> suits of the character here involved; (6) the fact that the monies awarded would inure not to the individual benefit of the attorneys involved but the organizations by which they are employed; and (7) the fact that in the court's view the two law firms involved had approximately an equal share in the success of the litigation.

(*Id.* at p. 49.)

The prevailing party bears the burden of proving entitlement to an award of attorneys' fees through evidence showing reasonable amounts of time and reasonable hourly rates, and evidence relating to the *Serrano* factors. The trial court must first decide if the amount of time and hourly rates are reasonable, and then it must weigh the *Serrano* factors to arrive at a final award. "The determination of what constitutes reasonable attorney fees is committed to the discretion of the trial court." (*Rey v. Madera United School Dist.* (2012) 203 Cal.App.4th 1223, 1240 ("*Rey*").) "The experienced trial judge is the best judge of the value of professional services rendered in his court, and while his judgment is of course subject to review, it will not be disturbed unless the appellate court is convinced that it is clearly wrong." (*Serrano v. Priest, supra,* 20 Cal.3d at p. 49, citations omitted.)

IV. DISCUSSION

The City does not dispute that Plaintiffs are prevailing parties and are entitled to attorneys' fees. The City vigorously objects, however, to the amount requested. The Court therefore has the initial task of determining whether the hours worked, and hourly rates charged, by Plaintiffs' attorneys and paralegals are reasonable. After that, it must decide if a multiplier should be applied.

A. Evidence Submitted by the Parties

Plaintiffs submitted the Declaration of Morris J. Baller in Support of Plaintiff's Motion for an Award of Reasonable Attorney Fees ("Baller Decl.") with their initial moving papers. It provides a summary of the issues raised in the case, the number of hours worked by the attorneys and paralegals, billing rates, the attorneys' qualifications, and several ways in which the billing entries can be categorized. Plaintiffs also submitted declarations from other attorneys – Robert Rubin and Richard Konda – who summarize their qualifications and experience, and describe their respective roles in this litigation. In addition, Plaintiffs submitted the Declaration of

Richard M. Pearl in Support of Plaintiff's Motion for an Award of Reasonable Attorneys' Fees ("Pearl Decl."). Mr. Pearl is an expert witness who provides opinions on whether the Plaintiffs' attorneys billing rates and amounts of time are reasonable and whether or not a multiplier should be applied to Plaintiffs' lodestar. With their reply brief Plaintiffs submitted supplemental declarations from Messrs. Baller, Rubin and Konda. Plaintiffs later submitted the Bellows declaration cited above.

In opposing the motion, the City submitted the declaration of Steven G. Churchwell regarding developments in both this case and the *Mukoyama* action. (Declaration of Steven G. Churchwell in Support of Defendant's Opposition to Motion for Attorney's Fees and Costs ("Churchwell Decl.").) The City also submitted the declarations of two experts on attorneys' fees, John O'Connor and Brand Cooper. (See Declaration of John D. O'Connor in Support of Defendant's Opposition to Motion for Attorney's Fees and Costs ("O'Connor Decl.") and Declaration of Brand Cooper in Support of Defendant's Opposition to Motion for Attorney's Fees and Costs ("Cooper Decl.").) The City later submitted the Declaration of Vincent M. Vu in Support of Defendant's Supplemental Opposition to Motion for Attorney's Fees ("Vu Decl.").

Timesheets showing the time spent, and rates charged, by Plaintiffs' attorneys and paralegals are attached to the Churchwell Declaration, Ex. F, the Supplemental Declaration of Morris J. Baller in Support of Plaintiff's Motion for an Award of Reasonable Attorney Fees ("Supp. Baller Decl."), Ex. 6, and the Bellows Decl., Ex. A.

B. Plaintiffs' Lodestar

As previously discussed, "In determining a reasonable attorney fee award under fee-shifting statutes, the trial court begins by calculating a lodestar figure based on the hours reasonably spent and the prevailing hourly rate for private attorneys in the community conducting litigation of the same type." (*Rey, supra,* 203 Cal.App.4th at p. 1240.) Below the Court evaluates the evidence submitted for and against Plaintiffs' lodestar.

1. The Number of Hours Worked

An attorneys' fee award should include compensation for all hours reasonably spent. (*Rey, supra,* 203 Cal.App.4th at p. 1243.) "A plaintiff is not automatically entitled to all hours

claimed in the fee request. Rather, the plaintiff must prove the hours sought were reasonable and necessary." (*Id.* at 1243-44, citing *El Escorial Owners' Assn. v. DLC Plastering, Inc.* (2007) 154 Cal.App.4th 1337.)

Plaintiffs initially submitted evidence showing 4004.50 hours of work by their attorneys and paralegals. (Baller Decl., Exh. 4.) This total did not include time spent in 2011 and 2012 in connection with sending CVRA demand letters to the City, or more recent work of junior staff not directly tied to their principal assignments. (*Id.* at ¶ 84.) To account for "any potential residual inefficiencies" Plaintiffs applied a five percent across-the-board reduction, which reduced the fees by approximately $121,000. The remaining time for which Plaintiffs' motion sought compensation was 3803.85 hours.

On reply Plaintiffs submitted evidence showing they spent an additional 315.75 hours preparing the motions seeking attorneys' fees and costs, resulting in additional fees of $173,820.55. (Supp. Baller Decl., Ex. 8.)

At the January 4, 2019 hearing the Court requested that Plaintiffs clarify how they calculated the number of hours for which they seek compensation. The Court also requested that Plaintiffs submit any additional billing records showing time spent working on post-judgment matters. Plaintiffs complied with this request. (Bellows Decl., Ex. C.) The final tally of hours shows Plaintiffs' attorneys and paralegals spent 4,672.35 hours working on this case. Plaintiffs then exercised "billing judgment" and deleted entries for 262.30 hours of their time. Plaintiffs then reduced the remaining number of hours by five percent to account for "any potential residual redundancies." (Plaintiffs' Memorandum of Points and Authorities in Support of Motion for Award of Reasonable Attorneys' Fees ("Plts. Memo."), at 6.) This results in 4,189.55 hours which Plaintiffs argue should be used in the lodestar. (Bellows Decl., Ex. C.)

The City argues Plaintiffs are not entitled to recover all of their fees. They argue that time recorded by Plaintiffs' attorneys and paralegals is not compensable, including time in the following categories: (1) time spent on the *Mukoyama* action; (2) time spent on Plaintiffs' preliminary injunction motion; (3) vague and redacted time descriptions; (4) time spent on political and media activities; (5) administrative time; and (6) overstaffing and inefficiencies.

(Opp. at 10-18.) The City's experts reviewed Plaintiffs bills and identified suspect entries. They then grouped the entries that are shown on tables attached to Mr. Cooper's declaration. The City then argues that amounts Plaintiffs seek in each group of suspect entries cannot be recovered.[1]

a. Time Spent on the *Mukoyama* Action

The City states: "The Court dismissed the *Mukoyama* action without leave to amend because Plaintiffs failed to comply with the simple pre-filing procedures in Elections Code section 10010." (Opp. at 11.) The City argues that time spent on unsuccessful or unrelated claims may be excluded from the lodestar calculation. (Opp. at 12, citing *Hensley v. Eckerhart* (1983) 461 U.S. 424, 440.) The City also argues that a reduced fee award is appropriate when a prevailing party achieves partial success. (*Id.*, citing *Rey, supra,* 203 Cal.App.4th at p. 1239.) More broadly, the City argues that "Plaintiffs' futile efforts in litigating the doomed *Mukoyama* action and opposing the demurrer were predictably unreasonable, unsuccessful, and unrelated to their success" in this action. (*Id.*) The City's expert states that $191,000 in fees related to the *Mukoyama* action should be excluded from recovery. (Cooper Decl., Ex. N.)

The attorneys representing the plaintiffs in the *Mukoyama* action are the same as those in this action. The complaint filed in this action repeats the claims in the *Mukoyama* action. It makes sense to the Court that the time spent on foundational work in the *Mukoyama* action that was reused in this action can be recovered. The Court agrees with the City, however, that the time spent on the demurrer in the *Mukoyama* action did nothing to advance the issues raised in this action. As noted in the Court's order sustaining the City's demurrer, "Plaintiffs have not alleged compliance with the notice provision in Elections Code section 10010. Plaintiffs do not assert in their papers that proper notice was sent on or after January 1, 2017 and at least 45 days prior to filing the Complaint, and they do not argue that such an allegation could be added to an amended pleading." For these reasons, the demurrer was sustained without leave to amend. In this action, Plaintiffs addressed the notice issues flagged in the *Mukoyama* action and thus this action moved forward to trial.

[1] Many entries appear in more than one group. In assessing whether the entries represent reasonable work, the Court has been careful not to double-count entries.

The Court finds Plaintiffs' work related to the demurrer filed in the *Mukoyama* action cannot be recovered. That work did nothing to advance the substantive issues in this action. After reviewing the contested time entries, the Court strikes $77,300.00 of time relating to the demurrer. The fees incurred for other work in the *Mukoyama* action can be recovered, including initial client meetings, factual research, and legal research unrelated to the issues raised by the demurrer.

b. Plaintiffs' Preliminary Injunction Motion

The City's Opposition brief states: "On July 16, 2018, at or around 5:00 p.m., a day and half before the remedies phase hearing was set to begin, Plaintiffs filed a motion for preliminary injunction to enjoin the City from conducting further at-large elections for City Council." (Opp. at 13.) The City argues that filing for a preliminary injunction was "patently unreasonable" and procedurally infirm. (*Ibid.*) The City concludes: "Plaintiffs should not be rewarded for improper litigation tactics and filing late motions on the eve of trial." (*Ibid.*) The City's expert stated that the fees associated with the preliminary injunction motion totaled approximately $71,000. (Cooper Decl., Ex. J.) In response, Plaintiffs argue that "[t]he brief served the same function as a trial brief and was intended to provide guidance to the Court in shaping injunctive relief that could be immediately implemented." (Reply at 4.)

The Court agrees with the City that it was somewhat bizarre for Plaintiffs to submit a motion for preliminary injunction on the eve of the remedies trial. The Court agrees with Plaintiffs, however, that the content of the preliminary injunction motion matched up with many of the issues presented at the remedies trial. Moreover, the City provided a trial brief of similar length with similar content. There were, however, some unique tasks associated with preparing the motion for preliminary injunction that would have been unnecessary for a trial brief. Time was spent preparing Jose Moreno's declaration when, in fact, he was a testifying witness at trial. The declaration of Ginger Grimes that accompanied the preliminary injunction too was unnecessary. There were also boilerplate sections on law pertaining only to preliminary injunction motions. After reviewing all of the contested time entries, the Court strikes $2,750.00 of time relating to the motion for preliminary injunction.

c. Vague and Redacted Time Descriptions

The City highlights time entries it asserts are vague. (Cooper Decl., Ex. M.) They account for approximately $73,000 in fees. (*Ibid.*) The City argues that "[v]ague billing entries should be reduced because such entries may obscure the nature of the work claimed and inflate the amount of non-compensable hours." (Opp. at 13.) The City also argues that entries totaling approximately $32,000 are obscured by redactions. (Cooper Decl., Ex. O.) It argues that while some redactions may be necessary to protect various privileges, redactions that "include the names of individuals" go beyond any recognized privilege. (Opp. at 14.)

In response, Plaintiffs argue that specific time entries are not required; that California law allows attorneys' fees to be recovered on the basis of declarations that summarize attorney tasks. (Reply at 7.) Plaintiffs state that "task codes" shown in their bills reveal "the nature of the underlying work." (*Id.* at 8.) Plaintiffs state that redactions are entirely appropriate. Finally, Plaintiffs provide more information about these entries with their reply brief. (Baller Supp. Decl., Ex. 2.)

With hundreds of pages of billing records, and thousands of entries, it is not surprising the City was able to find vague time entries. And when they are presented as a separate list, it is true that many appear vague, such as: "PC with Wes M."; "Add to memo"; "meeting with clients"; "email to Alex M."; "Meeting over lunch"; and "Signature collection." These entries are better understood, however, when they are alongside contemporaneous billing entries. The City's list of suspect entries also includes many that are sufficiently specific, including "review and respond to Court and Churchwell memos re sequencing"; "Review/edit 5/10 mtg agenda"; and "Confer with G. Grimes re: mootness, legal strategy, and campaign issues." Many "calls with counsel" are also listed. Such entries may concern attorney-client communications or other privileged matters that cannot be disclosed without violating the California Rules of Professional Responsibility.

Based on its review of the entries identified as vague or redacted, and being mindful of the Plaintiffs' challenge of meeting their burden of proof without disclosing privileged information, the Court strikes $7,850.00 of time.

d. Time Spent on Political and Media Activities

Plaintiffs challenged the City's use of city-wide elections for each council member and the mayor. As noted above, on March 6, 2018 the Santa Clara City Council voted unanimously to place Measure A on the June 5, 2018 ballot. Had Measure A passed, it too would have changed the City's use of city-wide elections for each council member (though the mayor would still be elected city-wide). In particular, council members would be elected through two voting districts, with voters electing three council members per district.

The City's expert contends that Plaintiffs' counsel incurred approximately $50,000 in fees participating in political activities to oppose Measure A. (Cooper Decl., Ex. L.) The City's expert contends an additional $14,000 of time was spent on media activities. Citing *Crawford v. Board of Education* (1988) 200 Cal.App.3d 1397 ("*Crawford*"), the City argues that lobbying and political activities are not generally compensable under California law. (Opp. at 15.) That case states: "As we see it, the private attorney general doctrine limits awards of fees to litigants who successfully utilize the *judicial process* to achieve their aims. The doctrine simply does not, nor should it, encompass successful lobbying efforts by those who seek to influence the Legislature or the electorate on any particular issue." (*Crawford, supra,* 200 Cal.App.3d at p. 1408, italics in original.) Citing *Godinez v. Schwarzenegger* (1995) 132 Cal.App.4th 73, 93, the City acknowledges that a Court can award attorneys' fees for certain political activities if the success of those activities is causally connected or triggered by the litigation. But the City argues nothing like that happened here. It states: "In the instant case, Plaintiffs engaged in political activity concurrently with the litigation, before any court ordered remedy. Their political activities were not necessary to effectuate any court order or remedy." (Defendant's Supplemental Briefing in Opposition to Plaintiffs' Motion for Attorneys' Fees ("Def. Supp."), at 8).

Plaintiffs state that neither *Crawford* nor *Godinez* "has any bearing here." (Reply at 3.) They assert: "Plaintiffs unquestionably vindicated their voting rights in court and are seeking compensation for political and media work intimately connected with the litigation which contributed to its successful outcome." (*Ibid.*) Plaintiffs rely on federal authorities for the

proposition that political and media work "intimately related to the successful representation of a client" can be recovered. (Plts. Memo. at 10, citing *Davis v. City & County of San Francisco* (9th Cir. 1992) 976 F.2d 1536, 1545.) Plaintiffs further argue that "[p]reventing Measure A's implementation was one of Plaintiff's core litigation goals." (*Id.* at 11.)

One problem with Plaintiffs' argument is that Measure A was never litigated; it was not a "core litigation goal" because it was never before this Court. Had it been, Plaintiffs stated consistently it would have violated the CVRA. That issue, however, was not litigated. The Court recognizes that Plaintiffs did present legal arguments related to "the City's two multimember district plans" at the remedies trial, but that was after Measure A was defeated and is not the type of "political activity" the City is challenging. Another problem is that unlike other cases, including *Jenkins by Agyei v. State of Missouri,* 862 F.2d 677 (8th Cir. 1988), this is not a situation where a plaintiff scored an early victory and subsequent legislative changes allowed it to accomplish its litigation goals without further court action.

Many billing entries highlighted by the City's expert did not, however, relate to Measure A. Some concern legal analyses of strategic voting by minorities. Some concern consulting with experts regarding remedies. Some concern public meetings on district-based elections that were required under California law. And some concern the review of federal cases on alternative voting systems. Time for those activities should not be excluded.

