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19 UNITED STATES DISTRICT COURT
20 CENTRAL DISTRICT OF CALIFORNIA

21 ISIDORA LOPEZ-VENEGAS, *et al.*,
22 Plaintiffs,
23
24 v.
25 JEH JOHNSON, *et al.*,
26 Defendants.

No. CV 13-03972-JAK (PLAx)

**DECLARATION OF AHILAN T.
ARULANANTHAN IN SUPPORT OF
MOTION FOR ATTORNEYS' FEES
AND COSTS**

**Date: February 9, 2015
Time: 8:30 a.m.
Place: Courtroom 750
Judge: Hon. John A. Kronstadt**

1 **DECLARATION OF AHILAN T. ARULANANTHAM IN SUPPORT OF**
2 **PLAINTIFFS' MOTION FOR ATTORNEY'S FEES**

3
4 I, Ahilan T. Arulanantham, hereby declare:

5 1. I make this declaration based on my own personal knowledge and if
6 called to testify I could and would do so competently as follows:

7 2. I am a member of the Bar of the State of California. I am admitted to
8 practice before several federal courts, including the United States Supreme Court,
9 the United States Court of Appeals for the Ninth Circuit, and this Court.

10 3. I graduated from Yale Law School in 1999, after which I served as a
11 law clerk to the Honorable Stephen Reinhardt of the United States Court of
12 Appeals for the Ninth Circuit. I then worked for two years as an Equal Justice
13 Works Fellow and attorney for the ACLU IRP in New York, practiced as an
14 assistant Federal Public Defender in the Western District of Texas for two years,
15 and then came to work at the ACLU of Southern California in June 2004. In 2011,
16 I became the Deputy Legal Director at the ACLU of Southern California. In 2012,
17 I also became a Senior Staff Attorney at the ACLU IRP. A copy of my c.v. is
18 attached as Sub-Exhibit A to this declaration.

19 4. I have extensive experience working on immigrants' rights cases. For
20 example, I was lead counsel in *Nadarajah v. Gonzales*, 443 F.3d 1069 (9th Cir.
21 2006) (granting habeas petition and ordering release of refugee detained
22 indefinitely as a national security threat); co-lead counsel in *Hamdan v. Gonzales*,
23 Case No. CV 05-5144-TJH (C.D. Cal.) (holding that no statute authorized
24 prolonged immigration detention of non-citizen on national security grounds,
25 despite his having been given a bond hearing); one of the attorneys of record in
26 *INS v. St. Cyr*, 533 U.S. 289 (2001) (upholding habeas corpus jurisdiction to
27 review immigration claims) and in *Kar v. Bush, et al.*, Case No. CV 05-1348-JR
28 (D.D.C.) (challenging extra-territorial detention without judicial review of United

1 States citizen of Iranian origin) (voluntarily dismissed after petitioner's release);
2 and served as lead counsel for *amici* American Civil Liberties Union and the
3 ACLU of Southern California in *Muehler v. Mena*, 544 U.S. 93 (2005) (upholding
4 brief detention of non-citizen during raid of house against Fourth Amendment
5 challenge).

6 5. I also have extensive experience as a class action litigator in the
7 immigration context. I am lead counsel in a class action challenging the prolonged
8 detention without hearings of hundreds of detained immigrants, *Rodriguez v.*
9 *Hayes*, 591 F.3d 1105 (9th Cir. 2010) (reversing denial of class certification in
10 action challenging the prolonged detention without hearings of detained
11 immigrants) and *Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir. 2013) (holding that
12 immigration statutes require rigorous bond hearings for individuals detained for
13 more than six months while their cases remain pending); and co-lead counsel in a
14 class action challenging the lack of appointed legal representatives for immigrants
15 with serious mental disabilities, *Franco-Gonzalez v. Holder*, Case No. CV 10-
16 2211-DMG (C.D. Cal.), 2011 U.S. Dist. LEXIS 158130 (C.D. Cal. Nov. 21, 2011)
17 (granting class certification) and 2013 U.S. Dist. LEXIS 186258 (C.D. Cal. Apr.
18 23, 2013) (granting permanent injunction ordering the government to provide free
19 legal representation to immigrants with serious mental disabilities). In the last few
20 years, I have also been co-lead counsel in a class action against the federal
21 government challenging the use of forcible drugging in effectuating removal
22 orders, *Diouf v. Chertoff*, Case No. CV 07-3977-TJH (C.D. Cal.); lead counsel in a
23 group action challenging the unlawful practice of denying access to counsel for
24 people at immigration interviews, *NLG v. Chertoff*, Case No. CV 08-1000-GW
25 (C.D. Cal.); co-lead counsel in a class action challenging unlawful conditions of
26 confinement at an immigration detention center in Los Angeles, *Castellano v.*
27 *Napolitano*, Case No. CV 09-2281-PA (C.D. Cal.); and co-counsel in *Alfaro-*
28 *Garcia v. Johnson*, Case No. CV 14-01775-YGR (N.D. Cal.), a nationwide class

1 action regarding the unlawful prolonged detention of certain asylum seekers in
2 violation of immigration regulations.

