
SUPPORT OF MOTION FOR
AWARD OF ATTORNEYS' FEES,
COSTS AND INCENTIVE AWARD**

Location: Dept. TBA
Santa Clara Superior Court
191 N. First Street
San Jose, California
Date: April 1, 2016
Time: 1:30 p.m.

1 **SUPPLEMENTAL DECLARATION OF MICHAEL D. MCLACHLAN**

2 I, Michael D. McLachlan, declare:

3 1. I make this declaration of my own personal knowledge, except where
4 stated on information and belief, and if called to testify in Court on these matters,
5 I could do so competently.

6 2. I am co-counsel of record of record for Plaintiff Richard Wood and
7 the Class, and have been since 2008. I am duly licensed to practice law in
8 California. I make this declaration in support of the Motion for Approval of
9 Award of Attorney Fees and Costs. Specifically, this declaration is filed to correct
10 and update my firms' outstanding costs and expenses, a summary of which is
11 Exhibit 5 to my initial declaration.

12 **LITIGATION COSTS ADVANCED**

13 3. As of this date, my office has incurred a total of \$87,256.28 in case
14 costs and expenses. An updated summary of these costs, excluding interest, is
15 attached as **Exhibit 13**. Mr. O'Leary has incurred \$6,421.28 in costs.

16 4. Pursuant to the 2013 settlement, Class Counsel have been paid
17 \$17,038.08 for cost reimbursement by the settling defendants, leaving the total
18 sum at issue in this motion of **\$76,639.48**. I have reviewed my cost bills, as has
19 my paralegal, quite closely and all of the costs are typical cost items I charge, and
20 all are covered in my retainer agreement with Richard Wood.

21
22 I declare under penalty of perjury under the laws of the State of California
23 that the foregoing is true and correct. Executed this 11th day of March, 2016, at
24 Hermosa Beach, California.

25 Michael D.
26 McLachlan

Digitally signed by Michael D.
McLachlan
DN: cn=Michael D. McLachlan, o=Law
Offices of Michael D. McLachlan, ou,
email=mike@mclachlanlaw.com, c=US
Date: 2016.03.11 15:27:53 -08'00'

27
28 Michael D. McLachlan

Exhibit 13

Wood v. LA County - Law Offices of Michael D. McLachlan Costs

<u>DATE</u>	<u>VENDOR</u>	<u>NOTES</u>	<u>AMOUNT</u>
5/5/2008	parking	LASC	\$ 20.00
5/21/2008	Ginger Welker	transcript	\$85.00
6/3/2008	glotrans	5/14-6/3 6x	\$94.20
5/22/2008	parking		\$20.00
5/26/2008	Ginger Welker	transcript	\$125.00
6/1/2008	Westlaw	May	\$236.42
6/3/2008	parking		\$6.00
6/4/2008	DDS atty svc		175424 \$19.15
6/4/2008	courtcall		\$60.00
6/3/2008	LASC	filing fee	\$870.00
6/23/2008	courtcall		\$60.00
6/25/2008	parking	LASC	\$8.00
6/30/2008	mileage	San Diego	\$66.44
6/30/2008	parking	San Diego	\$20.00
6/30/2008	glotrans	13 filing fees	\$204.10
7/1/2008	Westlaw	June	\$97.18
8/1/2008	Westlaw	July	\$18.62
8/1/2008	glotrans	filing fee	\$15.70
8/4/2008	courtcall	???	\$60.00
8/3/2008	Ginger Welker	transcript	\$142.00
8/6/2008	filing fee		\$15.70
8/20/2008	Ginger Welker	Hearing transcript	\$160.00
8/21/2008	filing fee		\$15.70
9/1/2008	Westlaw	August	\$72.14
9/17/2008	glotrans		\$15.70
9/23/2008	Esquire	Utle depo transcript	\$1,343.40
9/24/2008	Esquire	Scalamini transcript	\$1,503.54
9/29/2008	Esquire	Durbin depo transcript	\$1,567.65
9/30/2008	Esquire	Oberdorfer transcript	\$1,256.40
10/7/2008	LA Best		26365 \$129.25
10/12/2008	parking	court	\$20.00
10/24/2008	courtcall		\$60.00
11/25/2008	cab	San Jose	\$20.00
11/14/2008	courtcall		\$55.00
11/14/2008	glotrans	filing fee	\$15.70
11/14/2008	courtcall		\$60.00
11/21/2008	glotrans	filing fee	\$15.70
11/24/2008	southwest air	airfare	\$279.00
11/25/2008	airport bus		\$1.75
11/25/2008	parking	burbank airport	\$30.00
11/26/2008	glotrans	filing fee x 2	\$31.40
12/1/2008	Westlaw	November	\$100.70
12/15/2008	glotrans	filing fee	\$15.70
1/1/2009	Westlaw	December	\$84.96
1/2/2009	glotrans	filing fee	\$15.70
1/15/2009	Clifford Brown	meeting room	\$61.18
1/22/2009	Ginger Welker	transcript	\$87.00
1/26/2009	glotrans		\$15.70
2/1/2009	Westlaw	January	\$479.35
2/3/2009	southwest air	San Jose	\$119.20
3/1/2009	glotrans	2/9 - 2/28 x9 @ 15.70	\$141.30
2/17/2009	courtcall	3/5 hearing	\$60.00

3/1/2009	Westlaw	February		\$280.46
3/5/2009	parking	aiport		\$30.00
3/5/2009	taxi	San Jose - Court		\$20.00
3/5/2009	taxi	Court - San Jose		\$20.00
3/30/2009	courtcall	tro		\$65.00
3/30/2009	glotrans	3 x 15.70		\$47.10
3/31/2009	glotrans	2 x. 15.70		\$31.40
4/1/2009	Westlaw	March		\$288.19
4/8/2009	Vargas			\$45.00
3/31/2009	courtcall	TRO		\$65.00
4/1/2009	glotrans	3x15.70		\$47.10
4/2/2009	parking	Bunn's office		\$5.25
4/2/2009	glotrans	2x15.70		\$31.40
4/16/2009	glotrans	2x15.70		\$31.40
4/29/2009	Ginger Welker			\$115.00
5/1/2009	Westlaw	April		\$21.02
5/1/2009	courtcall	ex parte		\$65.00
5/1/2009	glotrans	2x15.70		\$31.40
5/6/2009	LASC	jury fees		\$150.00
5/18/2009	courtcall			\$65.00
5/27/2009	courtcall			\$65.00
6/1/2009	Westlaw	May		\$83.76
6/3/2009	courtcall			\$65.00
6/5/2009	glotrans	5/5-6/3 17x 15.70		\$266.90
6/15/2009	courtcall			\$65.00
6/15/2009	DDS atty svc		198251	\$228.80
6/16/2009	courtcall			\$65.00
6/23/2009	LASC	document download		\$7.50
6/30/2009	DDS atty svc		199247	\$123.90
7/1/2009	glotrans	6/5-7/1 13 x 15.70		\$204.10
7/1/2009	Vargas	Class list revision		\$1,035.00
7/1/2009	Westlaw	June		\$54.23
7/13/2009	Entrix			\$0.00
7/20/2009	Heather Gorley	hearing transcripts 2		\$321.40
7/30/2009	Vargas	class list revision		\$255.00
7/21/2009	Fedex		86001	\$19.97
7/27/2009	Fedex		17260	\$17.02
8/3/2009	glotrans	7/9-8/3 7 x 15.70		\$109.90
8/7/2009	southwest air			\$233.20
8/7/2009	glotrans			\$15.70
8/10/2009	Ginger Welker	7/24/09 transcript		\$205.00
8/11/2009	glotrans			\$15.70
8/12/2009	southwest air			\$139.20
8/17/2009	lunch SJ	Shark's Cage		\$17.05
8/17/2009	Park One	LAX Parking		\$17.55
8/13/2009	Fedex	00148 BBK		\$19.21
8/14/2009	Fedex		91748	\$23.62
8/17/2009	taxi	San Jose		\$22.00
8/25/2009	Fedex	Robie 94215		\$19.12
9/1/2009	Westlaw	August		\$61.96
9/2/2009	Parking	burbank airport		\$20.00
9/2/2009	taxi	Robie to Airport		\$36.00
9/2/2009	breakfast	burbank airport		\$13.95
9/2/2009	dinner	Sacto		\$35.19
10/1/2009	Westlaw	Sept		\$113.49

10/2/2009	Fedex	67935 BBK	\$15.33
10/9/2009	Fedex	68794 BBK	\$15.33
10/13/2009	Parking	burbank airport	\$20.00
10/13/2009	taxi	San Jose	\$10.00
10/21/2009	glotrans		\$18.00
10/21/2009	courtcall		\$65.00
10/29/2009	southwest air	Robie part 2	\$341.20
11/4/2009	taxi	robie	\$36.00
11/1/2009	Westlaw	Oct	\$6.58
11/1/2009	Fedex	49207 BBK	\$15.62
11/4/2009	taxi	Sacto to Robie	\$39.00
11/4/2009	lunch Sacto	cash	\$22.00
11/6/2009	Fedex	33637 Robie	\$19.30
11/13/2010	Fedex	BBK	\$15.62
11/27/2010	Fedex	BBK	\$15.40
12/1/2009	Westlaw	Nov	\$13.01
1/8/2010	Courtcall		\$45.00
1/18/2010	Courtcall		\$45.00
2/1/2010	Westlaw	jan	\$102.20
2/3/2010	Glotrans	4 x 18	\$72.00
2/18/2010	Ginger Welker	transcript 2/5	\$85.00
3/1/2010	Westlaw	Feb	\$17.17
3/3/2010	Glotrans	5 x 18	\$90.00
3/3/2010	Courtcall		\$45.00
3/8/2010	Parking	court	\$9.35
3/10/2010	Ginger Welker	transcript	\$125.00
3/15/2010	Courtcall		\$45.00
3/23/2010	Court of App	writ	\$655.00
3/23/2010	DDS	LASC filing	\$17.90
3/23/2010	DDS	court of app filing	\$98.06
3/26/2010	DDS	court of app filing	\$131.15
3/26/2010	Fedex	rowena walker	\$16.93
3/30/2010	Glotrans	7 x 18	\$126.00
3/30/2010	Charle Kuhn	hearing transcript	\$50.00
4/1/2010	Westlaw	March	\$31.60
4/20/2010	Courtcall		\$45.00
4/29/2010	Glotrans		\$36.00
4/30/2010	Myriad	writ copies	\$214.23
5/5/2010	Glotrans		\$18.00
6/2/2010	Courtcall		\$50.00
6/4/2010	Glotrans		\$36.00
6/8/2010	Glotrans	18 x 2	\$36.00
7/1/2010	Westlaw	June	\$91.37
7/13/2010	Courtcall		\$65.00
7/20/2010	Courtcall		\$65.00
7/27/2010	Glotrans	9x 18 July	\$162.00
8/24/2010	Southwest	air -- Sacto mediation	\$101.92
8/24/2010	Burbank	parking	\$20.00
8/31/2010	Glotrans		\$18.00
9/1/2010	Westlaw	August	\$49.91
10/1/2010	Westlaw	Sept	\$12.60
10/19/2010	Parking dep		\$6.75
11/1/2010	Westlaw	Oct	\$8.15
11/15/2010	Parking dep		\$6.75
11/15/2010	Glotrans		\$18.00

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11/16/2010	Parking dep		\$6.75
11/30/2010	Glotrans		\$18.00
12/1/2010	Westlaw	November	\$149.51
12/15/2010	Parking	cash LASC	\$20.00
12/20/2010	Glotrans		\$18.00
12/30/2010	Glotrans	3x	\$54.00
1/1/2011	Westlaw	December	\$139.93
1/4/2011	Parking	trial	\$20.00
1/6/2011	Parking	trial	\$20.00
1/6/2011	lunch	joyce	\$45.09
1/6/2011	Myriad	334231 AV expert report	\$373.05
1/12/2011	Veritext	Joe S transcript	\$497.15
1/13/2011	Veritext	Joe S transcript	\$515.45
1/20/2011	Rental Car	Joe S	\$44.21
1/20/2011	Meals	Oakland / Joe S	\$30.70
1/20/2011	Southwest	Joe S	\$347.40
1/20/2011		76 gas	\$7.28
1/20/2011	Parking	Joe S. depo building	\$10.00
1/20/2011	Parking	burbank airport	\$20.00
1/25/2011	Southwest	Joe S #2	\$331.40
1/25/2011	Parking	burbank airport	\$20.00
1/25/2011	Parking	Ygnacio center	\$7.00
1/25/2011	Fox Rental Car	Joe S	\$100.59
1/27/2011	Veritext	Joe S	\$427.00
1/31/2011	parking		\$20.00
2/1/2011	Parking		\$20.00
2/2/2011	Parking		\$20.00
2/3/2011	Parking		\$20.00
2/10/2011	Parking		\$20.00
2/14/2011	Parking		\$16.00
2/15/2011	parking		\$16.00
2/16/2011	Parking		\$16.00
2/14/2011	Glotrans		\$18.00
2/17/2011	Parking		\$16.00
2/19/2011	Lebeau Thelen	AV trial report bill 1	\$216.86
2/23/2011	Parking		\$9.00
2/24/2011	Parking		\$12.00
3/14/2011	Parking		\$16.00
3/15/2011	Glotrans		\$18.00
3/15/2011	Parking		\$16.00
3/16/2011	Parking		\$16.00
3/22/2011	Parking		\$16.00
3/23/2011	Parking		\$16.00
3/24/2011	Parking		\$5.00
3/28/2011	parking		\$16.00
3/30/2011	Lebeau Thelen	AV trial reporter bill 2 + 3	\$486.85
4/13/2011	Parking	trial	\$16.00
4/25/2011	Glotrans		\$18.00
5/1/2011	Westlaw	April	\$2.49
5/9/2011	Elite Atty Svc	398	\$30.00
6/2/2011	Courtcall		\$110.00
6/15/2011	Glotrans		\$18.00
6/21/2011	Glotrans		\$18.00
6/1/2011	Westlaw	June	\$15.48
7/6/2011	Courtcall		\$78.00

7/11/2011	Parking		\$8.00
7/12/2011	Glotrans		\$18.00
8/10/2011	Ginger Welker CSR	hearnig transcript x2	\$73.00
8/24/2011	Glotrans		\$19.00
8/30/2011	Parking		\$8.00
8/31/2011	taxi	Robie	\$35.00
8/31/2011	Southwest Air	Robie mediation 8/31	\$352.40
8/31/2011	Parking	Burbank Airport Robie	\$21.00
9/1/2011	Westlaw	August	\$55.96
10/5/2011	Glotrans		\$19.00
10/3/2011	Courtcall		\$78.00
11/1/2011	Westlaw		\$7.55
11/12/2011	Paula Renteria CSR	hearing transcript	\$10.00
11/11/2011	Glotrans		\$19.00
11/15/2011	Parking		\$8.00
12/1/2011	Westlaw		\$1.39
12/9/2011	glotrans		\$19.00
1/17/2012	Ginger Welker	hearing transcript	\$99.00
1/19/2012	Glotrans		\$19.00
2/9/2012	Glotrans		\$19.00
2/14/2012	parking	hearing	\$8.00
3/30/2012	lunch		\$26.02
4/1/2012	Westlaw		\$39.22
4/12/2012	Glotrans		\$19.00
4/17/2012	parking	court	\$8.00
4/27/2012	Glotrans		\$19.00
5/1/2012	Westlaw	April	\$78.44
5/20/2012	Lynne Franko	reporter	\$45.00
6/6/2012	Courtcall	6/19 status call	\$78.00
6/6/2012	Glotrans		\$19.00
6/12/2012	Glotrans		\$19.00
6/14/2012	Glotrans		\$38.00
6/24/2012	Sandy Geco	transcript March 2012	\$112.50
7/1/2012	Glotrans		\$19.00
7/1/2012	Westlaw	June	\$80.63
7/6/2012	Glotrans		\$19.00
7/6/2012	parking	trial setting / expert	\$15.00
7/11/2012	Glotrans		\$19.00
8/1/2012	Westlaw	July	\$47.06
10/12/2012	parking	trial setting / expert	\$20.00
10/15/2012	CCROLA	reporter 10/15	\$250.00
10/8/2012	Glotrans		\$21.00
11/8/2012	Glotrans		\$42.00
11/16/2012	Glotrans		\$21.00
11/5/2012	Parking	court	\$8.00
11/9/2012	parking	court	\$15.00
11/19/2012	Glotrans		\$21.00
11/20/2012	Glotrans		\$42.00
11/26/2012	Glotrans		\$21.00
11/29/2012		Sacto to Robie	\$40.00
11/29/2012	taxi	robie to Sacto	\$40.00
11/29/2012	dinner	Sacto stranded	\$41.55
11/30/2012	parking	Burbank air -- Robie	\$42.00
11/28/2012	Glotrans		\$21.00
12/7/2012	Glotrans		\$21.00