Other entries, however, are clearly political and cannot be recovered under any theory. Examples include entries for "Democratic Party Meeting"; "Research South Bay Labor Council endorsements for past Santa Clara city council elections"; "SCCDA Meeting"; "Review and edit proposed facebook post opposing 2x3 system"; "Sierra Club meeting"; "Review Measure A website"; "ballot measure opposition statement"; and "Present to APA democrats on No on Measure [A]".

The Court has reviewed the Plaintiffs' billing records and strikes $47,750.00 of time involving political and media activities.

e. Administrative Time

The City cites hornbook law that administrative time cannot be recovered. (Opp. at 17.) This is because most clerical and other overhead expenses are ordinarily embedded in an attorney's hourly rates. (*Ibid.*) It is unreasonable for attorneys to charge hundreds of dollars per hour for work that can be performed by clerical staff. The City's expert concludes that Plaintiffs' lawyers and paralegals charged $34,423.50 to perform administrative work. (Cooper Decl., Ex. N.)

Plaintiffs do not dispute the legal principles at issue. They argue, however, that the City's "categorization of such tasks . . . is vastly overbroad, encompassing many hours of work that courts have held to be compensable at attorney and paralegal hourly rates, including time spent supervising work on the case by other legal personnel, researching local rules, compiling documents and exhibits for deposition and trial. . . ." (Reply at 8.) Plaintiffs concede that $11,129.50 of the work identified by the City's expert should be withdrawn. (*Ibid.*) Plaintiffs argue the rest, however, is compensable.

The Court has reviewed the disputed billing entries identified by the City's expert. Some entries concern purely clerical work that is not compensable (e.g., reviewing office supplies and collecting binders). Some entries concern activities that should be billed at a paralegal hourly rate instead of an attorney hourly rate (e.g., preparing an evidence appendix with new Bates ranges). And some entries reflect tasks appropriate for attorneys to undertake (e.g., revisions to documents filed with the court). In addition to the administrative time deducted by Plaintiffs, the Court strikes $17,125.00 of time spent on administrative or clerical activities and amounts that should have been billed at attorney, not paralegal, hourly rates.

f. Overstaffing and Inefficiencies

The City argues that Plaintiffs' time should be reduced because the case was overstaffed, which resulted in duplicative and unnecessary hours of work. (Opp. at 10-11.) The City cites the declarations of both of its experts to support this argument. (See Cooper Decl., ¶¶ 45-47; O'Connor Decl., ¶¶ 68-71, 77, 84-90.) Those experts express concerns about the number of attorneys attending case management conferences, depositions, and each phase of trial. They

also express concerns over partners working on lower-level tasks, excessive conferencing, excessive internal communications, and other inefficiencies. Mr. Cooper argues that the court "should take no less than a 10% to 15% reduction of the fees. . . ." (Cooper Decl., ¶ 49.)

Plaintiffs argue that staffing levels were appropriate in nearly all instances. (Supp. Baller Decl., ¶¶ 3-49.) They agree, however, to reduce their request for attorneys' fees for trial attendance by Ms. Ho and Mr. Kuwada. Plaintiffs also highlight their five percent across-the-board reduction which takes into account certain inefficiencies highlighted by Messrs. Cooper and O'Connor, a reduction other courts have found sufficient. (Plts. Memo. at 7, citing *Ridgeway v. Wal-Mart Stores, Inc.* (N.D. Cal. 2017) 269 F.Supp.3d 975, 990 ["Plaintiffs have volunteered to exercise a five percent across-the-board reduction of their lodestar . . . Such a reduction accounts for just the sort of excess and redundancy that Wal–Mart targets."].)

The Court finds the staffing decisions, and overall staffing structure, were reasonable. This was fast-moving litigation. It featured a greater percentage of work requiring specialized knowledge and expertise. There was less low level work than most actions because the case focused on trials, not pre-trial work such as discovery and law-and-motion practice. Mr. Cooper argues the Court should reduce the number of hours by 10 to 15 percent. On their own Plaintiffs deducted five percent of their fees for "any potential residual redundancies" which is similar to the reasons given by Mr. Cooper. And after all that, the Court has further reduced the fees as explained in the sections above. In sum, the Court finds that any unreasonable fees for overstaffing and other inefficiencies have already been stricken – first by the Plaintiffs themselves, and later by the Court.

g. Bills Submitted on Reply

Plaintiffs submitted additional bills from their attorneys with their reply papers. (Baller Supp. Decl., Ex. 6.) The City argues there are certain entries that reflect unreasonable time. (Vu Decl., ¶¶ 2-5 & Ex. A.) The Court agrees with the City, in part, and will reduce the lodestar by an additional $2,787.50.

h. Conclusion

In both anticipating, and responding to, the City's arguments that its fees were not reasonable, Plaintiffs eliminated certain line-items and imposed a five percent across-the-board cut in their fees which reduced their lodestar by $266,519.19. The Court finds the lodestar should be further reduced by $155,562.50 ($77,300 + $2,750 + $7,850 + $47,750 + $17,125 + $2,787.50).

Consequently, the pre-judgment lodestar is the amount claimed ($2,143,568.36) minus the unrecoverable amount ($152,775.00) which totals **$1,990,793.36**. The post-judgment lodestar is the post-judgment amount claimed in the opening brief ($98,211.95) plus the amount claimed in the reply ($234,004.18) plus the amount claimed in the supplemental brief ($48,416.28) minus the unrecoverable amount ($2,787.50) which totals **$377,844.91**.

2. Reasonableness of the Hourly Rates Charged

Generally, in calculating the lodestar, "[t]he reasonable hourly rate is that prevailing in the community for similar work." (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095.) The Court must take into account the "experience, skill, and reputation of the attorney requesting fees." (*Heritage Pac. Fin., LLC v. Monroy* (2013) 215 Cal.App.4th 972, 1009.)

Plaintiffs argue the rates charged by their attorneys and paralegals are reasonable. They provide information about the experience, skill, and reputation of their attorneys. The billing rates for attorneys range from a high of $975 per hour to a low of $375 per hour charged by less experienced attorneys. Plaintiffs note that their rates have been approved in other voting rights cases filed in both federal and state courts. Plaintiffs also provide declaration from an expert who offers an opinion that the rates charged by Plaintiffs' attorneys and paralegals are reasonable under applicable standards. (Pearl Decl., ¶¶ 39-40.)

The City argues the rates charged by Plaintiffs' attorneys and paralegals are far too high. The City's expert cites much lower rates charged by local law firms, and states "the best cohort for excellent San Jose litigation . . . is the prestigious firm of Hopkins & Carley" which charges at most $495 an hour for its attorneys. (O'Connor Decl., Ex. Y & ¶¶ 96, 120.) The City's expert

cites a number of other data points and methodologies that suggest the hourly rates for Plaintiffs' attorneys are unreasonably high.

The Court has a clear idea of the rates charged by local attorneys. This case was filed in a courtroom designated for complex litigation and nearly every week this Court reviews class action settlements – a legal process that requires the Court to evaluate billing rates of the attorneys who appear before it. This Court also regularly adjudicates motions in which parties seek to recover reasonable attorneys' fees under "prevailing party" fee provisions in contracts. While every type of case requires different skills and sophistication, the Court is well-equipped to calibrate local rates with work comparable to litigating the CVRA issues that were tried before this Court.

Based on the evidence submitted by the parties, especially the declaration of Mr. Pearl, and based on the Court's own experience reviewing attorneys' fees, the Court finds the rates charged by Plaintiffs' attorneys and paralegals are reasonable. They are comparable to rates charged by other local attorneys with specialized skills that are necessary for litigating complex cases involving novel issues. This is not standard litigation with many choices for counsel. As the City admits, "there are [] few CVRA attorneys within California. . . ." (Def. Supp., at 12.)

C. Lodestar Multiplier

"Once the lodestar is fixed, the court may increase or decrease that amount by applying a positive or negative 'multiplier' to take other factors into account." (*Rey, supra,* 203 Cal.App.4th at p. 1240.) As noted above, factors that may be considered include those listed in *Serrano.* "The trial court is not required to include a fee enhancement for exceptional skill, novelty of the questions involved, or other factors. Rather, applying a multiplier is discretionary. Further, the party seeking the fee enhancement bears the burden of proof." (*Id.* at p. 1242, citing *Ketchum v. Moses, supra,* 24 Cal.4th at p. 1138.)

The Court finds a multiplier is warranted in this action for three reasons. First, Plaintiffs' counsel secured a complete victory. The complaint filed on November 30, 2017 sought a finding that the City's at large method of election violated the CVRA and that the City must use district-based elections. Plaintiffs obtained the relief they requested.

Second, the legal questions at issue were both novel and difficult. The CVRA borrows, in part, from the federal Voting Rights Act of 1965 and federal case law including the seminal U.S. Supreme Court case *Thornburg v. Gingles* (1986) 478 U.S. 30. The CVRA, however, has clear difference from federal law and few California cases provide guidance on how the CVRA should apply in certain circumstances. As noted in the Court's Statement of Decision for the liability phase:

> The CVRA was enacted in 2002. It has been amended several times since then. But while more than fifteen years has passed, there are only three published cases interpreting its provisions: *Sanchez, supra,* 145 Cal.App.4th 660, *Rey v. Madera Unified School Dist.* (2012) 203 Cal.App.4th 1223, and *Jauregui v. City of Palmdale, supra,* 226 Cal.App.4th 781. None of these cases addressed issues in dispute here.

Proving the CVRA violations at issue here was difficult. It involved complicated statistical techniques that involved both bivariate and trivariate analyses to evaluate political cohesion and the occurrence of racially polarized voting.

Third, compensation for the attorneys in this case was contingent and came with significant risks. Plaintiffs incurred costs totaling approximately $200,000. Without a victory, those costs could not be recovered. Litigating this case required a substantial amount of time and commitment and would have been uncompensated had the claims not been proven. The attorneys also put their reputations at risk.

The other *Serrano* factors are a mixed bag. None add significant weight in favor of, or against, a multiplier.

Plaintiffs ask for a multiplier, or lodestar adjustment, of 1.8. The City notes that "[t]he purpose of a lodestar adjustment is to 'fix a fee at the fair market value for the particular action.'" (Opp. at 25, citing *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 579.) In considering an appropriate multiplier, a court must take into account the extent to which the lodestar already encompasses contingent risk, extraordinary skill, and other factors. (*Ketchum v. Moses, supra,* 24 Cal.4th at p. 1138.) Plaintiffs' counsel have significant skills and experience that are, in turn, reflected in their hourly rates. Likewise, the contingent risk was lower after June 6, 2018 when the Statement of Decision on liability issues was filed. Therefore, while the

relevant *Serrano* factors warrant a multiplier, the Court finds that to calculate the fair market value for the attorneys who represented the Plaintiffs the multiplier should be 1.4 for work completed before judgment was entered on July 24, 2018. Plaintiffs did not seek a multiplier for later work.

D. Recovery of Costs Incurred in Seeking Attorneys' Fees

Plaintiffs seek $8,712.50 in costs associated with the work of Mr. Pearl, an expert who submitted a declaration supporting Plaintiffs' position that the hourly rates charged by its attorneys were reasonable. The parties have reached a private agreement regarding recovery of these costs. For purposes of this motion, the request to recover Mr. Pearl's costs is denied.

V. DISPOSITION

Based on the foregoing, Plaintiffs' motion for attorneys' fees is GRANTED. However, the Court finds that fees incurred by Plaintiffs' attorneys and paralegals totaling $155,562.50 are unreasonable and cannot be recovered. Judgment was entered on July 24, 2018. Of the fees found to be unreasonable, $152,775.00 were incurred pre-judgment and $2787.50 were incurred post-judgment.

As noted above, the pre-judgment lodestar is the amount claimed ($2,143,568.36) minus the unrecoverable amount ($152,775.00), which totals **$1,990,793.36**. The post-judgment lodestar is the post-judgment amount claimed in the opening brief ($98,211.95) plus the amount claimed in the reply ($234,004.18) plus the amount claimed in the supplemental brief ($48,416.28) minus the unrecoverable amount ($2,787.50), which totals **$377,844.91**.

Plaintiffs requested a multiplier of 1.8. The Court finds this multiplier is too high and that a multiplier of 1.4 is reasonable for fees incurred on or before July 24, 2018 when judgment was entered. No multiplier will be applied to fees incurred after July 24, 2018. The recoverable

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pre-judgment attorneys' fees are the product of 1.4 and $1,990,793.36, which equals $2,787,110.70. The recoverable post-judgment attorneys' fees are $377,844.91. The sum of these numbers is the total attorneys' fees granted to Plaintiffs: **$3,164,955.61**.

Dated: January 22, 2019

Thomas E. Kuhnle
Judge of the Superior Court

EXHIBIT G

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CLARA

FRANK SICILIANO and MELISSA BLEAK, individually and on behalf of all others similarly situated,

Plaintiffs,

vs.

APPLE, INC., a California corporation,

Defendants.

Case No.: 2013-1-CV-257676

ORDER AFTER HEARING ON NOVEMBER 2, 2018

Final Fairness Hearing

The above-entitled matter came on regularly for hearing on Friday, November 2, 2018 at 9:00 a.m. in Department 1 (Complex Civil Litigation), the Honorable Brian C. Walsh presiding. A tentative ruling was issued by the Court on November 1, 2018. No party contested the tentative ruling and no party appeared; therefore, the Court orders that the tentative ruling be adopted and incorporated herein as the Order of the Court, as follows:

This is a class action arising from the automatic renewal of "In-App Subscriptions" for digital content through defendant Apple Inc.'s "App Store." The parties have reached a settlement, which the Court preliminarily approved on July 20, 2018.

Before the Court are plaintiffs' motions (1) for final approval of the settlement and (2) for approval of attorney fees, costs, and service awards. One class member has submitted an objection to various aspects of the settlement, and this objector also opposes plaintiffs' motions.

I. Factual and Procedural Background

According to the allegations of the Third Amended Complaint ("TAC"), consumers enter into transactions for In-App Subscriptions with Apple, and Apple both delivers and charges subscribers for associated content. (TAC, ¶ 21.) However, Apple does so without complying with various provisions of Business & Professions Code sections 17600-17604, which govern automatic renewal and continuous service offers to consumers in California (the "Automatic Renewal Law" or "ARL").

In order to make purchases from Apple's online store, consumers are first required to set up an account with Apple's iTunes service, which includes creating an "Apple ID" and password, providing payment information, and consenting to three legal agreements (collectively, the "Legal Agreements"). (TAC, ¶ 23.) Paragraph 45 of the "MAC App Store, App Store and iBooks Store Terms and Conditions" (the "App Store Legal Agreement") establishes terms and conditions pertaining to In-App Subscriptions. (*Id.*, ¶ 29.) However, the Legal Agreements fail to state that In-App Subscriptions continue until cancelled or specify the recurring charges associated with automatic renewals as required by the Automatic Renewal Law, and they also fail to display the disclosures that are presented in a clear and conspicuous fashion. (*Id.*, ¶¶ 33-34.)

When consumers later open one of the various software applications (or "Apps") that offer In-App Subscriptions, Apple makes an automatic renewal offer by displaying a button labeled "subscribe" or "upgrade." (TAC, ¶¶ 20, 31.) Clicking on this button causes a screen to appear, which subscribers use to enter their desired subscription period, along with their Apple

ID and password linked to their payment method. (*Id.*, ¶ 31.) The Legal Agreements are not accessible on the checkout page and are not located anywhere in the App Store, and there is no mechanism that requires subscribers to consent to the Legal Agreements or any other agreement containing automatic renewal terms during the checkout process for In-App Subscriptions. (*Id.*, ¶¶ 34, 36.) This practice violates the Automatic Renewal Law's requirements that businesses (1) display the renewal terms in visual proximity to the offer and (2) obtain subscribers' affirmative consent to an agreement containing the terms. (*Id.*, ¶¶ 32, 38.) In addition, while Apple sends subscribers a confirmation email, this email fails to meet the requirement that businesses (3) provide an acknowledgement that includes the terms, cancellation policy, and information about how to cancel in a manner that is capable of being retained by the subscriber. (*Id.*, ¶ 39.)

