

1		2005	\$650
2	Of Counsel:	1983	\$800
3		1993	\$700
4		2003	\$675
5	Senior Counsel:	2008	\$585
6		Associates:	
7		2009	\$535
8		2010	\$525
9		2011	\$500
10		2013	\$440
11		2015	\$410
12		2016	\$375
13		Paralegals	\$340-240
14		Litigation Support/Paralegal Clerks	\$225
15		Law Students:	\$275
16		Word Processing	\$85
17	2017 Rates:	Class/Level	Rates
18		Partners	
19		1962	\$1,000
20		1980	\$950
21		1981	\$900
22		1984	\$825
23		1997	\$780
24		2005	\$650
25		Of Counsel	
26		1983	\$800
27		1993	\$700
28		2003	\$675
		Associates	
		2008	\$575
		2009	\$515
		2010	\$500
		2011	\$490
		2013	\$425
		2015	\$400
		2016	\$375
		Paralegals	\$325-240
		Litigation Support/Paralegal Clerks	\$225
		Law Students	\$275
		Word Processing	\$85
	2016 Rates:	Class/Level	Rates
		1962	\$995
		1980	\$900
		1985	\$800
		1997	\$740

1		2008	\$545
2		2009	\$490
3		Certified Law Student	\$275
4		Paralegal	\$275
5	2015 Rates:	Years of Experience/Level	Rates
6		Partners	
7		53	\$930
8		35	\$840
9		33	\$775
10		31	\$710
11		18	\$690
12		9	\$525
13		Of Counsel	\$590-610
14		Associates	
15		9	\$490
16		8	\$480
17		7	\$470
18		6	\$440
19		5	\$420
20		4	\$400
21		3	\$380
22		Paralegals	\$250-295
23		Litigation Support/Paralegal Clerks	\$200-220
24		Law Students	\$275
25		Word Processing	\$85
26			
27			
28			
	<i>Law Office of Robert Rubin</i>		
	2018 Rate:	Years of Experience	Rate
		30	\$975
	2015 Rate:	Years of Experience	Rate
		37	\$875
	<i>Schonbrun, DeSimone, Seplow, Harris & Hoffman</i>		
	2019 Rate:	Years of Experience	Rates
		43	\$1,050
	<i>Law Office of James Sturdevant</i>		
	2019 Rate:	Years of Experience	Rates
		47	\$975
	<i>Wilson Sonsini Goodrich & Rosati PC</i>		
	2017 Rates	Bar Admission Date	Rates
		2000	\$950

1		
2	<i>Winston & Strawn</i>	Title
3		Rates
4		Partners
5		\$1,515
6		\$1,245
7		\$1,105
8		\$1,025
9		Associates
10		\$825
11		\$660
12		\$615
13	2018 Rates:	Title
14		Rates
15		Partners
16		\$1,445
17		\$1,185
18		\$1,050
19		\$820
20		Associates:
21		\$765
22		\$585
23		Paralegals
24		\$170-340
25		Litigation Support Mgr.
26		\$275
27		Review Attorneys
28		\$85
29	2017 Rates:	Title
30		Rates:
31		Partners
32		\$1,365
33		\$1,120
34		\$990
35		Associates:
36		\$760
37		\$690
38		\$645
39		\$520
40		\$495
41		Paralegals:
42		\$165-295
43	2016 Rates:	Title
44		Rates:
45		Partners:
46		\$1,290
47		\$1,095
48		\$965
49		\$960
50		\$885
51		Associates:
52		\$715
53		\$615
54		\$575
55		\$470
56		Paralegals:
57		\$170-280
58		Litigation Support Mgr.
59		\$250

36. The foregoing data shows that the rates requested by Class Counsel for their work in this litigation are well within, and sometimes significantly below, the range of rates charged by comparably qualified attorneys in the local market for similarly complex work.

1 37. In my experience, fee awards are almost always determined based on current rates, *i.e.*,
 2 the attorney’s rate at the time a motion for fees is made, rather than the historical rate at the time the
 3 work was performed. This is a common and accepted practice to compensate attorneys for the delay in
 4 being paid. *See Robles v. Employment Development Dept.*, 38 Cal. App. 5th 191, 205 (2019); *Davis v.*
 5 *City & County of San Francisco*, 976 F.2d 1536, 1548 (9th Cir. 1992), modified on other grounds, 984
 6 F.2d 345 (9th Cir. 1993). The hourly rates set forth above are those charged where full payment is
 7 expected promptly upon the rendition of the billing and without consideration of factors other than
 8 hours and rates. If any substantial part of the payment were to be deferred for any substantial period of
 9 time, for example, the fee arrangement would be adjusted accordingly to compensate the attorneys for
 10 those factors.

11 38. This Court also has requested that Class Counsel provide their “historical” rates over
 12 the course of the litigation, and I have reviewed those rates as well. In my opinion, counsel’s historical
 13 rates further demonstrate that their current rates being requested now are reasonable, for several
 14 reasons: *First*, they are consistent with the rates found reasonable by this Court and others in prior
 15 years, with the surveys discussed above, and with the historical rates of the law firms listed above..
 16 *Second*, they are consistent with the rate increases taken generally in the legal marketplace. Since
 17 2015, hourly rates in the legal marketplace have increased generally, as have Class Counsel’s levels of
 18 experience, expertise, and reputation. For example, a ten percent (10%) increase in 2016 rates over
 19 2015 rates was found reasonable in *Our Children’s Earth Foundation v. National Marine Fisheries*
 20 *Service*, 2017 LEXIS 29130 at *1, *31 (N.D. Cal. Mar. 1, 2017) (absent “specific justification”
 21 supporting higher increase, plaintiff’s attorneys entitled to 10 percent increase in 2016 rates over 2015
 22 rates”).² *Third*, under both federal and California fee law, when historical rates are used, they must be

23 _____
 24 ² General increases in the legal marketplace also have been confirmed by commentators. *See, e.g.*,
 25 *Simons, Big Law Should Raise Partner Billing Rates 10+ Percent Now*, The Recorder, Nov. 15, 2018
 26 (attached hereto as Exhibit G), at p. 3 (“In a normal year, partner rates would go up around 5 or 6
 27 percent”); Rozen, Sorry Clients: Higher Law Firm Billing Rates Do Pay Off, The American Lawyer,
 28 February 21, 2018 (attached hereto as Exhibit H) (average billing rates increasing annually at 3.3%
 rate nationally, with higher percentages for better performing firms; “[b]illing rates overall have
 continued a steady climb in recent years, despite pressure from clients on discounts, decreases, and
 other cost savings”); Strom, Are Law Firms Charging Less or Just Making Less?, The Am Law Daily,
 October 3, 2017 (attached hereto as Exhibit I) (reaching similar conclusions regarding attorney rate
 increases).

1 adjusted by a factor akin to interest to account for delay in payment. *See Missouri v. Jenkins*, 491 U.S.
2 274, 283 (1989) (“Clearly, compensation received several years after the services were rendered—as it
3 frequently is in complex civil rights litigation—is not equivalent to the same dollar amount received
4 reasonably promptly as the legal services are performed, as would normally be the case with private
5 billings.”); *Stanger v China Elec. Motor, Inc.*, 812 F.3d 734, 740 (9th Cir. 2016) (“[A]ttorneys in
6 common fund cases must be compensated for any delay in payment and failure to do so is an abuse of
7 discretion. The district court may choose one of two methods to compensate attorneys for a delay in
8 payment: (1) the court may apply the attorneys’ current rates to all hours billed during the course of the
9 litigation, or (2) the court may use the attorneys’ historical rates and add a prime rate enhancement.”
10 [Internal quotations and citations omitted.]); *Robles v. Employment Dev. Dept.*, 38 Cal. App. 5th at
11 205. The pre-judgment interest rate under California law is 7-10% (Cal. Const. Article XV; *Sea Hawk*
12 *Seafoods v. Exxon Corp. (Exxon Valdez)*, 484 F.3d 1098 (9th Cir. 2007) (state law prejudgment interest
13 rate applies to state law claim). Applying those rates to counsel’s historical rates would result in rates
14 that are *higher* than the 2019 rates being requested.