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12/14/2012	Glotrans		\$21.00
12/18/2012	Glotrans		\$42.00
12/18/2012	Courtcall		\$78.00
1/1/2013	Westlaw	Dec	\$57.14
1/4/2013	courtcall		\$78.00
1/4/2013	Glotrans		\$42.00
1/10/2013	courtcall		\$78.00
1/10/2013	Veritext	depo transcript	\$441.21
1/10/2013	Veritext	depo transcript	\$230.00
1/10/2013	Glotrans		\$42.00
1/17/2013	Glotrans		\$105.00
1/24/2013	Glotrans		\$21.00
2/13/2013	Glotrans		\$21.00
2/25/2013	Courtcall		\$78.00
2/25/2013	Courtcall		\$78.00
2/25/2013	Glotrans		\$42.00
2/28/2013	Excelsior	copying	\$826.08
3/11/2013	Glotrans		\$21.00
3/26/2013	Glotrans		\$21.00
3/25/2013	parking	AV OSC CCW	\$12.00
3/26/2013	Courtcall		\$78.00
4/1/2013	Glotrans		\$21.00
4/1/2013	Westlaw	March	\$237.74
4/5/2013	Glotrans		\$42.00
4/8/2013	parking	Lamoreux depo	\$16.00
4/12/2013	Parking	Ariki depo	\$16.00
4/20/2013	Glotrans		\$21.00
4/22/2013	Courtcall		\$78.00
4/22/2013	Glotrans		\$21.00
4/29/2013	USPS	postage	\$92.00
4/29/2013	Glotrans		\$21.00
5/1/2013	Westlaw	April	\$147.00
5/6/2013	Glotrans		\$42.00
5/6/2013	Courtcall		\$78.00
5/16/2013	Glotrans		\$21.00
5/16/2013	USPS	postage	\$106.20
5/16/2013	Courtcall		\$78.00
5/22/2013	Veritext	1758250	\$1,566.25
5/23/2013	Veritext	1758292	\$3,250.00
5/24/2013	parking	airport	\$14.92
5/24/2013	cab	San Jose	\$20.00
5/24/2013	air fare	San Jose	
5/23/2013	Glotrans		\$63.00
5/24/2013	Veritext	1751599	421.71
5/24/2013	Veritext	1751668	\$230.18
5/24/2013	Veritext	1751714	\$279.16
5/24/2013	Veritext	1751688	\$753.33
5/24/2013	Veritext	1759497	\$181.41
5/24/2013	Veritext	1759526	\$228.93
5/24/2013	Veritext	1759516	\$292.60
5/24/2013	Veritext	1759414	\$325.81
5/24/2013	Veritext	1759461	\$42.34
5/24/2013	Veritext	1759503	\$214.60
5/24/2013	Veritext	1759543	\$185.15
5/24/2013	Veritext	1759590	\$367.05

5/24/2013	Veritext		1759607	\$226.04
5/24/2013	Veritext		1759640	\$258.13
5/24/2013	Veritext		1759677	\$155.31
5/25/2013	Veritext		1760831	\$108.73
5/28/2013	parking			\$5.00
5/28/2013	parking	trial		\$8.00
5/29/2013	parking	trial		\$8.00
5/29/2013	Veritext		1765258	\$214.84
5/29/2013	Veritext		1763555	\$248.33
5/29/2013	Veritext		1763717	\$246.76
5/30/2013	parking	trial		\$8.00
5/31/2013	Veritext		1761954	\$210.98
5/31/2013	Veritext		1762287	\$225.00
5/31/2013	Veritext		1762286	\$225.00
6/1/2013	Westlaw	May		\$187.15
6/5/2013	glotrans			\$21.00
6/7/2013	Glotrans			\$21.00
6/10/2013	glotrans			\$42.00
6/12/2013	Scandigital	copying		\$139.96
6/13/2013	USPS	postage		\$92.00
6/18/2013	postage			\$75.00
6/19/2013	glotrans			\$21.00
6/24/2013	Fedex	copying		\$98.23
6/24/2013	USPS	postage		\$92.00
6/24/2013	Fedex	copying		\$26.16
6/24/2013	Fedex	copying		\$104.12
6/25/2013	courtcall	Thompson		\$108.00
6/26/2013	courtcall	mdm		\$78.00
6/27/2013	glotrans			\$63.00
6/27/2013	parking			\$20.00
6/28/2013	glotrans			\$21.00
6/28/2013	US	postage		\$75.00
7/1/2013	Westlaw	june		\$279.24
7/2/2013	Elite Atty Svc		736	\$20.00
7/4/2013	glotrans			\$21.00
7/8/2013	courtcall			\$78.00
7/12/2013	parking			\$20.00
7/11/2013	glotrans			\$21.00
7/15/2013	glotrans			\$21.00
7/23/2013	Elite Atty Svc		779	\$70.00
7/24/2013	USPS	postage		\$18.40
8/1/2013	Westlaw	july		\$247.10
8/12/2013	USPS	postage		\$46.00
8/13/2013	USPS	postage		\$75.00
8/15/2013	Mileage	157 miles @ .565 (Fairmont)		\$88.70
8/22/2013	Mileage	157 miles @ .565 (Fairmont)		\$88.70
8/26/2013	USPS	postage		\$77.36
8/29/2013	glotrans			\$21.00
9/1/2013	Westlaw	august		\$192.58
9/3/2013	Elite Atty Svc		806	\$20.00
9/6/2013	parking	court		\$20.00
9/9/2013	Courtcall	9/13/13 hearing		\$86.00
9/6/2013	Glotrans			\$42.00
9/9/2013	Glotrans			\$42.00
9/11/2013	Glotrans			\$21.00

9/16/2013	Glotrans		\$21.00
9/23/2013	Dropbox	cloud file for AV	\$199.00
9/25/2013	Glotrans		\$21.00
9/30/2012	Glotrans		\$21.00
10/1/2013	Westlaw	September	\$41.93
10/6/2013	Glotrans		\$42.00
10/7/2013	courtcall	October	\$86.00
10/7/2013	Glotrans	6 x 21	\$126.00
10/8/2013	glotrans		\$21.00
10/9/2013	Southwest Air	San Jose hearing 10/25/13	\$187.80
10/10/2013	glotrans		\$21.00
10/15/2013	Parking	court	\$10.00
10/17/2013	glotrans		\$84.00
10/18/2014	glotrans		\$21.00
10/22/2013	Janet Epstein CSR	10/16/13 transcript	\$123.00
10/24/2013	glotrans		\$105.00
10/25/2013	Southwest Air		\$162.00
10/25/2013	Parking	LAX Parking	\$21.27
10/25/2013	Yellow Cab	San Jose	\$22.13
10/25/2013	lunch	San Jose	\$24.41
10/28/2013	Stephanie Estes CSR	10/21/13 transcript	\$167.40
10/30/2013	glotrans		\$21.00
11/1/2013	Westlaw	October	\$126.16
11/5/2013	AV Press	class notice	\$435.60
11/15/2013	Glotrans		\$42.00
11/18/2013	glotrans		\$63.00
11/22/2013	Southwest	12/10/13 hearing	\$140.80
11/22/2013	Parking	Bunn	\$10.00
11/25/2013	glotrans		\$42.00
11/25/2013	courtcall	11/26/13 hearing	\$86.00
11/27/2013	Southwest	12/4/2014	\$326.80
11/27/2013	glotrans		\$21.00
12/1/2013	Westlaw	November	\$123.50
12/2/2013	glotrans		\$21.00
12/3/2013	glotrans		\$42.00
12/4/2013	glotrans		\$21.00
12/4/2013	Hotel	12/10/13 hearing	\$165.72
12/9/2013	Chani Ludwig CSR	9/6/13 transcript	\$10.00
12/11/2013	Parking	LAX	\$21.27
12/11/2013	cab	San Jose	\$35.00
1/1/2013	glotrans		\$42.00
1/1/2014	Westlaw	december	\$102.36
1/2/2014	glotrans		\$21.00
1/3/2014	glotrans		\$42.00
1/6/2014	Parking		\$12.00
1/6/2014	glotrans		\$84.00
1/6/2014	CalWest Atty Svc	6680	\$50.00
1/9/2014	glotrans		\$21.00
1/14/2014	courtcall	1/15/14 hearing	\$86.00
1/14/2014	glotrans		\$21.00
1/16/2014	Parking	williams depo	\$37.50
1/16/2014	Dennis Williams	expert fee	\$1,625.00
1/21/2014	glotrans		\$21.00
1/24/2014	glotrans		\$21.00
1/24/2014	Janet Epstein CSR	1/7/14 hearing	\$112.50

1/27/2014	courtcall		\$116.00
1/27/2014	Glotrans		\$21.00
1/28/2014	courtcall	1/30/14 hearing	\$86.00
1/29/2014	Glotrans		\$21.00
2/1/2014	Westlaw	january	\$130.66
2/1/2014	Veritext	1955790	\$410.80
2/1/2014	Veritext	1955798	\$287.20
2/1/2014	Veritext	1955814	\$936.15
2/1/2014	Veritext	1955828	\$561.05
2/1/2014	Veritext	1955848	\$738.25
2/1/2014	Veritext	1955860	\$853.30
2/1/2014	Veritext	1955871	\$583.75
2/1/2014	Veritext	1955960	\$428.25
2/1/2014	Veritext	1955968	\$338.65
2/1/2014	Veritext	1955977	\$400.00
2/1/2014	Veritext	1955984	\$424.60
2/1/2014	Veritext	1956002	\$614.95
2/1/2014	Veritext	1956004	\$1,613.60
2/1/2014	glotrans		\$21.00
2/6/2014	Veritext	1958630	\$291.65
2/10/2014	Parking		\$12.00
2/11/2014	Parking		\$12.00
2/14/2014	Glotrans		\$21.00
2/18/2014	Parking		\$12.00
2/19/2014	Parking		\$12.00
2/20/2014	Parking		\$12.00
2/21/2014	Parking		\$12.00
2/24/2014	Parking		\$12.00
3/1/2014	Westlaw	February	\$65.33
3/5/2014	courtcall	3/6/14 hearing	\$86.00
3/5/2014	Glotrans		\$42.00
3/7/2014	Southwest	San Jose 4/7	\$126.50
3/12/2014	Parking	settlement conf	\$40.00
3/13/2014	Parking		\$9.00
3/18/2014	courtcall	3/21/14 hearing	\$86.00
3/18/2014	Parking		\$9.00
3/19/2014	Glotrans	ex parte	\$42.00
3/20/2014	glotrans		\$21.00
3/21/2014	courtcall	4/1/14 hearing	\$86.00
3/28/2014	Glotrans		\$63.00
3/29/2014	Veritext	1999132	\$385.00
3/31/2014	Parking		\$6.00
4/1/2014	Westlaw	March	\$88.22
4/1/2014	courtcall	4/7/14 hearing	\$86.00
4/5/2014	CalWest Atty Svc	7234	\$77.50
4/3/2014	Parking	settlement	\$8.00
4/10/2014	Parking	settlement conf	\$39.15
5/1/2014	Westlaw	April	\$32.67
5/13/2014	Courtcall	5/23/14 hearing	\$86.00
6/1/2014	Westlaw	May	\$34.37
6/11/2014	Courtcall	7/11/14 hearaiing	\$86.00
7/30/2014	Parking	settlement mtg	\$9.00
8/1/2014	westlaw	July	\$242.66
8/8/2014	Glotrans		\$63.00
8/11/2014	Parking	Mosk	\$20.00

8/11/2014	Lunch Meeting		\$17.45
8/11/2014	Glotrans		\$63.00
8/12/2014	Courtcall	8/15/14 hearing	\$86.00
8/12/2014	Parking	settlement mtg	\$20.00
8/14/2014	Glotrans		\$21.00
8/15/2014	Courtcall	8/29/2014 hearing	\$86.00
8/21/2014	Glotrans		\$21.00
8/25/2014	Glotrans		\$21.00
9/1/2014	Westlaw	august	\$66.16
9/2/2014	courtcall	9/5/14 hearing	\$86.00
9/3/2014	Glotrans		\$21.00
9/4/2014	glotrans		\$42.00
9/19/2014	glotrans		\$21.00
9/25/2014	glotrans		\$42.00
10/2/2014	courtcall		\$86.00
10/1/2014	Westlaw	September	\$56.53
10/8/2014	courtcall		\$86.00
11/1/2014	Westlaw	October	\$56.53
11/4/2014	Parking	Court	\$20.00
11/12/2014	Jeanette Coyle	11/4/14 transcript	\$66.00
11/21/2014	LASC	online record fee	\$7.50
12/19/2014	courtcall		\$86.00
1/1/2015	Westlaw	December	\$3.93
1/6/2015	Glotrans		\$42.00
1/8/2015	Glotrans		\$21.00
1/9/2015	Southwest Airlines	San Jose Jan. 22	\$152.20
1/15/2015	Glotrans		\$42.00
1/16/2015	Glotrans		\$21.00
1/19/2015	Glotrans		\$21.00
1/20/2015	Glotrans		\$21.00
1/21/2015	Glotrans		\$21.00
1/22/2015	Parking	LAX -- San Jose	\$22.81
1/22/2015	Taxi	SJC to Court (one way)	\$20.16
1/27/2015	Deanne Helgesen CSR	1/22/15 transcript	\$60.00
2/1/2015	Sharefile	FTP expert / clients - Jan	\$125.00
2/1/2015	Westlaw		\$364.30
2/2/2015	Courtcall		\$86.00
2/5/2015	LASC	filing fees ex partes	\$120.00
2/26/2015	Glotrans		\$21.00
3/1/2015	Sharefile	FTP expert / clients - Feb	\$125.00
3/1/2015	Westlaw	February	\$17.05
3/4/2015	Glotrans		\$42.00
3/13/2015	Glotrans		\$42.00
3/14/2015	LASC	filling fee prelim approval	\$60.00
3/19/2015	Glotrans		\$21.00
3/23/2015	parking	BBK meeting	\$9.00
3/26/2015	parking court		\$20.00
4/1/2015	Westlaw	March	\$420.68
4/1/2015	Sharefile	FTP expert / clients -March	\$125.00
4/1/2015	Glotrans		\$21.00
4/6/2015	Calwest	#9482	\$114.00
4/9/2015	Courtcall		\$86.00
4/9/2015	AV Press	class notice	\$405.90 Bill BBK
4/13/2015	Courtcall		\$86.00
4/24/2015	Glotrans		\$21.00