Plaintiffs Frank Siciliano and Kelila Green (who are married) ordered a one-week free In-App Subscription to Hulu Plus using their Apple TV on October 9, 2013. (TAC, ¶ 9.) Beginning one week later, on October 16, 2013, Apple charged and continues to charge plaintiffs Siciliano and Green $7.99 per month on a recurring basis. (*Ibid.*) Plaintiff Melissa Bleak purchased a one-year In-App Subscription to Woman's Health Magazine in February 2013. (*Id.*, ¶ 10.) In or about February 2014, Apple again charged plaintiff Bleak for this subscription in accordance with the payment method associated with her iTunes account. (*Ibid.*)

Plaintiffs filed this action on December 13, 2013. On April 30, 2015, they filed a second amended complaint ("SAC"), asserting claims for: (1) violation of the Automatic Renewal Law; (2) violations of the Unfair Competition Law ("UCL") (Bus. & Prof. Code, §§ 17200-17204); (3) injunctive relief and restitution pursuant to Business and Professions Code section 17535 (the False Advertising Law or "FAL"); (4) violation of the Consumer Legal Remedies Act ("CLRA") (Civ. Code, § 1750 et seq.); and (5) common count for money had and received. On January 3, 2016, the Court (Hon. Kirwan) overruled Apple's demurrer to the SAC. On May 16, 2016, it granted Apple's motion for judgment on the pleadings as to the first cause of action, holding that the Automatic Renewal Law does not provide a direct, private right of action. Pursuant to the

parties' stipulation, plaintiffs filed the operative TAC on June 15, 2016, which re-alleges the four causes of action that survived Apple's motion for judgment on the pleadings and adds a fifth cause of action for declaratory relief.

On April 21, 2017, the Court denied Apple's motion for summary judgment and granted plaintiffs' motion for class certification in part as to plaintiffs' theory that any subscription purchased under conditions that violate the Automatic Renewal Law must be deemed a "gift" under section 17603 of the statute. Certification was denied as to the third cause of action under the CLRA and as to the other claims insofar as they were based on a fraud or reliance theory: the Court found that plaintiffs did not show commonality regarding class members' exposure to the assertedly material disclosures or articulate an appropriate basis for restitution under this theory.

Class notice was issued, and the notice period closed on October 25, 2017. The class administrator received about 400 timely opt-outs. The parties subsequently discovered that the original class list had omitted approximately 8,000 class members, and issued a second round of notices on February 2, 2018. In total, direct notice was sent to about 4 million class members.

After the class was certified, Apple moved for summary adjudication of the class claims on the ground that section 17603 does not apply to digital subscriptions. Following a hearing on March 23, 2018, the Court denied Apple's motion.

The parties have now reached a settlement, which the Court preliminarily approved on July 20, 2018. Plaintiffs' motions (1) for final approval of the settlement and (2) for approval of attorney fees, costs, and service awards have now come on for hearing.

II. Legal Standard for Approving a Class Action Settlement

Generally, "questions whether a settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court's broad discretion." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235, citing *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, disapproved of on another ground by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260.)

> In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant factors, such as the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

(*Wershba v. Apple Computer, Inc., supra*, 91 Cal.App.4th at pp. 244-245, internal citations and quotations omitted.)

The list of factors is not exclusive and the court is free to engage in a balancing and weighing of factors depending on the circumstances of each case. (*Wershba v. Apple Computer, Inc., supra*, 91 Cal.App.4th at p. 245.) The court must examine the "proposed settlement agreement to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." (*Ibid.*, quoting *Dunk v. Ford Motor Co., supra*, 48 Cal.App.4th at p. 1801, internal quotation marks omitted.)

> The burden is on the proponent of the settlement to show that it is fair and reasonable. However "a presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small."

(*Wershba v. Apple Computer, Inc., supra*, 91 Cal.App.4th at p. 245, citing *Dunk v. Ford Motor Co., supra*, 48 Cal.App.4th at p. 1802.)

The presumption does not permit the Court to "give rubber-stamp approval" to a settlement; in all cases, it must "independently and objectively analyze the evidence and circumstances before it in order to determine whether the settlement is in the best interests of those whose claims will be extinguished," based on a sufficiently developed factual record. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130.)

III. Settlement Process

Plaintiffs' counsel declares that, in addition to the substantial motion practice summarized above, there has been nearly three years of formal discovery in this action. Plaintiffs propounded, and defendant responded to, numerous written discovery requests, and Apple produced more than 150,000 pages of records. Plaintiffs deposed six Apple witnesses. They also responded to Apple's discovery requests, including sitting for their own full-day depositions.

After Apple's motion for summary adjudication of the class claims was denied, the parties agreed to mediate their dispute. They exchanged detailed mediation briefs and attended a full-day mediation with Randall W. Wulff on April 4, 2018. The case did not settle at that time, but the parties returned for a second session with Mr. Wulff on May 2. A settlement was achieved following these efforts.

IV. Settlement Class

The Court previously certified a class of "all persons in California who purchased a third-party developer's automatically renewing In-App subscription from Apple, Inc., billed through

the Apple iTunes Store from December 1, 2010 to September 13, 2016," excluding plaintiffs' counsel and any employees of their firms. At preliminary approval, the Court further excluded Apple employees, employees of defendant's counsel, the Court, and the Court's staff. Also excluded from the class are those individuals who filed a timely and valid request for exclusion in response to the notices that issued following class certification and in response to the notice of settlement.

V. Terms and Administration of the Settlement

The non-reversionary $16.5 million settlement includes attorney fees and expenses not to exceed $4 million, settlement administration expenses not to exceed $290,500, and service awards of up to $2,500 each to the named plaintiffs.

The net settlement of approximately $12 million will be distributed automatically to class members, pro rata, through non-expiring credits to their iTunes accounts, or, for class members without active iTunes accounts, through checks sent by mail. Funds allocated to class members with neither an active iTunes account nor a mailing address on record will be redistributed to the class. Funds associated with checks mailed to class members that are not cashed within 180 calendar days will be equally split between the National Center for Youth Law and Public Counsel. Based on the 3.9 million class members estimated at preliminary approval, each class member will receive approximately $3.

Class members who do not opt out of the settlement will release all claims, including claims against third-party developers, "(a) as they were alleged in the complaints, including those based on alleged violations of the Automatic Renewal Law, including claims for Unfair Competition Laws, money had and received, and declaratory and injunctive relief, or (b) that arise from the factual allegations in Plaintiffs' Third Amended Complaint," including unknown claims.

The notice process has now been completed. There are approximately 4.1 million iTunes accounts included in the class, with 3.9 million that have an associated email address. After excluding invalid and duplicate email addresses, as well as Apple employees and others expressly excluded from the class, there were 3,709,218 accounts with valid and unique e-mail addresses to which notice was sent. The administrator began emailing these notices on July 31, 2018. On August 1, it determined that, due to a vendor error, approximately 2.1 million notices were sent without the claim ID number required to opt out of the settlement class. The administrator and its vendor immediately worked to correct the error and updated the settlement web site so that class members could opt out using just their e-mail address. On August 3, an updated class notice including class members' claim ID was sent to affected class members. Notice was also posted to a publicly-accessible web site, which received 119,377 visits.

There is one objection, which is discussed below, and 146 new requests for exclusion from the class were received. (These requests are in addition to those submitted following class certification.) Of the 3,709,218 emails sent, 134,076 were permanently undeliverable, representing 3.62 percent of the emails. Since fewer than 10 percent of the emails were undeliverable, the settlement provided that postcard notice would not be attempted. The claims administrator continues to estimate that the payment to each class member will be around $3.

VI. Fairness of the Settlement

A detailed and reasonable assessment of the risks and merits of plaintiffs' claims is set forth in declarations by Julian Hammond filed in support of plaintiffs' motions for preliminary and final approval. In plaintiffs' view, after all three plaintiffs admitted that they saw "pop-ups" informing them that their subscriptions would renew before they subscribed, the case focused on Apple's alleged failure to (1) provide the full cancellation policy pre-purchase, in that Apple did not disclose the fact that subscriptions cannot be cancelled during a subscription term, and (2) disclose the minimum purchase obligation, in that Apple failed to disclose that no refund would

issue, in whole or part, if the subscription was cancelled during a subscription term. Apple, however, argued that it had made all the required disclosures, including that subscriptions would auto-renew and the description of the cancellation policy. Apple urged that the requirement that a business describe its cancellation policy does not require the business to disclose that ongoing subscriptions cannot be cancelled for a refund. Finally, Apple might argue that the specific violations at issue here did not trigger "gift" treatment under section 17603 based on that the language of that section.

Notably, plaintiffs explain that Apple would argue that any recovery in this action should be limited to a portion of the value of class members' first automatic subscription renewal. This is because the ARL is concerned with disclosures regarding such renewals, and class members were arguably on notice that their subscriptions would continue to renew after this point. Further, class members likely obtained some value from the subscriptions that they received. Plaintiffs indicate that the net pro rata recovery per class member (approximately $3) falls "roughly between" the value of class members' initial subscription terms and a portion of their first automatic renewal payments. The gross benefit to class members (approximately $4 each) is greater than the average amount Apple retained for the first subscription term per unique subscription, and the net benefit is greater than the average amount Apple retained for the first renewal.[1]

Plaintiffs believe that estimating realistic recovery based on the value of one subscription term is in line with other ARL settlements, and submit evidence of similar settlements consistent with this conclusion. Finally, plaintiffs explain that the parties agreed to a pro rata distribution of the settlement due to the prohibitive administrative costs that would result from more precisely accounting for variations in subscription prices.

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[1] While subscriptions primarily ranged from $1.99 to $18.99 per subscription term, Apple itself retained only a portion of these payments.

A. The Court's View

Based on the analysis outlined above, the Court found at preliminary approval that the settlement is fair and reasonable to the class. The parties reached agreement following years of hard-fought litigation and months of focused arms-length bargaining. While plaintiffs had cleared significant hurdles in their attempt to obtain a recovery for the class at trial, substantial risks and costs remained. Following substantial motion practice, plaintiffs' case was narrowed to one theory of liability, the gift theory under section 17603, a provision which has yet to be interpreted by the California courts. In the Court's view, the settlement represents a good result for the class. Further, given that counsel here are experienced in similar litigation and only one of the millions of class members has raised an objection, the settlement is entitled to a presumption of fairness. (See *Wershba v. Apple Computer, Inc., supra*, 91 Cal.App.4th at p. 245 [a presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small].)

B. The Issues Raised by the Objector

The objection, which is attached to the administrator's declaration as Exhibit D, states that neither the objector nor her attorneys intend to appear at the final fairness hearing to discuss the settlement with the Court.[2] The objector also filed an opposition to the instant motions, which expands on the issues raised in the objection.

[2] Plaintiffs and the objector spend significant portions of their respective briefing addressing other courts' characterizations of the objector's attorneys as "serial" or "professional" objectors. Ultimately, the Court's duty at the present time is to evaluate the settlement before it with the best interests of the class in mind and to thoroughly consider the merits of any objections, whatever their source. However, counsel's history of and motivations regarding the filing "serial" objections may become relevant at a later juncture.

The main issue raised by the objector is that the settlement will be largely paid to class members in the form of iTunes credits. While the objector acknowledges that many products are available for purchase from iTunes for $3 or less,[3] she argues that many class members will spend more money with Apple as a result of the settlement because they will purchase more expensive products. The objector further argues that class members who receive their $3 in the form of a check (because no valid email was associated with their iTunes account) are unlikely to cash their checks.[4]

In response to this argument, plaintiffs urge that mailing settlement checks to millions of class members would significantly and unnecessarily deplete the settlement fund. The claims administrator estimates that the costs of printing and mailing checks alone would be around $2.8 million, while the costs of related administrative tasks would bring the total to $3.4 to $4.4 million. The Court agrees with plaintiffs that these costs, which the objector does not address, are undesirable. The class will enjoy a greater benefit by receiving iTunes credits, particularly considering that the credits will not expire and will be automatically applied to class members' next iTunes purchases. As the objector herself notes, class members may never cash a check for the small sum at issue, so issuing iTunes credits can be expected to maintain or even increase settlement participation rates. Finally, while Apple may benefit from the settlement through increased sales as the objector posits, the Court does not find this problematic where any such benefit will result from class members' voluntary decisions to purchase more expensive products. (See *Dunk v. Ford Motor Co.*, *supra,* 48 Cal.App.4th at p. 1805, fn. 4 ["win-win" settlements benefiting the defendant along with the class members are not per se unreasonable].) Unlike in true "coupon settlements," class members are being offered a genuine option to obtain

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[3] The objector does not challenge plaintiffs' representations that such products include millions of movies, songs, games, TV shows, and non-renewing apps.

[4] The objector also contends that class counsel's fee should be reduced since many credits may go unredeemed, an issue that the Court anticipated in its order granting preliminary approval and which is addressed in connection with plaintiffs' motion for attorney fees below.

products valued up to a certain amount at no additional charge. (See *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 53-54 ["While it is possible that some existing customers might be induced by the free rentals to purchase a higher level of service and some past customers might be induced to resume their lapsed subscriptions, the potential for Netflix to actually benefit financially from the settlement is much reduced compared to a pure coupon discount program."].) The qualities of "coupon settlements" that courts have identified as troubling are largely not present here. (See *Dunk v. Ford Motor Co.*, *supra,* 48 Cal.App.4th at p. 1805 ["[q]uestions arise as to the value of a settlement where … the coupon relates to a 'big ticket item,' is not transferable, represents only a tiny percentage of the purchase price, and is valuable to the defendant as an inducement to promptly purchase the defendant's product" because it expires]; *In re Online DVD-Rental Antitrust Litigation* (9th Cir. 2015) 779 F.3d 934, 950 [settlement paid in Walmart gift cards was not a coupon settlement].) For these reasons, the Court concludes that the settlement is best paid in the form of iTunes credits where possible.

The objector also contends that the settlement should not be approved without a requirement that Apple will discontinue the allegedly unlawful automatic renewal practices at issue. However, Apple has changed its practices since this action was filed, and plaintiffs concluded that these changes addressed their allegations.[5] The objector does not contend otherwise, but insists that other settlements have included formal promises to maintain voluntary changes resulting from a lawsuit. While the objector's approach might have improved the settlement, plaintiffs' choice to accept voluntary changes must be evaluated in light of their ability to obtain superior relief at trial. Ultimately, injunctive relief is not available where the challenged conduct has been discontinued and there is no indication that it will be repeated in the future. (See *Madrid v. Perot Systems Corp.* (2005) 130 Cal.App.4th 440, 462-466 [sustaining demurrer to UCL complaint on this ground].) Consequently, the settlement is reasonable even without Apple's formal promise not to revive its old practices.

[5] The class was consequently defined to include only In-App subscribers who made a purchase before Apple's practices changed, and only the claims of these subscribers are released by the settlement.

Finally, to the extent the objector contends that the amount of the settlement is too low, the Court disagrees. The objector provides no analysis regarding the potential value of the settlement, and for the reasons discussed above and in counsel's declarations, the Court finds that a recovery representing a significant portion of class members' first automatic renewal subscription fee is a reasonable compromise in this case and a good result for the class. Even assuming that the overall settlement value should be somewhat discounted for purposes of the attorney fee analysis due to potential non-participation by class members, participating class members will receive fair compensation for their release of claims and the Court finds no reason to conclude that the use of iTunes credits will reduce participation. While the objector speculates that the attorney fee award could exceed the value of the settlement to the class assuming a ten percent participation rate, the Court sees no reason to expect such low participation where class members need only make a purchase using their existing iTunes accounts to receive the benefit of their credits. (See *Chavez v. Netflix, Inc.*, *supra,* 162 Cal.App.4th at pp. 48-49 [more than twelve percent of class members participated in a similar settlement that required them to submit an online claim form before they could redeem their free DVD rentals].)

