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19 UNITED STATES DISTRICT COURT
20 CENTRAL DISTRICT OF CALIFORNIA

21 ISIDORA LOPEZ-VENEGAS, *et al.*,

22 Plaintiffs,

23 v.

24 JE H JOHNSON, *et al.*,

25 Defendants.
26
27
28

No. CV 13-03972-JAK (PLAx)

DECLARATION OF CAROL A. SOBEL 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**

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DECLARATION OF CAROL A. SOBEL

I, CAROL A. SOBEL, declare:

1. I am an attorney admitted to practice before the Supreme Court of the State of California and the Central District of California. This declaration is submitted in support of the attorney fees requested by Plaintiffs' counsel in the above-captioned matter. It is submitted to provide current reasonable market rates for counsel. I have personal knowledge of the facts set forth below and, if I were called to testify to those facts, I could and would do so competently.

2. I graduated from law school in 1978 and was admitted to practice in December of that same year. Until April of 1997, I was employed by the ACLU Foundation of Southern California (ACLU). For the six years prior to leaving, I held the position of Senior Staff Counsel in the legal department. A true and correct copy of my resumé is attached at Exhibit 1. I have received numerous awards for my work in the area of First Amendment litigation and, more recently, on behalf of homeless persons. I have been qualified as an expert on two occasions on ethics and the practices of public-interest legal groups, once before the State Bar and once in the Los Angeles Superior Court. I have presented at CLEs on attorney fees on several occasions. Among the recent presentations I did was for attorneys at the Legal Aid Foundation of Los Angeles. My supporting fee declarations have been cited favorably by numerous courts, including in *Nadarajah v. Holder*, 569 F.3d 906, 916-917 (9th Cir. 2009); *Orantes-Hernandez v. Holder*, 713 F.Supp.2d 29, 963-964(C.D.Cal.2010); *Torrance Unified Sch. Dist. v. Magee*, CV 07-2164 CAS (Rzx) (C.D.Cal. 2008), [2008 U.S.Dist. Lexis 11 95074, 21]; *Atkins v. Miller*, CV-01-01574 DDP (C.D.Cal 2007); *Jochimsen v. County of Los Angeles*, B223518 (2d Dist. June 23, 2011); *Dugan v. County of Los Angeles*, cv 11-08145 CAS (C.D. Cal. Mar. 3, 2014); and *Flores v. City of Westminster*, SA-CV-11-0278 DOC (C.D. Cal. Oct. 23, 2014).

1 3. My current billing rate is \$875 an hour for complex civil rights
2 litigation. Although I have settled several cases calculating the lodestar on my
3 annual rate, I have limited my discussion in this paragraph to the contested fee
4 awards over the last six years in which judges of this Court found my rate to be
5 reasonable. I was awarded fees in 2008 at the rate of \$695 an hour by the Hon.
6 Manuel Real in *Jones v. City of Los Angeles*, 444 F.3d 1118 (2006), *vacated per*
7 *settlement* 505 F.3d 1006 (9th Cir. 2007). In 2009, I was awarded fees at the rate of
8 \$710 an hour by the Hon. Dean Pregerson in *Fitzgerald v. City of Los Angeles*,
9 2009 U.S. Dist. LEXIS 34803 (C.D. Cal. 2009). Later in 2009, I was awarded fees
10 at the same rate by the Hon. A. Howard Matz in *Multi-Ethnic Immigrant Worker*
11 *Organizing Network v. City of Los Angeles*, cv 07-3072 AHM (C.D. Cal.), a hybrid
12 class-action. In 2010, I was awarded fees at \$725 an hour by the Hon. S. James
13 Otero in *Long Beach Area Peace Network v. City of Long Beach*, 574 F.3d 1011
14 (9th Cir. 2009). Although I rarely have paying clients, I was paid at the rate of
15 \$795 an hour in 2012 in a case in the Central District in which I am defending an
16 outside director of a small bank taken over and sued by the Federal Deposit
17 Insurance Corporation (“FDIC”) in an attempt to recover investment losses.