4/25/2015	Glotrans		\$21.00
5/1/2015	Sharefile	FTP expert / clients - April	\$125.00
5/1/2015	Westlaw	April	\$784.35
5/6/2015	Courtcall	15-May-15	\$86.00
5/13/2015	LASC	internet download fees 4408	\$12.75
5/19/2015	courtcall	15-Jun-15	\$86.00
6/1/2015	Sharefile	FTP expert / clients - May	\$125.00
6/1/2015	Westlaw	May	\$180.42
6/4/2015	Glotrans		\$42.00
6/8/2015	Glotrans		\$21.00
6/11/2015	Glotrans		\$21.00
6/12/2015	Glotrans		\$21.00
6/17/2015	courtcall	10-Jul-15	\$86.00
6/19/2015	Clifford & Brown	phase 4 transcripts	\$ 144.50
7/1/2015	Sharefile	FTP expert / clients - June	\$125.00
7/1/2015	Westlaw	June	\$389.20
7/9/2015	Glotrans		\$105.00
7/11/2015	Glotrans		\$21.00
7/15/2015	Courtcall	ex parte July 16	\$86.00
7/16/2015	filing fee	Check 3079	\$60.00
7/19/2015	Southwest Air	San Jose 8/25/15	\$220.00
7/21/2015	Parking BBK	Williams meeting	\$39.15
7/27/2015	Glotrans		\$63.00
7/27/2015	Parking	Thompson depo	\$4.50
7/27/2015	Mileage	Thompson - 236 x .575	\$135.70
7/28/2015	Glotrans		\$21.00
7/29/2015	Personal Ct Reporters	Thompson depo transcript	\$453.65
7/28/2015	Excelsior Digital	Thompson report binders - Trial	\$2,685.00
8/1/2015	CalWest	#2703	\$270.00
8/1/2015	Westlaw	July	\$189.90
8/1/2015	Sharefile	FTP expert / clients - July	\$125.00
8/3/2015	Parking	Prove up trial day 1	\$20.00
8/3/2015	Lunch	Oleary/McLachlan	\$36.52
8/4/2015	Parking	Prove up trial day 2	\$20.00
8/5/2015	Excelsior Digital	Thompson report trial binders	\$2,685.90
8/20/2015	Courtcall	26-Aug-15	\$86.00
8/20/2015	Courtcall	27-Aug-15	\$86.00
8/25/2015	taxi	SJO to court	\$22.32
8/25/2015	Uber	court to airport, San Jose	\$13.73
8/25/2015	parking LAX		\$18.04
8/26/2015	Courtcall	refund - August 26	-\$86.00
8/26/2015	Courtcall	refund - August 27	-\$86.00
8/27/2015	Courtcall	Sept. 4	\$86.00
9/1/2015	Glotrans		\$42.00
9/1/2015	Sharefile	FTP expert / clients - Aug	\$125.00
9/4/2015	Glotrans		\$63.00
9/9/2015	Courtcall	Sept. 21	\$86.00
9/18/2015	Glotrans		\$21.00
9/28/2015	Parking	trial	\$20.00
9/29/2015	Parking	trial	\$20.00
9/30/2015	Parking	trial	\$20.00
10/1/2015	Parking	trial	\$20.00
10/1/2015	Lexis	September	\$197.16
10/1/2015	Parking	trial	\$20.00
10/1/2015	Sharefile	FTP expert / clients - Sept.	\$125.00

10/6/2015	Courtcall	Oct. 7	\$86.00
10/14/2015	Parking	trial	\$20.00
10/23/2015	Courtcall	Oct. 30	\$86.00
10/28/2015	Veritext	CA2461108	\$90.00
10/30/2015	Southwest	closing San Jose	\$402.97
11/1/2015	Sharefile	FTP expert / clients - Oct.	\$125.00
11/1/2015	Lexis	October	\$86.25
11/1/2015	Veritext	Tapia transcript	\$961.15
11/2/2015	Parking	meeting	\$8.00
11/3/2015	Embassy Suites	hotel 11/3 - San Jose	\$457.84
11/2/2015	Glotrans		\$63.00
11/3/2015	San Pedro	lunch, San Jose	\$14.00
11/3/2015	Joe's	dinner	\$37.79
11/4/2015	Lou's	lunch, San Jose	\$16.57
11/4/2015	Taxi LAX		\$29.56
11/6/2015	Courtcall	Nov. 10 hearing	\$86.00
11/9/2015	LASC	download fees -- Mosk	\$2.00
11/11/2015	LASC	minute order download	\$13.60
11/18/2015	Glotrans		\$42.00
11/23/2015	Filing fee	LASC - Check 3109	\$60.00
11/23/2015	Heather Gorley CSR	closing transcripts	\$387.00
12/1/2015	Lexis	November	\$130.54
12/1/2015	Veritext	August 3 trial	\$233.30
12/1/2015	Veritext	August 4 trial	\$108.84
12/1/2015	Veritext	Sept. 28 trial	\$239.76
12/1/2015	Veritext	Sept. 29 trial	\$270.21
12/1/2015	Veritext	Sept. 30 trial	\$162.23
12/1/2015	Veritext	Oct 1 trial	\$113.03
12/1/2015	Veritext	Oct 2 trial	\$200.78
12/1/2015	Sharefile	FTP expert / clients - Nov.	\$125.00
12/1/2015	LASC	download fees -- Mos	\$9.80
12/1/2015	Lexis	November	\$275.67
12/6/2015	Glotrans		\$21.00
12/4/2015	Glotrans		\$21.00
12/9/2015	LASC	file download fees	\$67.60
12/10/2015	Glotrans		\$42.00
12/17/2015	Glotrans		\$21.00
12/18/2015	Glotrans		\$21.00
12/21/2015	Glotrans		\$63.00
12/23/2015	parking	LASC	\$20.00
12/28/2015	Glotrans		\$21.00
12/30/2015	Glotrans		\$63.00
12/31/2015	courtcall		\$86.00
1/1/2016	Veritext	Oct. 14 Trial	\$518.00
1/1/2016	Lexis	December	\$100.30
1/1/2016	Veritext	Oct. 15 Trial	\$227.15
1/1/2016	Sharefile	FTP expert/ clients - Dec	\$125.00
1/15/2016	Glotrans		\$21.00
1/19/2016	Glotrans	ex parte	\$24.00
1/19/2016	LASC	filing fees ex parte	\$60.00
1/20/2016	Courtcall	ex parte Jan 21	\$86.00
1/20/2016	Courtcall		\$86.00
1/20/2016	Glotrans	reply ex parte	\$24.00
1/21/2016	Glotrans	fife letter	\$24.00
1/21/2016	Mileage	Lancaster 172 x .54	\$92.88

8-Jan-16

1-Feb-16

1/22/2016	Glotrans	depo notice 2	\$24.00
1/22/2016	Glotrans	stip	\$24.00
1/27/2016	LASC	filing fee on fee motion	\$60.00
1/27/2016	Glotrans		\$144.00
1/27/2016	Veritext	Ritter depo transcript (estimated)	\$497.25 600.00 estimated
2/1/2016	Lexis	January	\$222.00
2/1/2016	Glotrans	Ritter opp	\$24.00
2/5/2016	Glotrans		\$24.00
2/10/2016	Parking	Court	\$20.00
2/15/2016	Southwest	San Jose	\$145.96
2/23/2016	Courtcall	ex parte 2/24	\$86.00
2/24/2016	Southwest	April 1 flight change	\$45.00
2/25/2016	CCROLA	2/10/16 transcript	\$111.00
3/1/2016	Lexis	February	\$315.42
3/9/2016	Glotrans	motion re class counsel	\$24.00
3/9/2016	Courtcall	21-Mar-16	\$86.00
3/9/2016	LASC	filing fee	\$60.00
3/11/2016	Glotrans		\$72.00
3/25/2016	Glotrans	reply -- fee motion (2x)	\$48.00
	in house postage	[postage meter only]	\$631.79
	in house copy	28,166 at .15	\$4,224.90
		total MM Costs	\$87,256.28
		Payment - PWD	\$ (12,170.00)
		Payment - Rosamond CSD	\$ (2,276.60)
		Payment - Phelan	\$ (742.56)
		AV Press Reimbursement (2013)	\$ (435.60)
			\$71,631.52

**THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
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**THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA**

Coordination Proceeding Special Title (Rule
1550(b)) ANTELOPE VALLEY GROUNDWATER CASES
(JCCP 4408) Included Actions: Los Angeles
County Waterworks District No. 40

Plaintiff,
vs.

Diamond Farming Co. Superior Court of
California County of Los Angeles, Case No.
BC 325 201 Los Angeles County Waterworks
District No. 40 v. Diamond Farming Co.
Superior Court of California, County of
Kern, Case No. S-1500-CV-254-348 Wm.
Bolthouse Farms, Inc. v. City of Lancaster
Diamond Farming Co. v. City of Lancaster
Diamond Farming Co. v. Palmdale Water Dist.
Superior Court of California, County of
Riverside, consolidated actions, Case Nos.
RIC 353 840, RIC 344 436, RIC 344 668

Defendant.

AND RELATED ACTIONS

) Antelope Valley Groundwater Cases (JCCP
) 4408)

) Lead Case No.1-05-CV-049053

) Hon. Jack Komar

) **PROOF OF SERVICE**
) **Electronic Proof of Service**

I am employed in the County of Alameda, State of California.

I am over the age of 18 and not a party to the within action; my business address is 2915 McClure
Street, Oakland, CA 94609.

The documents described on page 2 of this Electronic Proof of Service were submitted via the
worldwide web on Fri. March 11, 2016 at 3:26 PM PST and served by electronic mail notification.

I have reviewed the Court's Order Concerning Electronic Filing and Service of Pleading Documents and
am readily familiar with the contents of said Order. Under the terms of said Order, I certify the above-described
document's electronic service in the following manner:

The document was electronically filed on the Court's website, <http://www.scefilling.org>, on Fri. March 11,
2016 at 3:26 PM PST

Upon approval of the document by the Court, an electronic mail message was transmitted to all parties
on the electronic service list maintained for this case. The message identified the document and provided
instructions for accessing the document on the worldwide web.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and

0655

JA 159756

correct. Executed on March 11, 2016 at Oakland, California.

Dated: March 11, 2016

For WWW.SCEFILING.ORG

Andy Jamieson

THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
ELECTRONIC FILING SYSTEM - WWW.SCEFILING.ORG

Electronic Proof of Service
Page 2

Document(s) submitted by Michael McLachlan of Law Offices of Michael D. McLachlan APC on Fri. March 11, 2016 at 3:26 PM PST

1. Supplemental Declaration: SUPPLEMENTAL DECLARATION OF MICHAEL D. MCLACHLAN IN SUPPORT OF MOTION FOR AWARD OF ATTORNEYS' FEES, COSTS AND INCENTIVE AWARD

Exhibit K

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DISTRICT NO. 40

**EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
SECTION 6103**

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DISTRICT NO. 40

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL DISTRICT

ANTELOPE VALLEY GROUNDWATER CASES

Included Actions:
Los Angeles County Waterworks District No. 40 v.
Diamond Farming Co., Superior Court of
California, County of Los Angeles, Case No. BC
325201;

Los Angeles County Waterworks District No. 40 v.
Diamond Farming Co., Superior Court of
California, County of Kern, Case No. S-1500-CV-
254-348;

Wm. Bolthouse Farms, Inc. v. City of Lancaster,
Diamond Farming Co. v. City of Lancaster,
Diamond Farming Co. v. Palmdale Water Dist.,
Superior Court of California, County of Riverside,
Case Nos. RIC 353 840, RIC 344 436, RIC 344 668

RICHARD WOOD, on behalf of himself and all
other similarly situated v. A.V. Materials, Inc., et
al., Superior Court of California, County of Los
Angeles, Case No. BC509546

Judicial Council Coordination
Proceeding
No. 4408

CLASS ACTION

Santa Clara Case No. 1-05-CV-049053
Assigned to the Honorable Jack Komar

**LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40
AND CITY OF PALMDALE'S
JOINT OPPOSITION TO
PLAINTIFF RICHARD WOOD'S
MOTION FOR ATTORNEY FEES,
COSTS AND INCENTIVE AWARD**

*[Filed Concurrently with Declarations
of Jeffrey V. Dunn, Wendy Y. Wang,
and Adam Ariki]*

Date: April 1, 2016
Time: 1:30 p.m.
Dept.: 1

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<http://www.scefiling.org/document/document.jsp?documentId=777>;
[http://www.scefiling.org/filingdocs/214/13399/25565_AvalleyxPWSxExhibitx](http://www.scefiling.org/filingdocs/214/13399/25565_AvalleyxPWSxExhibitxList.pdf)
List.pdf3

1 **I. INTRODUCTION**

2 The Wood Class counsel attorney fees motion fails to meet each requisite element of Code
3 of Civil Procedure section 1021.5 and applicable case law.¹ Nonetheless, if the Court decides to
4 award fees and costs, the over \$8 million requested must be reduced significantly under
5 applicable law. If not, the ratepayer customers of the Los Angeles County Waterworks District
6 No. 40 (“District No. 40”) and the small public water suppliers and the taxpayers of the City of
7 Palmdale will be severely penalized with attorney fees and costs that should not be charged to
8 them.²

9 **II. FACTS**

10 **A. District No. 40 And Other Public Water Suppliers Filed and Vigorously Prosecuted**
11 **Complaints and Cross-Complaints For A Physical Solution to the Basin’s Long-term**
12 **Overdraft Conditions.**

13 Contrary to the Wood Class’ assertion, District No. 40 and other public water suppliers
14 took on the primary laboring oar of adjudicating the Antelope Valley Groundwater Basin
15 (“Basin”), and successfully pled and proved the need for a court-approved physical solution based
16 upon findings on safe yield and chronic overdraft conditions. The court-approved physical
17 solution will ensure a sustainable water supply for all groundwater users in the Basin.

18 As a special district formed in accordance with Water Code Section 55000 *et seq.*, District
19 No. 40 is responsible for supplying drinking water for approximately 207,654 people in the
20 Antelope Valley through approximately 56,510 metered connections, of which 93.7 percent are
21 residential connections. (Declaration of Adam Ariki (“Ariki Decl.”) at ¶2.) To supply water to
22 its residential and commercial customers, District No. 40 pumps groundwater water from the
23 Basin and purchases imported State Water Project water from Antelope Valley East-Kern Water
24

25 ¹ All section references are to the Code of Civil Procedure unless otherwise indicated.

26 ² The small public water suppliers are the parties represented by the law firm of Lemieux & O’Neill: Quartz Hill
27 Water District, Littlerock Creek Irrigation District, Palm Ranch Irrigation District, Defendants North Edwards Water
28 District, Desert Lake Community Services District. As used herein, “Public Water Suppliers” or (“PWS”) refers to
parties and incorporate their arguments by reference herein.
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1 Agency in an effort to alleviate stress on the overdrafted Basin. (*Id.* at ¶3.) The average annual
2 cost that District No. 40 incurs to purchase State Water Project water for the last five years is
3 approximately \$10,273,581. (*Id.*) District No. 40 also actively engages in expensive
4 groundwater banking operations to store water in the Basin. (*Id.* at ¶4.)