For these reasons, the objector's challenges to the relief provided by the settlement lack merit.

VII. Attorney Fees

Plaintiffs seek a fee award of $3,824,356, consistent with the $4 million combined fee and cost award that was disclosed in the class notice. The fee request amounts to 23 percent of the full settlement fund and is roughly equivalent to the lodestar figure provided by plaintiffs' counsel, who submit billing summaries in support of their request.

At preliminary approval, the Court directed counsel to address whether and how the distribution of the settlement through iTunes credits impacts the attorney fees analysis. The

objector contends that iTunes credits are not equivalent to cash and should not be assigned their face value; accordingly, she urges the Court to adopt the lodestar method rather than the common fund method of awarding attorney fees, and to apply no multiplier or a negative multiplier. The objector also contends that the Court should more carefully scrutinize the fee request here because it is the subject of a "clear sailing" provision, and that plaintiffs' counsel should be required to file their detailed billing records publicly for class members' review.

A. Appropriate Measure of Fees in This Case

As an initial matter, plaintiffs contend that class counsel are entitled to an award of fees under Code of Civil Procedure section 1021.5. However, plaintiffs do not request that the Court require Apple to pay additional attorney fees, but that it determine what fees are appropriately paid from the common fund created by the settlement. An award under section 1021.5 would be inappropriate under these circumstances. (See *Rider v. County of San Diego* (1992) 11 Cal.App.4th 1410, 1422 [to obtain attorney fees under section 1021.5, it must be shown that fees "should not in the interest of justice be paid out of the recovery"].) The Court accordingly looks to the methodologies employed by California courts to evaluate fee awards in connection with similar class action settlements.

"Courts recognize two methods for calculating attorney fees in civil class actions: the lodestar/multiplier method and the percentage of recovery method." (*Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at p. 254.) In *Dunk v. Ford Motor Co.*, *supra*, 48 Cal.App.4th 1794, a true coupon case where class members received a coupon redeemable for $400 off a new car purchased within one year, the Court of Appeal held that it was inappropriate for the trial court to use the common fund method because "the true value [of the settlement] cannot be ascertained until the one-year coupon redemption period expires." (At p. 1809.) The court reversed the trial court's order in this regard and directed that it re-calculate the attorney fee award using the lodestar method. (*Ibid.*) Consistent with *Dunk*, in *Wershba*, where coupons

were a component of the settlement, the Court of Appeal approved the use of the lodestar method to evaluate a fee award. (See *Wershba v. Apple Computer, Inc.*, *supra,* 91 Cal.App.4th 224.)

Also consistent with this approach is *Chavez v. Netflix, Inc.*, *supra,* 162 Cal.App.4th 43. *Chavez* addressed a settlement that, like the settlement here, was paid in the form of free online purchases but avoided the most problematic aspects of coupon settlements such as expiration dates and limitations to "big ticket" items. The court valued the settlement by multiplying the retail price of the service to be received by class members by the number of settlement claims (which class members were required to submit in order to receive compensation in that case). (*Id.* at pp. 49-50.) The court awarded fees in the range of twenty to twenty-five percent of that sum, based on the market for contingency fee agreements. (*Ibid.*) However, it also calculated a lodestar award and appears to have used its valuation of the settlement as a cross-check on the lodestar award. (*Id.* at pp. 49-50, 60-66.)

Here, while the percentage of recovery method might also be appropriate, particularly if the Court had a better indication of how many class members are likely to use their iTunes credits, in the absence of reliable information about participation rates, the Court finds that applying the lodestar method is a better approach. As in *Chavez*, however, it is appropriate for the Court to consider the overall value of the settlement as a cross-check on the lodestar award. (See *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557 ["It may be appropriate in some cases, assuming the class benefit can be monetized with a reasonable degree of certainty, to "cross-check" or adjust the lodestar in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation."].)

B. Lodestar Analysis

As an initial matter, the objector suggests that the fee request here is suspect because it is made pursuant to a "clear sailing" provision whereby Apple agreed not to oppose plaintiffs'

request for up to $4 million in fees. While it is true that the propriety of such agreements has been debated (and federal courts may view them more critically than California courts have), "clear sailing" provisions are nevertheless typically included in class action settlement agreements, and many commentators view them as generally proper. (See *Consumer Privacy Cases*, *supra,* 175 Cal.App.4th at p. 553.) Here, while the Court is mindful of the argument that the settlement should not be valued at the full $16.5 million, warning signs of collusion such as attorney fees paid from a separate fund than the settlement or a reversion of unapproved fees to the defendant are not present. Ultimately, the Court has a duty "to assure that the amount and mode of payment of attorneys' fees are fair and proper, and may not simply act as a rubber stamp for the parties' agreement." (*Id.* at p. 555.) This duty to the class exists regardless of any "clear sailing" provision and independent of any objection (*ibid.*), and the Court will fulfill it in this case as in any other.

The objector also urges the Court to order plaintiffs to publicly file their complete billing records for review, not only by the Court, but by the objector and other class members. While it would be within the Court's discretion to issue such an order, it declines to do so here. The declarations and billing summaries submitted by counsel are adequate to enable the Court's review of the fees requested. (See *Chavez v. Netflix, Inc.*, *supra,* 162 Cal.App.4th at p. 64 ["detailed time sheets are not required of class counsel to support fee awards in class action cases"]; *Wershba v. Apple Computer, Inc.*, *supra,* 91 Cal.App.4th at p. 255 ["California case law permits fee awards in the absence of detailed time sheets."].)

Turning to the substance of the lodestar analysis, the objector contends that "[c]lass counsel should be limited to the $3.3 million lodestar submitted in their motion for preliminary approval, with a negative multiplier applied to account for the limited benefit provided by the iTunes credits that may be rendered worthless." The objector does not challenge counsel's hourly rates, which the Court deems reasonable. She also does not challenge any specific aspect of the pre-settlement time reflected on counsel's summary. In the Court's view, the time

reflected on counsel's summary is reasonable for a complex class action such as this one. The approximately $500,000 in post-settlement time is also reasonable. In particular, the Court finds that the time plaintiffs' counsel spent defending the settlement from the objector benefitted the class.

Even assuming that time spent preparing the motion for attorney fees should not be included in the lodestar, the 1.03 multiplier requested by plaintiffs is on the low end of what the Court would approve considering the novelty of ARL class action litigation and the contingent and highly uncertain nature of a recovery in such an action. (See *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132 [discussing factors justifying an adjustment to the lodestar]; *Pellegrino v. Robert Half Internat., Inc.* (2010) 182 Cal.App.4th 278, 291 [approving a 1.75 multiplier based on the novelty, difficulty, and contingent risk of the case].) Even if *all* of the $500,000 in post-settlement time challenged by the objector were deducted from the lodestar of $3,716,624, the $3,824,356 requested by plaintiffs would result in a multiplier of 1.19. This multiplier is fully justified by the record in this case, and the Court accordingly finds that the fees requested by plaintiff are properly awarded under the lodestar method.

Finally, as a cross-check, the Court finds that a recovery of around 23 percent of the full settlement fund is reasonable in this case. Contrary to the objector's argument, the Court finds that the iTunes credits to be awarded here provide real value to the class. While some class members who are no longer using their iTunes accounts may forgo the option to use them, the Court sees no reason to value unused credits as "worthless" considering they will never expire. Moreover, the majority of class members can be expected to promptly benefit from their credits, considering they will be automatically applied to class members' next iTunes purchases. Thus, while the uncertain participation rate might warrant a modest discount to the value of the settlement, it is reasonably certain that it will ultimately have a value near to its face value.

VIII. Costs and Incentive Awards[6]

Plaintiffs also request $175,643.91 in litigation costs, which, when combined with the attorney fee award approved above, will equal the $4 million estimate provided at preliminary approval. The costs are reasonable based on the summaries provided and are approved. The $175,000 in administrative costs, below the estimated $290,500, are also approved.

Finally, the named plaintiffs request service awards of $2,500 each. To support their requests, they submit declarations in which they describe their efforts on the case. The Court finds that the class representatives are entitled to enhancement awards and the amounts requested are reasonable.

IX. Conclusion and Order

The motion for final approval of the settlement is GRANTED. The motion for approval of attorney fees, costs, and service awards is also GRANTED.

The objector has filed an application for leave to intervene, which will be heard on November 30, 2018. Pursuant to the stipulation of the parties made in open court, the five-year limitation in Code of Civil Procedure Section 583.310 is extended until May 2, 2019 or until further order of the Court.

IT IS SO ORDERED.

Dated: November 2, 2018

Honorable Brian C. Walsh
Judge of the Superior Court

[6] The objector does not challenge any of these requests.

EXHIBIT H

14108551

FILED
ALAMEDA COUNTY
AUG 04 2017
CLERK OF THE SUPERIOR COURT
By _____ Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

JORDAN WILLEY, individually and on behalf of all those similarly situated,

Plaintiffs,

vs.

TECHTRONIC INDUSTRIES NORTH AMERICA, INC., a corporation; R&B SALES & MARKETING INC., a corporation; and DOES ONE through TEN inclusive

Defendants.

Case No.: RG16806307

ASSIGNED FOR ALL PURPOSES TO HON. WINIFRED Y. SMITH
DEPARTMENT 21

~~[PROPOSED]~~ **JUDGMENT AND FINAL ORDER APPROVING SETTLEMENT OF CLASS ACTION**

Date: July 28, 2017
Time: 10:00 a.m.

JUDGMENT

WHEREAS, the Parties to this Litigation reached a proposed settlement, as set forth in their Stipulation and Agreement to Settle Class Action ("Settlement Agreement"), and Plaintiff filed a motion for preliminary approval on March 2, 2017. On April 4, 2017, the Court granted preliminary approval.

WHEREAS, the Court determined that this Litigation could be maintained as a class action for settlement purposes only. It thereafter certified the following Class for settlement purposes only: all persons who are or were employed (1) in California; (2) by either Defendant; (3) in a Covered Job Position; (4) at any point during the Class Period. As set forth in the Settlement Agreement "Covered Job Position" means California non-exempt positions with the following titles: Single Store Representative, Field Sales, Field Sales Representative, Field Sales and Marketing Representative, Field Service Representative, and Multi-Store Representative, and "Class Period" means any time between March 3, 2012 and January 31, 2017.

WHEREAS, thereafter, a Notice of Class Action Settlement was sent to Settlement Class Members in accordance with the terms of the Settlement Agreement. Settlement Class Members were afforded the opportunity to exclude themselves or object, and a hearing was held on August 4, 2017, to entertain any such objections.

WHEREAS, no objection having been received and the Court being fully informed, the Court determines that the proposed Settlement is fair, reasonable, and adequate.

NOW, THEREFORE, IT IS HEREBY FINALLY ADJUDGED AND ORDERED THAT:

1. The Parties' Settlement Agreement is in all respects fair, reasonable, and adequate, and it is hereby approved and incorporated herein, except that any *cy pres* award shall be distributed as follows: (a) 50% to the "child advocacy program" at Valley Children's Hospital, located at 9300 Valley Children's Place, Madera, CA 93636; (b) 25% to the California State Treasury for deposit in the Trial Court Improvement and Modernization Fund; and (c) 25% to the California State Treasury for deposit in the Equal Access Fund of the Judicial Branch.

2. The Parties to the Settlement Agreement shall implement the Settlement Agreement according to its terms (with the *cy pres* distribution stated in the previous paragraph).

JUDGMENT

3. This Judgment and Final Order shall have a res judicata effect and bar each Plaintiff and each Settlement Class Member who has not been excluded from the Settlement Class from bringing any action asserting "Released Claims" as that term is defined in the Settlement Agreement. The Judgment and Final Order will have the same effect for Fair Labor Standards Act claim purposes for Settlement Class Members only if they opt in by cashing their settlement check.

4. The cashing of the settlement check by a Settlement Class Member shall be deemed to be an opt-in for purposes of the Fair Labor Standards Act claims referred to in the Released Claims definition contained in the Settlement Agreement.

5. The Court approves Attorneys' Fees in the amount of $1,166,666.67 because Class Counsel's request falls within the range of reasonableness and the result achieved justifies the requested Attorneys' Fees. Ten percent of the fee award shall be held in an interest-bearing account, maintained either by the claims administrator or by class counsel, pending the submission and approval of a final compliance status report after completion of the distribution process. The Court further finds that Class Counsel's 2017 hourly rates are reasonable and commensurate with the prevailing rates for class actions.

6. The Court approves Class Counsel's request for reimbursement of Litigation Costs in the amount of $15,000.00.

7. The Court approves payment of $20,000.00 as penalties authorized by the Private Attorneys General Act of which 75% will be paid to the Labor and Workforce Development Agency and 25% will be added back to the Class Member Settlement Fund to be distributed to the Settlement Class Members.

8. The Court approves payment not to exceed $25,000.00 to the Settlement Administrator.

9. The Court approves payment of a Service Award in the amount of $10,000.00 to Plaintiff as set forth in the Settlement Agreement.

10. Without affecting the finality of this Order, the Court shall retain continuing jurisdiction over this action and the parties under California Rule of Court 3.769(h), including all

Settlement Class Members and over all matters pertaining to the implementation and enforcement of the terms of the Settlement Agreement. Except as provided to the contrary herein, any disputes or controversies arising with respect to interpretation, enforcement or implementation of the Settlement Agreement shall be presented by motion to the Court for resolution.

11. A compliance hearing will be set for April 20, 2018 to determine whether the Settlement payments have been distributed to the class. A compliance status report must be filed (with a courtesy copy delivered directly to Dept. 21) at least 5 court days prior to the compliance hearing.

This Judgment and Final Order Approving Settlement of Class Action is hereby granted and the Court directs that this Judgment shall be entered.

Dated: August 4, 2017

Winifred Y. Smith

Hon. Winifred Y. Smith
Judge of the Superior Court

EXHIBIT I

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

RAUL CARRILLO-HUESO and CHEC XIONG, individually and on behalf of others similarly situated,

Plaintiffs,

vs.

PLY GEM INDUSTRIES INC., and PLY GEM PACIFIC WINDOWS CORPORATION, and DOES ONE through ONE HUNDRED, inclusive,

Defendants.

Case No.: 34-2016-00195734-CU-OE-GDS

[~~PROPOSED~~] ORDER GRANTING FINAL APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT, SERVICE AWARDS TO CLASS REPRESENTATIVES, AND ATTORNEYS' FEES AND COSTS

Date: June 29, 2017
Time: 9:00 AM
Dept: 35
Before: Hon. Alan G. Perkins

Complaint Filed: November 25, 2015

BY FAX

The Court, having considered Plaintiffs' Motion for Final Approval of Class and PAGA Action Settlement and Motion for Approval of Attorneys' Fees and Costs and Class Representatives' Service Awards in the above-captioned action, having read and considered all of the papers of the parties and their counsel, having granted preliminary approval on March 15, 2017 and directed that notice be given to all Class Members of preliminary approval of the Joint Stipulation and Class and PAGA Action Settlement ("Settlement Agreement" or "Settlement"), the time and location of the final approval hearing, and the right to be excluded from the settlement, having received no objections or opposition to the settlement, and good cause appearing, HEREBY ORDERS:

1. The settlement of the above-captioned action as embodied in the Settlement Agreement is fully and finally approved. The Settlement Agreement is hereby incorporated by reference. Except as otherwise specified herein and for purposes of this Order Granting Final Approval of Class and PAGA Action Settlement, Service Awards to Class Representatives, and Attorneys' Fees and Costs ("Final Approval Order"), the terms used in this Order have the meaning assigned to them in the Settlement Agreement, the Notice of Proposed Class Action Settlement and Fairness Hearing ("Class Notice"), and the Motions for Preliminary and Final Approval of the Class and PAGA Action Settlement.