18 4. During the time that I was Senior Staff Counsel at the ACLU, I was
19 responsible for preparing many fee motions in cases where the ACLU represented
20 the prevailing party. Since the ACLU does not bill clients on an hourly basis for its
21 services, I had to obtain information to establish reasonable market rates for the
22 ACLU lawyers. I did this annually by telephoning partners at firms who knew the
23 ACLU lawyers in question so that they could make an informed judgment about the
24 comparable skill levels of attorneys at their firms whose rates were then used to set
25 ACLU billing rates.

26 5. Since entering private practice, I have continued to survey firms each
27 year to obtain relevant comparisons for billing rates as I do not charge my clients
28 for representation and I continue to do the same type of civil liberties and civil

1 rights litigation as when I was employed at the ACLU. My cases almost exclusively
2 are brought on behalf of low-income populations, who are unable to afford legal
3 representation. I generally survey annual billing rates at firms the first time each
4 year I prepare a fee motion or enter into settlement discussions regarding fees. I
5 make it a point to obtain information concerning the hourly billing rates of lawyers
6 in both larger firms engaged in complex litigation, as well as public interest
7 organizations and smaller boutique civil rights law firms.

8 6. Based on the information I have obtained by reviewing fee applications
9 and awards to these attorneys, I have formed the opinion that there is an increasing
10 disparity between fees awarded to smaller civil rights and public-interest law firms
11 and those awarded to larger commercial litigation firms that occasionally do pro
12 bono civil rights and civil liberties. This is so even when the civil rights lawyers
13 co-counsel a case with the large firms and even though the skill and experience of
14 the attorneys in question are comparable. At the same time, the public-interest and
15 private civil rights bar is much closer to large firm rates than to small firms that do
16 not do complex litigation. I seek out the information on billing by lawyers at civil
17 rights firms and organizations at rates even marginally comparable to those of
18 attorneys who do other types of complex litigation to apply the analysis by the U.S.
19 Supreme Court in *Blum v. Stenson*, 465 U.S. 886 (1984), holding that representation
20 by a non-profit legal group is not a factor in arriving at billing rates for attorneys of
21 comparable skill, experience and reputation.

22 7. I have also become familiar with the market rates charged by attorneys
23 in the Los Angeles area by reviewing attorney fee applications and awards in other
24 cases, as well as decisions awarding fees under state and federal fee-shifting
25 statutes. Specifically, I regularly review fee applications and court awards in the
26 Central District legal market to determine what rates have been sought by, and
27 approved for, lawyers at public interest firms.

28 8. I understand that enhanced EAJA market rate fees are sought for the

1 following attorneys in this application:

2 Attorney	Entity	Grad. Yr.	2014	2013	2012	2011
3 David Loy	ACLU SCID	1994 (20)	\$730	\$700	n/a	n/a
4 A.Arulanantham	ACLU SoCal	1999 (15)	\$690	\$665	n/a	n/a
5 Bardis Vakili	ACLU (both)	2006 (8)	\$510	\$475	\$440	\$420
6 Sean Riordan	ACLU SCID	2007 (7)	\$500	\$475	\$440	\$420

7 9. Of the four attorneys who seek enhanced EAJA rates by this motion, I
8 am most familiar with Ahilan Arulanantham. We worked together on several cases,
9 including *Barakat v. Arrellano*, CV 05-08635 SVW, a de novo hearing on the
10 denial of a naturalization application involving a one-week trial in the District Court
11 in June, 2006. We have also worked together on other immigration-related matters
12 that, ultimately, were resolved without litigation. Based on my discussions with
13 other attorneys on *Barakat*, including Georgetown law professor David Cole, and
14 other immigration attorneys who have worked with Mr. Arulanantham, I am of the
15 opinion that he enjoys an exceptional reputation as an attorney and displays skills
16 and experience far beyond those of most attorneys who have been practicing for 15
17 years.

