

EXHIBIT 4

DECLARATION OF CAROL A. SOBEL

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18 **UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**

19 LOS ANGELES UNIFIED SCHOOL
20 DISTRICT,

21 Plaintiff,

22 v.

23 MICHAEL GARCIA,

24 Defendant.

Case No. 10-55879

**DECLARATION OF LAURENCE W.
PARADIS IN SUPPORT OF
DEFENDANT/APPELLEE'S
MOTION FOR ATTORNEYS' FEES
AND COSTS**

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27 DECLARATION OF LAURENCE W. PARADIS IN SUPPORT OF
28 DEFENDANT/APPELLEE'S MOTION FOR ATTORNEYS' FEES

1 I, Laurence W. Paradis, declare as follows:

2 1. This declaration is submitted in support of Defendant/Appellee's
3 Motion for Fees and Costs. The facts set forth herein are within my personal
4 knowledge or knowledge gained from review of the pertinent documents. If called
5 upon, I could and would testify competently thereto.

6 2. I am the Executive Director and Co-Director of Litigation of
7 Disability Rights Advocates ("DRA") in Berkeley, California. DRA is a 501(c)(3)
8 non-profit public interest organization exclusively dedicated to advancing the civil
9 rights of people with disabilities. DRA engages in class action and other impact
10 litigation on behalf of clients who face discrimination or other violations of civil
11 rights or federal statutory protections. The attorneys at DRA have served as class
12 counsel for at least 75 disability access class actions, including leading cases in the
13 field of disability rights law.

14 3. I graduated from Harvard Law School in 1985. I am an attorney
15 admitted to the practice of law before the Courts of the State of California, the
16 United States District Courts for the Northern, Central and Eastern Districts of
17 California, the United States Court of Appeals for the Ninth Circuit, and the United
18 States Supreme Court.

19 4. Since I started at DRA in 1996, I have been involved in litigating,
20 negotiating and supervising attorneys in numerous lawsuits across the state and
21 country affecting the rights of people with disabilities. A few examples of cases
22 litigated include:

- 23 • *Bates v. UPS*, 465 F.3d 1069 (9th Cir. 2006) *reh'g en banc granted*,
24 485 F. 3d 1053 (9th Cir. 2007), a nationwide class action on behalf of
25 UPS employees with hearing impairments denied accommodations in
26 the workplace. This case went to trial in 2003 resulting in a
27 settlement and Ninth Circuit opinion improving access and

28 DECLARATION OF LAURENCE W. PARADIS IN SUPPORT OF
DEFENDANT/APPELLEE'S MOTION FOR ATTORNEYS' FEES

1 promotional opportunities for deaf and hearing impaired employees at
2 UPS facilities throughout the country.

- 3 • *Barden v. City of Sacramento*, 292 F.3d 1073 (9th Cir. 2002), a class
4 action on behalf of people with mobility and vision disabilities to
5 enforce access requirements for public sidewalks throughout the city.
6 This case resulted in a published opinion from the Ninth Circuit
7 establishing the broad scope of the ADA’s requirement for “program
8 access” under Title II and a subsequent comprehensive settlement
9 agreement. *See id., cert denied*, 123 S.Ct 2639 (2003).
- 10 • *Tucker v. California State Parks*, Case No. C 98-04935 (N.D. Cal.
11 1998), a class action against the entire California state park system.
12 The case resulted in a settlement under which the state has committed
13 to undertake broad access improvements across over 200 state parks.
14 The barriers at issue in that case included those affecting people with
15 mobility, vision, and hearing disabilities.
- 16 • *Cupolo v. BART*, 5 F. Supp. 2d 1078 (N.D. Cal. 1997), a class action
17 on behalf of all mobility disabled users of a regional mass transit
18 agency to enforce access requirements. This case resulted in a
19 published opinion issuing a preliminary injunction forcing BART to
20 maintain its elevators for use by the class, and a subsequent
21 comprehensive settlement agreement.
- 22 • *Enyart v National Conference of Bar Examiners*, 630 F.3d 1153 (9th
23 Cir. 2011), a case which established on appeal for the first time that
24 testing entities which provide gateway tests to professions and post
25 secondary education must provide the accommodations that “best
26 ensure” the disabled test taker is evaluated on a level playing field.
- 27 • *Lieber v. Macy’s*, United States District Court 80 F. Supp. 2d 1065 (N.D.

1 Cal. 1999) and *Camalo v. Macy's*, United States District Court (Case
2 No. C-98-02350 SI), class actions against Macy's stores throughout
3 California for failure to remove barriers to access for people with
4 mobility disabilities. The Lieber case was among the first cases in the
5 country to go to trial to establish the scope of the ADA Title III
6 readily achievable requirement.