2. Pursuant to California Rules of Court, rule 3.769(d), this Court makes final the conditional class certification contained in the Order Granting Preliminary Approval of Class and PAGA Action Settlement, and thus certifies the following classes:

a. Meal Period Class: All non-exempt production workers employed by Ply Gem at the Sacramento factory who were scheduled to start first shift work before 5:00 a.m. and who did not take a meal period until 10:00 a.m. or later or who worked more than ten (10) hours in a workday without taking a second meal break before the end of their tenth (10th) hour of work during the period beginning November 25, 2011 and ending January 6, 2017, except for any individuals who opted out pursuant to the instructions in the Class Notice; and

b. Wage Statement Class: All persons employed by Ply Gem at their Corona or

Sacramento facilities during the period beginning November 25, 2014 and ending January 6, 2017, except for any individuals who opted out pursuant to the instructions in the Class Notice.

3. Named Plaintiffs are hereby appointed and designated, for all purposes, as the representatives for the Class, and the law firm Goldstein, Borgen, Dardarian & Ho is hereby appointed and designated as counsel for the Named Plaintiffs and the Classes. The Court finds that attorneys for the class are experienced class action litigators and have expressed the view that the Settlement is fair, reasonable, and adequate, which further supports the Settlement.

4. The Court hereby finds that the Class Notice and related documents have been mailed to all Class Members as previously ordered by the Court, and that such Class Notice fairly and adequately described the terms of the proposed Settlement Agreement, the manner in which Class Members could object to or participate in the Settlement, and the manner in which Class Members could opt out of the Class. The Court hereby finds that the Class Notice was the best notice practicable under the circumstances; was valid, due, and sufficient notice to all Class Members; and fully complied with Civil Code section 1781(e), Rule of Court 3.769, due process, and all other applicable laws. The Court further finds that a full and fair opportunity has been afforded to Class Members to participate in the proceedings convened to determine whether the proposed Settlement Agreement should be given final approval. Accordingly, the Court hereby determines that all Class Members who did not file a timely and proper request to be excluded from the Settlement are bound by this Order. The Court finds that Veronica Tabalada submitted a timely and valid request for exclusion and thereby is not bound by this Order.

5. The Court deems Plaintiffs' First Amended Complaint, filed on March 14, 2017, as the operative complaint in this action.

6. The Court finds that the Settlement Agreement is fair, reasonable, and adequate, and in the best interests of Class Members. The Settlement Agreement is the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, does not improperly grant preferential treatment to any individuals, and was entered into good faith.

7. Accordingly, the Court hereby finally and unconditionally approves the Settlement Agreement, and specifically:

a. Approves the Total Settlement Sum of $975,000. This is the full amount that Defendants are required to pay under the Settlement Agreement, with the exception of the employer's share of any applicable payroll taxes that will be paid separately;

b. Approves Class Representative Service Awards of $10,000 to Named Plaintiff Raul Carrillo-Hueso and $5,000 to Named Plaintiff Chec Xiong;

c. Approves Class Counsel's attorneys' fee request in the amount of $325,000 because Class Counsel's request falls within the range of reasonableness, the result achieved justifies the requested attorneys' fees, and the award is warranted either under the common fund or lodestar approach. The Court further finds that Class Counsel's 2017 hourly rates are reasonable and commensurate with the prevailing rates for wage and hour class actions;

d. Approves Class Counsel's request for reimbursement of litigation expenses of $15,000;

e. Approves payment to Settlement Services, Inc., the Settlement Administrator, of up to $13,700 as costs and expenses of Settlement administration;

f. Approves a PAGA Allocation of $25,000 from the Settlement Fund of which $18,750 will be distributed to the California Labor & Workforce Development Agency;

g. Approves Court Appointed Special Advocates for Children, Sacramento County and Centro Legal de la Raza as the *cy pres* recipients of any remaining balance of uncashed Settlement checks, paid in equal awards;

h. Approves the payment from the Net Settlement Fund of amounts determined by the Settlement Administrator to be due to Class Members, as specified in the Settlement Agreement.

8. The Court orders the following Implementation Schedule for further proceedings:

Before checks are mailed to Participating Class Members.	Settlement Administrator shall update the address of any Class Member for whom the Parties obtain an updated mailing address.
Within ten (10) calendar days of the Settlement	Defendants to pay the Settlement Fund amount to

Effective Date as defined in the Settlement Agreement.	the Settlement Administrator. Settlement Administrator to circulate calculations of Class Member awards, including necessary payroll taxes.
Within fifteen (15) calendar days of the Settlement Effective Date.	Defendants to pay calculated payroll taxes to the Settlement Administrator.
Within twenty calendar (20) days of the Settlement Effective Date.	Settlement Administrator shall issue Settlement checks to Participating Class Members, Class Representatives, Class Counsel, the Settlement Administrator, and the California Labor & Workforce Development Agency.
180 calendar days after mailing of checks to Participating Class Members.	Any uncashed checks become void and Settlement Administrator issues stop payments on uncashed checks.
Fourteen (14) calendar days after last stop payment issued on uncashed Settlement check.	Settlement Administrator shall pay any residual to *cy pres* beneficiaries.
Ten (10) calendar days after residual paid to *cy pres* beneficiaries.	Settlement Administrator shall provide a declaration of payment to the *cy pres* beneficiary.
Twenty-four (24) calendar days after last stop payment issued on uncashed Settlement check.	Class Counsel files with the Court and serves on Defendants the Settlement Administrator's declaration of payment to Participating Class Members, and, if feasible, the declaration of payment to the *cy pres* beneficiaries.

9. The Class Members, including the Class Representatives, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, dismissed with prejudice, relinquished, and discharged all Released Claims. Released Claims means any and all claims, causes of action, or demands against the Released Parties during the Class Period that were asserted or could have been asserted based on the facts alleged in the Complaint. Released Claims for the Meal Period Class includes (a) claims for failing to receive complaint duty-free first or second meal periods, (b) claims for untimely payment of all owed wages, (c) claims for failure to timely pay all wages owed upon separation of employment, (d) claims for inaccurate time records, (e) claims for inaccurate wage statements, (f) claims for unfair competition, and (g) any claims for damages, restitution, disgorgement, civil penalties, statutory penalties, taxes, interest, and attorneys' fees or costs. Released Claims for the Wage Statement Class includes (a) claims for inaccurate wage statements and (b) any damages, restitution, disgorgement, civil penalties, statutory penalties, taxes, interest, and attorneys' fees or costs.

10. The Class Representatives shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, dismissed with prejudice, relinquished, and discharged all claims against the Released Parties based on or arising from their employment with Defendants. The Class Representatives waive all rights and benefits afforded by California Civil Code section 1542, and do so understanding the significance of the waiver. Section 1542 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.

The Class Representatives' general release includes all claims that were asserted in this action, including the claims the Class Representatives do not know or suspect to exist in their favor against Defendant.

11. Without affecting the finality of this Order, the Court retains exclusive and continuing jurisdiction over the litigation for purposes of supervising, implementing, interpreting, and enforcing this Order and the Settlement Agreement.

12. The Parties are hereby ordered to implement and comply with the terms of the Settlement. Notice of entry of this Order and the ensuing final judgment shall be given to Class Counsel on behalf of the Named Plaintiffs and all Participating Class Members. It shall not be necessary to send notice of this Order or the ensuing final judgment to all Class Members.

IT IS SO ORDERED.

Dated: June 29, 2017

HON. ALAN G. PERKINS
JUDGE OF THE SUPERIOR COURT

EXHIBIT J

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

ABDUL NEVAREZ and PRISCILLA NEVAREZ, on behalf of themselves and all others similarly situated, and SEBASTIAN DEFRANCESCO,

Plaintiffs,

vs.

FORTY NINERS FOOTBALL COMPANY, LLC, a Delaware limited liability company, et al.,

Defendants.

CLASS ACTION

Case No.: 5:16-cv-07013-LHK (SVK)

DECLARATION OF RICHARD M. PEARL IN SUPPORT OF PLAINTIFFS' MOTION FOR REASONABLE ATTORNEYS' FEES, COSTS AND EXPENSES

Date: July 16, 2020
Time: 1:30 P.M.
Dept: Courtroom 8
Before: Hon. Lucy H. Koh

I, Richard M. Pearl, hereby declare:

1. I am an attorney at law licensed and duly admitted to practice before all the courts of the State of California and am a member in good standing of the California State Bar. If called as a witness I could and would competently testify to the following. I make this declaration in support of Plaintiffs' Motion for Attorneys' Fees, Expenses, and Costs.

2. I am in private practice as the principal of my own law firm, the Law Offices of Richard M. Pearl, in Berkeley, California. My practice now consists almost entirely of cases and issues involving court-awarded attorneys' fees, expenses, and costs, including representation of parties in fee litigation and appeals, consulting on fee issues, retention as an expert witness, and service as a mediator and arbitrator in disputes concerning attorneys' fees and related issues. I have been retained by Class Counsel from Goldstein, Borgen, Dardarian & Ho, Schneider Wallace Cottrell Konecky LLP, and Peiffer, Wolf, Carr & Kane to render my opinion on the reasonableness of Plaintiffs' unopposed request for an award of $13,457,152.00 in attorneys' fees, expenses, and costs. Because the amount of expenses and costs reasonably incurred in the litigation is approximately $1.2 million, the attorneys' fee portion of the requested fee-and-cost award is approximately $12,257,000 which represents a lodestar of $11,605,473, enhanced by an extraordinarily modest multiplier based on the contingent risk taken by Class Counsel, exceptional results obtained, and other relevant factors under California law.

3. This case involved claims under the Americans with Disabilities Act of 1990 (ADA) and California's Unruh Civil Rights Act, Cal. Civ. Code §§ 51 et seq. (Unruh Act). Accordingly, my opinion is based on both federal and state law regarding reasonable attorneys' fees, costs, and expenses in class action cases. In addition, I agree with Class Counsel's decision to base their fee request on the lodestar-multiplier method because it is more appropriate in cases like this one whose principal objective and accomplishment is injunctive relief that is difficult to quantify.

SUMMARY OF OPINIONS AND OVERVIEW OF DECLARATION

4. Plaintiffs request attorneys' fees in the amount of approximately $12.257 million, which represents a $11,605,473 reasonable lodestar enhanced by an extremely modest lodestar multiplier. In sum, it is my opinion that based on counsel's well-documented hours and rates, the exceptional results achieved, the significant risks Class Counsel assumed by representing the class on an entirely

contingent basis, the very high level of skill and quality of work needed to achieve this result, fee awards in comparable California and federal cases, and a comparison to the percentages reasonably charged in the legal marketplace, the fee requested here is reasonable under both federal and California law standards and compares favorably to the fees and expenses found reasonable for similarly complex litigation within this District.

5. This was not a run-of-the-mill class action. The case involved a systemic challenge to pervasive architectural barriers in a major, newly constructed sports and entertainment complex, Levi's Stadium, that was inaccessible to visitors with mobility disabilities. The case also involved challenges to policies and procedures that discriminated against visitors with mobility disabilities and their companions. Resolving this hard-fought litigation – which involved more than three years of intensive litigation, highly contested motions, substantial, contested fact and expert discovery, and extensive arms-length negotiations before two highly regarded mediators, settling just a couple of months before a Phase 1 trial -- required Class Counsel's great expertise, experience, and skill. Due to counsel's efforts, it resulted in a Settlement that provides extensive, comprehensive injunctive relief for the class remedying more than 2,600 barriers of all types, as well as a $24 million damages fund believed to be the largest ever recovered in a class disability access case involving a public accommodation.

6. Under California law, whether a requested attorneys' fee is reasonable under the lodestar-multiplier method involves several interrelated factors, including (1) the potential value of the litigation and the results obtained on behalf of the class; (2) the litigation risks involved; (3) the contingent nature of the representation; and (4) the novelty and difficulty of the issues presented together with the skill shown by counsel. *Laffitte v. Robert Half Int'l, Inc.*, 1 Cal. 5th 480, 488 (2016); *Lealao v. Beneficial California, Inc.*, 82 Cal. App. 4th 19, 42-43 (2000) (citing Pearl, California Attorney Fee Awards (2d ed. 1998) §§ 13.1-13.7).

7. As applied here, given the exceptional results achieved, the great risk taken by representing the Class on an entirely contingent basis, the skill and expertise required to address the novel and difficult issues presented by this case and to overcome the Defendants' vigorous resistance, and the attorneys' fees found reasonable in other class actions and private representations, it is my opinion that Plaintiffs' carefully documented attorneys' fee of $12,147,152 is entirely consistent with

the legal marketplace for comparable work and is reasonable here.

8. In forming my opinion, my review of Class Counsel's declarations shows that their documented net lodestar as of May 15, 2020, based on contemporaneous time records billed at each attorney's 2019 hourly rate, is $11,605,473. I have examined the rates that each attorney has used to compute the lodestar, along with each attorney's experience and background. Based on that review, in my opinion the hourly rates requested by Plaintiffs' attorneys are well within the range of hourly rates charged by comparably qualified and experienced attorneys for comparable work in the Northern District of California. They also are consistent with the hourly rates found reasonable by this Court and other Bay Area courts for attorneys with comparable litigation experience performing similar services.

9. It also is my opinion that the number of hours billed by the law firms representing the Class is entirely appropriate and reasonable in light of the breadth and complexity of the factual and legal issues raised by an action that involved more than 2,600 unlawfulbarriers, Defendants' fierce resistance, the stakes involved, the high quality of the work I have reviewed, the time keeping practices used to document those hours, counsel's voluntary billing reductions, and most importantly, the exceptional results obtained.

10. I also have reviewed Plaintiffs' requested costs and expenses, and in my opinion, they appear to be quite reasonable for a case of this breadth, complexity, and intensity.

11. It also is my opinion that a lodestar multiplier of 1.5 is modest and reasonable based on the factors summarized in paragraph 6 above and discussed in more detail below. It also is well within the range of lodestar multipliers found reasonable by both the federal and California courts in comparable cases.

12. The following is an index to the various components of this Declaration:

- In paragraphs 4 through 11, I have provided a summary of my opinions;
- In paragraphs 13 through 19, I provide an overview of my relevant experience;
- In paragraph 20 , I identify the assignment I was given by Class Counsel and the documents I have reviewed;
- In paragraphs 21 through 25, I note the difference between the "lodestar" and

"percentage-of-the-fund" methodologies for determining attorneys' fees in civil rights class action cases under federal and California law and express my opinion that the former is more appropriate here;

- In paragraphs 27 through 39, I opine that the hourly rates charged by Class Counsel are well within the range of hourly rates charged by and awarded to Bay Area attorneys of comparable experience, skill and reputation for reasonably comparable services. I support that opinion with a summary of hourly rates found reasonable in numerous cases since this case began, including five awards rendered by this Court, and with data on hourly rates charged by national and local law firms in the Bay Area legal market for similarly complex litigation.
- In paragraphs 39 through 40, I opine that Class Counsel's hours, which are based on contemporaneous time records and reflect significant billing judgment, are fully justified by the breadth and scope of the litigation, by the vigorous opposition, and by the excellent results obtained, and are well within the expected range of hours appropriate for a case of this complexity and intensity; and
- In paragraphs 40 through 62, I analyze the factors that California and federal courts use to assess the appropriate lodestar multiplier to apply to determine reasonable attorneys' fees, including the results obtained, contingent risk, and the novelty and complexity of the issues, all of which support my opinion that a 1.5 multiplier would be very reasonable;
- In paragraphs 63 through 65, I compare the requested multiplier to comparable multipliers applied in other complex cases, concluding that it is equally reasonable here;
- In paragraphs 66 through 70, I compare the requested fee award to fees charged in private fee arrangements, concluding that it is entirely consistent with those arrangements;
- In paragraph 72, I review the types of expenses and costs for which Plaintiffs seek reimbursement and conclude that they are of the type typically charged to fee-paying clients and therefore are appropriately reimbursable here.