18 10. I do know the other three attorneys, but have never worked directly on
19 a case with them. In my experience, the attorneys at the ACLU are all highly
20 skilled. Mssrs. Loy, Riordan and Vakili are no exception. In this instance, I also
21 reviewed each attorney's experience, successful litigation they have brought, and
22 recognition they have received for their work. With these factors in mind, I believe
23 that all are highly-skilled and enjoy exceptional reputations as such.

24 11. Based on my knowledge of billing rates for lawyers of similar skill,
25 reputation and experience in the greater Los Angeles area, the hourly compensation
26 sought for these attorneys is well within the range of reasonable market rates and
27 far below comparable rates at large firms.

28

1 **DAVID LOY**

2 12. David Loy is requesting fees at the rate of \$730 an hour for 2014 and
3 \$700 an hour for 2013. Attached to my declaration at Exhibit 2 is a copy of a 2014
4 fee award to attorneys at the ACLU of Southern California in *Vasquez v.*
5 *Rackauckus*, SA CV 09-01910 VBF (C.D. Cal. Nov. 5, 2014). The Court approved
6 the requested lodestar, *id.* at 14, which was calculated based on a rate of \$730 an
7 hour for ACLU Legal Director Peter Eliasberg. *See* Exhibit 2a at ¶16. Because the
8 Court did not state the rates in the order, I have attached the Declaration of Peter
9 Bibring with the relevant information at Exhibit 2a. Mr. Eliasberg and Mr. Loy are
10 both 1994 law graduates, with similar experience and skill.

11 13. Attached to my declaration at Exhibit 3 is a copy of the fee award
12 issued by the Hon. Consuelo Marshall in *Community for Living Independently and*
13 *Actively v. City of Los Angeles*, cv-09-0287 CBM (C.D. Cal. 2013), a class-action
14 challenge to the City's emergency disaster plan on behalf of disabled individuals.
15 The order was entered in 2013, but was based on a settlement agreed to in 2012. *Id.*
16 at ¶3. The Court approved a 2012 rate of \$800 an hour for Laurence Paradis,
17 identified as a 1985 law graduate. Mr. Paradis was then practicing seven years
18 longer than Mr. Loy is now. The differential in their rates for 2014 is only \$70,
19 reflecting both a modest annual increase of \$10 an hour for each year. The same is
20 true of the differential between Mr. Paradis' 2012 rate of \$800 an hour and Mr.
21 Loy's requested rate of \$700 an hour for 2013. In the same order, the Court also
22 approved the 2012 rate of \$700 an hour for Michelle Uzeta, a 1992 law graduate.
23 Ex. 3, pp. 4,5,7. The requested rates of \$700 in 2013 and \$730 in 2014 for David
24 Loy are in line with the 2012 rate approved for Ms. Uzeta.

25 14. Attached at Exhibit 4 is the declaration of Laurence Paradis of
26 Disability Rights Advocates recently filed in the Ninth Circuit in support of the
27 motion for attorney fees by Disability Rights Legal Center in *Los Angeles Unified*
28 *School District v. Michael Garcia*, Ninth Circuit Case No. 10-55879. Mr. Paradis

1 averred that his 2013 rate was \$825 an hour. Ex. 4, p. 10 (Ex. A to Paradis
2 Declaration) and ¶12.

3 15. As another point of comparison, I reviewed a 2010 decision by the
4 Honorable Alicemarie Stotler, awarding fees to plaintiffs in a consumer class action
5 filed against Hyundai Motors. *Parkinson v. Hyundai Motor America*, 796 F.Supp.2d
6 1160 (C.D. Ca. 2010). The Court approved the 2010 rate of \$675 an hour for lead
7 counsel Eric Gibbs as “reasonable and customary.” *Id.*, 1172-1173. I downloaded
8 from PACER and reviewed the declarations filed by Mr. Gibbs in support of the fee
9 motion in *Parkinson*, as well as the State Bar website and the Girard Gibbs website.
10 Based on these sources, I understand Mr. Gibbs is a 1995 law graduate. Mr. Gibbs’
11 2010 approved rate in the Los Angeles legal market is only \$25 below the rate now
12 sought for Mr. Loy for 2013.