15 39. In my opinion, Class Counsel’s 2019 hourly rates are well-within the range of hourly
16 rates charged by and awarded to comparably qualified Bay Area attorneys for comparable services and
17 therefore reasonable.

18 **The Number of Hours Is Within the Expected Range**

19 40. Under both California and federal law, Class Counsel are entitled to be compensated
20 for all their reasonable efforts: “Absent special circumstances rendering the award unjust, an attorney
21 fee award should ordinarily include compensation for all the hours reasonably spent, including those
22 relating solely to the fee.” *Ketchum v. Moses, supra*, 24 Cal. 4th at 1133 (emphasis in original).
23 Federal law is in accord: “By and large, the court should defer to the winning lawyer’s professional
24 judgment as to how much time he was required to spend on the case; after all, he won, and might not
25 have, had he been more of a slacker.” *Moreno v. City of Sacramento*, 534 F.3d 1106, 1111-12 (9th Cir.
26 2008).

27 41. As noted above, I have reviewed a meaningful sample of the documents filed in this
28 action, including: the Settlement Agreement; the opening and reply memoranda on Plaintiffs’ Class

1 Certification and Partial Summary Judgment motions; the preliminary approval motion: key judicial
2 rulings; and the facts and procedural history set forth in Plaintiffs' Fee Motion, including the
3 description of counsel's work set out in Class Counsel's time records. I also am aware of the
4 significant billing judgment reductions that Class Counsel have taken, both with respect to specific
5 tasks and across-the-board. Based on that review, as well as my extensive experience with comparable
6 class action cases, in my opinion, the number of hours for which Class Counsel request compensation
7 appear to be consistent with the number of hours I would expect to have been spent in a case of this
8 duration, intensity, complexity, and results achieved. *See, e.g., Villalpondo v. Exel Direct, Inc., supra,*
9 2016 WL 7740854, at *4 (hours spent by class counsel reasonable "given the nature of the case and the
10 defenses presented, the work class counsel had to undertake, the manner in which class counsel
11 allocated their work, and the results achieved"). In fact, as both Mr. Wallace and Jose Allen attest, the
12 number of hours spent here is fewer than the hours found reasonable in several of Class Counsel's
13 prior disability access class actions, including actions against the California Department of
14 Transportation, the San Francisco Unified School District, and the City of Los Angeles.

15 42. More specifically, my opinion regarding counsel's hours is based on the fact that those
16 hours accomplished an exceptional settlement, one that fully accomplished the classes' primary goal --
17 the extensive future relief mandated by the Settlement Agreement -- plus a \$24 million fund for the
18 damages class, based on individual damages ranging from \$4,000 to \$6,000. Obtaining such broad
19 and comprehensive relief against well-funded, well-represented opponents quite obviously required an
20 exceptional effort. The fact that the settlement also provides for thorough, meaningful enforcement
21 mechanisms to ensure the Classes actually recover the relief provided by the Settlement only buttresses
22 that conclusion.

23 43. In my opinion, the number of hours for which Class Counsel request compensation is
24 reasonable and should be awarded in full.

25 **Class Counsel's Lodestar Multiplier Request Is Reasonable.**

26 44. Class Counsel also request that their lodestar be enhanced by a factor of 1.5 to arrive at
27 the attorneys' fee permitted under the Settlement for their work in this case. In my opinion, such a
28

1 lodestar adjustment is perfectly consistent with the legal marketplace and should be applied here to
2 ensure that counsel recover a reasonable fee.

3 45. I am familiar with the legal standards governing the application of lodestar
4 enhancements in cases in which fees are requested under fee-shifting statutes and/or from a common
5 fund. I also have extensive experience with how attorneys' fees are determined in the legal
6 marketplace, which is the objective of the lodestar-multiplier method. In my professional opinion, the
7 1.5 multiplier that Class Counsel request here is appropriate and reasonable given: (1) the truly
8 exceptional results achieved; (2) the enormous risk taken by Class Counsel; (3) the exceptionally novel
9 and complex nature of the case; (4) the great skill demonstrated by Class Counsel; (5) the preclusion of
10 other employment caused by the litigation's heavy demands; (6) the importance of the rights at stake,
11 to both the Classes and the public; and 7) the lodestar multipliers awarded in comparably complex and
12 successful cases. In sum, my opinion is that a lodestar multiplier of 1.5 is a reflection of the true value
13 of Class Counsel's services in the legal marketplace, and therefore reasonable.

14 **The Exceptional Results Obtained.**

15 46. As this Court has recognized, the "results obtained" by the litigation is "the most
16 critical factor" in determining a reasonable attorneys' fee. *In re Anthem, Inc. Data Breach*, 2018 U.S.
17 Dist. LEXIS 140137 at *98, quoting *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1046 (N.D.
18 Cal. 2008). *See also Hensley v. Eckerhart, supra*, 461 U.S. at 436 (under the lodestar-adjustment
19 method, "the most critical factor" in determining the reasonableness of an attorneys' fees request is
20 "the degree of success obtained"). In the legal marketplace, law firms that obtain excellent or
21 exceptional results for their clients can and do expect that those results will be reflected in their fees.
22 *See, e.g., Consumer Privacy Cases*, 175 Cal. App. 4th 545, 557 (2009); *Lealao*, 82 Cal. App. 4th at 49;
23 California Rules of Professional Conduct, Rule 1.5(b)(7) (conscionability of fee includes consideration
24 of "the amount involved and the results obtained").

25 47. Here, the injunctive and monetary relief obtained is certainly exceptional:

26 • After three years of extremely hard-fought litigation, the Settlement specifies in
27 detail the nature of the construction and repairs that must be completed by Defendants to remediate
28 2,699 various barriers in the Stadium, the parking lots, and the pedestrian rights of way that serve the

1 Stadium. These repairs constitute more than 99% of the barriers identified in Plaintiffs' Complaint.

2 • In addition, the Settlement provides extensive injunctive relief regarding the
3 Stadium's ticketing services and operations.

4 • The Settlement further requires Defendants to overhaul their disability-access
5 training for employees who interact with the public. These changes will allow people with mobility
6 disabilities to have full and access to and enjoyment of events at Levi's Stadium.

7 48. An exceptional monetary result also was obtained. The Settlement provides a non-
8 reversionary class damages fund of \$24 million, which I am informed is the largest such fund ever
9 achieved in a disability access case brought against a place of public accommodation under Title III of
10 the ADA and the Unruh Act. Indeed, the settlement compares very favorably to other disability access
11 cases. *See, e.g., Vallabhapurapu v. Burger King Corp.*, No. C 11-00667 WHA, 2012 U.S. Dist.
12 LEXIS 154867 (N.D. Cal. Oct. 26, 2012) (ADA and Unruh Act class action settlement requiring
13 remediation of access barriers at 77 Burger King restaurants in California and establishing a
14 \$14,176,917 damages fund); *Castaneda v. Burger King Corp.*, No. C 08-04262 WHA, 2010 WL
15 2735091, at *3 (N.D. Cal. July 12, 2010) (ADA and Unruh Act class action settlement requiring
16 remediation of access barriers at ten Burger King restaurants in California and establishing a \$5
17 million damages fund); *Nat'l Fedn. of the Blind v. Target Corp.*, Case No. C 06-01802 MHP, 2009
18 WL 2390261, at *8-9 (N.D. Cal. Aug. 3, 2009) (a disability-access class action that also involved
19 claims under the ADA and Unruh Act); *see also Chabner v. United of Omaha Life Ins. Co.*, Case No.
20 C-95-0447 MHP, 1999 WL 33227443, at *6-7 (N.D. Cal. Oct. 12, 1999), *aff'd* 225 F.3d 1042, 1053 fn.
21 11 (9th Cir. 2000) *Nat'l Fed'n of the Blind v. Uber Tech., Inc.*, Case No. 14-cv-04086 NC, 2016 WL
22 10920461, at *2 (N.D. Cal. Dec. 6, 2016).