PROFESSIONAL BACKGROUND

13. Briefly summarized, my background is as follows: I am a 1969 graduate of Berkeley Law (formerly Boalt Hall School of Law), University of California, Berkeley, California. I took the

California Bar Examination in August 1969 and passed it in November of that year, but because I was working as an attorney in Atlanta, Georgia, for the Legal Aid Society of Atlanta (LASA), I was not admitted to the California Bar until February 1970. I worked for LASA from October 1969 until the summer of 1971, and then went to work in McFarland, California for California Rural Legal Assistance, Inc. (CRLA), a statewide legal services program serving low-income persons. In 1974, I moved to CRLA's central office in San Francisco, as the Director of its statewide support center serving other legal services programs. In 1977, I became CRLA's Director of Litigation, where my responsibilities included supervising more than fifty attorneys. In 1982-1983, I transitioned into private practice, first in a small law firm, then as a sole practitioner. Martindale Hubbell rates my law firm "AV." I also have been selected as a Northern California "Super Lawyer" in Appellate Law for 2005, 2006, 2007, 2008, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and 2020. A true and correct copy of my resume is attached as Exhibit A.

14. Since 1982, my practice has been a general civil litigation and appellate practice, with an increasing emphasis on cases and appeals involving court-awarded attorneys' fees. In addition to serving as an advocate for litigants and their attorneys, I also have frequently been retained as an expert witness and/or consultant on attorneys' fee issues. I also have lectured and written extensively on court-awarded attorneys' fees before a wide variety of groups, was a member of the California State Bar's Attorneys' Fees Task Force, and have testified before the State Bar Board of Governors and the California Legislature on attorneys' fee issues.

15. I am the author of CEB's California Attorney Fee Awards, 3d Ed. (Calif. Cont. Ed. of Bar 2010) and its 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and March 2020 Supplements. I also authored California Attorney Fee Awards, 2d Ed. (Calif. Cont. Ed. of Bar 1994), and its annual supplements from 1995 through 2008. I also co-authored CEB's original California Attorney's Fees Award Practice, published in 1983, and authored its 1984, 1985, 1987, 1988, 1990, 1991, 1992, and 1993 supplements. This treatise has been cited by the California appellate courts on numerous occasions. *See*, *e.g.*, *Graham v. DaimlerChrylser Corp.*, 34 Cal. 4th 553, 576, 584 (2004); *Lolley v. Campbell*, 28 Cal. 4th 367, 373 (2002); *In re Conservatorship of Whitley*, 50 Cal. 4th 1206, 1214-15, 1217 (2010); *Syers Props III, Inc. v. Rankin*, 226 Cal. App. 4th 691, 698, 700 (2014).

Federal courts also have cited it. *See In re Hurtado*, Case No. 09-16160-A-13, 2015 WL 6941127 (E.D. Cal. Nov. 6, 2015); *TruGreen Cos., LLC v. Mower Bros., Inc.*, 953 F. Supp. 2d 1223, 1236 ns. 50, 51 (D. Utah 2013). In addition, I authored a federal manual on attorneys' fees entitled "Attorneys' Fees: A Legal Services Practice Manual," published by the Legal Services Corporation. I also co-authored the chapter on "Attorney Fees" in Volume 2 of CEB's Wrongful Employment Termination Practice, 2d Ed. (1997). My other written publications are set out in my Resume (Exhibit A).

16. More than 95% of my practice is devoted to issues involving reasonable attorney's fees, both as an advocate and as an expert. I have been counsel in over 200 attorneys' fee applications in state and federal courts, primarily representing other attorneys. I also have briefed and argued more than 40 appeals, at least 30 of which have involved attorneys' fees issues. I have successfully handled five cases in the California Supreme Court involving court-awarded attorneys' fees: (1) *Maria P. v. Riles*, 43 Cal. 3d 1281 (1987), which upheld a fee award under California Code of Civil Procedure "(C.C.P.") section 1021.5 based on a preliminary injunction obtained against the State Superintendent of Education, despite the fact that the case ultimately was dismissed under C.C.P. section 583; (2) *Delaney v. Baker*, 20 Cal. 4th 23 (1999), which held that heightened remedies, including attorneys' fees, are available in suits against nursing homes under California's Elder Abuse Act; (3) *Ketchum v. Moses,* 24 Cal. 4th 1122 (2001), which held, *inter alia*, that contingent risk multipliers remain available under California attorney fee law, despite the United States Supreme Court's contrary ruling on federal law (note that in *Ketchum*, I was primary appellate counsel in the Court of Appeal and "second chair" in the Supreme Court); (4) *Flannery v. Prentice*, 26 Cal. 4th 572 (2001), which held, again despite an adverse United States Supreme Court ruling on federal law, that in the absence of an agreement to the contrary, statutory attorneys' fees belong to the attorney whose services they are based upon; and (5) *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), which held, *inter alia*, that the catalyst theory of attorneys' fee recovery remained valid under California law despite adverse federal law and that lodestar multipliers could be applied to fee motion work. In that case, I represented trial counsel in both the Court of Appeal (twice) and California Supreme Court, as well as on remand in the trial court. I also represented and argued on behalf of *amicus curiae* in *Conservatorship of McQueen*, 59 Cal. 4th 602 (2014), which held that statutory attorneys' fees for

appellate work were not considered "enforcement fees" under California law; I presented the argument relied upon by the Court. Along with the Western Center on Law and Poverty, I also prepared and filed an *amicus curiae* brief in *Vasquez v. State of California*, 45 Cal. 4th 243 (2009), which held that pre-filing settlement demands were not required to obtain fees under Code of Civil Procedure section 1021.5 in non-catalyst cases. I also have handled numerous other trial court motions and appeals involving court-awarded attorneys' fees, including: *Davis v. City & County of San Francisco*, 976 F.2d 1536 (9th Cir. 1992); *Mangold v. CPUC*, 67 F.3d 1470 (9th Cir. 1995); *Velez v. Wynne*, No. 04-17425, 2007 U.S. App. LEXIS 2194 (9th Cir. Jan. 29, 2007); *Camacho v. Bridgeport Financial, Inc.*, 523 F.3d 973 (9th Cir. 2008); *Center for Biological Diversity v. County of San Bernardino (N.P. Nurseries)*, 185 Cal. App. 4th 866 (2010); *Environmental Protection Information Center v. California Department of Forestry & Fire Protection et al.*, 190 Cal. App. 4th 217 (2010); *Heron Bay Home Owners Association v. City of San Leandro*, 19 Cal. App. 5th 376 (2018); *Guerrero v. California Dept. of Corrections and Rehabilitation*, 2017 U.S. App. LEXIS 12450 (9th Cir. 2017); *Orr v. Plumb*, 2019 U.S. App. LEXIS 34531 (9th Cir. 2019); and *Robles v. EDD*, 38 Cal.App.5th 191 (2019). For an expanded list of my appellate decisions, see Exhibit A, pp. 4-8.

17. I have been retained by various governmental entities, including the State of California on several occasions, at my then current rates to consult with them and serve as an expert witness regarding their affirmative attorney fee claims. *See*, *e.g.*, *In re Tobacco Cases I*, 216 Cal. App. 4th 570, 584 (2013); *Department of Fair Employment and Housing v. Law School Admission Council, Inc.*, 2018 WL 5791869 (N.D. Cal. No. 12-cv-08130-JCS, filed Nov. 5, 2018).

18. I am frequently called upon to opine about the reasonableness of attorneys' fees, and numerous state and federal courts have relied on my testimony on those issues. The following federal cases have referenced my testimony favorably:

- *Antoninetti v. Chipotle Mexican Grill, Inc.*, No. 08-55867 (9th Cir. 2012), Order filed Dec. 26, 2012, at 6;
- *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 455 (9th Cir. 2010) (the expert declaration referred to is mine);
- *Independent Living Center of S. Cal. v. Kent*, 2020 U.S. Dist. LEXIS 13019

(C.D. Cal. 2020);

- *Ridgeway v. Wal-Mart Stores, Inc.*, 269 F. Supp. 3d 975 (N.D. Cal. 2017), *aff'd on the merits*, 269 F.3d 1066 (9th Cir. 2020);
- *Beaver v. Tarsadia Hotels*, 2017 U.S. Dist. LEXIS 160214 (S.D. Cal. 2017);
- *Notter v. City of Pleasant Hill*, 2017 U.S. Dist. LEXIS 197404, 2017 WL 5972698 (N.D. Cal. 2017);
- *Villalpondo v. Exel Direct, Inc.*, 2016 WL 1598663 (N.D. Cal. 2016);
- *State Comp. Ins. Fund v. Khan et al.*, Case No. SACV 12-01072-CJC(JCGx) (C.D. Cal.), Order Granting in Part and Denying in Part the Zaks Defendants' Motion for Attorneys' Fees, filed July 6, 2016 (Dkt. No. 408);
- *In re Cathode Ray Tube Antitrust Litig.*, Master File No. 3:07-cv-5944 JST, MDL No. 1917, 2016 U.S. Dist. LEXIS 24951 (N.D. Cal. Jan. 28, 2016) (Report and Recommendation of Special Master Re Motions (1) To Approve Indirect Purchaser Plaintiffs' Settlements With the Phillips, Panasonic, Hitachi, Toshiba, Samsung SDI, Technicolor, and Technologies Displays Americas Defendants, and (2) For Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Incentive Awards to Class Representative, Dkt. 4351, dated January 28, 2016, adopted in relevant part, 2016 U.S. Dist. LEXIS 88665;
- *Gutierrez v. Wells Fargo Bank*, 2015 U.S. Dist. LEXIS 67298 (N.D. Cal. May 21, 2015);

Holman v. Experian Info. Sols., Inc., 2014 U.S. Dist. LEXIS 173698 (N.D. Cal. Dec. 12, 2014);

- *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. M 07-1827 SI, MDL No. 1827 (N.D. Cal.), Report and Recommendation of Special Master Re Motions for Attorneys' Fees and Other Amounts by Indirect-Purchaser Class Plaintiffs and State Attorneys General, Dkt. 7127, filed Nov. 9, 2012, adopted in relevant part, 2013 U.S. Dist. LEXIS 49885 (N.D. Cal. 2013) (TFT-LCD (Flat Panel) Report & Recommendation);
- *Walsh v. Kindred Healthcare*, 2013 U.S. Dist. LEXIS 176319 (N.D. Cal. Dec. 16, 2013);
- *A.D. v. California Highway Patrol*, 2009 U.S. Dist. LEXIS 110743, at *4 (N.D.

Cal. Nov. 10, 2009), *rev'd on other grounds*, 712 F.3d 446 (9th Cir. 2013), *reaffirmed and additional fees awarded on remand*, 2013 U.S. Dist. LEXIS 169275 (N.D. Cal. Nov. 27, 2013);

- *Hajro v. United States Citizenship & Immigration Service*, 900 F. Supp. 2d 1034, 1054 (N.D. Cal 2012);
- *Rosenfeld v. U. S. Dep't of Justice*, 904 F. Supp. 2d 988, 1002 (N.D. Cal. 2012);
- *Stonebrae, L.P. v. Toll Bros., Inc.*, 2011 U.S. Dist. LEXIS 39832, at *9 (N.D. Cal. 2011) (thorough discussion), *aff'd,* 2013 U.S. App. LEXIS 6369 (9th Cir. 2013);
- *Armstrong v. Brown*, 2011 U.S. Dist. LEXIS 87428 (N.D. Cal. Aug. 8, 2011);
- *Lira v. Cate*, 2010 WL 727979 (N.D. Cal. Feb. 26, 2010);
- *Californians for Disability Rights, Inc. v. California Dep't of Transportation*, 2010 U.S. Dist. LEXIS 141030 (N.D. Cal. Dec. 13, 2010);
- *Nat'l Fed'n of the Blind v. Target Corp.*, 2009 U.S. Dist. LEXIS 67139 (N.D. Cal. Aug. 3, 2009);
- *Prison Legal News v. Schwarzenegger*, 561 F. Supp. 2d 1095 (N.D. Cal. 2008) (an earlier motion);
- *Bancroft v. Trizechahn Corp.*, No. CV 02-2373 SVW (FMOx), Order Granting Plaintiff's Reasonable Attorneys' Fees and Costs in the Amount of $168,886.76, Dkt. 278 (C.D. Cal. Aug. 14, 2006);
- *Willoughby v. DT Credit Corp.*, No. CV 05-05907 MMM (CWx), Order Awarding Attorneys' Fees After Remand, Dkt. 65 (C.D. Cal. July 17, 2006);
- *Oberfelder v. City of Petaluma*, 2002 U.S. Dist. LEXIS 8635 (N.D. Cal. Jan. 29, 2002), *aff'd*, 2003 U.S. App. LEXIS 11371 (9th Cir. 2003).

19. The following California appellate cases also have referenced my testimony favorably:

- *Kerkeles v. City of San Jose*, 243 Cal. App.4th 88 (2015);
- *Habitat and Watershed Caretakers v. City of Santa Cruz*, 2015 Cal. App. Unpub. LEXIS 7156 (2015);
- *Laffitte v. Robert Half Int'l Inc.*, 231 Cal. App. 4th 860 (2014), *aff'd*, 1 Cal. 5th 480 (2016);

- *In re Tobacco Cases I*, 216 Cal. App. 4th 570 (2013);
- *Heritage Pacific Fin., LLC v. Monroy*, 215 Cal. App. 4th 972 (2013);
- *Wilkinson v. South City Ford*, 2010 Cal. App. Unpub. LEXIS 8680 (2010);
- *Children's Hosp. & Medical Center v. Bonta*, 97 Cal. App. 4th 740 (2002);
- *Church of Scientology v. Wollersheim*, 42 Cal. App. 4th 628 (1996).

ASSIGNMENT AND DOCUMENTS REVIEWED

20. In this case, as noted, I have been asked by Class Counsel to express my opinion as to the reasonableness of the lodestar-multiplier-based attorneys' fees they are requesting. To form this opinion, I have reviewed numerous documents in the case, including the following:

a. The Settlement Agreement and Exhibits (ECF No. 198-2);

b. Plaintiffs' Notice of Motion and Motion for Class Certification and memoranda in support of motion and on reply;

c. Plaintiffs' Notice of Motion and Motion for Partial Summary Judgment and memoranda in support of motion and on reply;

d. Plaintiffs' Notice of Motion and Motion for Preliminary Approval of Class Action Settlement and supporting declarations (collectively, "Preliminary Approval Motion");

e. Plaintiffs' Notice of Motion and Motion for Attorneys' Fees, Expenses and Costs ("Fee Motion");

f. Class Counsel's lodestar summaries and current and historic hourly rate sheets; and

g. Excerpts of Class Counsel's billing records for this case.

Lodestar-Multiplier Versus Percentage-of-The-Fund Methodologies

21. This case involved claims under both the Americans with Disabilities Act and California's Unruh Civil Rights Act. Plaintiffs prevailed under both statutes, obtaining injunctive relief authorized by the ADA and the Unruh Act, and a class damages fund authorized by the Unruh Act. Accordingly, the attorneys' fee-, expense- and cost- shifting provisions of both the ADA and the California law apply here. *Mangold v. Cal. Pub. Utils. Comm'n*, 67 F.3d 1470, 1478 (9th Cir. 1995).

22. Under both federal and California law, Class Counsel's fee award should fully compensate counsel by marketplace standards. See, e.g., *Hensley v. Eckerhart,* 461 U.S 424, 431 (1984) (compensation appropriate for "'all time reasonably expended in pursuit of the ultimate result achieved in the same manner that an attorney traditionally is compensated by a fee-paying client for all time reasonably expended on a matter'"); *Serrano v. Unruh* ("*Serrano IV*"), 32 Cal.3d 621, 639 (1982).