13 16. As a point of comparison with commercial rates in similarly complex
14 litigation in the Central District, attached at Exhibit 5 is the fee declaration filed by
15 Hannah Cannom, then an associate at Milbank Tweed & Hadley and pro bono co-
16 counsel in the *Garcia* case with attorneys from the Disability Rights Legal Center.
17 Ms. Cannom attested to the fact that she is an eighth-year associate and that her
18 2014 rate is \$800 an hour. Ex. 5, ¶2,6. The senior Milbank attorney on the case, a
19 1997 law graduate, was billed at \$1,135 an hour. *Id.* at ¶7. Mr. Loy has been
20 practicing 12 years longer than Ms. Cannom and is far more skilled and
21 experienced, yet seeks a rate approximately 15 percent below her regularly billing
22 rate. Other Milbank attorneys for whom fees were sought in the case included a
23 2002 graduate billed at \$900 an hour and a 2008 graduate at \$760 an hour. *Id.* at
24 ¶¶8,10.

25 **AHILAN ARULANANTHAM**

26 17. Ahilan Arulanantham seeks a market rate of \$665 for 2013 and \$690 for
27 2014. He is a 1999 law graduate. In Exhibit 2, the Court awarded fees at the rate of
28 \$640 an hour to Mr. Arulanantham’s colleague at the ACLU, Peter Bibring, a 2002

1 law graduate. See Ex. 2a at ¶16. In *Communities Actively Living*, the Court
2 approved the 2012 rate of \$665 an hour for Shawna Parks, identified in the order as
3 a 1999 law graduate. Ex.3, p.6. In Exhibit 4, Laurence Paradis attested that the
4 2013 rate for Shawna Parks, a 13-year law graduate at Disability Rights Advocate
5 was \$675 an hour. Ex.4 (Exhibit A to Paradis Decl.)

6 18. Attached at Exhibit 6 is a declaration filed in 2013 in the Central
7 District in *Simplis v. Culver City Police Department*, 10-cv-09497 MWF, a
8 wrongful death case. I filed a fee declaration in the same case for attorney Dale
9 Galipo, who represented a co-plaintiff in *Simplis*. The *Simplis* attorneys sought
10 \$750 an hour for Matthew McNicholas, a 1997 graduate. I am familiar with the
11 McNicholas law firm. In the past, Patrick McNicholas and I had similar cases on
12 behalf of female officers with the Los Angeles Police Department subjected to sex
13 discrimination. McNicholas and McNicholas is a small civil rights firm, primarily
14 engaged in employment and civil rights litigation. Based on reviewing the docket
15 and speaking to Mr. Galipo's associate, it is my understanding that the fees and
16 damages have been resolved by a settlement.

17 19. The declaration at Exhibit 6 was filed by the same attorney, Matthew
18 McNicholas, who was awarded fees in 2012 in *Avila v. Los Angeles Police*
19 *Department*. 11-cv-01326 SJO (C.D. Cal. Aug. 2, 2012). A true and correct copy of
20 the order of the court awarding fees in *Avila*, bearing the ECF filing heading, is
21 attached at Exhibit 7. In *Avila*, Judge Otero rejected the defense assertion that
22 McNicholas should only receive \$650 an hour and approved the 2012 rate of \$700
23 an hour based on the Court's conclusion that rates increase as attorneys gain more
24 skills. See Exhibit 7, pp.3-4. Mr. Arulanantham has now been practicing for 15
25 years, the same length of time that Matthew McNicholas was when he was awarded
26 fees in 2012 at \$700 an hour in *Avila*.