23 49. Moreover, under California law, the Settlement also is outstanding based on the facts :
24 a) that the \$24 million damages fund is not based primarily on the size of the class but on each
25 individual's right to a significant damages award -- \$4,000 to \$6,000 per claimant; and b) that no
26 objections to the settlement have been filed. *See Lealao*, 82 Cal. App. 4th at 51. And, by settling this
27 case prior to trial rather than continuing to litigate issues that remained unsettled and were certain to be
28 appealed, Class Counsel obtained an exceptional result for the Classes at far less expense to the

1 parties, their counsel, and the Court. By avoiding the uncertainties of the Defendants' continuing legal
2 challenges against the allegations of the Complaint, they also obtained those results more quickly and
3 surely than if the matter had been litigated to final resolution through the trial and appellate process.

4 This factor also supports the requested fee. *See Lealao*, 82 Cal. App. 4th at 51.

5 50. Likewise, the Settlement provides detailed mechanisms to monitor implementation and
6 ensure compliance, with funds provided separately for those purposes. These provisions show that the
7 relief obtained will not just be on paper but will result in the actual physical changes to the Stadium
8 and related facilities that will benefit patrons with mobility disabilities for years to come.

9 51. In my opinion, comparing these exceptional results to the relief obtained in many other
10 class actions provides strong support for applying a 1.5 lodestar multiplier to arrive at Class Counsel's
11 reasonable fee.

12 **The Extraordinary Risk Taken by Class Counsel.**

13 52. In the legal marketplace, lawyers who assume a significant financial risk on behalf of
14 their clients rightfully expect that their compensation will be significantly greater than it would be if no
15 risk were involved, *i.e.*, under the traditional arrangement where the client is obligated to pay for costs
16 and fees incurred, win or lose: "A lawyer who both bears the risk of not being paid and provides legal
17 services is not receiving the fair market value of his work if he is paid only for the second of these
18 functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases."
19 *Ketchum v. Moses, supra*, 24 Cal. 4th at 1133. A risk multiplier does not provide a windfall for
20 counsel because the multiplier "is intended to approximate market-level compensation for such
21 services which typically pay a premium for the risk of nonpayment or delay in payment of attorney's
22 fees." *Id.* at 1138. Rather, "[t]he purpose of such adjustment is to fix a fee at the fair market value for
23 the particular action. In effect, the court determines, retrospectively, whether the litigation involved a
24 contingent risk or required extraordinary legal skill justifying augmentation of the unadorned lodestar
25 in order to approximate the fair market rate for such services." *Id.* at 1132. *See also* Cal. Rules of
26 Professional Conduct, Rule 1.5 (b)(11) (conscionability of fee includes consideration of "[w]hether the
27 fee is fixed or contingent").

28

1 53. In risky but successful class actions, therefore, the contingent risk taken by Class
2 Counsel can and should be a significant factor in computing a reasonable attorneys' fee under the
3 lodestar method. *See, e.g., Laffite*, 1 Cal. 5th at 504 (contingent risk a relevant factor under lodestar-
4 multiplier method); *Lealao*, 82 Cal. App. 4th at 26 (same, citing Pearl, Cal. Attorney Fee Awards
5 (Cont. Ed. Bar 2d ed. 1998) §§ 13.1-13.7.); *Allapattah Servs. Inc. v. Exxon Corp.*, 454 F. Supp. 2d
6 1185, 2004-05 (S.D. Fla. 2006) (“Factors indicating ‘exceptional success’ include success achieved
7 under unusually difficult or risky circumstances and the size of plaintiffs’ recovery” [citation omitted]).

8 54. In my experience, competent and highly-skilled attorneys such as Class Counsel here
9 are unwilling to take on such highly risky contingent fee cases unless they can expect to receive
10 significantly higher fees when those cases are successful, particularly in cases that are expected to be
11 hard-fought and where the results are uncertain, as was the case here. In my opinion, the risks Class
12 Counsel faced here were exceptional:

13 a. The legal obstacles were formidable. As explained in Plaintiffs’ memorandum
14 and supporting declarations, there were many difficulties and uncertainties on the path to winning this
15 case, including the extraordinary number of barriers that had to be investigated, analyzed, and then
16 litigated, the challenges of certifying a damages class in a disability access case, and the novelty of
17 pursuing certification of a class of companions of people with mobility disabilities.

18 b. This was *not* a case where attorneys were lined-up seeking to be lead class
19 counsel. Compare *In re Anthem, Inc. Data Breach Litig.*, 2018 U.S. Dist. LEXIS 140137, at * 109.
20 Nor was it a case where prior governmental or private action had reduced the risk. *Id.* at *108.

21 c. The factual difficulties were apparent. Many of the physical access barriers
22 were unique, and each barrier required both legal and technical/engineering analysis; others involved
23 novel issues, such as the ticketing services for mobility disabled persons.

24 d. Discovery was hard-fought, with Defendants repeatedly taking hardline
25 positions that forced Plaintiffs’ counsel to litigate their discovery rights. *See Building a Better*
26 *Redondo, Inc. v. City of Redondo Beach*, 203 Cal. App. 4th 852, 871 (noting that “a significant number
27 of hours were consumed by addressing unnecessary procedural maneuvers by opposing counsel.”).

1 e. Defendants’ fierce opposition to both class certification and merits liability
2 presented another major risk. *See In re Anthem, Inc. Data Breach Litig.*, 2018 U.S. Dist. LEXIS
3 140137, at * 109 (“the risks are compounded by the robust opposition from Defendants”). Defendants’
4 initial motions to dismiss could have derailed the entire action, and its other motions to dismiss could
5 have eliminated substantial portions of Plaintiffs’ case. Defendants also vigorously opposed class
6 certification; had that opposition succeeded, the Class would have recovered far less and Class Counsel
7 would not have been compensated for many if not most of their time. *See Acosta v. Trans Union,*
8 *LLC*, 243 F.R.D. 377, 392 (C.D. Cal. 2007) (“The value of a class action ‘depends largely on the
9 certification of the class,’ and ... class certification undeniably represents a serious risk for plaintiffs in
10 any class action lawsuit.”).

11 f. Similarly, if the case had achieved only minimal or minor relief, it is highly
12 likely that Counsel would have recovered only a fraction of the fees they had reasonably spent
13 pursuing greater relief. *See, e.g., Dunlap v. Liberty Natural Prods.*, 878 F.3d 794, 799 (9th Cir. 2017)
14 (ADA and Oregon employment claims; 50% fee reduction based on limited success affirmed because
15 plaintiff lost on four unrelated claims).

16 g. Proving damages also added to the risk, but Counsel persevered, leading to an
17 exceptional result on that issue as well. Indeed, Counsel believe this is the largest damages fund in the
18 history of class actions brought under Title III of the ADA and state law.

19 h. The resources that Defendants committed to the litigation, and the quality of the
20 defense mounted, also are significant risk factors.

21 i. The financial risk to Class Counsel was also immense. Over a three-plus year
22 period, Class Counsel’s law firms expended more than 16,800 hours (as of May 15, 2020), with a
23 lodestar value totaling \$11,605,473, all on a contingent fee basis. This is a tremendous commitment,
24 one that imposed an exceptionally high risk: if this case had not been so successful, Class Counsel
25 would have been denied compensation for all or a high percentage of their work, , as well as for nearly
26 \$1.3 million in expenses and costs that they incurred.

1 with Mr. Wallace and Ms. Dardarian, confirm my view that their exceptional skill and expertise
2 contributed significantly to the high-value settlement in this case. Class Counsel needed a vast
3 knowledge of ADA and Unruh Act law, mastery of the facts that underlie a huge Stadium with
4 thousands of barriers, the ability to deal with experts and clients in a meaningful way, and the
5 background and experience to work out real remedies for those barriers and access issues all strongly
6 support my opinion that a 1.5 lodestar enhancement is reasonable here. *See, e.g., Rodriguez v. County*
7 *of Los Angeles*, 891 F.3d 776, 809 (9th Cir. 2018) (affirming 2.0 multiplier in prisoners’ Bane Act [Cal
8 Civ. Code §52.1] action based in part on “the difficulty of representing prisoners with the ... highest
9 security classifications, in an excessive force case against high-ranking jail officials, all the while
10 facing ‘aggressive opposition’ from appellants”).