- 7 • *Shimozono v. Robinsons-May*, United States District Court (Case No.
8 00-04261 WJR (AJWx)): a case addressing physical access to
9 merchandise at major department stores in Los Angeles.
- 10 • *Californians for Disability Rights, Inc. v. California Department of*
11 *Transportation*, 249 F.R.D. 334, 337 (N.D. Cal. 2008): a statewide
12 class action brought on behalf of people with mobility and vision
13 disabilities seeking to make 2,500 miles of sidewalks under Caltrans'
14 jurisdiction accessible. The case settled during trial with Caltrans
15 agreeing to commit over one billion dollars towards removal of
16 pedestrian access barriers
- 17 • *Williams v. Housing Authority of the City and County of San*
18 *Francisco*, United States District Court (Case No. C90-2150 CAL): a
19 class action against the San Francisco Public Housing Authority on
20 behalf of tenants with disabilities denied equal access due to
21 architectural and other access barriers.

22 5. I am familiar with the attorneys of the Disability Rights Legal Center
23 (DRLC) and their work with high impact civil rights suits. They are highly
24 regarded in the field of civil and disability rights advocacy. DRLC is a nationally-
25 recognized organization dedicated to advancing and preserving the rights of
26 persons with disabilities. Its free legal services are indispensable to people who
27 have been discriminated against on the basis of their disabilities.

28 DECLARATION OF LAURENCE W. PARADIS IN SUPPORT OF
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1 6. I understand that the DRLC is seeking a rate of \$475 per hour for
2 Carly Munson, a former Staff Attorney in the Education Advocacy Program. Ms.
3 Muson is a 2007 graduate of Boston University School of Law.

4 7. I understand that the DRLC is seeking a rate of \$450 per hour for
5 Andrea Oxman, a former Staff Attorney in the Disability Litigation Program. Ms.
6 Oxman is a 2007 graduate of the University of Southern California Gould School
7 of Law.

8 8. I also understand that the DRLC is seeking a rate of \$690 for Shawna
9 L. Parks, the DRLC's former Legal Director. Ms. Parks is a 1999 graduate of
10 Berkeley Law School and, as the former Director of Litigation at DRLC, Ms. Parks
11 had worked on numerous complex civil matters on behalf of individuals with
12 disabilities.

13 9. I also understand that DRLC is seeking hourly rate of \$500 for Anna
14 Rivera, a Staff Attorney at the Disability Litigation Program. Ms. Rivera is a 2005
15 graduate of Southwestern University School of Law.

16 10. I also understand that DRLC is seeking hourly rate of \$550 for
17 Maronel Barajas, a Senior Staff Attorney at the Education Advocacy Program.
18 Ms. Barajas is a graduate of 2003 of Columbia Law School.

19 11. In my opinion, these rates are well within and in fact, for several of
20 these attorneys, below the market rates for attorneys with similar skill and
21 experience in the Southern Californian market.

22 12. My 2013 rate was \$825 per hour for cases successfully completed.
23 Attached hereto as Exhibit A is the 2013 hourly rate sheet for DRA's attorneys and
24 legal assistants. These rates were based on 2013 rates charged to fee paying
25 clients by private law firms that handle complex litigation, and on prior fee awards
26 issued to DRA. DRA has not yet finalized our 2014 rate schedule.

27 13. Attached hereto as Ex. B is DRA's 2012 hourly rate sheet. DRA's

28 DECLARATION OF LAURENCE W. PARADIS IN SUPPORT OF
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1 2012 hourly rates were approved by Judge Marshall in the Central District of
2 California in *Communities Actively Living Independent and Free et al. v. City and*
3 *County of Los Angeles*, Case No. 09-cv-00287-CBM-RZ (hereafter “CALIF”).

4 14. Attached hereto as Ex. C is DRA’s 2011 hourly rate sheet. DRA’s
5 2011 hourly rates were generally approved by Magistrate Judge Spero in *Enyart v.*
6 *National Conference of Bar Examiners*, except that rates for paralegals were
7 slightly reduced.

8 15. Attached hereto as Exhibits D and E are copies of the *CALIF* and
9 *Enyart* fee decisions.