27 **BARDIS VAKILI AND SEAN RIORDAN**

28 20. Bardis Vakili is a 2006 law graduate and Sean Riordan is a 2007 law

1 graduate. I am informed that the Plaintiffs are seeking the same rates for both
2 attorneys for the years 2011, 2012, 2013 and 2014.

3 **a. 2011 rate of \$420 an hour**

4 Attached at Exhibit 8 is a fee award by the Honorable David Carter to the law
5 firm of Schonbrun, DeSimone, Seplow, Harris, Hoffman & Harrison in a class
6 actions disability rights case in Orange County. I provided a supporting declaration
7 in the case. Judge Carter awarded fees to Amanda Canning, a 2006 graduate, at the
8 2010 rate of \$450 an hour. I am familiar with all of the attorneys at Schonbrun,
9 DeSimone. In my experience, the skills of Mr. Vakili and Mr. Riordan are stronger
10 than those of Ms. Canning. In 2011, Mr. Riordan was practicing for four years, the
11 same amount of time as Ms. Canning was in 2010, and Mr. Vakili was practicing a
12 year longer. The 2011 rate of \$420 an hour they seek is below the rate approved for
13 Ms. Canning in 2010.

14 **b. 2012 rate of \$440 an hour**

15 As noted above, the rate of \$440 an hour for 2012 is the same rate approved
16 by Judge Carter for a fourth-year attorney at Schonbrun DeSimone in 2010. Ex.8. In
17 2012, Mr. Vakili had two more years of experience and Mr. Riordan had one year
18 more experience than the 2006 graduate awarded \$250 an hour in 2010 in Exhibit 8.
19 In *Communities Actively Living*, identified in paragraph 13, *supra*, the Court
20 approved 2012 rates of \$450 and \$430 an hour for Debra Patkin and Karla Gilbride,
21 both 2007 graduates with a disability rights organization, then with five years of
22 experience. Ex. 3, pp. 6-7. In 2011 in *Vasquez v. Raukaucus*, 2011 U.S. Dist.
23 LEXIS 83696 (C.D. Ca. 2011), Judge Fairbank awarded fees at the rate of \$460 an
24 hour to a 2006 associate at Munger Tolles & Olson, who was pro bono counsel on
25 the case with attorneys from the ACLU Foundation of Southern California. *Id.* at
26 *3. The rate sought for 2012 is the same rate approved by Judge Otero for Alyssa
27 Shabloski, a 2008 law graduate with the McNicholas law firm in *Avila*. Ex. 7, pp.
28 3-4. At the time of this award, Ms. Shabloski had only four years of experience.

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c. 2013 rate of \$475 an hour

The reasonableness of the 2013 and 2014 rates sought for Mssrs. Vakili and Riordan is supported by the evidence provided in the two preceding paragraphs. In addition, the 2012 rate approved for a seven-year attorney in *Communities Actively Living* was \$555 an hour, well above the rate now sought as a 2014 rate for Mr. Riordan, also practicing seven years, and Mr. Vakili, practicing eight years. Ex.3. In the same order, the Court approved the rate of \$525 an hour for Matthew Strugar, identified as a 2004 law graduate, then practicing eight years.

d. 2014 rate of \$510 for Vakili and \$500 for Riordan

As noted in the immediately preceding paragraph, the 2012 rates approved by the Court in *Communities Actively Living* for a seven-year attorney was \$555 an hour, more than 10 percent greater than the 2014 rate sought for Mr. Riordan. Ex. 3. In the same decision, the Court approved \$525 an hour for 2012 for an eight-year attorney. Two years later, with eight years of experience, Mr. Vakili's rate is lower.

21. Based on all of the decisions and declarations identified above, I am of the opinion that the rates sought by this motion are well within the range of reasonable market rates for attorneys of comparable skill, experience and reputation engaged in similarly complex litigation in the Central District.

I declare under penalty of perjury that the foregoing is true and correct.
Executed this 11th day of December, 2012, at New York, New York.


CAROL A. SOBEL