11 **The Preclusion of Other Employment**

12 59. A lodestar enhancement also is supported by the impact this lawsuit had on Class
13 Counsel’s practices. Under California law, a preclusion multiplier is appropriate when litigating a case
14 proves so burdensome that it diminishes the law firm’s “book of business.” *See Amaral v. Cintas*
15 *Corp.*, No. 2, 163 Cal. App. 4th 1157, 1218 (2008) (affirming 1.65 multiplier based in part on “the
16 burden imposed on class counsel” by a case that “had consumed well over 2,100 hours of professional
17 time, which in a small firm such as [theirs] comprises a significant amount of billing”). As reflected in
18 their declarations here, Class Counsel’s law firms here were similarly impacted.

19 **The Importance of the Case to the Class and the Public**

20 60. The importance of this case to both the Class and the public also weigh heavily in favor
21 of a multiplier. *See Coalition for Los Angeles County Planning v. Board of Supervisors*, 76 Cal. App.
22 3d 241, 251 (1977). California’s disability civil rights statutes have the principal purposes of
23 eliminating physical access barriers and facilitating the full and equal participation of persons with
24 disabilities in all aspects of public life. *See, e.g., Munson v. Del Taco, Inc.*, 46 Cal. 4th 661, 673
25 (2009) (“[t]he Legislature having decided, in the 1992 amendment, to pursue the Unruh Civil Rights
26 Act’s goal of equality by incorporating ADA accessibility law into California’s own law.”). Plaintiffs
27 have fully vindicated these purposes.

1 61. Similarly, Congress enacted the ADA to enable persons with disabilities to live full and
2 independent lives to the maximum extent possible. 42 U.S.C. § 12101(a)(7). Congress sought to
3 achieve this purpose by requiring covered entities to remove access barriers that impede or limit the
4 ability of persons with disabilities to have equal access to public facilities. *See, e.g., Cohen v. City of*
5 *Culver City*, 754 F.3d 690, 694-95 (9th Cir. 2014). These purposes also were fully vindicated here.

6 62. Moreover, the enforcement of these non-discrimination laws is critical to the integration
7 of persons with disabilities into all aspects of society, including events held at Levi's Stadium. Levi's
8 Stadium is major entertainment venue in the Bay Area. As a result of this action, generations of
9 Stadium attendees will no longer encounter barriers that prevent their enjoyment of a public event, and
10 engender both discomfort and embarrassment. In the legal marketplace, such public achievements
11 fully justify a meaningful lodestar enhancement. *See, e.g., Chabner v. United of Omaha Life Ins. Co.*,
12 Case No. C-95-0447 MHP, 1999 U.S. Dist. LEXIS 16552, at *18-21 (N.D. Cal. 1999) (granting 2.0
13 multiplier based in part on public benefit served), *aff'd* 225 F.3d 1042, 1053 fn. 11 (9th Cir. 2000).
14 These significant public benefits also fully support my opinion that a __ multiplier is reasonable.

15 **A Lodestar Multiplier Is Modest in Comparison to Other Multipliers**

16 63. Comparing Class Counsel's requested 1.5 multiplier to multipliers applied in other
17 cases also supports my opinion. *See Vizcaino v. Microsoft Corp.*, 290 F.3d at 1050 (looking to
18 multipliers awarded in comparable cases as evidence of reasonableness); *Wershba v. Apple Computer,*
19 *Inc.*, 91 Cal. App. 4th 224, 255 (2001) (under California law, "[m]ultipliers can range from 2 to 4 or
20 even higher").

21 64. The 1.5 multiplier requested here falls well within the range of multipliers awarded in
22 comparable cases. For example, in, *In re High-Tech Employee Antitrust Litig.*, 2015 U.S. Dist. Lexis
23 118052, *41 (N.D. Cal. Sept. 2, 2015, No. 11-CV-02509-LHK), this Court applied a 2.2 multiplier to
24 lead counsel's lodestar, noting that Class Counsel "engaged in years of litigation against well-
25 financed" opponents, "[t]he issues presented in the case were sufficiently complex and novel that Class
26 Counsel assumed a risk of nonpayment," "Class Counsel achieved significant benefits for the class,"
27 "litigated this action without pay for several years, even though recovery was uncertain," and advanced
28 huge sums for experts and other expenses. Each of these factors applies here as well. *See also*

1 *Gutierrez v. Wells Fargo Bank, N.A.*, No. C 07-05923 WHA, 2015 WL 2438274, at *7 (N.D. Cal. May
2 21, 2015) (applying 5.5 lodestar multiplier in UCL class action challenging bank’s practices, based on
3 “the fine results achieved on behalf of the class, the risk of non-payment [lead counsel] accepted, the
4 superior quality of their efforts, and the delay in payment.”); *Ridgeway v. Wal-Mart Stores, Inc.*, 269 F.
5 Supp. 3d 975 (N.D. Cal. 2017), *aff’d on the merits*, 269 F.3d 1066 (9th Cir. 2020) (2.0 multiplier
6 applied in wage and hour class action).

7 65. Lodestar multipliers also are frequently applied in systemic disability access cases in
8 this District. *See, e.g., Castaneda v. Burger King Corp.*, Case No. C 08-04262 WHA, 2010 U.S. Dist.
9 LEXIS 78299, at *9-10 (N.D. Cal. July 12, 2010) (multiplier of “just under 2.0” in ADA/Unruh Act
10 class action where settlement provided damages fund and injunctive relief, plus attorney fees); *Nat’l*
11 *Fedn. of the Blind v. Target Corporation*, Case No. C 06-01802 MHP, 2009 U.S. Dist. LEXIS 67139,
12 at *15-25 (N.D. Cal. Aug. 3, 2009) (1.65 multiplier applied in in disability access class action); *see*
13 *also Nat’l Fed’n of the Blind v. Uber Tech., Inc.*, Case No. 14-cv-04086 NC, 2016 U.S. Dist. LEXIS
14 192176, at *5-6 (N.D. Cal. Dec. 6, 2016) (applying 1.5 multiplier in disability access class action
15 involving claims under the ADA, Unruh Act, and the California Disabled Persons Act). Comparing
16 Plaintiffs’ requested 1.5 multiplier here with these awards further supports my opinion that their
17 requested attorneys’ fees are reasonable.

18 **A Comparison to a Percentage-Based Fee Confirms That the**
19 **Requested Lodestar-Multiplier Based Fee Is Reasonable**

20 66. Because the settlement provides for significant injunctive and other non-monetary
21 relief, the benefit to the class of which cannot be readily quantified in monetary terms, a percentage
22 analysis is neither required nor appropriate, even though substantial monetary relief for the class was
23 also obtained. *In re Hyundai and Kia Fuel Economy Litig.*, 926 F.3d 539, 571 (9th Cir. 2019) (en
24 banc). However, in considering the reasonableness of the fees sought in this case with the marketplace
25 for similar services, it is my opinion that the requested fee award of approximately 12,257,000 also is
26 reasonable even if it were evaluated by comparing it to a fee determined by the percentage-of-recovery
27 method, without regard to the injunctive relief obtained. *See Laffitte*, 1 Cal. 5th at 495. In *Laffitte*, the
28 California Supreme Court held that in determining the appropriate percentage fee in a common fund

1 context, courts should consider: the risks and potential value of the litigation; the contingency, novelty,
2 and difficulty of the litigation; the skill shown by counsel; and the time spent on the case, as measured
3 against a lodestar cross-check. 1 Cal. 5th at 504-05. Based on those factors, it , in affirmed the trial
4 court’s 33.3% fee. *Id.* at 503-04. As discussed above, in my opinion, those same factors strongly
5 support the 1.5 multiplier requested here.

6 67. So does a percentage-fee comparison. The requested fee here is approximately 32.5%
7 of the total \$37,557,152 cash recovery from the Settlement. The value of the injunctive relief provided
8 by the Settlement is non-monetizable in terms of the civil rights and dignitary benefits that it will
9 provide to the Plaintiff Classes. However, the Declaration of Steven Schraibman, an access expert
10 (CASp) and expert construction cost estimator, indicates that the minimum out-of-pocket cost to the
11 Defendants of performing the access work required by the Settlement will be approximately \$12.2
12 million.