23. The standard on which my opinion is based, and the standard applied in Class Counsel's fee request, is the "lodestar/multiplier" method that both federal and California courts typically use in civil rights cases. *See Muniz v. United Parcel Serv., Inc.*, 738 F.3d 214, 222 (9th Cir. 2013); *Serrano v. Priest (Serrano III)*, 20 Cal. 3d 25, 48 (1977); *Nat'l Fedn. of the Blind v. Target Corp.,* No. C 06-01802 MHP, 2009 U.S. Dist. LEXIS 67139 (N.D. Cal. Aug. 9, 2009) (awarding fees under ADA and Unruh Act utilizing lodestar/multiplier approach). Under this method, the base or "lodestar" is determined by multiplying the number of hours reasonably expended by the reasonable hourly rate for these services. *Id.* Under California law, after the lodestar figure is determined, the Court must consider other factors that go into the determination of a reasonable attorney's fee, such as contingent risk: "[T]he unadorned lodestar reflects the general local hourly rate for a fee-bearing case; it does not include any compensation for contingent risk, extraordinary skill, or any other factors a trial court may consider." *Ketchum v. Moses*, *supra*, 24 Cal. 4th at 1138. Courts may also consider the percentage of the recovery that lawyers might expect in the legal marketplace: "In cases in which the value of the class recovery can be monetized with a reasonable degree of certainty and it is not otherwise inappropriate, a trial court has discretion to adjust the basic lodestar through the application of a positive or negative multiplier where necessary to ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace in comparable litigation." *Lealao*, 82 Cal. App. 4th at 49-50. The goal is to arrive at a reasonable attorney fee that compensates public interest attorneys by the same marketplace standards that apply to other litigation of comparable complexity, difficulty and importance: "The purpose of such adjustment is to fix a fee at the fair market value for the particular action. In effect, the court determines, retrospectively, whether the litigation involved a contingent risk or required extraordinary legal skill justifying augmentation of the unadorned lodestar in order to

approximate the fair market rate for such services." *Graham v. Daimler Chrysler Corp.*, 34 Cal. 4th 553, 579 (2004); *Serrano IV,* 32 Cal. 3d at 643.

24. Lodestar multipliers also are appropriate under federal law in cases like this one in which class counsel's attorneys' fees are negotiated as part of the overall settlement. *See, e.g. Espinosa v Ahearn (In re Hyundai and Kia Fuel Econ. Litig.)*, 926 F.3d 539, 570 (9th Cir. 2019) (*en banc*) (applying lodestar-multiplier method in class action where monetary recovery difficult to estimate); *In re High- Tech Emple. Antitrust Litigation*, 2015 U.S.Dist.LEXIS 118052, ** 32, 39 (N.D. Cal. 2015),

25. In this case, the relief Class Counsel sought and obtained here is primarily injunctive in nature and generally would be considered non-monetizable. Accordingly, Plaintiffs' counsel have based their fee request on the lodestar-multiplier method, and I concur in that choice. Under both California and federal law, a number of factors are considered to determine whether the fee requested is reasonable under the lodestar-multiplier method: "'Once the court has fixed the lodestar, it may increase or decrease that amount by applying a positive or negative 'multiplier' to take into account a variety of other factors, including the quality of the representation, the novelty and complexity of the issues, the results obtained, and the contingent risk presented.'" *Laffite*, 1 Cal. 5th at 489, quoting *Lealao*, 82 Cal. App. 4th at 26; *Espinosa,* 926 F.3d at 570.

Class Counsel's Lodestar-Multiplier Based Fee Is Reasonable

26. In my opinion, each element of Class Counsel's lodestar-multiplier based fee of approximately $12,257,000 is consistent with the fees charged and awarded in the Bay Area legal marketplace for comparably complex work and therefore is reasonable.

Counsel's $11,605,473 Lodestar Is Reasonable

27. Class Counsel's $11,605,473 lodestar, based on their 2019 hourly rates and time spent (after the exercise of billing discretion) through May 15, 2020, is as follows:

Schneider Wallace Cottrell Konecky Wotkyns LLP

Attorney	Hours	Rate	Total Fees
Guy B. Wallace	2,203.00	$925	$2,037,775.00
Mark T. Johnson	1,146.20	$875	$1,002,925.00

Attorney	Hours	Rate	Total Fees
Sarah Colby	1,303.90	$840	$1,095,276.00
Travis Close	1,021.10	$680	$694,348.00
Ryan Bonner	84.10	$625	$52,562.50
Abigail Laudick	524.70	$680	$356,796.00
Edgar Olivares	242.40	$625	$151,500.00
Justin Proctor	1,485.40	$625	$928,375.00
William Stewart	415.50	$575	$238,912.50
Jennifer Uhrowczik	162.10	$725	$117,522.50
Sam Marks	321.80	$300	$96,540.00
Total	8,910.20		$6,722,532.50

Goldstein Borgen Dardarian & Ho

Attorney	Hours	Rate	Total Fees
Linda M. Dardarian, Partner	891.40	$925	$824,545.00
Andrew P. Lee, Partner	1449.60	$710	$1,028,435.00
Katharine Fisher	1,345.50	$450	$605,475.00
Megan Ryan	122.20	$595	$72,709.00
Raymond Wendell	250.30	$475	$118,892.00
Alan Romero	120.70	$400	$48,280.00
Mengfei Sun, Law Student	52.90	$300	$15,780.00
Jacqueline Thompson, Senior Paralegal	404.00	$325	$146,672.50
Scott G. Grimes, Senior Paralegal	199.50	$325	$64,837.50
Damon Valdez, Paralegal	293.60	$295	$86,612.00
Stuart Kirkpatrick, Paralegal	373.70	$275	$102,767.50
Total	5,549.3		$3,115,006.00

Peiffer Wolf Carr & Kane

Attorney	Hours	Rate	Total Fees
Joseph Peiffer	39.2	975	$38,220.00
Adam Wolf	526.1	830	$436,663.00
Catherine Cabalo	1394.1	785	$1,094,368.50
Tracey Cowan	56.9	710	$38,761.00
Brandon Wise	76.0	510	$38,760
Drew Morock	238.4	435	$103,704.00
Tien Le	60.2	290	$17,458.00
Total	2,390.9		$1,767,934.50

In my opinion, as discussed more fully below, Class Counsel's well-documented lodestar is entirely reasonable in light of counsel's skill, qualifications, and work product, the amount of work necessitated by this complex, hard-fought case, and the exceptional results achieved.

Counsel's Requested Hourly Rates Are Reasonable.

28. Under California law, Class Counsel are entitled to their requested hourly 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*, 97 Cal. App. 4th 740, 783 (2002). Under federal law, Class Counsel are entitled to their requested hourly rates if those rates are "in line with" the rates charged by comparably qualified attorneys for reasonably similar services. *Blum v. Stenson*, 465 U.S. 886, 895 n. 11 (1984). In my opinion, the hourly rates requested here for work performed by Class Counsel meet both standards.

29. Through my writing and practice, I have become very familiar with the hourly rates charged by attorneys in California and elsewhere. I have obtained this familiarity in several ways: (1) by representing litigants and/or their attorneys in attorneys' fee litigation; (2) by serving as a consultant and/or expert in numerous fee matters; (3) by discussing fees with other attorneys; (4) by reviewing declarations regarding prevailing market rates and other factors filed in my and other attorneys' cases;

and (5) 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.

30. In preparing my opinion on the reasonableness of the hourly rates requested by Class Counsel, I have reviewed the Settlement Agreement in this case, numerous documents from the file (*see* ¶ 20 ante), and Class Counsel's hourly billing rates for 2019 on which their fee request is based. I have also reviewed the historical rates charged by the three Class Counsel firms throughout their involvement in this case. I also have become familiar with the nature and number of issues involved in this case, its outstanding results, and the level of work produced by Class Counsel, as well as Class Counsel's respective backgrounds and experience.

31. In my opinion, for the reasons discussed below, the hourly rates that Class Counsel request are eminently reasonable for this hard-fought and highly-successful litigation, under both federal and California standards. Indeed, I have worked with Mr. Wallace and Ms. Dardarian and other members of their firms on numerous occasions over the years, and am very familiar with their extremely high level of skill, expertise, experience, and dedication in complex class action litigation like this case. They are certainly among the leading class action disability access litigators in the nation, and in the private legal marketplace, they would command significantly higher rates than they are requesting here.

Rates Charged by and Found Reasonable for Class Counsel

32. Initially, my opinion regarding hourly rates is based on the fact that as described in Class Counsel's declarations, many of the hourly rates requested they request here have either been found reasonable by other courts, paid by fee-paying clients, or paid by defendants for settlement implementation work performed by Class Counsel. In my view, this is strong evidence that the requested rates are within the range of rates charged in the local legal marketplace, either because they were paid by fee-paying clients or because they were found reasonable by the courts for similar services. *See, e.g. In re Animation Workers Antitrust Litig*., No. 14-CV-4062-LHK, 2016 U.S. Dist. LEXIS 156720, *21 (N.D. Cal. Nov. 11, 2016) ($1,200 rate charged to his clients by one of three lead attorneys "provides a market-based cross check" on reasonableness of rate).

Rates Found Reasonable by This Court

33. The hourly rates requested here also are entirely consistent with the hourly rates found reasonable by this Court in at least five previous cases. As in those cases, the rates requested here vary by degree of experience and are well within the range of rates this Court has found reasonable for skilled and experienced class action attorneys:

a. In *Cole v. County of Santa Clara*, N.D. Cal. No. 16-CV-06594-LHK, Order Granting Final Approval of Class Settlement and Motion for Attorneys' Fees, filed March 21, 2019, a disability rights class action, this Court found the following **2018** hourly rates reasonable:

Bar Admission Date	Rate
Rosen, Bien, Galvan & Grunfeld LLP	
2006	$650
2010	$525
2016	$375
Paralegals	$225-340
Disability Rights Advocates	
1998	$775
2005	$655
2014	$425
Paralegals	$230

b. In *In re Anthem, Inc. Data Breach Litigation*, No. 15-MD-02617-LHK, 2018 U.S. Dist. LEXIS 140137 (N.D. Cal. Aug. 17, 2018), this Court found the following **2017** billing rates reasonable:

Firm	Years of Experience	2017 Rates
Altshuler Berzon		
	23-25	$820-$860
	16-19	$690-770
	5-7	$405-460
Law Clerks	--	$285
Paralegals	--	$250
Gibbs Law Group		
	23-29	$740-805
	10-17	$575-685
	17 (Assoc.)	$395
	1-9	$275-$525
	5-6 (Contract Atty)	$350-$375
	Paralegals	$190-$220

Lieff Cabraser Heimann & Bernstein		
	11-16	$510-$675
	2-6	$370-$455
	0-13 (Contract Atty)	$415
	Paralegals	$360
Finkelstein Thompson LLP		
	24-48	$850
	17	$600
	20 (Of Counsel)	$850
	12 (Of Counsel)	$475
	4	$300

c. In *Huynh v. Hous. Auth. of Santa Clara*, 2017 U.S. Dist. LEXIS 39138 (N.D. Cal. 2017), a tenant class action challenging the Housing Authority's policy regarding the accommodation of households with disabled family members, this Court found the following **2017** hourly rates reasonable:

Graduation Year	Rate
Law Foundation of Silicon Valley	
1990	$800
2001	$660
2004	$635
2007	$545
2008	$545
2010	$415
2014	$325
2015	$325
Fish & Richardson PC	
1996	$862.07
2002	$700
2005	$676.75
2011	$530
2007	$475
2014	$362.54
2015	$329.09
2016	$330.11
Paralegals	$236-275

d. In *Animation Workers Antitrust Litigation*, N.D. Cal. No. 14-CV-4062 LHK, Order Granting Plaintiff's Motion for Attorneys' Fees, Expenses, and Service Awards for Settlements with *Sony Pictures Imageworks, Inc.*, *Sony Pictures Animation Inc.*, and *Blue Sky Studios Inc.*, filed November 11, 2016, reported at 2016 U.S. Dist. LEXIS 156720, a class action alleging defendants violated the antitrust laws by engaging in a fraudulent conspiracy to fix wages, the court found the following **2016** hourly rates reasonable:

Years of Experience	Rate
44	$1,200
27	$845
22	$735
Paralegals	Up to $290

e. In *In re High-Tech Emple. Antitrust Litig.*, 2015 U.S. Dist. LEXIS 118052 (Order filed Sept. 2, 2015),an antitrust action challenging the defendants' attempts to restrict their employees' ability to change employers, this Court found the following **2015** hourly rates reasonable (before applying a 1.5 multiplier):

- $490.00 to $975.00 for partners;
- $310 to $800, with most under $500, for non-partner attorneys including senior attorneys, of counsel, and associates;
- $190 to $430, with most in the $300 range, for paralegals, law clerks, and litigation support staff.

Even without taking into account the general inflation in legal rates over the last several years (*see* fn.2, *infra*), the **2019** rates Class Counsel request here are entirely consistent with these prior findings.

Rates Found Reasonable in Other Cases

34. The hourly rates requested by Class Counsel also are well within the range of the San Francisco Bay Area rates found reasonable by other local courts for reasonably comparable services:

- In *Perez v. Rash Curtis & Associates*, N.D. Cal. No. 4:16-cv-03396-YGR, Order, *inter alia*, Granting in Part and Denying in Part Motion for an Award of Attorneys' Fees, Costs, and Expenses, filed April 17, 2020 [Doc. 427], a consumer action under both federal and state law

resulting in a $267 million judgment, the court awarded counsel a percentage-based common fund fee of 25% of the fund, which it cross-checked against a lodestar-based fee that included a lodestar multiplier ranging beteween13.42 and 18.15. The hourly rates from which the lodestar was derived were as follows:

Admission to Bar	Rate
PARTNERS:	
1997	$1,000
2002	$850
2006	$750
2009	$650
2013	$550
ASSOCIATES	
2010	$550
2013	$525
2016	$400
2017	$375
2019	$325
Law Clerk	$300
Senior Litigation Support Spclist.	$275-300
Litig. Support Spclist.	$200-250

- In *In re Wells Fargo & Company Shareholder Derivative Litigation*, N.D. Cal. No. 16-cv-05541-JST, Order Granting Motion for Final Approval and Motion for Attorneys' Fees, filed April 7, 2020 [Doc. 312], a shareholder derivative class action, the court found the following **2020** hourly rates reasonable:

Lieff, Cabraser, Heimann & Bernstein LLP	**Law School Graduation Year**	**Rate**
	1972	$1,075
	1998	$950
	1993	$900
	1984	$850
	2000	$775
	2001-2002	$700
	2005	$650

Lieff, Cabraser, Heimann & Bernstein LLP	Law School Graduation Year	Rate
	2007	$590
	2008	$560
	2012	$480-510
	2015	$440
	2017	$395
	Law Clerk	$375-395
	Paralegal/Clerk	$345-390
	Litigation Support/Research	$345-495

- In *National Federation of the Blind of California v. Uber Technologies, Inc.*, N.D. Cal. No. 14-cv-04086 NC Amended Order Granting in Part Plaintiffs' Motion for Attorneys' Fees and Costs, filed November 8, 2019 (Dkt. No. 203), a class action against Uber alleging that it violated federal antidiscrimination laws by allowing its drivers to refuse to accept service dogs, the court found the following **2019** hourly rates reasonable for monitoring Uber's compliance with the settlement[1]:

Rosen Bien Galvan & Grunfeld LLP Class	Rate
1997	$800
2011	$525
2016	$400
Senior Paralegal	$350
Paralegals	$250-275

Disability Rights Advocates	Rate
1998	$785
2014	$470
2014	$425
Paralegals	$230-275

- In *Shaw et al v. AMN Service, LLC et al*, N.D. Cal. No. 3:16-cv-02816 JCS, Order Granting Plaintiffs' Motion for Reasonable Attorneys' Fees and Costs, filed May 31, 2019 [Doc. 167], a wage and hour class action, based in part on my testimony the court found the following

[1] The court's initial Fee Order for work on the merits is described below at p. 24.