5 As the primary urban water supplier in the Antelope Valley region, District No. 40 has a
6 crucial interest in ensuring that the Basin is sustainably managed and remains a reliable water
7 supply source, and has expended great financial resources in this litigation to protect the Basin for
8 the benefit of not only its customers, but all existing and future water users in the region. (*Id.* at
9 ¶5.)

10 District No. 40 has actively participated in the proceedings that later became the Antelope
11 Valley adjudication proceeding since it was named as a defendant in quiet title actions filed in
12 2001. In fact, District No. 40 initiated the adjudication process and petitioned the Judicial
13 Council of California for coordination of the adjudication actions with the various quiet title
14 actions in 2004 – four years before Richard Wood filed a class action lawsuit against the Public
15 Water Suppliers. (Dunn Decl. at ¶18, Ex. I at pp. 1-3 & ¶19, Ex. J.) District No. 40 's complaint
16 alleged that the Basin has been in a state of overdraft and sought a physical solution that restrains
17 overproduction of Basin groundwater. (Dunn Decl. at ¶19, Ex. J.)

18 For procedural reasons, the Court requested that District No. 40 refile its complaint as a
19 first amended cross-complaint. (Dunn Decl. at ¶ 18, Ex. I at pp. 2-3.) Joined by the other Public
20 Water Suppliers, District No. 40 filed a first amended cross-complaint seeking a court physical
21 solution to the overdraft condition by declaratory and injunctive relief and an adjudication of
22 rights to all groundwater within the Basin. (*Id.*) The cross-complaint named the United States as
23 a cross-defendant which triggered a comprehensive adjudication requirement under the McCarran
24 Amendment, 43 U.S.C. §666. (*Id.* at p. 4.) The Public Water Suppliers proceeded to identify
25 every property owner in the Basin, created the initial potential class membership lists, and
26 individually named and effected service of process upon all Basin property owners not identified
27 as a potential class member. (Dunn Decl. at ¶ 20.) District No. 40 also undertook the significant
28 effort of defaulting against non-appearing parties. (Dunn Decl. at ¶ 21.)

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Moreover, District No. 40 assumed the primary role in every trial in these proceedings except the limited phase involving the federal reserved right. During the first and second phases of trial concerning basin boundaries, District No. 40 introduced evidence and expert testimony of Mr. Joseph C. Scalmanini. (See <http://www.scefilng.org/document/document.jsp?documentId=777>; http://www.scefilng.org/filingdocs/214/13399/25565_AvalleyxPWSxExhibitxList.pdf.)

For the multi-week Phase 3 trial, District No. 40 along with other Public Water Suppliers once again presented evidence establishing safe yield and overdraft. (Dunn Decl. at ¶22, Ex. K at p. 2 & Ex. I at p. 5.) Establishing overdraft and safe yield were necessary steps towards establishing a physical solution and restraining future pumping over the safe yield – steps that the Wood Class opposed. (See Dunn Decl. at ¶23, Ex. L; Declarations of O’Leary and McLachlan, billing entries from January to April 2011.) Despite the Wood Class and other landowners’ opposition, the Court found in favor of the Public Water Suppliers in the Phase 3 trial, which led to the eventual physical solution to the Basin’s long term overdraft condition.

The physical solution that allocated overlying production rights could not have occurred without evidence of the parties’ respective groundwater pumping, to which most parties were able to stipulate in Phase 4; such stipulations were the result of hundreds of hours spent by District No. 40, its counsel, and its experts in reviewing the parties’ voluminous discovery responses and data to verify the alleged pumping. (Dunn Decl. at ¶24.) Such labor intensive efforts included the use of aerial photography analysis, LandSat analysis, well test analysis, and crop duty calculations. (*Id.*)

District No. 40’s efforts during the initial phases of trial were essential in the Phase 6 trial, during which the Court ultimately determined the parties’ respective water rights and imposed the Court’s physical solution that stops unlimited pumping. As in earlier phases of trial (except for the trial on the federal reserve right), District No. 40 introduced testimony (Dr. Dennis Williams and Mr. Robert Beeby) in the Phase 6 trial; and established that the proposed physical solution would sustainably manage the Basin for the benefit of all parties. (*Id.*) Contrary to the Wood Class’ contention, it is the decade-long effort by District No. 40 and other public water suppliers

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- 3 -

1 that led to the Court's physical solution which could not be imposed absent prior safe yield and
2 overdraft findings.

3 **B. The Wood Class Complaint Was Not Filed Until Years After District No. 40 and**
4 **Other Public Water Suppliers Had Not Only Filed Their Adjudication Actions But**
5 **Were Already Prosecuting the Actions for the Benefit of the General Public.**

6 The Wood Class did not file its class action complaint against the Public Water Suppliers
7 (and others) until June, 2008. (Dunn Decl., ¶ 2.) By that time, the Public Water Suppliers had
8 filed their complaints and cross-complaints for a physical solution to the overdraft conditions
9 including a request that the Basin be found in a state of overdraft so that the court could impose
10 the physical solution.

11 Here, the Wood Class complaint was filed on behalf of only the private property owner
12 class members, not the general public in the Antelope Valley. Seeking to benefit the Wood Class
13 members' private interests, the Wood Class complaint sought (1) economic and compensatory
14 damages according to proof at trial; (2) a judicial declaration that the Wood Class' overlying
15 rights to use groundwater from the Basin are superior and have priority vis-à-vis all non-
16 overlying users and public agency appropriators; (3) the apportionment of water rights from the
17 Basin in a fair and equitable manner and enjoinder of inconsistent use; (4) damages against the
18 Public Water Suppliers to compensate for alleged takings and property infringement; and (5) an
19 award of class counsel's fees and costs. (See Dunn Decl., ¶ 2, **Exhibit A** at pp. 15:18 – 16:3.)

20 **C. The Wood Class Unsuccessfully Opposed The Public Water Suppliers Case For A**
21 **Basin Safe Yield and Overdraft Condition Findings In the Phase 3 Trial.**

22 The Wood Class lost in the Phase 3 trial on safe yield and overdraft. As shown below,
23 Wood Class counsel cannot recover fees for unsuccessfully opposing the basin safe yield and
24 overdraft findings. Under no reasonable interpretation of Section 1021.5 could such unsuccessful
25 opposition be considered a "public benefit" and the motion for attorney fees must be denied.
26
27
28

1 **D. The Wood Class Filed Another Complaint But This Time Against Other Landowner**
2 **Parties Who Were Adverse To the Wood Class Because They All Claimed A**
3 **Correlative Right.**

4 Wood Class also filed a class action complaint against numerous private landowners and
5 farming entities in 2013. (Dunn Decl. ¶ 3.) The bills attached to the Declarations of Michael D.
6 McLachlan (“McLachlan Decl.”) and Daniel M. O’Leary (“O’Leary Decl.”) fail to differentiate
7 between time spent on the complaint against the Public Water Suppliers and the time spent on the
8 Wood Class complaint against the other landowner parties. (Dunn Decl. ¶5.) On this basis alone,
9 the motion should be denied.

10 **E. The Wood Class Had Lengthy Settlement Discussions With All The Other Overlier**
11 **Parties.**

12 The Wood Class counsel indicated that it was the other landowner parties—not the Public
13 Water Suppliers—who were impediments to a Wood Class settlement. (Dunn Decl., ¶ 14, Ex. E
14 at pp. 46-53.) Specifically Mr. McLachlan stated at a case management conference on November
15 9, 2012 “we’re being held hostage on one side by the landowners. And I don’t really fault the
16 Public Water suppliers because in some sense, as long as the landowners want to use as a hostage,
17 Public Water Suppliers are a little bit stuck ... I’m dead in the water and I can’t do anything. And
18 this case is not going to settle” due to the difficulty of the landowner group (*Id.*)

19 **F. Public Water Suppliers and Wood Class Entered Into Settlements that Recognized**
20 **Their Joint Domestic Use Priorities And The Need For A Physical Solution To The**
21 **Basin Overdraft Conditions.**

22 The Wood Class action settlement agreement was submitted to the Court for its approval
23 on March 4, 2015. The Court approved the Wood Class settlement agreement on April 10, 2015.
24 Plaintiff settled with the Public Water Suppliers in 2015 as memorialized in the Judgment and
25 Physical Solution entered by the Court in December 2015. (Dunn Decl. ¶ 4.) Wood Class
26 counsel has submitted fees for work performed after the March 4, 2015 settlement, when his
27 interests became aligned with the Public Water Suppliers. (Dunn Decl. at ¶12.) This amounts to
28

1 1002.3 attorney hours and 208.7 paralegal hours, for a total \$746,178. (See Mr. McLachlan's and
2 Mr. O'Leary's bills, generally.)

3 Additionally, the 2015 settlement between Wood Class and the Public Water Suppliers is
4 nearly identical to the proposed 2011 settlement filed on May 2, 2011. (Dunn Decl. at ¶12.)
5 Indeed on July 7, 2013, Wood Class counsel billed for the review and modification of a "prior
6 BBK settlement." (McLachlan Decl., at Ex. 3.) The bills for work performed between the 2011
7 and 2015 settlements amount to 2,195.5 attorney hours and 264.7 paralegal hours, for a total of
8 approximately \$1,611,862. (See Mr. McLachlan's and Mr. O'Leary's bills, generally.) As
9 explained herein, Wood Class counsel cannot recover fees and costs *after* the first settlement
10 agreement was submitted to the Court because the parties' interests were aligned by settlement.
11 (*McGuigan v. City of San Diego* (2010) 183 Cal.App.4th 610 (*McGuigan*).)

12 **G. The Wood Class Did Not Prove Its Causes of Action In the Litigation While The**
13 **Public Water Suppliers Achieved Their Complaints' and Cross-Complaints'**
14 **Objectives.**

15 The Court's physical solution allocates groundwater to all parties including the Wood
16 Class members. The physical solution imposes restrictions (e.g., pumping limits, restrictions on
17 transfers). (Dunn Decl. ¶6.) Pursuant to the Judgment, the Wood Class's aggregate production
18 right is 3,806.4 acre-feet per year (afy), and each class member may produce up to and including
19 3 afy per existing household for reasonable and beneficial use on their overlying land. (*Id.*) This
20 result coincides with what District No. 40 and the other public water suppliers sought in their
21 complaints and cross-complaints for domestic use. Pursuant to evidence admitted in Phase 6 trial,
22 the Wood Class's aggregate production right is worth \$1,179,984 *per year*. (Dunn Decl. ¶8.)
23 This constitutes over \$8.2 million over the rampdown period, and over \$11.7 million over a ten
24 year period. (*Id.*)

25 Under the Judgment, the Wood Class did not receive economic or compensatory damages,
26 failed to obtain any declaration of a superior priority to groundwater water, or any award of
27 damages against the Public Water Suppliers to compensate for alleged takings and property
28 infringement. (Dunn Decl., ¶9.) Yet, the Wood Class counsel motion for attorney fees is directed

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at only District No. 40 and the relatively small public water suppliers, which represent a small fraction of the actual groundwater users and potential users in the Basin. (Dunn Decl., ¶10.) Indeed, out of the 82,300 afy of native yield, the Wood Class members obtained 3,806.4 afy, less than 5 percent of the overall native yield, for the approximately 3,172 class members.

III. ARGUMENT

A. The Wood Class Bears The Burden of Proof To Meet Each Section 1021.5 Requirement

“Although ‘the decision whether to award attorney fees under section 1021.5 rests initially with the trial court, the court does not have the discretion to award such fees unless the statutory criteria have been met as a matter of law.’” (*McGuigan v. City of San Diego* (2010) 183 Cal.App.4th 610 (*McGuigan*) quoting *RiverWatch v. County of San Diego Dept. of Environmental Health* (2009) 175 Cal.App.4th 768, 775 (*RiverWatch*).) If the moving party fails to establish even one requisite element, the motion must be denied. (*Children & Families Com. Of Fresno County v. Brown* (2014) 288 Cal.App.4th 45, 55 (*Brown*) citing *City of Maywood v. Los Angeles Unified School Dist.* (2012) 208 Cal.App.4th 362, 429.)

“[A]n award under Section 1021.5 requires a showing that (1) the litigation enforced an important an important right affecting the public interest; (2) it conferred a significant benefit on the general public or a large class of persons; and (3) the necessity and financial burden of private enforcement (or enforcement of by one public entity against another) were such to make the award appropriate.” (*Brown*, 288 Cal.App.4th at 55 quoting *Conservatorship of Whitley* (2010) 50 Cal.4th 1206, 1214 (*Whitley*).) As shown herein, the Wood Class counsel’s motion must be denied because it fails to establish each requisite element including the preliminary requirement of successful enforcement of a fundamental constitutional or statutory policy.

B. The Wood Class Did Not Successfully Enforce A Fundamental Constitutional Or Statutory Policy.

In *McGuigan*, the Court of Appeal held that there is a preliminary requirement in addition to the stated criteria in section 1021.5: “This statute [section 1021.5] includes not only three enumerated criteria for the court to consider, but also certain introductory language, as follows:

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1 “Upon motion, a court may award attorneys’ fees to a successful party *against one or more*
2 *opposing parties in any action* which has resulted in the enforcement of an important right
3 affecting the public interest. . . .” (Emphasis in original.)

4 “Section 1021.5 codifies the private attorney general doctrine enunciated in *Serrano v.*
5 *Priest* (1977) 20 Cal.3d 25 which ‘rests upon the recognition that privately initiated lawsuits are
6 often essential to the effectuation of the *fundamental policies embodied in constitutional or*
7 *statutory provisions*, and that, without some mechanism authorizing the award of attorney fees,
8 private actions *to enforce such public policies* will as a practical matter frequently be infeasible.’”
9 (*Brown*, 288 Cal.App.4th at 54-55 quoting *Healdsburg Citizens for Sustainable Solutions v. City*
10 *of Healdsburg* (2012) 206 Cal.App.4th 988, 992 [emphasis added].) “The doctrine’s purpose ‘is
11 to encourage suits *enforcing important public policies. . . .*’” (*Id.*, quoting *Robinson v. City of*
12 *Chowchilla* (2011) 202 Cal.App.4th 382, 390 [emphasis added].)

13 Here, there were no “fundamental” or “important public policies” alleged in the Wood
14 Class complaint, only the class members’ private property interests. The Wood Class action did
15 not achieve a fundamental or important public policy. Whereas, in contrast, the Public Water
16 Suppliers filed and successfully prosecuted their complaints and cross-complaints for a physical
17 solution to the chronic overdraft pumping by groundwater users—including the Wood Class
18 members—and did so years before the Wood Class complaint seeking to protect the financial
19 interests of the small pumpers. On this basis alone, there can be no legal entitlement to attorney
20 fees under Section 1021.5.

21 **C. The Wood Class Did Not Successfully “Enforce [An] Important Right Affecting The**
22 **Public’s Interest.”**

23 Section 1021.5 requires that the lawsuit enforce “an important right affecting the public’s
24 interest.” The Wood Class did not plead or prove an enforcement of an important right affecting
25 the public’s interest but only the Wood Class members seeking to advance their private property
26 interests. Thus, the Wood Class cannot recover attorney fees under section 1021.5.

1 **D. The Wood Class Did Not Obtain “a Benefit for the General Public or a Large**
2 **Number of People” But The Public Benefit Was The Court-Approved Physical**
3 **Solution Obtained By The Public Water Suppliers’ Complaints And Cross-**
4 **Complaints.**

5 Section 1021.5 mandates that the lawsuit confer a significant benefit on the general public
6 or a large class of persons. (*Roybal v. Governing Bd.* (2008) 159 Cal.App.4th 1143, 1149-50 [no
7 significant public benefit where “[r]ealistically assessed, the gains achieved by petitioners were
8 personal.”] The benefit can be either pecuniary or nonpecuniary in nature, but the public must be
9 primarily benefited. (*Id.* at 1149-53.) The moving party must establish that it obtained a result
10 with ramifications beyond the private interests of the parties directly before the court. (*Id.* at
11 1149-50.)