13 68. Even disregarding the monetary value of the barrier removal called for by the
14 Settlement, a fee representing 32.5% of the full monetary recovery from the Settlement demonstrates
15 further that counsel’s lodestar-based fee is reasonable. Judge Alsup addressed a very similar situation
16 in *Castaneda v. Burger King*, Case No. C 08-04262 WHA, 2010 WL 2735091 (N.D. Cal. July 12,
17 2010). In that case, counsel sought a fee award that was 33% of the total amount to be paid by the
18 defendant, which was \$7,500,000 (the settlement provided \$5,000,000 for class damages and
19 \$2,500,000 for fees and costs). *Id.* at *3. The court noted that this percentage exceeded the 25%
20 benchmark set by the Ninth Circuit, but approved the requested award, on the basis that “the monetary
21 damages in this settlement –although quite substantial—are only part of the relief obtained for class
22 members. As noted above, the settlement also provided for injunctive relief at the ten restaurants in
23 question to eliminate accessibility barriers.” *Id.* The Court further stated that recovering an average of
24 approximately \$13,000 for in damages for individual claimants was “very good.” *Id.* The resolution
25 of the instant case compares favorably with *Castaneda*. The Settlement in this case requires extensive
26 injunctive relief, and the damages fund of \$24 million will permit claimants to recover a minimum of
27 \$4,000 on average. In my opinion, *Castaneda* also shows that the requested fees here are reasonable
28 and consistent with the legal marketplace.

1 69. The result in *Castaneda* and the fees requested here also are squarely in line with other
2 comparable cases. In *Laffitte*, for example, the California Supreme Court expressly approved a 33.3%
3 fee in a wage and hour class action, without consideration of any injunctive relief and even though it
4 resulted in a 2.03-2.13 multiplier. 1 Cal.5th at 487. *See also Chavez v. Netflix, Inc.*, 162 Cal. App. 4th
5 43, 66 n. 11 (2008) (“Empirical studies show that, regardless whether the percentage method or the
6 lodestar method is used, fee awards in class actions average around one-third of the recovery”).
7 *Laffitte* has since been adopted by federal courts applying California law in approving 33 and 1/3%
8 awards. *See, e.g., Beaver v. Tarsadia Hotels, supra*, 2017 WL 4310707, at *9; *Emmons v. Quest*
9 *Diagnostics Clinical Labs, Inc.*, 2017 WL 749018 (E.D. Cal. 2017) (applying *Laffitte* and awarding
10 one-third of fund in wage and hour claim under California law). Indeed, fee awards in federal court of
11 30% or more are commonplace in a variety of different class actions. *See, e.g., In re Pacific Enter.*
12 *Sec. Litig.*, 47 F.3d 373 (9th Cir. 1995) (affirming 33-percent fee award in shareholder derivative
13 action); *Williams v. MGM-Pathe Communications Co.*, 129 F.3d 1026, 1027 (9th Cir. 1997) (same);
14 *Smith v. CRST Van Expedited, Inc.*, 2013 WL 163293, at *5 (S.D. Cal. 2013); *Singer v. Becton*
15 *Dickinson Co*, 2010 WL 2196104, at *8 (S.D. Cal. 2016) (awarding 33% fee, citing two prior
16 Southern District 33% awards); *Aguilar v. Wawona Frozen Foods*, 2017 WL 117789 (E.D. Cal. 2017)
17 (33% of fund); *Emmons v. Quest Diagnostics Clinical Labs, Inc.*, 2017 WL 749018 (E.D. Cal. 2017)
18 (33% fee approved in wage and hour claim under California law); *Boyd v. Bank of America Corp.*,
19 2014 WL 6473809, at *8-12 (C.D. Cal. 2014) (33.3% of \$5.8 million settlement fund in wage and
20 hour action); *Wren v. RGIS Inventory Specialists*, 2011 WL 1230826 (N.D. Cal. 2011) (42% of fund);
21 *Fernandez v. Victoria Secrets, Inc.*, 2008 WL 8150856 (C.D. Cal. 2008) (34% of fund).

22 70. A 33.3% fee also approximates the probable terms of a contingent fee contract
23 negotiated by sophisticated lawyers and clients in comparable private litigation, as evidenced by the
24 terms of such contingent fee contracts. *See In re Consumer Privacy Cases*, 175 Cal. App. 4th 545, 557
25 (2009) (a common fund fee award should be “within the range of fees freely negotiated in the legal
26 marketplace in comparable litigation”); Silver, *A Restitutionary Theory of Attorneys’ Fees in Class*
27 *Actions*, 76 Cornell L. Rev. 656, 702-703 (1991) (goal “is to pay attorneys on terms they would
28 probably accept in an ex ante bargain, before the outcome of litigation is known”). In this and most

1 other Districts, private contingent fee agreements in personal injury and other types of actions seeking
2 substantial damages usually provide for fees of 33-40%: “[Fees representing one-third of the recovery
3 are] supported by the fact that typical contingency fee agreements provide that class counsel will
4 recover 33% if the case is resolved before trial and 40% if the case is tried.” *Fernandez v. Victoria*
5 *Secret Stores, LLC*, 2008 WL 8150856, at *16 fn. 59 (C.D. Cal. 2008) (citing study showing that in
6 some jurisdictions, standard contingency fee rates are 33% if the case settles before trial, 40% if a trial
7 commences, and 50% if trial is completed). Plaintiffs’ fee request here is consistent with those
8 practices.

9 71. In sum, Class Counsel’s lodestar-based fee here compares quite favorably to the
10 percentage based-fees awarded in other cases and those negotiated in the private legal marketplace, all
11 of which further support my opinion that the requested fee is reasonable.

12 **Class Counsel’s Claimed Costs and Expenses Are Reasonable**

13 72. I also have reviewed the nature and amounts of the costs and expenses for which Class
14 Counsel seek reimbursement here. These include expert fees, class notice administration, copying and
15 printing (both in in-house and vendor), court reporters’ transcripts, depositions, document management
16 (and hosting), filing fees, legal research, mediation fees, messenger services, overnight mail, service of
17 process (including service of subpoenas), telephone court appearances, telephone/conference call
18 expenses, travel and transportation, postage, and witness fees. Based on my long experience with
19 attorneys’ fees, costs, and expenses in the Northern District of California, all of the costs and expenses
20 requested by Class Counsel are of the type that normally would be billed to fee-paying clients in this
21 legal marketplace. And, in my opinion, these costs and expenses appear to be reasonable in light of the
22 broad scope of the issues addressed, the complex, often highly technical nature of those issues, as well
23 as the Defendants’ vigorous litigation tactics.

24 73. The expense and risk of public interest litigation has not diminished over the years; to
25 the contrary, these cases are in many ways more difficult than ever. As a result, fewer and fewer
26 attorneys and firms are willing to take on such litigation, and the few who are willing to do so can only
27 continue if their fee awards reflect true market value.

1 I declare under penalty of perjury under the laws of the United States and the State of
2 California that the foregoing is true and correct. This Declaration is executed in Berkeley, California
3 on May 25, 2020.

4 /s/ Richard M. Pearl
5 Richard M. Pearl
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

RESUME OF RICHARD M. PEARL

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

EDUCATION

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

BAR MEMBERSHIP

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

EMPLOYMENT

LAW OFFICES OF RICHARD M. PEARL (April 1987 to Present): Civil litigation practice (AV rating), with emphasis on court-awarded attorney's fees, class actions, and appellate practice. Selected Northern California "Super Lawyer" in Appellate Law for 2005, 2006, 2007, 2008, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, and 2019.

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

ADJUNCT PROFESSOR, HASTINGS COLLEGE OF THE LAW (January 1988 to 2014): Taught *Public Interest Law Practice*, a 2-unit course that focused on the history, strategies, and issues involved in the practice of public interest law.

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

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

Director of Litigation (July 1977 to July 1982)

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

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

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

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

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

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

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

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

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

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

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

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

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

PUBLICATIONS

Pearl, *California Attorney Fee Awards, Third Edition* (Cal. Cont. Ed. Bar 2010) and February 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, and March 2019 Supplements

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

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

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

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

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

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

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

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

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

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

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

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

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

PUBLIC SERVICE

Member, Attorneys' Fee Task Force, California State Bar

Member, Board of Directors, California Rural Legal Assistance Foundation

REPRESENTATIVE CASES

ACLU of N. Cal. v. DEA

(N.D. Cal. 2012) 2012 U.S. Dist. LEXIS 190389

Alcoser v. Thomas

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

Arias v. Raimondo

(2018) 2018 U.S. App. LEXIS 7484

Boren v. California Department of Employment

(1976) 59 Cal.App.3d 250

Cabrera v. Martin

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

Camacho v. Bridgeport Financial, Inc.