10 16. Earlier contested fee motions similarly sustained DRA’s earlier
11 requested fee rates. *See, e.g. Californians for Disability Rights, Inc. v. California*
12 *Department of Transportation*, 249 F.R.D. 334, 337 (N.D. Cal. 2008) (Magistrate
13 Judge Report and Recommendation and District Judge Order Accepting Report
14 and Recommendation) (approving 2010 rates, including \$835 for a 1961 law
15 school graduate and \$730 for me – a 1985 law school graduate); *National*
16 *Federation of the Blind v. Target*, Case No. C 06-1802 MHP (N.D. Cal. 2006)
17 (approving 2008 rates, including \$625 for me and \$450 for a 2001 graduate);
18 *Gustavson v. U.C. Berkeley*, Case No. C 97-04016 BZ (N.D. Cal. March 24, 2005)
19 (approving 2004 rates, including \$495 for me, and \$235 for a 2002 graduate);
20 *Chapman v. California Department of Education*, Case No. C 01-1718 CHB (N.D.
21 Cal. April 7, 2004) (approving 2003 rates); *Shimozono v. Robinsons-May*, Case
22 No. 00-04261 WJR (AJWx) (C.D. Cal. 2003) (approving 2003 rates); *Chabner v.*
23 *United of Omaha Life Insurance Co.*, Case No. C 95-0447 MHP (N.D. Cal. 2001)
24 (approving 2001 rates); *Lieber v. Macy’s California*, C 96-2955 MHP (N. Cal.
25 2000) (approving 2000 rates).

26 17. While many of DRA’s cases are in Northern California, DRA has also
27 filed and litigated cases in Southern California including *Greater Los Angeles*

1 *Agency on Deafness v. Burbank-Glendale-Pasadena Airport Authority*, Case No.
2 CV04-4187 DDP (VBKx) (C.D. Cal., Settled 2006); *CALIF v City of San*
3 *Francisco* Case No. CV09-8287CBM (RZx)(Central Dist. Cal 2009) (a class
4 action seeking to ensure that the needs of people with disabilities are addressed in
5 emergency preparedness planning), and *Shimozono v. Robinsons-May*, Case No.
6 00-04261 WJR (AJWx) (C.D. Cal., Settled 2003), among others. In my opinion,
7 rates in the Southern California area are generally comparable to those in San
8 Francisco, including in the area of civil rights, and disability rights in particular.
9 DRA does not make a distinction in its rates between its Southern and Northern
10 California cases.

11 18. Having practiced civil rights litigation for a number of years, I have
12 learned that the award of reasonable attorneys' fees to successful plaintiffs'
13 counsel is essential to the widespread enforcement of civil rights laws.

14 19. DRA, like DRLC, does not charge its clients for its services. Many
15 of the cases handled by DRA have required considerable expenditure of time and
16 resources prior to recovery. Similarly, these organizations must often wait a
17 substantial amount of time prior to recovering fees for successful cases. Few
18 plaintiff attorneys are willing or able to devote the enormous amount of resources
19 required to take on this type of litigation. Based on my experience, it is absolutely
20 essential that in a case such as this, where Plaintiffs litigated the case to a
21 successful result, that counsel recover their fees for time spent.

22 20. There is a strong correlation between the award of reasonable
23 attorneys' fees to successful plaintiffs' counsel and the effective enforcement of
24 civil rights. As a public interest legal organization, the DRLC has no realistic
25 expectation of recovering fees or costs in the event that cases are lost. Given the
26 high evidentiary hurdles and discovery pitfalls, discrimination cases involve
27 tremendous risks and costs. Therefore, it is necessary for plaintiffs to obtain a

1 fully compensatory fee in order to compensate for the contingent nature of success
2 and exceptional success, and the risk of a public interest organization's investment
3 in costs of litigation.

4 I declare under penalty of perjury under the laws of the United States that
5 the foregoing is true and correct.

6 Executed this 25th day of February 2014 in Berkeley, CA.

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9 LAURENCE W. PARADIS

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Exhibit A

DISABILITY RIGHTS ADVOCATES
2013 HOURLY RATES
(Current Staff)

<u>I. Attorneys</u>	<u>Rate</u>	<u>Graduation</u>
Sid Wolinsky	\$875.00	1961
Laurence W. Paradis	\$825.00	1985
Stuart Seaborn	\$655.00	1998
Shawna Parks	\$675.00	1999
Kevin Knestrick	\$595.00	2003
Mary-Lee Smith	\$565.00	2005
Julia Pinover	\$455.00	2007
Christine Chuang	\$455.00	2007
Rebecca Williford	\$380.00	2009
Kara Janssen	\$355.00	2010
Michael Nunez	\$325.00	2011
Anne Kelsey	\$295.00	2012
Molly Kort	\$295.00	2012

II. Other Professional Staff

A. Summer Associate/Externs	\$265.00
B. Paralegal	\$250.00
C. Law Clerks	\$190.00
D. Case Clerk	\$170.00
E. Outreach Coordinator	\$190.00
F. Technical Support Specialist	\$250.00
G. Word-Processor	\$95.00