2018 hourly rates reasonable, before applying a 2.4 lodestar multiplier:

BAR ADMISSION DATE	RATE
1996	$835
2009	$750
2014	$675
1996 (Florida)	$600
2016	$400
2017	$380

- In *Armstrong v. Brown*, N.D. Cal. No. 4:94-cv-02307-CW, Stipulated Order Confirming Undisputed Attorneys' Fees and Costs for the Third Quarter of 2018, filed January 2, 2019 (Dkt. No. 2804), a prisoners' rights class action, the court approved the following **2018** hourly rates for monitoring the injunction in that matter:

Years of Experience	Rate
40	$965
34	$835
21	$790
14	$675

- In *Department of Fair Employment and Housing v. Law School Admission Council, Inc.*, N.D. Cal. No. 12-cv-08130-JCS, filed Nov. 5, 2018, reported at 2018 WL 5791869, an action for civil contempt based on violation of a consent decree, based in part on my testimony, the court found the following **2018** hourly rates reasonable:

Years of Experience:	Rates:
35 5 and 6	$850 $425
Law Clerk and 1st year	$290

- In *Kaku v. City of Santa Clara, Santa Clara Superior Court*, No. 17CV319862, Fee Order filed January 22, 2019, reported at 2019 WL 331053 (Cal. Super. 2019), a voting rights action under the California Voting Rights Act, involving Goldstein, Borgen, Dardarian & Ho, and based in part on my testimony, the court found the following **2018** hourly rates reasonable, before applying a 1.4 lodestar multiplier:

Firm	Graduation Year	2018 Rate
Goldstein, Borgen, Dardarian & Ho		

	1970	$875
	1994	$860
	2013	$450
	2015	$405
	2016	$375
Law Clerk	--	$295
Statistician & Senior Paralegal	--	$300
Paralegal	--	$250
Law Office of Robert Rubin		
	1978	$975
	2013	$615
Asian Law Alliance		
	1978	$550
	2009	$375

- In *Max Sound Corp. v. Google Inc.* (N.D. Cal. Sept. 25, 2017) 2017 U.S. Dist. LEXIS 168541, a patent action dismissed by the court on defendants' motion, the court found the following hourly rates reasonable:

California Bar Admission Date	Rates Over a Two-Year Period
1995	$905
2000	$650-950
2007	$504-608
2012	$336-575

- In *In re National Collegiate Athletic Assn. Athletic Grant-In-Aid Antitrust Litigation* (N.D. Cal. Dec. 6, 2017) 2017 U.S. Dist. LEXIS 201108, *affirmed* (9th Cir. 2019) 2019 U.S. App. LEXIS 11474, a class antitrust action, the court found the following **2017** hourly rates reasonable:

Law Firm	Rate
Hagens Berman Sobol Shapiro LLP	
Senior Attorney	$950
Other Partners	$578-760
Associates	$295-630
Pearson, Simon & Warshaw LLP	
Senior Attorneys	$835-1,035
Other Partner	$715-870
Of Counsel	$450-900

Law Firm	Rate
Associates	$350-635
Staff & Law Clerks	$175-225
Pritzker Levine	
Partners	$695
Of Counsel and Associates	$495-625

- In *Armstrong v. Brown*, N.D. Cal. No. 4:94-cv-02307-CW, Stipulated Order Confirming Undisputed Attorneys' Fees and Costs for the Third Quarter of 2017, filed December 19, 2017 (Dkt. No. 2708), a prisoners' rights class action, the court approved the following **2017** hourly rates for monitoring the injunction in that matter:

Years of Experience	Rate
37	$950
33	$825
20	$780
24 (Of Counsel)	$700
12 (Partner)	$650
9 (Associate)	$490
8	$480
7	$470
6	$440
Paralegals	$240-325

- In *National Federation of the Blind of California v. Uber Technologies, Inc.*, N.D. Cal. No. 14-cv-04086 NC, Order Granting Final Approval and Attorneys' Fees, filed December 6, 2016 (Dkt. No. 139), a class action against Uber alleging that it violated federal antidiscrimination laws by allowing its drivers to refuse to accept service dogs, in which the court found the following **2016** hourly rates reasonable (before applying a 1.5 lodestar multiplier under California law):

Class	Rate
1980	$900
1985	$895
1997	$740
2005	$645
2010	$475
2011	$460

2014	$355
Paralegals	$275
Summer Associates	$275-280
2	$265

- In *Civil Rights Education and Enforcement Center v. Ashford Hospitality Trust, Inc.*, 2016 U.S. Dist. LEXIS 37256 (N.D. Cal. March 22, 2016), an action challenging defendants' hotels' failure to provide wheelchair accessible transportation, the court found the following **2015** hourly rates reasonable:

Years of Experience	Rate
41	$900
24	$750
10	$550
8	$500
5	$430
Paralegal	$250

SURVEYS OF LAW FIRMS RATES

34. Class Counsel's rates here also are consistent with the range of rates described in several credible legal rate surveys and articles, including the following:

- On August 27, 2019, Law.Com published an article by Mike Scarcella and Macia Coyle, entitled "What New Supreme Court Cases Reveal About Big Law Billing Rates" (copy attached as Exhibit B). That article revealed that top-flight appellate attorneys are charging rates as high as $1,800 and $1,350 per hour. Here, even though Class Counsel are national leaders in their field, their hourly rates here are 25-40% *lower* than those "top of the market" rates.

- In December 2015, Thomson Reuters published its Legal Billing Report, Volume 17, Number 3. A true and correct copy of the pages of that report listing California and West Region firms is attached to hereto as Exhibit C. It shows that the rates claimed by Plaintiffs' law firms here are well within the range of rates that other Bay Area law firms were charging five years ago for reasonably comparable work. For example, it shows that in *2015*, Paul Hastings billed a 19-year attorney at $975 hour, which is significantly higher than the *2019* rates requested here by several of

the Classes' far more experienced attorneys.

- 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 to the as Exhibit D. It contains the rates charged by numerous Bay Area law firms handling comparably complex litigation, and that even in 2014, many firms were billing at more than $1,000 per hour. Even discounted, the rates reported here are significantly higher than Class Counsel's 2016/2017 rates, as well as their current rates. For example, as long ago as 2013, the average partner rate at Gibson, Dunn & Crutcher was $980 per hour, higher than any of Class Counsel's 2019 rates here.

- On January 13, 2014, the National Law Journal published an article by Karen Sloan about its most recent rate survey entitled "$1,000 Per Hour Isn't Rare Anymore; Nominal billing rates rise, but discounts ease below." 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 as Exhibit E. Of the 50 firms listed, several have offices in the Bay Area and many others have significant litigation experience in this area. Again, the rates reported here are significantly higher than Class Counsel's 2016/2017 rates, as well as their current rates.

- In an article entitled "On Sale: The $1,150-Per Hour Lawyer," written by Jennifer Smith and published in the Wall Street Journal on April 9, 2013, the author describes as long as seven years ago the rapidly growing number of lawyers billing at $1,150 or more revealed in public filings and major surveys. A true and correct copy of that article is attached hereto as Exhibit F. The article also notes that in the first quarter of 2013, the 50 top-grossing law firms billed their partners at an average rate between $879 and $882 per hour. This average would include attorneys in the 8-10 year experience level since that is the time those who are going to make partner normally do so, suggesting that as long ago as 2012 or 2013, the more experienced attorneys were frequently billing over $1000.

Rates Charged by Other Law Firms

35. Class Counsel's rates also are supported by the standard hourly non-contingent rates for comparable civil rights class action and complex litigation stated in court filings, depositions, surveys,

or other reliable sources by numerous California law firms or law firms with offices or practices in California. These rates include, in alphabetical order:

Altshuler Berzon LLP		
2018 Rates	**Graduation Year**	**Rate**
	1968-1983	$940
	1985	920
	1989	900
	1991	885
	1992	875
	1994	835
	1998	795
	2000	740
	2001	725
	2008	540
	2009	515
	2010	485
	2012	435
	2013	415
	2014	390
	2015	365
	Law Clerks	285
	Paralegals	250
2017 Rates:	**Years of Experience/Level**	**Rates**
	Senior Partners	$930
	Junior Partners (1991-2001)	$875-690
	Associates (2008-2013)	$510-365
	Paralegals	$250
2015 Rates:	**Years of Experience/Level**	**Rates**
	32	$895
	Junior Partners	$825-630
	Associates	$450-340
	Paralegals	$250
Arnold Porter LLP		
2015 Rates:	**Level**	**Rates**
	Partner	Up to $1,085
	Associates	Up to $710
2014 Rates:	**Years of Experience**	**Rates**
	49	$995
	45	$720
	39	$655
The Arns Law Firm LLP		

2014 Rates:	Years of Experience	Rates
	37	$950
	Law Clerks	$165
Boies Schiller & Flexner LLP		
2017 Rates:	**Bar Admittance or Law School Graduation**	**Rates**
	1986	$1,049
	2006	$972
	1999-2000	$830
	2004	$760
	2006	$680
	2007	$714
	2009	$800
2016 Rates:	**Bar Admittance**	**Rates**
	1988	$960
	2000	$830
	2001	$880
Cooley LLP		
2017 Rates:	**Years of Experience**	**Rates**
	22	$902
2014 Rates:	**Years of Experience**	**Rates**
	31	$1,095
	17	$770
	9	$685
Cotchett, Pitre & McCarthy, LLP		
2019 Rates:	**Year of CA Bar Admission**	**Rates**
	1965	$950
	1992	$925
	1994	$850
	2006	$750
	Senior Associate	$600
	Associates	$375-425
	Paralegals, Case Assistants, Law Clerks	$225-325
Duane Morris LLP		
2018 Rates:	**Bar Admission Year**	**Rates**
	1973	$1,005
	2008	$605
	2011	$450
	2017	$355

	Sr. Paralegal	$395
2016 Rates:	**Years of Experience**	**Rates**
	43	$880
	41	$880
	26	$720
	25	$695
Gibson Dunn & Crutcher LLP		
2017 Rates (* rate increased in Sept. 2017)	**Bar Admittance or Law School Graduation**	**Rates**
	1987	$*852/$956
	1987	$944
	1997	$960
	2006	$736
	2008	$*592/$696
	2013	$*404/$600
	2015	$520
	2016	$472
Non-Attorney		$216-335
2016 Rates:	**Bar Admittance**	**Rates**
	1987	$852
	2010	$540
	2013	$404
2015 Rates:	**Years of Experience**	**Rates**
	37	$1,125
	23	$955
	3	$575
Hagens Berman Sobol Shapiro LLP		
2017 Rates:	**Levels:**	**Rates**
	Senior Attorney	$950
	Other Partners	$578-760
	Associates	$295-630
Hooper, Lundy & Bookman		
2019 Rates:	**Law School Graduation Year**	**Rates**
	1975	$1,025
	1976	$965
	1979	$1,025
	2007	$815
	2011	$800
	2015	$640

	2016	$600
	2019	$440
2018 Rates:	**Law School Graduation Year**	**Rates**
	1975	$1,025
	1976	$930
	1979	$995
	2015	$570
Jones Day		
2016 Rates:	**Bar Admission Year**	**Rates**
	2001	$900
	2014	$450
2015 Rates:	**Bar Admission Year**	**Rates**
	2001	$875
	2014	$400
Keker & Van Nest, LLP		
2018 Rates:	**Years of Experience**	**Rates**
	18	$875
	5	$600
	3	$500
2017 Rates:	**Years of Experience**	**Rates**
	9	$650
	5	$525
	Other Partners	$525-975
	Associates	$340-500
	Paralegals/Support Staff	$120-260
Kirkland & Ellis		
2017 Rates:	**Years of Experience**	**Rates**
	20	$1,165
	9	$995
	8	$965
	5	$845
	4	$845
	3	$810
	2	$555
Latham & Watkins		
2016 Rates:	**Average**	**Rates**
	Average Partner	$1,185.83
	Highest Partner	$1,595

	Lowest Partner	$915
	Average Associate	$754.62
	Highest Associate	$1,205
	Lowest Associate	$395
Lieff Cabraser Heimann & Bernstein, LLP		
2020 Rates:	**Law School Grad. Year**	**Rates**
	1972	$1,075
	1998	$950
	1993	$900
	1984	$850
	2000	$775
	2001-2002	$700
	2005	$650
	2007	$590
	2008	$560
	2012	$480-510
	2015	$440
	2017	$395
	Law Clerk	$375-395
	Paralegal/Clerk	$345-390
	Litigation Support/Research	$345-495
2017 Rates:	**Years of Experience**	**Rates**
	11-16	$510-$675
	2-6	$370-$455
	0-13 (Contract Atty)	$415
	Paralegals	$360
2015 Rates:	**Year of Bar Admission**	**Rates**
	1972	$975
	1989	$850
	2001	$625
	2006	$435
	2009	$435
2014 Rates:	**Year of Bar Admission**	**Rates**
	1998	$825
Milbank, Tweed, Handley & McCloy LLP		
2016 Rates:	**Bar Admission Date**	**Rates**
	1983	$1,025
	1984	$1,350
	1992	$1,350
	2002 (Associate)	$915

Morrison Foerster LLP		
2018 Rates:	**Years of Experience**	**Rates**
	40	$1,050
	22	$950
	11	$875
	3	$550
	Paralegal	$325
2017 Rates:	**Bar Admission Date**	**Rates**
	2007	$608
	2012	$575
2016 Rates:	**Bar Admission Date**	**Rates**
	1975	$1,025
	1999	$975
	1993	$975
Munger, Tolls & Olson		
2016 Rates (unless otherwise noted)	**Bar Admittance or Law School Graduation**	**Rates**
	1966 (Partner)	$1,000 (2015); $1,245 (2016)
	1977	$1,110 (2015)
	1981	$910
	1985	$995
	1992	$875-885
	1995	$910
	2002	$750
	1976 (Of Counsel)	$705
	2009 (Associates)	$615 (2015); $660 (2016)
	Non-Attorney Timekeepers	380-90
O'Melveny & Myers		
2019 Rates:	**Level**	**Rates**
	Senior Partner	$1,250
	Partner (1998 Bar Admitted)	$1,050
	3rd Year Associate	$640
	2nd Year Associate	$656
2016 Rates:	**Bar Admission Date**	**Rates**
	1985	$1,175
	2004	$895
	2005	$780
	2007	$775
	2010	$725
	2011	$700

	2012	$655
	2013	$585
	2014	$515
	2015	$435
Paul Hastings LLP		
2016 Rates:	**Bar Admission Date**	**Rates**
	1973	$1,175
	1997	$895
	1990	$750
Pearson Simon & Warshaw LLP		
2019 Rates:	**Years of Experience**	**Rates**
	23-38	$1,150
	10	$900
	Of Counsel	$825
	6	$500
	4	$450
	Paralegals	$225
2018 Rates	**Years of Experience**	**Rates**
	22-37	$1,050
	9	$650
	Of Counsel	$725
	5	$450
	3	$400
2017 Rates:	**Years of Experience**	**Rates**
	35-36	$1,035
	8	$520
	4	$400
	2	$350
Proskauer Rose LLP		
2016 Rates:	**Bar Admission Date**	**Rates**
	1974	$1,475
	1983	$1,025
	1979	$950
	2007	$850
	2013	$495
	2015	$440-445
Reed Smith LLP		
2020 Rates:	**Years of Experience**	**Rates**
	22	$930

	14	$840
	16	$780
	Paralegals	$250
Ropes & Gray		
2016 Rates:	**Level**	**Rates**
	Partner	$880-1,450
	Counsel	$605-1,425
	Associate	$460-1050
	Paralegals	$160-415
Rosen, Bien, Galvan & Grunfeld LLP		
2019 Rates:	**Class**	**Rates**
	Partners:	
	1962	$1,050
	1980	$1,000
	1981	$940
	1984	$860
	1997	$800
	2005	$700
	2008	$640
	Of Counsel:	
	1993	$725
	2003	$700
	Senior Counsel:	
	2008	$610
	2009	$585
	Associates:	
	2010	$540
	2011	$525
	2013	$460
	2015	$440
	2016	$400
	2017	$350
	Senior Paralegals:	$350
	Litigation Support/Paralegal Clerks	$225
	Law Students:	$275
	Word Processing:	$85
2018 Rates:	**Class**	**Rates**
Partners:	1962	$1,000
	1980	$965
	1981	$920
	1984	$835
	1997	$780