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

Campos v. E.D.D.

(1982) 132 Cal.App.3d 961

Center for Biological Diversity v. County of San Bernardino

(2010) 185 Cal.App.4th 866

Children & Families Commission of Fresno v. Brown

(2014) 228 Cal.App.4th 45

Committee to Defend Reproductive Rights v. A Free Pregnancy Center

(1991) 229 Cal.App.3d 633

David C. v. Leavitt

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

Delaney v. Baker

(1999) 10 Cal.4th 23

REPRESENTATIVE CASES (cont.)

Dixon v. City of Oakland

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

Employment Development Dept. v. Superior Court (Boren)

(1981) 30 Cal.3d 256

Environmental Protection Info. Ctr. v Department of Forestry & Fire Protection

(2010) 190 Cal.App.4th 217

Environmental Protection Information Center, Inc. v. Pacific Lumber Co.

(N.D. Cal. 2002) 229 F. Supp.2d 993, *aff'd* (9th Cir. 2004) 103 Fed. Appx. 627

Flannery v Prentice

(2001) 26 Cal. 4th 572

Guerrero v. Cal. Dept. of Corrections etc.

(2016) 2016 U.S. Dist. LEXIS 78796, *aff'd in relevant part*, (9th Cir. 2017) 701 Fed.Appx. 613

Graham v. DaimlerChrysler Corp.

(2004) 34 Cal. 4th 553

Heron Bay Home Owners Assn. v. City of San Leandro

(2018) 19 Cal.App.5th 376

Horsford v. Board of Trustees of Univ. of Calif.

(2005) 132 Cal.App.4th 359

Ketchum v. Moses

(2001) 24 Cal.4th 1122

Kievlan v. Dahlberg Electronics

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

Lealao v. Beneficial California, Inc.

(2000) 82 Cal.App.4th 19

Lewis v. California Unemployment Insurance Appeals Board

(1976) 56 Cal.App.3d 729

REPRESENTATIVE CASES (cont.)

Local 3-98 etc. v. Donovan

(N.D. Cal. 1984) 580 F.Supp. 714,
aff'd (9th Cir. 1986) 792 F.2d 762

Mangold v. California Public Utilities Commission

(9th Cir. 1995) 67 F.3d 1470

Maria P. v. Riles

(1987) 43 Cal.3d 1281

Martinez v. Dunlop

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

McQueen, Conservatorship of

(2014) 59 Cal.4th 602 (argued for *amici curiae*)

McSomebodies v. Burlingame Elementary School Dist.

(9th Cir. 1990) 897 F.2d 974

McSomebodies v. San Mateo City School Dist.

(9th Cir. 1990) 897 F.2d 975

Molina v. Lexmark International

(2013) 2013 Cal.App. Unpub. LEXIS 6684

Moore v. Bank of America

(9th Cir. 2007) 2007 U.S. App. LEXIS 19597

Moore v. Bank of America

(S.D. Cal. 2008) 2008 U.S. Dist. LEXIS 904

Mora v. Chem-Tronics, Inc.

(S.D. Cal. 1999) 1999 U.S. Dist. LEXIS 10752,
5 Wage & Hour Cas. 2d (BNA) 1122

Nadaf-Rahrov v. Nieman Marcus Group

(2014) 2014 Cal.App. Unpub. LEXIS 6975

Orr v. Brame

(9th Cir. 2018) 727 Fed.Appx. 265, 2018 U.S.App.LEXIS 6094

REPRESENTATIVE CASES (cont.)

Orr v. Brame

(9th Cir. 2019) 2019 U.S.App.LEXIS 24531

Pena v. Superior Court of Kern County

(1975) 50 Cal.App.3d 694

Ponce v. Tulare County Housing Authority

(E.D. Cal 1975) 389 F.Supp. 635

Ramirez v. Runyon

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

Robles v. Employment Dev. Dept.

(2019) 38 Cal.App.5th 191

Rubio v. Superior Court

(1979) 24 Cal.3d 93 (amicus)

Ruelas v. Harper

(2015) 2015 Cal.App. Unpub.LEXIS 7922

Sokolow v. County of San Mateo

(1989) 213 Cal. App. 3d. 231

S.P. Growers v. Rodriguez

(1976) 17 Cal.3d 719 (amicus)

Swan v. Tesconi

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

Tongol v. Usery

(9th Cir. 1979) 601 F.2d 1091,
on remand (N.D. Cal. 1983) 575 F.Supp. 409,
revs'd (9th Cir. 1985) 762 F.2d 727

Tripp v. Swoap

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

REPRESENTATIVE CASES (cont.)

United States (Davis) v. City and County of San Francisco
(N.D. Cal. 1990) 748 F.Supp. 1416, *aff'd in part*
and revs'd in part sub nom Davis v. City and County
of San Francisco (9th Cir. 1992) 976 F.2d 1536,
modified on rehearing (9th Cir. 1993) 984 F.2d 345

United States v. City of San Diego
(S.D.Cal. 1998) 18 F.Supp.2d 1090

Vasquez v. State of California
(2008) 45 Cal.4th 243 (*amicus*)

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

JANUARY 2020

EXHIBIT B

Click to print or Select 'Print' in your browser menu to print this document.

Page printed from: <https://www.law.com/2019/08/27/what-new-supreme-court-cases-reveal-about-big-law-billing-rates/>

What New Supreme Court Cases Reveal About Big Law Billing Rates

The city of Boise has agreed to pay Gibson Dunn a flat fee of \$75,000 to prepare a Supreme Court petition, and another \$225,000 for briefing and oral argument if the justices take the case.

By Mike Scarcella and Marcia Coyle | Originally published on **National Law Journal** ([/nationallawjournal](http://nationallawjournal.com)) | August 27, 2019



Gibson Dunn partners Theane Evangelis and Theodore Olson.

A team from Gibson, Dunn & Crutcher has agreed to charge the city of Boise, Idaho,

was a "great deal."

Meanwhile, Gibson Dunn's Olson could face (<https://www.law.com/nationallawjournal/2019/06/20/puerto-rico-cases-pit-don-verrilli-against-ted-olson-at-supreme-court/>) Donald Verrilli Jr. of Munger, Tolles & Olson in October in a dispute over the status of the Financial Management and Oversight Board of Puerto Rico, which Congress established in 2016 to help Puerto Rico recover from a financial crisis. Olson represents Aurelius Investment, a creditor of the commonwealth of Puerto Rico.

Munger Tolles is billing the oversight board, a public body, and Verrilli, a former Obama-era U.S. solicitor general, is lead counsel.



Former U.S. Solicitor General Donald Verrilli Jr. in his office at the U.S. Department of Justice in June. Credit: Diego M. Radzinski/ ALM

Publicly filed billing records in the case show Verrilli's hourly rate is \$1,300, up from \$1,225 in 2017, when the oversight board first engaged Munger Tolles. Daniel Collins (<https://www.law.com/nationallawjournal/2019/05/21/senate-greenlights-la-munger-partner-daniel-collins-for-ninth-circuit-seat/>), who was recently confirmed to the U.S. Court of Appeals for the Ninth Circuit, was billing at \$1,075, and Ginger Anders, a former assistant to the solicitor general and clerk to Justice Ruth Bader Ginsburg, has billed at \$900 per hour. Munger Tolles said it is applying a 15% discount to its

standard hourly rates.

The oversight board was created to oversee Puerto Rico's restructuring of more than an estimated \$100 billion in debt. More broadly, the debt-related litigation has driven hundreds of millions of dollars (<https://www.law.com/2019/07/11/big-law-bills-more-than-160-million-in-puerto-ricos-bankruptcy/>) in fees for major U.S. firms.

A number of Supreme Court advocates declined to share their billing arrangements and hourly rates, discounted or otherwise.