3 6. I was named California Lawyer of the Year in 2007 in the area of
4 Immigration Law for my work in the *Nadarajah* case, and again in 2014 for my
5 work in the *Rodriguez* class action litigation. In 2007, 2008, 2009, 2012, 2013, and
6 2014 I was named by the Daily Journal as one of the Top 100 most influential
7 lawyers in California for my work in the immigrants' rights area. In 2010, I was
8 awarded the Arthur C. Helton Human Rights Award by the American Immigration
9 Lawyers' Association for my work concerning immigrants' rights. Most recently,
10 in 2014, I was awarded the American Immigration Lawyers' Association Jack
11 Wasserman Memorial Award for Excellence in Litigation in the Field of
12 Immigration Law for my work in the *Franco* litigation.

13 7. I have also litigated a number of other cases raising questions
14 concerning the statutory and constitutional rights of non-citizens. *See, e.g., In re*
15 *Perez Cruz*, (L.A. Imm. Ct. 2008) (removal proceedings seeking suppression of
16 evidence obtained during worksite raid) (prevailed before immigration court,
17 government appeal pending before BIA); *Cerezo v. Mukasey*, 512 F.3d 1163 (9th
18 Cir. 2008) (holding that traffic-related offense did not constitute a crime involving
19 moral turpitude); *Barakat v. Arellano*, CV 05-8635-SVW (C.D. Cal. 2005) (a.k.a.
20 "LA 8") (reversing government's denial of naturalization petition filed by
21 Palestinian activist for engaging in First Amendment-protected activity); *Hamdan*
22 *v. Gonzales*, CV 05-5144-TJH (JWJ) (C.D. Cal. 2006) (challenge to government's
23 detention of former employee of Holy Land Foundation for alleged material
24 support to a terrorist organization).

25 8. Through all of the experience described above, I have come to have
26 distinctive knowledge and specialized skills in the area of immigrants' rights
27 litigation in the federal courts. The Ninth Circuit held that I was entitled to market
28 rates for work done on issues involving the constitutional rights of detained

1 immigrants when it granted our fee application in *Nadarajah v. Holder*, 569 F.3d
2 906, 912-13 (9th Cir. 2009).

3 9. As part of my job responsibilities at the ACLU of Southern California,
4 I have supervised most of the work of our office in the immigrants' rights and
5 national security practice areas since at least 2008.

6 10. I have supervised the work of the ACLU of Southern California
7 lawyers working on this case since its inception. My co-counsel and I have taken
8 special care to avoid duplicative work by dividing tasks and issues to the extent
9 possible. For example, we divided the preparation for drafting and finalizing all
10 the briefs in this case from its inception.

11 11. This case involved highly complex issues at the intersection of
12 immigration law, constitutional law, federal jurisdiction, and class action law that
13 required the particular expertise of the team of attorneys who litigated it. To
14 litigate the underlying claims, the attorneys had to utilize their knowledge of a
15 particular area of immigration law – pre-hearing voluntary departure (a.k.a.
16 “voluntary return”) – and its interaction with the set of rules concerning how
17 people who have lived here unlawfully for long periods of time can legalize their
18 immigration status. We then had to apply that knowledge to federal constitutional
19 law. Furthermore, because the government brought a motion to dismiss on
20 jurisdictional grounds and made clear their intention to resist class certification, the
21 team of attorneys also had to have expertise in those two areas.

22 12. Litigating this case also required extensive communication with a
23 number of individuals who had been subject to unlawful voluntary returns who
24 were living in Mexico. Many of them, as well as their family members living in the
25 U.S., spoke primarily Spanish. I and other attorneys on the team thus had to speak
26 with them in Spanish in order to evaluate their claims, and, in some cases, take
27 their declarations, prepare them for depositions, and explain various aspects of the
28 case to them.

1 13. As a result of our expertise in this area and our prior litigation
2 experience on the same issues, the team of attorneys working on this case have
3 done the work more efficiently than other, less experienced attorneys would have.
4 In particular, because Mr. Riordan, Mr. Vakili, and I had all been involved in
5 immigrants' rights litigation for several years prior to this case, we required less
6 time to familiarize ourselves with the complex statutory and constitutional
7 arguments at issue here than would other attorneys without our expertise. For
8 example, because I had litigated *NLG v. Chertoff, supra* and *Diouf v. Chertoff,*
9 *supra*, and other similar cases involving affirmative challenges to unlawful
10 removal practices, I was already familiar with several of the jurisdictional
11 arguments Defendants advanced, as well as the underlying doctrine that formed the
12 controlling precedent on those issues. We were also able to communicate with
13 clients in Spanish, thereby avoiding the need to hire interpreters.