12 Here, the actual public benefit was a court physical solution to sustainably preserve the
13 groundwater resources of the Basin. It was District No. 40 and the other Public Water Suppliers
14 who are largely responsible for achieving this public benefit—not the Wood Class. It merely
15 secured private water rights for a limited group, a relatively small number of private property
16 owners given the number of parties in these coordinated proceedings. The physical solution
17 would have occurred regardless of the Wood Class counsel’s participation in these proceedings
18 once the Court made its findings of overdraft and safe yield.

19 **E. The Necessity and Financial Burden of Private Enforcement By The Wood Class**
20 **Was For Its Own Private Property Interests and Cannot Justify An Award of**
21 **Attorney Fees Against the Public Water Suppliers Who Successfully Prosecuted**
22 **Their Adjudication Actions for the Public’s Benefit.**

23 Our Supreme Court has repeatedly held that “[a]n award on the ‘private attorney general’
24 theory is appropriate when the cost of the claimant’s legal victory transcends his personal interest,
25 that is, when the necessity for pursuing the lawsuit is placed a burden on the plaintiff ‘out of
26 proportion to his individual stake in the matter.’” (*Serrano v. Stefan Merli Plastering Co., Inc.*
27 (2010) 52 Cal.4th 1018, 1026, fn. 9 (*Stefan*) quoting *Woodland Hills, supra*, 23 Cal.3d at p. 941;
28 *Whitley, supra*, 50 Cal.4th at 1206; *In Adoption of Joshua S.* (2008) 42 Cal.4th 945, 952 (*Joshua*
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S.)) If this requisite is not met by the moving party, the section 1021.5 motion must be denied. (*Whitley*, 50 Cal.4th at 1214; *Ebbetts Pass Forest Watch v. Dept. of Forestry & Fire Prot.* (2010) 187 Cal.App.4th 376, 381 (*Ebbetts Pass*).)

“A court generally determines whether the litigation places a disproportionate burden on the individual by comparing the expected value of the litigation at the time it was commenced with the costs of litigation.” (*Stefan*, 42 Cal.4th at 952 quoting *Joshua S.*, 42 Cal.4th at 952, fn 9.)

The *Brown* court’s decision is both instructive and persuasive here. (288 Cal.App.4th 45.) In *Brown*, the Court of Appeal affirmed the trial court’s decision to deny an award of attorney fees and costs under Section 1021.5. The court focused on the “second prong” of “the necessity and financial burden requirement” and provided the applicable test

The third element, the necessity and financial burden requirement, involves two issues: “ ‘whether private enforcement was necessary and whether the financial burden of private enforcement warrants subsidizing the successful party’s attorneys.’ ” (*Whitley, supra*, 50 Cal.4th at p. 1214.) It is the second prong that is at issue here. Our Supreme Court has explained this prong as follows: “In determining the financial burden on litigants, courts have quite logically focused not only on the costs of the litigation but also any offsetting financial benefits that the litigation yields or reasonably could have been expected to yield. ‘An award on the ‘private attorney general’ theory is appropriate when the cost of the claimant’s legal victory transcends his personal interest, that is, when the necessity for pursuing the lawsuit placed a burden on the plaintiff ‘out of proportion to his individual stake in the matter.’ [Citation.]” [Citation.] ‘This requirement focuses on the financial burdens and incentives involved in bringing the lawsuit.’ ” (*Whitley, supra*, 50 Cal.4th at p. 1215.) **A party seeking fees under section 1021.5 has the burden of establishing its litigation costs transcend its personal interests.** [Citations omitted].

...

First, the trial court fixes or estimates “ ‘the monetary value of the benefits obtained by the successful litigants themselves,” discounted by “ ‘some estimate of the probability of success at the time the vital litigation decisions were made which eventually produced the successful outcome.’ ” (*Whitley, supra*, 50 Cal.4th at p. 1215.) Next, the trial court turns to the costs of the litigation that may have been required to bring the case to fruition. (*Id.* at pp. 1215–1216.) Finally, the trial court “ ‘place[s] the estimated value of the case beside the actual cost and make[s] the value judgment whether it is desirable to offer the bounty of a court-awarded fee in order to encourage litigation of the sort involved in this case. ... [A] bounty will be appropriate except where the expected value of the

litigant's own monetary award exceeds by a substantial margin the actual litigation costs.' ” (*Id.* at p. 1216, quoting *Police Protective League, supra*, 188 Cal.App.3d at pp. 9–10.) (*Id.*, at 55 [emphasis added].)

In deciding whether a claimant’s litigation costs transcended its personal interest, the court must consider the claimant’s personal pecuniary/economic interests and its personal/non-pecuniary interests in pursuing the litigation. (*Whitley*, 50 Cal.4th at 1226.) The focus of the inquiry is whether the private interests are the real basis for the action, and the Court may legitimately restrict the award, if any, to only that portion of the attorneys’ efforts that furthered the litigation of issues of public importance. (*Ibid.*)

The cost of litigation is the reasonable cost, not the claimed cost. As stated *infra* in Section H, the Wood Class fees are manifestly unreasonable. The Wood Class’s aggregate production right is worth \$1,179,984 *per year*. This constitutes over \$8.2 million over the ‘rampdown” period, and over \$11.7 million over a ten year period. (Dunn Decl. ¶8.) Thus, there was no disproportionate burden on the Wood Class in litigating this case.

The Wood Class filed their lawsuits to get groundwater production rights. The public benefit (the court-approved physical solution) was merely incidental to the Wood Class private financial interests in their securing water for the Wood Class members. Despite the motion’s vainly-attempted characterization of a public benefit, the financial interest of the Wood Class far outweighs its cost of litigation.

Additionally, the Wood Class motion fails to meet the “first prong” of the same element, that is “whether private enforcement was necessary” by the Wood Class. The *McGuigan* court summarized its detailed analysis of the California Supreme Court cases on the first prong as a straightforward question: “An important question in determining whether the services of the private party were necessary is, ‘Did the private party advance significant factual or legal theories adopted by the court, thereby providing a material non de minimis contribution to its judgment, which were nonduplicative of those advanced by the governmental entity?’” (*McGuigan*, 183 Cal.App.4th at 635 quoting *Committee to Defend Reproductive Rights, supra*, at pp. 642–643.)

Here, there is no showing that the Wood Class participation in the court process leading to its approval of the physical solution was anything but de minimis. It even opposed the court's findings of safe yield and overdraft which are critical to the court's physical solution. Stated simply, the Wood Class motion utterly fails to meet the analytical requirement for the third element of section 1021.5 and the motion must be denied.

F. The California Supreme Court Has Held That Even If A Party Meets Each Of The Three Requirements Under Section 1021.5, There Still Can Be No Award Of Attorney Fees Unless Defendant Adversely Affected The Public Interest – Which The Public Water Suppliers Did Not Do In These Proceedings.

In *In Adoption of Joshua S.* (2008) 42 Cal.4th 945, the California Supreme Court held that a party can meet the requirements of section 1021.5 but still not be entitled to attorney fees because the party against whom the fees are sought did not adversely impact the public interest. In *Serrano v. Stefan Merli Plastering Co., Inc.* (2011) 52 Cal. 4th 1018, the California Supreme Court explained its holding in *Joshua S.* that there must be a showing that the party against whom the attorney fees are sought must have initiated and maintained conduct that compromised the rights of the public or a large group of persons:

We reasoned that the terms of the statute [section 1021.5] reflect an implicit understanding by the Legislature that fee awards are to be imposed only on parties whose conduct adversely affected the public interest. "Section 1021.5 authorizes fees for 'any action which has resulted in the *enforcement* of an important right affecting the public interest' (Italics added.) The enforcement of an important right affecting the public interest implies that those on whom attorney fees are imposed have acted, or failed to act, in such a way as to violate or compromise that right, thereby requiring its enforcement through litigation. It does not appear to encompass the award of attorney fees against an individual who has done nothing to curtail a public right other than raise an issue in the context of private litigation that results in important legal precedent." (*Stefan*, 52 Cal. 4th at 1026 quoting *Joshua S.*, *supra*, 42 Cal.4th at p. 956.)

The *Joshua S.* court explained that no attorney fees can be awarded unless the party was responsible for "initiating and maintaining actions or policies that are deemed harmful to the public interest" and that:

This conclusion is also consistent with our recent holding in *Connerly v. State Personnel Bd.* (2006) 37 Cal.4th 1169 [39 Cal. Rptr. 3d 788, 129 P.3d 1]. In refusing to impose section 1021.5 attorney fees on amici curiae that had unsuccessfully argued in favor of state affirmative action policies, we noted that [g]enerally speaking, the opposing party liable for attorney fees under section 1021.5 has been the defendant person or agency sued, *which is responsible for initiating and maintaining actions or policies that are deemed harmful to the public interest and that gave rise to the litigation.*” (37 Cal.4th at pp. 1176–1177, italics added.) We noted also that case law has recognized that attorney fees may sometimes be assessed against “real parties in interest that had a direct interest in the litigation, the furtherance of which was generally at least partly responsible *for the policy or practice that gave rise to the litigation . . .*” (*Id.* at p. 1181, italics added.) . . . Thus, in *Connerly* we acknowledged that the parties against whom attorney fees should be assessed should be those responsible for the policy or practice adjudged to be harmful to the public interest.

(*Joshua S.*, 42 Cal.4th at 956-957 [emphasis in original].)

Again, there can be no reasonable dispute that the Public Water Suppliers were pursuing the public’s benefit and that they did not initiate or maintain actions or policies that the Court deemed harmful to the public interest. Thus, there can be no recovery of attorney fees for the Wood Class under section 1021.5 as a matter of both law and fact. (See *Azure Limited v. I-Flow Corporation* (2012) 207 Cal.App.4th 260 [no recovery for attorney fees under Section 1021.5 where there is no conduct adversely impacting the public interest or that of a significant group of persons].)

G. The Wood Class Does Not Meet Section 1021.5’s Requirement that the Wood Class Prevailed On The Merits Of Its Class Action Complaint

Private attorney general fees are available under Section 1021.5 only to a “successful” party. (*Woodbury v. Brown-Dempsey* (2003) 108 Cal.App.4th 421, 439.) “[W]hether a party has been successful is measured by the resolution of the action. . . .” (*Consumer Cause, Inc. v. Mrs. Gooch’s Natural Food Markets, Inc.* (2005) 127 Cal.App.4th 387, 402.) A “prevailing” or “successful” party³ is generally one who obtains a favorable judicial resolution, “i.e., a judicially sanctioned or recognized change in the legal relationship of the parties,” such as a favorable final

³ The terms “prevailing party” and “successful party” as used in relation to Section 1021.5 are synonymous. (*Graham, supra*, 34 Cal.4th at 571.)
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1 judgment.⁴ (*Marine Forests Society v. Cal. Coastal Com.* (2008) 160 Cal.App.4th 867, 877.)
2 Prevailing on limited technical or procedural issues only is not sufficient to warrant an award of
3 attorney fees. (*See Concerned Citizens of La Habra v. City of La Habra* (2005) 131 Cal.App.4th
4 329, 333 [fees denied because petitioners “were only successful in one small regard and were
5 unsuccessful on all significant issues”]; *Karuk Tribe of Northern California v. California*
6 *Regional Water Quality Control Bd.* (2010) 183 Cal.App.4th 330, 334-35 [petitioners were not
7 successful parties because they did not achieve their strategic objective].)

8 Even if the Wood Class had otherwise met the requirements for fees under section
9 1021.5—and it did not do so—the Public Water Suppliers cannot be assessed the Wood Class
10 attorney fees because the Wood Class is not a prevailing party. Section 1032 includes four
11 categories of prevailing parties, and the court generally lacks discretion “to deny prevailing party
12 status to a litigant who falls within one of the[se] four statutory categories.” (*Wakefield v. Bohlin*
13 (2006) 145 Cal.App.4th 963, 975-977.) In cases with multiple parties, one defendant may be the
14 “prevailing party” while another defendant in the same case may not. (Cf. *id.* at 985.) However,
15 an “opposing party” within the meaning of Section 1021.5 is the losing party. (*Nestande, supra*,
16 111 Cal.App.4th 232, 241; *City of Sacramento v. Drew* (1989) 207 Cal.App.3d 1287, 1300-1301.)
17 “Liability on the merits and responsibility for fees go hand in hand; *where a defendant has not*
18 *been prevailed against, either because of legal immunity or on the merits, . . . [no] fee award [is*
19 *authorized] against that defendant*” because “fees and merits liability run together.” (*Nestande,*
20 *supra*, at p. 241 [emphasis added].)

21 The *McGuigan* court provides an exhaustive analysis of what it means to be a “prevailing
22 party” under section 1021.5:

23 “The term ‘successful party,’ as ordinarily understood, means the
24 party to litigation that achieves its objectives.” (*Graham, supra*, 34
25 Cal.4th at p. 571.) “ ‘A lawsuit’s ultimate purpose is to achieve
26 actual relief from an opponent. . . . On this common understanding,
27 if a party reaches the ‘sought-after destination,’ then the party
28 ‘prevails’ regardless of the ‘route taken.’ [Citation.]” ’ ” (*Wal-Mart*
Real Estate Business Trust v. City Council of San Marcos (2005)

⁴ Where there is no final judgment but a plaintiff has achieved its litigation objectives through settlement or via other mechanisms, that plaintiff may be considered a “successful” party. (*Graham, supra*, 34 Cal.4th at 570-571.)
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1 132 Cal.App.4th 614, 621 [33 Cal.Rptr.3d 817] (*Wal-Mart Real*
2 *Estate*.) In a determination of whether a party is “successful” for
3 purposes of section 1021.5, “[t]he critical fact is the impact of the
4 action, not the manner of its resolution.” (*Folsom v. Butte County*
5 *Assn. of Governments* (1982) 32 Cal.3d 668, 685 [186 Cal.Rptr.
6 589, 652 P.2d 437].)

7 Next, we look at the role of the opposing party, against whom fees
8 may be awarded. In *Nestande v. Watson* (2003) 111 Cal.App.4th
9 232 [4 Cal.Rptr.3d 18] (*Nestande*) we noted: “The dictionary
10 definition of ‘opposing’ is ‘opposite in position’ or ‘active in or
11 offering opposition.’ [Citation.] An ‘opposite party’ means ‘[a]n
12 adversary in litigation.’ [Citation.] Thus, we construe the term
13 ‘opposing party’ as used in section 1021.5 to mean a party whose
14 position in the litigation was adverse to that of the prevailing party.
15 Simply put, an ‘opposing party’ within the meaning of section
16 1021.5 *is a losing party*.” (*Nestande, supra*, at pp. 240–241, italics
17 added.)

18 Here, the Wood Class cannot qualify under any definition of prevailing party. The only
19 phase of trial actually litigated by the Wood Class was the Phase 3 trial on safe yield and
20 overdraft in which the Public Water Suppliers prevailed over the opposition of the Wood Class
21 and that of other landowner parties. The Public Water Suppliers are prevailing parties because
22 the Wood Class did not obtain relief as against them. (See Code Civ. Proc., § 1032).

23 Moreover, when the defendant is a governmental entity, that “governmental entity is not
24 liable for attorney fees unless it has lost on the merits.” (*Nestande, supra*, 111 Cal.App.4th at
25 241.) As prevailing parties against whom the Wood Class did not recover relief and who did not
26 lose on the merits, the Public Water Suppliers cannot be liable for fees here.