Kirkland & Ellis partner Paul Clement, a former U.S. solicitor general in the George W. Bush administration, was billing at \$1,745 as recently as March, according to records in a case (<https://www.supremecourt.gov/DocketPDF/18/18-389/64642>

Paul Clement, with Kirkland & Ellis.

/20180924150745585_2018-09-24%20Parker%20Drilling%20cert%20petition.pdf) involving Parker Drilling Management. The Supreme Court in June held that California's wage-and-hour law does not apply to the Outer Continental Shelf when federal law addresses the relevant issue.

Fellow Kirkland partner George Hicks Jr., who clerked for Chief Justice John Roberts Jr. and who worked on the Parker Drilling case with Clement, billed at \$1,075 an hour, the records show. Appellate veteran and former Kirkland partner Christopher Landau (<https://www.law.com/nationallawjournal/2019/04/16/chris-landaus-nominee-disclosure-shows-11m-from-kirkland-3m-from-quinn/>), who was confirmed on Aug. 1

as the next U.S. ambassador to Mexico, was billing at \$1,495 an hour, according to the filings. Kirkland partner Bartow Farr, who's argued dozens of cases at the high court, billed at \$1,385 hourly.

In a fee request (<https://www.igniteassociatesettlement.com/Content/Documents/Goldstein%20Russell%20Application%20for%20Attorneys%20Fees.pdf>) in Texas federal district court last year, Thomas Goldstein, a founder of the Washington appellate boutique Goldstein & Russell, identified his rate as \$1,350. Goldstein's colleague Eric Citron reported his billing at \$1,350. He said in a filing that Goldstein & Russell, as a small firm, often uses "alternative fee arrangements, including flat fees or contingent fee arrangements. Even in those cases, we typically recover our full hourly rates on average."

The lure of Supreme Court work and competition for the court's relatively small docket is intense for members of the elite Supreme Court bar. Not every instance where a major U.S. firm represents a local or state government client is paid work.

Last term, Jones Day partner Shay Dvoretzky, who has a very active Supreme Court practice involving large corporate clients, worked on behalf of the city of Riviera Beach, Florida, in a First Amendment case. Jones Day, according to an engagement letter (https://drive.google.com/file/d/1Fxp1tA7y61nsFOL_9bqBpEe3CGuFRyV30/view), didn't charge the city.

Read more:

Big Law Billed Republicans Millions in Fight Over Obama. Against Trump, Firms Are Working for Free. (https://at.law.com/erE24E?cmp=share_twitter)

Chris Landau's Nominee Disclosure Shows \$11M From Kirkland, \$3M From Quinn (<https://www.law.com/nationaljournal/2019/04/16/chris-landaus-nominee-disclosure-shows-11m-from-kirkland-3m-from-quinn/>)

Puerto Rico Cases Pit Don Verrilli Against David Olson at Supreme Court (https://at.law.com/drGxoe?cmp=share_twitter)

2 Big Law Firms Get \$1M-Plus Work from MTA's Transit Agency in Ad Fight (https://at.law.com/erE24E?cmp=share_twitter)

\$400K for SCOTUS Clerks: A Bonus Too Far? <https://www.law.com/nationallawjournal/2018/11/14/400k-for-scotus-clerks-a-bonus-too-far/>

Copyright 2019. ALM Media Properties, LLC. All rights reserved.

EXHIBIT C

LEGAL TRAINING REPORT

by Benjamin P. Hill

Volume 17, Number 3
December 2015



THOMSON REUTERS

California Region

Title	Professional	Firm	Graduated	Admitted	State	Rate	Hours	Total
Partner	Kenneth Rice	Rice, Tuchin, Bogdanoff & Stern, LLP	1975	1974	CA	\$1,800	0.2	\$260.00
Partner	Mike Behius	Kirkland & Ellis LLP	1999	1999	CA	\$1,220	2.1	\$4,782.00
Partner	Leslie A. Plonken	Paul Hastings LLP	1986	1988	CA	\$1,152	111.1	\$127,786.00
Partner	Shelie Block	Torrey LLP	1974	1974	CA	\$1,076	9.1	\$3,973.00
Partner	David Stern	Rice, Tuchin, Bogdanoff & Stern, LLP	1975	1975	CA	\$1,060	189.5	\$104,660.00
Partner	Isle Bogdanoff	Rice, Tuchin, Bogdanoff & Stern, LLP	1985	1985	CA	\$1,060	7.3	\$7,864.00
Partner	Michael Tuchin	Rice, Tuchin, Bogdanoff & Stern, LLP	1980	1977	CA	\$1,060	174.2	\$188,416.00
Partner	John W. Spiegel	Munger Tolles & Olson LLC	1977	1977	CA	\$1,065	26.9	\$49,689.50
Partner	Thomas B. Weiser	Munger Tolles & Olson LLC	1980	1980	CA	\$1,065	184.05	\$195,013.25
Partner	Mark E. McKinnis	Kirkland & Ellis LLP	1997	1997	CA	\$1,075	198.5	\$213,462.50
Partner	Fancy L. Abel	Paul Hastings LLP	1979	1979	CA	\$995	0.9	\$895.50
Partner	Stephen D. Cooke	Paul Hastings LLP	1979	1979	CA	\$975	2.9	\$9,802.50
Partner	Stephan D. Rose	Munger Tolles & Olson LLC	1985	1985	CA	\$975	0.3	\$932.13
Partner	John-Paul Morley	O'Mahoney & Myers LLP	1991	1991	CA	\$960	29.2	\$10,092.00
Of Counsel	Alan I. Romfield	Pacholski Stang Ziehl Young Jones & Weintraub	1999	1999	CA	\$950	6.7	\$6,281.00
Partner	Andrew W. Cairne	Pacholski Stang Ziehl Young Jones & Weintraub	1987	1987	CA	\$925	8.9	\$4,282.50
Of Counsel	Robert I. Grassgreen	Pacholski Stang Ziehl Young Jones & Weintraub	1983	1983	CA	\$925	1.3	\$1,231.00
Partner	Andrew Cairne	Pacholski Stang Ziehl Young Jones & Weintraub	1983	1983	CA	\$925	0.6	\$555.00
Partner	Jeffrey Permentz	Pacholski Stang Ziehl Young Jones & Weintraub	1994	1994	CA	\$895	0.2	\$1,799.00
Partner	Ronald Rus	Brown Rudwick LLP	1989	1989	CA	\$895	0.9	\$805.50
Partner	David J. Rouen	Munger Tolles & Olson LLC	1975	1975	CA	\$880	1.5	\$1,520.00
Partner	Christopher Kossman	Kirkland & Ellis LLP	1989	1989	CA	\$875	53.2	\$46,550.00
Partner	David J. Barton	Rice, Tuchin, Bogdanoff & Stern, LLP	2002	2002	CA	\$855	75.5	\$64,552.50
Partner	David M. Bartenthal	Pacholski Stang Ziehl Young Jones & Weintraub	1998	1997	CA	\$850	12.7	\$10,785.00
Partner	Benjamin Rincostone	Pacholski Stang Ziehl Young Jones & Weintraub	1981	1981	CA	\$850	0.3	\$285.00
Partner	Jay M. Ruffant	Quinn Emanuel Urquhart & Sullivan, LLP	1993	1989	CA	\$850	3.0	\$6,500.00
Partner	Kevin S. Alfred	Munger Tolles & Olson LLC	2005	2004	CA	\$840	11.2	\$9,408.00
Associate	Michael Esler	Munger Tolles & Olson LLC	1984	1984	CA	\$830	92.5	\$76,775.00
Partner	Ronnen M. Silberfeld	Kirkland & Ellis LLP	1986	1986	CA	\$830	94.5	\$78,491.00
Partner	Seth A. Rafkin	Robins Kaplan LLP	2009	2009	CA	\$825	239.4	\$176,185.00
Partner	Howard Weg	Cooley LLP	1995	1995	CA	\$810	5.7	\$4,627.00
Partner	Robert J. Finzer	Robins Kaplan LLP	1998	1998	CA	\$810	0.5	\$405.00
Partner	Jos R. Hull	Rice, Tuchin, Bogdanoff & Stern, LLP	2014	2014	CA	\$795	60.3	\$47,938.50
Associate	Adam Slovans	Bracewell & Gilbert LLP	2001	2001	CA	\$790	0.1	\$199.00
Partner	Maxim B. Litvak	Torrey LLP	1960	1969	CA	\$775	0.8	\$474.00
Associate	James D. Gertz	Pacholski Stang Ziehl Young Jones & Weintraub	2007	2007	CA	\$775	163	\$264,323.00
Counsel	Sarah Hoffer	Cooley LLP	2001	2001	CA	\$775	1.7	\$1,317.50
Partner	Seth Goldstein	Munger Tolles & Olson LLC	2004	2004	CA	\$755	14.8	\$11,023.00
Of Counsel	Shirley S. Cho	Pacholski Stang Ziehl Young Jones & Weintraub	2002	2002	CA	\$755	11.2	\$8,456.00
			1997	1997	CA	\$750	154.7	\$116,023.00
						\$750	15.1	\$9,825.00