14 14. It is the practice of the attorneys and other legal staff in this office to
15 keep track of their time through the use of contemporaneous timekeeping records.
16 Over the course of this litigation, most attorneys and other legal staff in our office
17 utilized one of two computer billing programs that we use to maintain
18 contemporaneous time records of all work performed on our cases, while some of
19 the staff involved used timekeeping sheets or "day books" for this purpose. For
20 those attorneys and other staff who use the computer program, it is the policy and
21 regular practice of the ACLU of Southern California for a legal assistant to print
22 out a billing statement that lists, among other things, the hours worked on the
23 matter, the billing rate for the person who worked those hours, a total "lodestar"
24 for each person who billed, and a cumulative lodestar for the ACLU as a whole.
25 Once this print-out is made, it is the practice of a senior lawyer on the case to
26 review the entries and note those that are duplicative, or improperly assigned to the
27 matter, and to delete entries in an exercise of billing judgment. The senior lawyer
28 who reviews the bills then directs a paralegal to delete those entries and print out a

1 revised statement. I reviewed the time records for the attorneys, paralegals, and
2 others who worked on this case. I also supervised our paralegal, Li Chia, in her
3 work to summarize those time records into a spreadsheet pursuant to this Court's
4 directives. The spreadsheet she prepared, which I reviewed, is attached to this
5 declaration as Sub-Exhibit B.

6 15. Apart from the time spent by our attorneys and other legal staff, much
7 of the work in this case was performed by law students. The ACLU runs a very
8 active summer program for law students, and we regularly have law student interns
9 from various schools, including Boalt Hall (U.C. Berkeley), Columbia, Harvard,
10 Loyola Marymount, N.Y.U., Stanford, University of Michigan, UCLA, USC, and
11 Yale. We also have at least one law student intern from Loyola, UCLA, or USC
12 almost every fall and spring semester. Because we do not have the financial means
13 to obtain licenses for our timekeeping software for all of our students, we ask
14 students to make timesheets, either on paper or in electronic form, for the work
15 they perform. As explained below, in the interest of billing judgment we have not
16 sought compensation for the time spent by law students working on this case, even
17 though we have obtained compensation for student work in other cases.

18 16. In determining the number of hours for which the ACLU of Southern
19 California would seek compensation in this matter, I reduced the work for which
20 we seek compensation in several ways to ensure that the ultimate claimed amount
21 was reasonable. First, I eliminated all time expended by student interns on this
22 case. Second, I did not seek compensation for nearly all of the time expended by
23 Ms. Chavez, the primary associate on this case for the ACLU of Southern
24 California, after the case entered the settlement phase. I have chosen to not seek
25 compensation for her work during that time even though we know with certainty
26 that she spent dozens of hours working on this case, particularly when advising and
27 otherwise assisting the clients with their understanding of the settlement process
28 and their return to this country for purposes of settlement negotiations. Third, at

1 different points in this litigation attorneys in our office worked late at night or
2 while traveling. In those instances, attorneys often did not record their time
3 working on the case because they did not have ready access to our normal
4 contemporaneous billing system to determine the time spent. Although I believe
5 the fees I eliminated were compensable, I nevertheless chose not to seek
6 compensation for that work, out of an abundance of caution to ensure that we were
7 not billing excessively. As a result, in the exercise of billing judgment the ACLU
8 of Southern California is not seeking compensation for some time spent, and in
9 particular for substantial time spent by Ms. Chavez and by several law students,
10 even though I believe that time to have been “reasonably expended” and would
11 therefore be compensable if we sought compensation for it.

12 17. With respect to the rates charged for our work, it is the practice of the
13 ACLU of Southern California to poll attorneys working in the Los Angeles area to
14 determine the rates they charge for individuals with different experience levels,
15 and then to set our rates accordingly. In general, we set our rates at or near the low
16 end of the spectrum out of an abundance of caution, even though most if not all of
17 our attorneys are more than qualified to work at the offices of the attorneys with
18 whom we do the polling.

19 18. Since I became the Deputy Legal Director, I have undertaken the task
20 of conducting the polling for purposes of determining the rates we should charge
21 for the whole ACLU of Southern California office. During my survey, I
22 determined that the rates we had charged prior to 2010 were far below the market
23 rates even for civil rights litigators, which are themselves far lower than the rates
24 charged by corporate litigators. As a result, I increased the rates charged by
25 attorneys at the ACLU of Southern California as a whole starting in 2010. The
26 rates I have charged for the attorneys and paralegals billing time in this motion are
27 based on my survey, which contains information from ten law offices, including
28

1 other non-profit organizations, civil rights firms, and large commercial law firms
2 that regularly do pro bono work with us.

3 19. I have further confirmed the justification for the rates we seek through
4 my conversations with Carol Sobel and a review of the materials she has provided
5 in support of her declaration. Ms. Sobel has conducted extensive analysis of the
6 fees charged by and awarded to attorneys in the Southern California region in a
7 variety of civil rights contexts, and our rates are very reasonable in light of her
8 analysis. I have obtained yet further confirmation for the rates we seek through my
9 conversations with Mr. Van Der Hout. Mr. Van Der Hout is very familiar with the
10 billing practices of attorneys working in the immigration law field, and he too has
11 concluded that our rates are very reasonable.

12 I declare under penalty of perjury of the laws of the State of California and
13 the United States that the foregoing is true and correct. Executed this 15th day of
14 December, 2014 in Los Angeles, California.

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16 AHILAN T. ARULANANTHAM
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1 *[Additional Counsel]*

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