27 The Wood Class achieved no litigation success let alone success on any significant issues.
28 As in *La Habra* and *Karuk Tribe, supra*, the practical effect and success of the Wood Class
lawsuit was *de minimis* because the Public Water Suppliers had already filed their complaints and
cross-complaints for a physical solution to the basin’s overdraft conditions. The court-approved
physical solution requires the Wood Class and all other groundwater users to reduce or limit their
previous unfettered ability to pump whatever they wanted and whenever they wanted. For the
Wood Class counsel to argue that they achieved an excellent result for their clients, namely a
water rights allocation, ignores the reality that there was always going to be a water rights

1 allocation for the Wood Class members' domestic uses as a result of the Public Water Suppliers
2 complaints and cross-complaints seeking a domestic use priority.

3 The Wood Class did not prevail on any of their causes of action. There was an allocation
4 of the native yield but that was *not* done by an equitable apportionment as sought for in the Wood
5 Class complaint; instead, the court determined the groundwater rights for each party based on the
6 evidence including present and historical groundwater uses under the Public Water Suppliers'
7 complaints and cross-complaints. The Wood Class sought but did not receive any damages award
8 against the Public Water Suppliers. The Wood Class sought but did not receive a declaration of
9 superior water rights priority over the Public Water Suppliers.

10 The Wood Class, therefore, cannot claim to be the prevailing party as against the Public
11 Water Suppliers because they achieved their litigation objective: namely a physical solution that
12 has a basin safe yield, findings of overdraft conditions, established current groundwater
13 production for subsequent court-determined reductions in groundwater use together with
14 groundwater management plans.

15 **H. Alternatively, The Wood Class Fees Should be Significantly Reduced For Multiple**
16 **Independent Reasons.**

17 If the Court decides to award attorney fees against the Public Water Suppliers, the award
18 must be significantly reduced. Whether a fee award is justified under section 1021.5 and what
19 amount that award should be are two distinct questions. (*Flannery v. California Highway Patrol*
20 (1998) 61 Cal.App.4th 629, 647.) Once the court determines all Section 1021.5 criteria have been
21 met, it must then determine the amount of the award. A lodestar must be limited to reasonable
22 attorneys' fees based on a careful compilation of time reasonably spent multiplied by a reasonable
23 hourly rate. (See, e.g., *Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49 ("*Serrano III*"); *Thayer v.*
24 *Wells Fargo Bank* (2001) 92 Cal.App.4th 819, 833.) For the reasons set forth below, neither the
25 hours nor the hourly rate used to calculate the stipulated attorneys' fees are reasonable.
26
27
28

1 **1. Inflated Bills⁵.**

2 “A fee request that appears unreasonably inflated is a special circumstance permitting the
3 trial court to . . . deny [the award] altogether.” (*Serrano v. Unruh* (1982) 32 Cal.3d 621, 635
4 (“*Serrano IV*”); *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1137.) Fee petitions that “overreach”
5 are properly denied. (*Serrano IV, supra*, at 635, citing approvingly *Lund v. Affleck* (1st Cir. 1978)
6 587 F.2d 75, 77 [if attorneys’ fees claims are “exorbitant,” court should refuse compensation].)
7 “If . . . the Court were required to award a reasonable fee when an outrageously unreasonable one
8 has been asked for, claimants would be encouraged to make unreasonable demands, knowing that
9 the only unfavorable consequence of such misconduct would be reduction of their fee to what
10 they should have asked in the first place. To discourage such greed, a severer reaction is needful.
11 . . .” (*Serrano IV, supra*, 32 Cal.3d at 635.) Class counsel bills are significantly inflated and
12 overreaching for many reasons, including the following examples.

13 **a. Mr. McLachlan billed for work he simply did not perform.**

- 14 • 2/10/2014: Mr. McLachlan billed 8.8 hours for traveling to and attending Phase 5
15 trial. However, Mr. McLachlan arrived at 9:30 a.m. and did not attend trial in the
16 afternoon. (Dunn Decl. at ¶13.)
- 17 • 2/18/2014: Mr. McLachlan billed 9.3 hours for traveling to and attending Phase 5
18 trial. On February 18, 2014, trial concluded early to allow parties to engage in
19 settlement discussions in the afternoon. (Declaration of Wendy Wang at ¶ 2.) Mr.
20 McLachlan did not participate in the afternoon’s settlement proceedings, which
21 took place at Best Best & Krieger’s Los Angeles office. (*Id.*)
- 22 • In his reply brief dated 12/31/2013, Mr. McLachlan argued that “there was no
23 simultaneous negotiation of legal fees in this settlement.” (Dunn Decl., ¶17, Ex.
24 H, at p. 3:11.) But his billing entries for 6/26/2013 contradict this argument and
25 include “emails to and from defense counsel on billing” (0.1) and “emails to
26 defense counsel re partial settlement” (0.2). So, he either misled the Court in his

27 _____
28 ⁵ All references to attorney bills in this section are contained in Exhibit 3 to Mr. McLachlan’s Declaration and
Exhibit 1 to Mr. O’Leary’s Declaration.
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reply brief, for which he billed at least 25.3 hours in December 2013, or is misleading the Court now with his invoices.

b. Time Spent on Other Claims.⁶

Wood Class counsel do not differentiate their fees incurred in prosecuting the class' claims against the Public Water Suppliers from claims against other landowners and other parties. The Public Water Suppliers have reviewed Mr. McLachlan's and Mr. O'Leary's bills in an attempt to apportion them, but this task is impossible due to the bills' vagueness. At the very least, the Court should order that the Wood Class separate time spent related to prosecuting the Class's rights vis-à-vis other landowners and parties from his Public Water Supplier complaint and re-calculate his fees. Wood Class counsel demand that the Public Water Suppliers pay for their work related to other landowner parties in the class's landowner lawsuit as well as the Willis Class and unrelated partial settlements, including but not limited to the examples below. These examples are not exhaustive due to vagueness of the bills. Additionally, Mr. McLachlan stated in open court that it was the landowner parties, not the Public Water Suppliers, who were the biggest impediment to settlement. (Dunn Decl., ¶ 14, Ex. E at pp. 46-53.)

- Mr. McLachlan and Mr. O'Leary spent at least 13.7 hours on the Wood Class complaint against the landowners. (Dunn Decl. ¶ 25, Ex. M.)
- Mr. McLachlan spent at least 145 hours on work regarding settlement with non-stipulating landowners, including Tapia, Robar, Leisure Lake, Eyherabide and the subsequent prove-up and participation in liaison settlement committee with non-stipulating landowners (including copious entries subsequent to settlement with Public Water Suppliers). (*Id.*)
- Mr. McLachlan spent at least 66 hours on non-Public Water Suppliers discovery work. (*Id.*)

⁶ Both Mr. McLachlan and Mr. O'Leary identify telephone conversations without describing to what the calls are in reference, so it is impossible to fully discern time spent pursuing PWS claims versus pursuing claims against other parties. Regardless, the PWS should not be responsible for any bills with respect to other parties.

- 1 • Mr. McLachlan and Mr. O’Leary spent at least 37 hours on work related to the
- 2 Ritter Trust claims. (*Id.*)
- 3 • Mr. McLachlan spent *at least* 42 hours (and likely countless undiscernible others
- 4 due to bill vagueness) on work concerning the Willis Class. (*Id.*)
- 5 • Mr. O’Leary spent at least 24 hours on work concerning Willis Class. (*Id.*)
- 6 • Mr. McLachlan and Mr. O’Leary spent at least 206 hours on work concerning the
- 7 partial settlement (i.e., NOT with respect to the Public Water Suppliers from
- 8 whom the Wood Class is currently seeking fees). (*Id.*)
- 9 • Mr. O’Leary spent at least 6 hours working on unspecified landowner issues. (*Id.*)
- 10 • Mr. McLachlan has countless other time entries for unspecified landowner work
- 11 such as email correspondence, phone calls, meetings, and drafting summaries
- 12 regarding the same that likely constitute hundreds of additional hours.

13 Due to the vagueness of the billing, the Public Water Suppliers have likely not captured
14 all non-Public Water Suppliers work via these exemplars. All of these example bills should be
15 excluded, but this further highlights the need for the Wood Class to re-calculate the bills to
16 specifically identify items directly related to its claims against the Public Water Suppliers.

17 **c. Double Billing.**

18 Messrs. McLachlan and O’Leary routinely attended meetings, depositions, and status
19 hearings together, resulting in unjustified double billing, including but not limited to the
20 following examples.

- 21 • 3/8/2010: Both Mr. O’Leary and Mr. McLachlan attended CMC hearing, motions
- 22 on disqualification, expert fees. (3.7) and (3.5).
- 23 • 1/10/2011-1/13/2011, 1/17/2011, and 1/20/2011: Both attended the deposition of
- 24 Joseph Scalmanini. (4.5), (4.5), (4.5), (4.5), (4.5), (4.5) and (3.3), (3.0), (3.0),
- 25 (4.0), (4.0), (10.4).
- 26 • 1/4/2011-1/5/2011, 1/31/2011-2/1/2011: Both attended Phase 3 trial with minimal
- 27 participation. (9.4), (8.6), (9.2), (10.2) and (5.5), (9.5), (7.5), (7.5).
- 28 • 8/3/2015: Both attended hearings (8.9), (4.0) and (7.5), (3.0).

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- 8/31/2011: Both attended mediation hosted by Justice Robie. (10.4) and (10.0).
- 9/21/2015: Both attended status conference. (0.9) and (0.6).
- 9/28/2015-9/29/2015: Both attended settlement meetings and trial, (10.2), (10.9) and (4.5), (0.8).
- 11/04/2015: Both attended closing arguments in San Jose. (13.6) and (12.0).
- 12/23/2015: Both attended a CMC and hearing on objections to Statement of Decision. (3.8) and (3.2).

d. Basic Research

Revealing a lack of experience and expertise in groundwater rights, Class Counsel spent an unreasonable amount of time researching basic propositions of water law. While some time may be needed at the outset of any case in researching legal issues, the amount billed by Mr. McLachlan is excessive, particularly given his claimed expertise in water law. For example, in September of 2011, about four years into his representation of the class, Mr. McLachlan billed 21.9 hours researching rural residential use of water. (McLachlan Decl., Ex. 3.) All of this time is included in the Wood Class's lodestar at the leading expert rate of \$720 per hour with a 2.5 multiplier for an effective rate of \$1,800 per hour.

e. Junior and Clerical Work

Mr. McLachlan spent considerable time performing associate-, paralegal-, and even secretarial-level work. Activities, such as document review, are not properly billed by partner-level attorneys or at partner-level rates. (See *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43 [holding that activities, such as document review, that could have been done by associates or paralegals were properly excluded from the lodestar at partners' rates of \$450 and \$425].) Mr. McLachlan has been practicing law for twenty years and running his own firm for the last thirteen years. (McLachlan Decl., ¶¶ 4-5.) He claims to specialize in complex civil litigation, class actions, and groundwater cases, and on this basis of this expertise, claims a top-of-the-market billing rate of \$720 per hour. (*Id.* at ¶¶ 4, 7; Motion at section III.B.2.) Nonetheless, the 4,184.9 hours of work claimed by Mr. McLachlan in this case include copious entries for "review and

summary” of discovery documents, reports, and transcripts. Mr. McLachlan’s billing invoices contain many other “review” and “summarize” entries, including:

- 2/1/2013: review 24 Davis mutual sup responses and attached exhibits, and supplement master memo re: trial notes (4.1) (Dunn Decl. at ¶;
- 2/9/2013: review 11 CA entity declarations and voluminous exhibits, summarize same (2.3);
- 12/22/2012: Commence review, analysis and summary of voluminous discovery filings ... including summary memo (4.6);
- 7/5/2011: review and analysis of Phase 3 transcripts on 5 points, and prepare summary memo re same (5.7);
- 2/4/2011: review Beebe depo and commence prep of outline for same (4.6);
- 2/5/2011: Summarize Durbin deposition, vol. 2 (5.1).
- Wood Class has also submitted copious bills for clerical work performed by paralegals that should have been performed by an administrative assistant:
- 34 hours for preparation of binders and indices;⁷
- 5.8 hours for work on master settling party contact spreadsheet.⁸

Additionally, Mr. McLachlan spent many hours contacting the Court’s clerk, Ms. Rowena Walker, all at his claimed rate of \$720, with a 2.5 multiplier. This work could have and should have been performed by an administrative assistant and certainly should not be billed to the Public Water Suppliers’ ratepayers at an effective rate of \$1,800 per hour that amounts to over \$21,000 in fees. (Dunn Decl. ¶ 25, Ex. M.)

f. Unnecessary and Post-Settlement Work.

Wood Class cannot recover any fees for work performed after the March 4, 2015 settlement, when his interests became aligned with the Public Water Suppliers. (Dunn Decl. at ¶12; see also *McGuigan, supra*, 183 Cal.App.4th 610.) This amounts to 1,002.3 attorney hours

⁷ See, e.g., billing entries for: 8/29/2011 (0.8); 11/21/2013 (2.8); 1/31/2014 (8.3); 2/4/2014 (4.6); 2/6/2014 (2.8); 2/7/2014 (2.1); 2/10/2014 (1.7); 2/14/2014 (2.2); 2/17/2014 (1.3); 3/16/2015 (1.2); 3/17/2015 (1.1); 8/24/2015 (1.1); 9/26/2015 (4.0)

⁸ See, e.g., billing entries for: 2/25/2015; 3/13/2015
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1 and 208.7 paralegal hours, for a total of \$746,178, not including a multiplier. (See Mr.
2 McLachlan's and Mr. O'Leary's bills, generally.)

3 Finally, the 2015 settlement between Wood Class and the Public Water Suppliers is
4 nearly identical to the proposed 2011 settlement, rendering most of the work that Wood Class's
5 counsel performed between 2011 and 2015 unnecessary. (Dunn Decl. at ¶12.) Indeed on July 2,
6 2013, Mr. McLachlan billed for the review and modification of a "prior BBK settlement."
7 (McLachlan Decl. at Ex. 3.) Wood Class should not recover for these needless bills, which
8 amount to 2,195.5 attorney hours and 264.7 paralegal hours, for a total of approximately
9 \$1,611,862, not including a multiplier.

10 The totality of this amount and type of billing is excessive, particularly at a leading expert
11 rate, and Wood Class should not recover for any of these fees due to their inflation and
12 overreach. At the very least, Wood Class should be required to re-calculate and submit bills only
13 as they apply to pursuing its claims against the Public Water Suppliers.

14 **2. Unreasonable Rates.**

15 Wood Class's lodestar must be recalculated using a reasonable rates for attorneys' fees.
16 Wood Class's claimed rate of \$720 is unreasonably high because, *inter alia*, class counsel are not
17 water law experts, lack groundwater rights experience, and the rates do not reflect the prevailing
18 rates in the Antelope Valley community. Generally, the rate used to calculate a lodestar is "that
19 [rate] prevailing in the community for similar work" performed by attorneys with comparable
20 skills and experience. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095 [emphasis
21 added]; *Children's Hospital & Medical Center v. Bonta* (2002) 97 Cal.App.4th 740, 783.) A
22 party can claim a higher "out-of-town" rate only "in the 'unusual circumstance' that local counsel
23 is unavailable." (*Horsford v. Board of Trustees of California State University* (2005) 132
24 Cal.App.4th 359, 399.)