California Region

Title	Professional	Firm	Graduated	Admitted	State	Rate	Hours	Total
Counsel	Jeeho Lee	O'Melveny & Myers LLP	2007	2007	CA	\$745	5	\$9,725.00
Associate	Katherine Scherfing	Quinn Emanuel Urquhart & Sullivan, LLP	2010	2008	CA	\$735	211.5	\$155,452.50
Partner	Lawson E. Carty	Brown Rudnick LLP	2010	2010	CA	\$730	78.9	\$57,597.00
Partner	Joshua M. Fried	Pacheco Stang Ziehl Young Jones & Weintraub	2006	2006	CA	\$725	2.8	\$4,090.00
Associate	Alexander Davis	Kirkland & Ellis LLP	2012	2012	CA	\$710	192.6	\$136,746.00
Associate	Jason Sova	Kirkland & Ellis LLP	2013	2013	CA	\$710	199.7	\$141,787.00
Partner	David M. Guess	Rice, Tuchin, Bogdanoff & Stern, LLP	2005	2005	CA	\$685	61.3	\$46,773.50
Partner	Randa Osman	Quinn Emanuel Urquhart & Sullivan, LLP	1990	1990	CA	\$685	47.2	\$32,404.00
Of Counsel	Bradley R. Schneider	Munger Tolles & Olson LLC	2004	2004	CA	\$685	115.1	\$82,108.00
Partner	David B. Sherman	Robins Kaplan LLP	2014	2014	CA	\$675	17	\$11,475.00
Partner	Maria Scouras Anagnostou	Rice, Tuchin, Bogdanoff & Stern, LLP	2006	2006	CA	\$675	26.9	\$18,157.50
Partner	Scott F. Gaetler	Robins Kaplan LLP	2014	2014	CA	\$675	452	\$305,100.00
Of Counsel	Jonathan Kim	Pacheco Stang Ziehl Young Jones & Weintraub	1995	1995	CA	\$665	0.8	\$532.00
Associate	Aarti G. Reddy	Cooley LLP	2010	2010	CA	\$655	11.2	\$7,395.00
Counsel	Colleen M. Kanding	Rice, Tuchin, Bogdanoff & Stern, LLP	2008	2008	CA	\$650	111.2	\$72,280.00
Partner	James P. Morton, Jr.	Robins Kaplan LLP	2014	2014	CA	\$650	17.4	\$11,910.00
Of Counsel	William L. Ransoyer	Pacheco Stang Ziehl Young Jones & Weintraub	1980	1980	CA	\$630	8.9	\$5,785.00
Of Counsel	William Rameseyer	Pacheco Stang Ziehl Young Jones & Weintraub	1960	1960	CA	\$650	3.2	\$2,080.00
Associate	Austin Kier	Kirkland & Ellis LLP	2013	2013	CA	\$635	35	\$22,225.00
Associate	Clara Um	Morrison & Foerster LLP	2012	2012	CA	\$635	39.8	\$25,273.00
Associate	Emily A. Bussfeld	Munger Tolles & Olson LLC	2010	2010	CA	\$635	184.8	\$117,948.00
Associate	Sarah Stock	Kirkland & Ellis LLP	2013	2013	CA	\$635	121.6	\$77,216.00
Of Counsel	Elixa Wagner	Pacheco Stang Ziehl Young Jones & Weintraub	2001	2000	CA	\$625	46.6	\$29,125.00
Partner	Justin D. Yi	Rice, Tuchin, Bogdanoff & Stern, LLP	2009	2009	CA	\$625	0.8	\$508.00
Associate	Matthew Brodlog	Gibson Dunn & Crutcher, LLP	2011	2011	CA	\$625	5.1	\$3,187.50
Of Counsel	William Ransoyer	Pacheco Stang Ziehl Young Jones & Weintraub	1980	1980	CA	\$625	2.4	\$1,500.00
Associate	Sam Greenburg	Munger Tolles & Olson LLC	2010	2010	CA	\$615	61.7	\$37,965.50
Associate	Shannon L. Sorrells	Munger Tolles & Olson LLC	2011	2011	CA	\$595	2.8	\$1,686.00
Associate	Anna Terentyev	Cooley LLP	2014	2014	CA	\$585	241.8	\$134,199.00
Associate	James Berleb	Kirkland & Ellis LLP	2014	2014	CA	\$585	107.6	\$60,273.00
Associate	Keith Cheng	Kirkland & Ellis LLP	2014	2014	CA	\$585	170.8	\$94,794.00
Associate	Daniel C. Tola	Paul Hastings LLP	2013	2013	CA	\$580	20.5	\$11,275.00
Partner	Eric S. Perold	Snell & Wilmer	2004	2004	CA	\$580	0.1	\$52.00
Associate	Alex D. Tarsola	Munger Tolles & Olson LLC	2012	2012	CA	\$510	89.4	\$45,594.00
Associate	Andrew M. Weintraub	Munger Tolles & Olson LLC	2013	2013	CA	\$510	68.3	\$34,633.00
Associate	Sara R. Taylor	Munger Tolles & Olson LLC	2012	2012	CA	\$510	70.4	\$35,904.00
Associate	Chloe Arabona	Morrison & Foerster LLP	2013	2013	CA	\$495	8.3	\$4,108.50
Associate	Kevin Kraft	Paul Hastings LLP	2014	2014	CA	\$485	4.8	\$2,376.00
Associate	Jennifer M. Wiets	Rice, Tuchin, Bogdanoff & Stern, LLP	2012	2012	CA	\$475	59.7	\$28,257.50
Associate	Annabella E. Perfeco	Cooley LLP	2013	2013	CA	\$470	3.3	\$1,551.00
Associate	Dimitria C. Hernandez	Robins Kaplan LLP	2009	2009	CA	\$470	897.9	\$187,012.00

California Region

Title	Professional	Firm	Graduated	Admitted	State	Rate	Hours	Total
Associate	Joaquín Carrón	O'Melveny & Myers LLP	2015	2015	CA	\$450	4.9	\$2,250.00
Associate	Lyle A. Bell	Robins Kaplan LLP	2014	2014	CA	\$450	968.1	\$435,645.00
Associate	Kathryn T. Zwicker	Rice, Tuckin, Roggenhoff & Stern, LLP	1986	1986	CA	\$440	21.9	\$9,636.00
Partner	Amy Churfin	Robins Kaplan LLP	2001	2001	CA	\$420	18.1	\$7,602.00
Associate	Christopher Martin	O'Melveny & Myers LLP	2014	2014	CA	\$415	1.2	\$498.00
Associate	Peter E. Boos	Munger Tolles & Ohan LLC	2014	2014	CA	\$395	11.4	\$4,503.00
Associate	Sasha M. Gurvitz	Rice, Tuckin, Roggenhoff & Stern, LLP	2014	2014	CA	\$395	40.8	\$16,116.00
Counsel	Joseph Zykorski	O'Melveny & Myers LLP	2008	2008	CA	\$290	183.6	\$71,604.00

EXHIBIT D

THE NATIONAL LAW JOURNAL

NOT FOR REPRINT

 [Click to Print](#) or Select 'Print' in your browser menu to print this document.

Page printed from: [National Law Journal](#)

Billing Rates Rise, Discounts Abound

A 10 percent increase is offset by price cuts.

Katelyn Polantz, The National Law Journal

January 5, 2015

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

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

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

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

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

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

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

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

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