25 Despite claiming high hourly rates, the Wood Class makes absolutely no claim or showing
26 that their counsel, Daniel M. O'Leary, has any skills as a water law attorney or even had any
27 experience in contested groundwater rights cases. (See O'Leary Decl.) While the Wood Class's
28 other counsel, Michael D. McLachlan, claims to have "extensive experience litigating complex

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1 cases involving groundwater,” he cites as evidence only toxic waste cases, including one he
2 worked on prior to law school. (McLachlan Decl. ¶ 7.) Mr. McLachlan’s experience in
3 Superfund cases cannot make him an expert in the specialized field of water rights and, in
4 particular, the area of groundwater adjudications. Notwithstanding his counsel’s lack of
5 expertise and experience in the issues in this case, the rate requested by the Wood Class is beyond
6 the very top of the scale found to be reasonable for leading experts. (*Building a Better Redondo,*
7 *Inc. v. City of Redondo Beach* (2012) 203 Cal.App.4th 852, 871-872 [finding rates of \$200 to 250
8 per hour for associates and \$500-550 per hour for partners reasonable for Los Angeles market but
9 noting that lead counsel was a “leading expert in the field” and the rates were “at the ‘high end’ of
10 the scale,” emphasis added].) The lack of experience, skill, and success of the Wood Class
11 counsel requires using a reduced hourly rate.

12 The rate claimed by counsel for the Wood Class is also unreasonable for the local
13 community as shown in the small public water suppliers’ opposition. The Wood Class’ parcels
14 and the Antelope Valley Groundwater Basin are located in the Mojave Desert in northern Los
15 Angeles County and southeastern Kern County. Though the region contains two mid-sized cities,
16 the majority of the region is characterized by sparsely populated rural communities. Nonetheless,
17 the only support that the Wood Class provides for the claimed hourly rate of \$720 pertains to two
18 of the country’s most expensive urban markets: a Laffey fee matrix formulated for the
19 Washington D.C. metro area and firms in Los Angeles. (Motion at section III.B.2.) Before
20 relying upon non-local rates, the party claiming fees bears the burden of demonstrating that hiring
21 local counsel was impracticable, including, at least, a showing that the party made a good-faith
22 effort to find local counsel. (*Rey v. Madera Unified School Dist.* (2012) 203 Cal.App.4th 1223,
23 1241 citing *Nichols v. City of Taft* (2007) 155 Cal.App.4th 1233, 1244 and *Horsford, supra*, 132
24 Cal.App.4th at p. 399.) No such showing has been made by the Wood Class and its motion for
25 attorney fees must be denied.

26 Furthermore, the Court has already determined reasonable rates for class counsel in this
27 matter in ruling on a prior fee motion for the Willis Class. (See Document #4431, Order After
28 Hearing on Motion by Plaintiff Rebecca Lee Willis and the Class for Attorneys’ Fees,

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1 Reimbursement of Expenses and Class Representative Incentive Award, attached as **Exhibit B** to
2 the Dunn Decl.) There, this Court determined class counsel fees of \$400 and \$450 to be
3 reasonable. (*Id.* at pp. 9:23-10:1.) Those same rates should apply to the Wood Class motion,
4 with an upward adjustment to \$500 per hour to account for inflation starting in 2012 and as
5 requested in the concurrently filed Willis Class motion for fees.

6 **3. Block Billing.**

7 The entirety of Mr. O’Leary’s bills are block billed and should be reduced. Courts
8 generally disfavor block billing; where time documentation proves inadequate, as is the case here,
9 a fee award will be lowered accordingly. (*Bell v. Vista Unified School Dist.* (2000) 82
10 Cal.App.4th 672, 689; *Hensley, supra*, 461 U.S. at 433.) Thus, for example, in *Welch v.*
11 *Metropolitan Life Ins. Co.* (9th Cir. 2007) 480 F.3d 942, 945-46, the Ninth Circuit affirmed a
12 twenty (20) percent across-the-board reduction of a fee award based on block billed entries,
13 deferring to a State Bar Committee report, which found suspect the practice of block billing,
14 given its tendency to mask inflated billing entries by as much as thirty (30) percent. The justice
15 system did not intend that fees would be blindly paid by opposing counsel. The courts are thus
16 vested with the discretion and authority, as the proverbial gatekeepers and arbiters of fee awards
17 and disputes, to carefully screen a fee application and ferret out reasonable from unreasonable
18 charges, disallowing the latter. (See *Graham, supra*, 34 Cal.4th at 581-82.) Counsel’s block
19 billing practice renders it impossible for the Court to accomplish this important task. Thus, Mr.
20 O’Leary’s block bills should be eliminated from any fee award.

21 **I. The Court Should Apply a Negative Multiplier.**

22 The lodestar and its requested positive multiplier are neither sufficiently apportioned nor
23 supported in the Wood Class motion. The Court should not impose a positive multiplier due to
24 the Class’ lack of success on the merits and because the Public Water Suppliers achieved the
25 public benefit sought for in their complaints. The requested positive multiplier should be
26 eliminated and the lodestar reduced because: (1) the hourly rate is higher than the \$500 an hour
27 approved by the Court for the Willis Class counsel; (2) Wood Class counsel’s claimed hourly
28 rates do not reflect the experience or skill other counsel displayed in arguing case; (3) Wood

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1 Class counsel assumed risk in undertaking the case on a contingent basis but received over
2 \$730,000 in attorney fees from Palmdale Water District, City of Lancaster and Phelan Piñon
3 Hills Community Services District; (4) the Wood Class did not prevail on any one of its primary
4 claims; and (5) the case was settled before trial between the Wood Class and the Public Water
5 Suppliers, yet the Wood Class attempts to recover fees from the Public Water Suppliers for the
6 litigation involving other parties, i.e., Willis Class's objections to the physical solution, Phelan's
7 claims to groundwater rights, and the Tapia parties' claim to an overlying right as against the
8 Wood Class and other overlying landowner parties. (See *McGuigan*, 183 Cal.App.4th 610 [court
9 of appeal did not allow attorney fees under section 1021.5 after the parties entered into a
10 settlement agreement].) For these and other reasons herein, the Court should eliminate the
11 positive multiplier and decrease the merits lodestar to account for the Wood Class complaint's
12 lack of success and because the Public Water Suppliers prevailed on their complaints and cross-
13 complaints to have a physical solution approved by the Court to benefit all parties including the
14 Wood Class. Stated simply, the Public Water Suppliers prevailed on their complaints and cross-
15 complaints to obtain a physical solution to a chronic groundwater basin overdraft and that success
16 benefitted all parties including the Wood Class.

17 There is ample authority for the Court to reduce the lodestar here. (E.g. In *State Water*
18 *Resources Control Bd. Cases* (2008) 161 Cal.App.4th 304 [reduced lodestar].) In *San Diego*
19 *Police Officers Assn. v. San Diego Police Department* (1999) 76 Cal.App.4th 19 (*San Diego*
20 *POA*), the appellate court affirmed the trial court's application of a negative multiplier based on a
21 variety of factors. In *Thayer v. Wells Fargo Bank* (2001) 92 Cal.App.4th 819 (*Thayer*), the
22 appellate court affirmed the application of a negative multiplier because the record demonstrated
23 the prevailing parties' lawyers did little more than duplicate pleadings filed in other, related cases.

24 The Wood Class counsel received more than \$730,000 from Palmdale Water District,
25 Phelan, and Lancaster. Certainly, the payment removes the need for a positive multiplier and the
26 more than \$730,000 payment diminished any contingency risk for the award of a positive
27 multiplier. The Court is aware that Wood Class counsel, Mr. McLachlan, has in fact, worked on
28 other cases during the last several years because Mr. McLachlan has so informed the Court upon

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1 scheduling various matters including the hearing on this motion. As to any other matter that
2 might have been accepted by the Wood Class counsel but for these proceedings, it is pure
3 speculation as to whether any one of the matters would have generated attorney fee income for
4 Wood Class counsel and, in any event, is not sufficiently established in the moving papers. What
5 is not speculation is that the Wood Class counsel received a fee payment of over \$730,000 from
6 other public water suppliers.

7 Here, the Court of Appeal decisions in *Northwest Energetic Services, LLC v. California*
8 *Franchise Tax Bd.* (2008) 159 Cal.App.4th 841 (*Northwest*) and *San Diego POA, supra*, 76
9 Cal.App.4th 19 are helpful. In *Northwest*, the trial court adjusted a section 1021.5 lodestar
10 upward but the court of appeal reversed, in part, because the factors the trial court listed did "not
11 provide a persuasive justification for adjusting the lodestar upward." (*Northwest, supra*, 159
12 Cal.App.4th at p. 880.) The *Northwest* court determined each factor listed by the trial court was
13 unpersuasive, and noted "other factors suggest that an upward adjustment of the lodestar is
14 inappropriate. One such factor . . . is the *source* from which an attorney fee award would be paid.
15 [Citation.] Here, it is obvious that any attorney fees award would not be paid out of a common
16 fund or be borne by a private wrongdoer, but would ultimately fall upon the shoulders of
17 California taxpayers." (*Id.* at p. 881.)

18 In *San Diego POA*, the trial court applied a negative multiplier because the police officers
19 association "had achieved very limited success; the portion of its writ petition on which it
20 prevailed . . . did not involve complex issues of law; the case did not preclude [the police officers
21 association] attorneys from working on other matters and did not involve a contingency fee; and
22 the award of fees would ultimately be borne by the taxpayers." (*San Diego POA, supra*, 76
23 Cal.App.4th at p. 24.) The appellate court concluded the trial court did not abuse its discretion in
24 applying a negative multiplier, stating: "[t]he court's reasons for reducing the award were based
25 on the proper criteria and are amply supported by the record. [Citations.] The vast majority of
26 [the officers association's] time and effort was clearly spent on issues upon which the Police
27 Department prevailed. The award of attorney fees was well within the trial court's discretion, and
28 we affirm it." (*Ibid.*)

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1 **J. Any Fee Award Should be Equitably Apportioned.**

2 Any fees awarded should be reduced so that the Public Water Suppliers pay only those
3 fees that are attributable to them and not to Phelan and other landowner parties including the
4 Willis Class and the Tapia parties. The reduction should also take into account each party's pro
5 rata share of the groundwater allocations. Many other landowner pumpers have profited
6 significantly by delaying the outcome of this case in order to pump groundwater without
7 restriction or regard for the overdraft conditions of the Basin. Equity dictates that the Public
8 Water Suppliers not be assessed Wood Class attorney fees attributed to the other landowner
9 parties including the Willis Class and Tapia parties, or attributed to Phelan.

10 Other landowner parties and Phelan have actively litigated their groundwater right claims.
11 Their positions are well documented in the file of these coordinated and consolidated cases and
12 even in the Wood Class counsel's time entries for their attorney fees motion. Additionally, the
13 other landowners participated in settlement discussions with the Wood Class, filed briefs and
14 made arguments regarding matters concerning the Wood Class.

15 The decision to apportion an award of attorneys' fees is addressed to the sound discretion
16 of the trial court. (*Sundance v. Municipal Court for the Los Angeles Judicial District of Los*
17 *Angeles County* (1987) 192 Cal.App.3d 268, 272.) In actions involving multiple defendants,
18 courts have apportioned Section 1021.5 attorneys' fees equally among co-defendants, based on
19 the defendants' mere contribution to the dispute that gave rise to the fee request and independent
20 of the degree of liability/responsibility borne on the part of each defendant individually. (See,
21 *e.g., Sundance, supra*, 192 Cal.App.3d at p. 272; see also *Friends of the Trails et al. v. Blasius et*
22 *al.* (2000) 78 Cal.App.4th 810, 837-38.)

23 Thus, for example, in *Sundance*, the court apportioned fees equally between a city and a
24 county, even though the fee award largely addressed the city's abusive practices, over and above
25 that of the county's. (*Sundance, supra*, 192 Cal.App.3d at 272.) As the court explained, "the
26 County took an active part in opposing the litigation and thus in generating the expenses []
27 compensated by the award of attorneys' fees" and thus an equal division of the fee award was
28 appropriate. (*Ibid.*) Here, like in *Sundance*, the pumping landowners, the Willis Class and

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1 Phelan all played a role in generating the attorney fees that the Wood Class now seeks to recover
2 from the Public Water Suppliers' rate paying customers.

3 Finally, if the Wood Class has conferred a significant public benefit (which it has not), the
4 benefit is to all who pump from the Adjudication Area and it would be inequitable for the Court
5 to place the burden of attorney's fees solely on the Public Water Suppliers. Any fee award
6 against the Public Water Suppliers should not exceed apportionment pursuant to each producer's
7 percentage share the Adjusted Native Safe Yield as set forth in Exhibit 3 to the Judgment. (Dunn
8 Decl., ¶ 16, Ex. G.)

9 **K. Wood Class Cannot Seek Fees Against City of Palmdale**

10 The Wood Class' motion appears to seek recovery against Palmdale by including
11 Palmdale within the definition of "Settling Defendants" (See Wood Class' Motion, p. 3) even
12 though Palmdale produces no water, and asserted no prescriptive rights claim in this case.
13 Palmdale is in a unique position vis-à-vis the other Public Water Suppliers. While the other
14 Public Water Suppliers produce water for retail uses, Palmdale does not. Palmdale's retail water
15 is served by other parties, and is subject to the fees of Los Angeles County Waterworks District
16 No. 40 and the Palmdale Water District. Should Palmdale also have to pay the Wood Class'
17 attorneys' fees and costs, this would result in a double-penalty against its residents.

18 The Wood Class' Motion recognizes that "Per the terms of the 2015 Settlement, the City
19 of Palmdale is not subject to attorneys' fees or costs because it dropped its prescription claims in
20 2008." (Wood Class' Motion, at p. 3, fn. 1.) By including Palmdale within the definition of
21 "Settling Defendants", the motion does not clearly establish that the Wood Class is not seeking
22 recovery against Palmdale.⁹ Accordingly, if the Court awards any recovery for attorneys' fees,
23 costs, and incentive award to the Wood Class, such award should exclude Palmdale consistent
24 with the terms of the 2015 Settlement.

25
26
27 ⁹ The Wood Class Motion identifies eight settling defendants, including Palmdale, but articulates that it seeks
28 recovery against only seven defendants, which "could be awarded jointly and severally as to the seven defendants in
question, or the Court could allocate them." (Wood Class' Motion, at p. 15, lns. 20-21.)
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1 **L. Costs and Incentive Award.**

2 The private attorney general doctrine only provides for the potential recovery of attorneys’
3 fees, not costs. (§ 1021.5; *Benson v. Kwikset Corp.* (2007) 152 Cal.App.4th 1254, 1283.) In
4 California, a “prevailing party” in litigation may recover costs of suit, but only to the extent that
5 there is a statutory right to such costs. (Code Civ. Proc. § 1033.5; *Murillo v. Fleetwood*
6 *Enterprises, Inc.* (1998) 17 Cal.4th 985, 989.)

7 The Wood Class seeks to recover \$75,242.06 in costs. (Motion, pp. 3:13, 6:18-22.) The
8 Wood Class counsel cannot recover such costs. In *Benson, supra*, 152 Cal.App.4th 1254,
9 plaintiff sought to recover costs and expert fees, as well as attorneys’ fees, under the private
10 attorney general doctrine. The court rejected the request, noting that the statute only provided for
11 the recovery of “attorneys’ fees,” and that there was no statute authorizing the costs that plaintiff
12 sought to recover. (*Id.*) As explained above, the Wood Class is not a “prevailing party” who
13 would be entitled to any costs because the case settled and the Wood Class obtained no monetary
14 recovery. (*See* § 1032, subd.(a)(4).)

15 Even if the Wood Class were somehow deemed to be a “prevailing party,” which it is not,
16 the Wood Class still cannot recover the requested costs because there is no statutory authorization
17 for such costs. Wood Class also seeks costs for travel expenses, messenger fees, postage, and
18 copy costs, which are not recoverable costs. (Code Civ. Proc. § 1033.5.) The Court should
19 follow *Benson* and should deny the Wood Class counsel’s request.

20 The Public Water Suppliers do not oppose an incentive award water right of (five) 5 acre-
21 feet per year for Richard Wood as it was negotiated as part of the settlement and judgment. The
22 Public Water Suppliers do oppose the alternative request for a monetary payment of \$25,000.
23 Monetary incentive awards are not authorized by the private attorney general statute, and the
24 request is inappropriate. The Wood Class motion cites no applicable authority to support the
25 monetary incentive request.

26 **IV. CONCLUSION**

27 For the reasons stated herein, the Wood Class motion for attorneys’ fees should be denied.
28 If the Court is inclined to award any fees and costs, they should be adjusted downward to an

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1 amount that reflects the lack of significant success, the local market value of class counsel's
2 services, the hours reasonably expended in achieving that result, and the fact that public agencies
3 and their customers will be paying the award. Additionally, the Court should reduce the fees and
4 costs according so that the Public Water Suppliers and their customers do not pay for Wood Class
5 fees incurred due to the other landowner parties and non-settling parties, the Willis Class, Phelan
6 and the Tapia parties.

7 Dated: March 15, 2016

BEST BEST & KRIEGER LLP

8
9 By: 

10 ERIC L. GARNER

11 JEFFREY V. DUNN

12 WENDY Y. WANG

13 Attorneys for Cross-Complainant

14 LOS ANGELES COUNTY

15 WATERWORKS DISTRICT NO. 40

PROOF OF SERVICE

I, Sandra Rosales, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 300 S. Grand Avenue, 25th Floor, Los Angeles, California 90071. On March 15, 2016, I served the following document(s):

**LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40 AND CITY OF
PALMDALE'S JOINT OPPOSITION TO PLAINTIFF RICHARD WOOD'S
MOTION FOR ATTORNEY FEES, COSTS AND INCENTIVE AWARD**

☒ by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 15, 2016, at Los Angeles, California.


Sandra Rosales

THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
ELECTRONIC FILING - WWW.SCEFILING.ORG

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THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA

Coordination Proceeding Special Title (Rule
1550(b)) ANTELOPE VALLEY GROUNDWATER CASES
(JCCP 4408) Included Actions: Los Angeles
County Waterworks District No. 40

Plaintiff,
vs.

Antelope Valley Groundwater Cases (JCCP 4408)

Lead Case No.1-05-CV-049053

Hon. Jack Komar

Diamond Farming Co. Superior Court of California County of Los Angeles, Case No. BC 325 201 Los Angeles County Waterworks District No. 40 v. Diamond Farming Co. Superior Court of California, County of Kern, Case No. S-1500-CV-254-348 Wm. Bolthouse Farms, Inc. v. City of Lancaster Diamond Farming Co. v. City of Lancaster Diamond Farming Co. v. Palmdale Water Dist. Superior Court of California, County of Riverside, consolidated actions, Case Nos. RIC 353 840, RIC 344 436, RIC 344 668

Defendant.

PROOF OF SERVICE
Electronic Proof of Service

AND RELATED ACTIONS

I am employed in the County of Alameda, State of California.

I am over the age of 18 and not a party to the within action; my business address is 2915 McClure Street, Oakland, CA 94609.

The documents described on page 2 of this Electronic Proof of Service were submitted via the worldwide web on Tue. March 15, 2016 at 4:56 PM PDT and served by electronic mail notification.

I have reviewed the Court's Order Concerning Electronic Filing and Service of Pleading Documents and am readily familiar with the contents of said Order. Under the terms of said Order, I certify the above-described document's electronic service in the following manner:

The document was electronically filed on the Court's website, <http://www.scefiling.org>, on Tue. March 15, 2016 at 4:56 PM PDT

Upon approval of the document by the Court, an electronic mail message was transmitted to all parties on the electronic service list maintained for this case. The message identified the document and provided instructions for accessing the document on the worldwide web.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and

correct. Executed on March 15, 2016 at Oakland, California.

Dated: March 15, 2016

For WWW.SCEFILING.ORG

Andy Jamieson

THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
ELECTRONIC FILING SYSTEM - WWW.SCEFILING.ORG

Electronic Proof of Service
Page 2

Document(s) submitted by Jeffrey Dunn of Best Best & Krieger, LLP on Tue. March 15, 2016 at 4:56 PM PDT

1. Opposition: LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40 AND CITY OF PALMDALE'S JOINT
OPPOSITION TO PLAINTIFF RICHARD WOOD'S MOTION FOR ATTORNEY FEES, COSTS AND INCENTIVE AWARD

Exhibit L

BEST BEST & KRIEGER LLP
ERIC L. GARNER, Bar No. 130665
JEFFREY V. DUNN, Bar No. 131926
WENDY Y. WANG, Bar No. 228923
18101 VON KARMAN AVENUE, SUITE 1000
IRVINE, CALIFORNIA 92612
TELEPHONE: (949) 263-2600
TELECOPIER: (949) 260-0972
Attorneys for Cross-Complainant
LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40

OFFICE OF COUNTY COUNSEL
COUNTY OF LOS ANGELES
MARY WICKHAM, BAR NO. 145664
COUNTY COUNSEL
WARREN WELLEN, Bar No. 139152
PRINCIPAL DEPUTY COUNTY COUNSEL
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012
TELEPHONE: (213) 974-8407
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Attorneys for Cross-Complainant
LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL DISTRICT

ANTELOPE VALLEY GROUNDWATER CASES
Included Actions:
Los Angeles County Waterworks District No. 40 v.
Diamond Farming Co., Superior Court of
California, County of Los Angeles, Case No. BC
325201;

Los Angeles County Waterworks District No. 40 v.
Diamond Farming Co., Superior Court of
California, County of Kern, Case No. S-1500-CV-
254-348;

Wm. Bolthouse Farms, Inc. v. City of Lancaster,
Diamond Farming Co. v. City of Lancaster,
Diamond Farming Co. v. Palmdale Water Dist.,
Superior Court of California, County of Riverside,
Case Nos. RIC 353 840, RIC 344 436, RIC 344 668

RICHARD WOOD, on behalf of himself and all
other similarly situated v. A.V. Materials, Inc., et
al., Superior Court of California, County of Los
Angeles, Case No. BC509546

EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
SECTION 6103

Judicial Council Coordination
Proceeding

No. 4408

CLASS ACTION

Santa Clara Case No. 1-05-CV-049053
Assigned to the Honorable Jack Komar

**DECLARATION OF WENDY Y.
WANG IN SUPPORT OF
DISTRICT 40'S OPPOSITION TO
WOODS CLASS' MOTION FOR
ATTORNEY FEES, COSTS AND
INCENTIVE AWARD**

*[Filed concurrently with Opposition to
Woods Class' Motion; Declarations of
Jeffrey V. Dunn and Adam Ariki]*

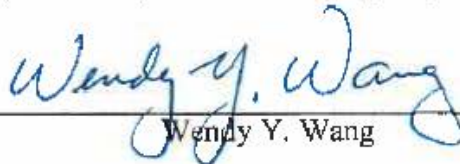
Date: April 1, 2016
Time: 1:30 p.m.
Dept.: 1

1 I, Wendy Y. Wang, declare as follows:

2 1. I am an attorney with the law firm of Best Best & Krieger LLP, counsel for
3 defendant Los Angeles County Waterworks District No. 40 ("District 40"). I have personal
4 knowledge of the facts stated herein and, if called upon to do so, I could testify to these facts.

5 2. I attended the Phase 5 trial proceedings for the above captioned matter. On
6 February 18, 2014, trial concluded early to allow parties to engage in settlement discussions in the
7 afternoon. Mr. McLachlan did not participate in the afternoon's settlement proceedings, which
8 took place at Best Best & Krieger's Los Angeles office.

9 I declare under penalty of perjury under the laws of the State of California that the
10 foregoing is true and correct. Executed this 15th day of March, 2016, at Los Angeles, California.

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13 Wendy Y. Wang
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PROOF OF SERVICE

I, Rosanna R. Pérez, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 300 S. Grand Avenue, 25th Floor, Los Angeles, California 90071. On March 15, 2016, I served the following document(s):

**DECLARATION OF WENDY Y. WANG IN SUPPORT OF DISTRICT 40'S
OPPOSITION TO WOODS CLASS' MOTION FOR ATTORNEY FEES, COSTS AND
INCENTIVE AWARD**



by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 15, 2016, at Los Angeles, California.


Rosanna R. Pérez

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THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
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THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA

Coordination Proceeding Special Title (Rule
1550(b)) ANTELOPE VALLEY GROUNDWATER CASES
(JCCP 4408) Included Actions: Los Angeles
County Waterworks District No. 40

Plaintiff,
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Antelope Valley Groundwater Cases (JCCP 4408)

Lead Case No.1-05-CV-049053

Hon. Jack Komar

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Defendant.

PROOF OF SERVICE
Electronic Proof of Service

AND RELATED ACTIONS

I am employed in the County of Alameda, State of California.

I am over the age of 18 and not a party to the within action; my business address is 2915 McClure Street, Oakland, CA 94609.

The documents described on page 2 of this Electronic Proof of Service were submitted via the worldwide web on Tue. March 15, 2016 at 4:29 PM PDT and served by electronic mail notification.

I have reviewed the Court's Order Concerning Electronic Filing and Service of Pleading Documents and am readily familiar with the contents of said Order. Under the terms of said Order, I certify the above-described document's electronic service in the following manner:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and

correct. Executed on March 15, 2016 at Oakland, California.

Dated: March 15, 2016

For WWW.SCEFILING.ORG

Andy Jamieson

1 THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
2 ELECTRONIC FILING SYSTEM - WWW.SCEFILING.ORG

3 Electronic Proof of Service
4 Page 2

5 Document(s) submitted by Jeffrey Dunn of Best Best & Krieger, LLP on Tue. March 15, 2016 at 4:29 PM PDT

6 1. Decl in Support: DECLARATION OF WENDY Y. WANG IN SUPPORT OF DISTRICT 40'S OPPOSITION TO WOODS
7 CLASS' MOTION FOR ATTORNEY FEES, COSTS AND INCENTIVE AWARD
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Exhibit M

BEST BEST & KRIEGER LLP
ERIC L. GARNER, Bar No. 130665
JEFFREY V. DUNN, Bar No. 131926
WENDY Y. WANG, Bar No. 228923
18101 VON KARMAN AVENUE, SUITE 1000
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TELECOPIER: (949) 260-0972
Attorneys for Cross-Complainant
LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40

**EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
SECTION 6103**

OFFICE OF COUNTY COUNSEL
COUNTY OF LOS ANGELES
MARY WICKHAM, BAR NO. 145664
INTERIM COUNTY COUNSEL
WARREN WELLEN, Bar No. 139152
PRINCIPAL DEPUTY COUNTY COUNSEL
500 WEST TEMPLE STREET
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TELEPHONE: (213) 974-8407
TELECOPIER: (213) 687-7337
Attorneys for Cross-Complainant
LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – CENTRAL DISTRICT

ANTELOPE VALLEY GROUNDWATER CASES

Included Actions:

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254-348;

Wm. Bolthouse Farms, Inc. v. City of Lancaster,
Diamond Farming Co. v. City of Lancaster,
Diamond Farming Co. v. Palmdale Water Dist.,
Superior Court of California, County of Riverside,
Case Nos. RIC 353 840, RIC 344 436, RIC 344 668

RICHARD WOOD, on behalf of himself and all
other similarly situated v. A.V. Materials, Inc., et
al., Superior Court of California, County of Los
Angeles, Case No. BC509546

Judicial Council Coordination
Proceeding No. 4408

CLASS ACTION

Santa Clara Case No. 1-05-CV-049053
Assigned to the Honorable Jack Komar

**DECLARATION OF ADAM ARIKI
IN SUPPORT OF DISTRICT 40'S
OPPOSITION TO WOODS CLASS'
MOTION FOR ATTORNEY FEES,
COSTS AND INCENTIVE AWARD**

*[Filed concurrently with Opposition to
Woods Class' Motion; Declaration of
Jeffrey V. Dunn; Declaration of Wendy
Y. Wang]*

Date: April 1, 2016
Time: 1:30 p.m.
Dept.: 1

DECLARATION

I, Adam Ariki, declare:

1. I am an Assistant Deputy Director with the County of Los Angeles Department of Public Works and head the division which oversees and operates Los Angeles County Waterworks District No. 40 ("District No. 40") pursuant to an agreement between the County and District No. 40. I have personal knowledge of each fact herein and would testify competently thereto under oath.

2. District No. 40 is responsible for supplying drinking water for approximately 207,654 people in the Antelope Valley through approximately 56,510 metered connections, of which 93.7 percentage are residential connections.

3. To supply water to its customers, District No. 40 pumps groundwater water from the Antelope Valley Groundwater Basin ("Basin") and purchases imported State Water Project ("SWP") water from Antelope Valley East-Kern Water Agency in an effort to alleviate stress on the overdrafted Basin. The average annual cost that District No. 40 incurred to purchase SWP water for the last five years is approximately \$10,273,581.00.

4. District No. 40 also actively engages in water banking operation to store water in the Basin.

5. As the primary urban water supplier in the Antelope Valley region, District No. 40 has a crucial interest in ensuring that the Basin is sustainably managed and remains a reliable water supply source, and has expended great resources in this litigation to protect the Basin for the benefit of not only its customers, but all existing and future water users in the region.

Executed this 15th day of March, 2016, at Alhambra, California.



Adam Ariki

PROOF OF SERVICE

I, Rosanna R. Pérez, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 300 S. Grand Avenue, 25th Floor, Los Angeles, California 90071. On March 15, 2016, I served the following document(s):

DECLARATION OF ADAM ARIKI IN SUPPORT OF DISTRICT 40'S OPPOSITION TO WOODS CLASS' MOTION FOR ATTORNEY FEES, COSTS AND INCENTIVE AWARD



by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 15, 2016, at Los Angeles, California.



Rosanna R. Pérez

26345.00000\24 570921.2

THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
ELECTRONIC FILING - WWW.SCEFILING.ORG

c/o Glotrans
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THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA

Coordination Proceeding Special Title (Rule
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Defendant.

PROOF OF SERVICE
Electronic Proof of Service

AND RELATED ACTIONS

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and

correct. Executed on March 15, 2016 at Oakland, California.

Dated: March 15, 2016

For WWW.SCEFILING.ORG

Andy Jamieson

THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
ELECTRONIC FILING SYSTEM - WWW.SCEFILING.ORG

Electronic Proof of Service
Page 2

Document(s) submitted by Jeffrey Dunn of Best Best & Krieger, LLP on Tue. March 15, 2016 at 4:29 PM PDT

1. Decl in Support: DECLARATION OF ADAM ARIKI IN SUPPORT OF DISTRICT 40'S OPPOSITION TO WOODS CLASS'
MOTION FOR ATTORNEY FEES, COSTS AND INCENTIVE AWARD

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On February 28, 2022, I caused the foregoing document(s) described as **APPENDIX RE: SMALL PUMPER CLASS' MOTIONS FOR ATTORNEYS' FEES [Vol. 2]** to be served on the parties in this action, as follows:

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